

AGENDA

Meeting: Standards Committee

Place: Council Chamber - County Hall, Bythesea Road, Trowbridge, BA14 8JN

Date: Thursday 14 November 2019

Time: 12.00 pm

Please direct any enquiries on this Agenda to Kieran Elliott, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718504 or email kieran.elliott@wiltshire.gov.uk

Press enquiries to Communications on direct lines (01225) 713114/713115.

This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

Membership:

Cllr Derek Brown OBE	Cllr Paul Oatway QPM (Chairman)
Cllr Andrew Bryant	Cllr Fred Westmoreland
Cllr Ernie Clark	Cllr Stuart Wheeler
Cllr Peter Evans	Mr Richard Baxter (non-voting)
Cllr Peter Fuller	Mr Philip Gill MBE (non-voting)
Cllr Howard Greenman (Vice-Chairman)	Mr Michael Lockhart (non-voting)
Cllr Ruth Hopkinson	Miss Pam Turner (non-voting)
Cllr Bob Jones MBE	

Substitutes:

Cllr Richard Britton	Cllr Peter Hutton
Cllr Trevor Carbin	Cllr George Jeans
Cllr Sue Evans	Cllr Gordon King
Cllr Nick Fogg MBE	Cllr Brian Mathew
Cllr Chris Hurst	Cllr Graham Wright

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Public Participation

Please see the agenda list on following pages for details of deadlines for submission of questions and statements for this meeting.

For extended details on meeting procedure, submission and scope of questions and other matters, please consult [Part 4 of the council's constitution](#).

The full constitution can be found at [this link](#).

For assistance on these and other matters please contact the officer named above for details

AGENDA

Part I

Items to be considered when the meeting is open to the public

1 **Apologies for Absence**

To receive any apologies or substitutions for the meeting.

2 **Minutes** (*Pages 5 - 10*)

To confirm the minutes of the meeting held on 26 June 2019.

3 **Declarations of Interest**

To receive any declarations of disclosable interests or dispensations granted by the Standards Committee.

4 **Chairman's Announcements**

To receive any announcements through the Chair.

5 **Public Participation**

The Council welcomes contributions from members of the public.

Statements

If you would like to make a statement at this meeting on any item on this agenda, please register to do so at least 10 minutes prior to the meeting. Up to 3 speakers are permitted to speak for up to 3 minutes each on any agenda item. Please contact the officer named on the front of the agenda for any further clarification.

Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution.

Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of this agenda no later than 5pm on 7 November 2019 in order to be guaranteed of a written response. In order to receive a verbal response questions must be submitted no later than 5pm on 11 November 2019. Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

Details of any questions received will be circulated to Committee members prior to the meeting and made available at the meeting and on the Council's website.

6 **Status Report on Code of Conduct Complaints** (*Pages 11 - 14*)

To receive a report from the Monitoring Officer on Code of Conduct complaints.

7 **Recommendations from the Constitution Focus Group: Protocol 4 (Planning Code of Good Practice)** *(Pages 15 - 72)*

To receive a report from the Monitoring Officer on recommendations from the Constitution Focus Group on proposed changes to Protocol 4 of the Constitution (Planning Code of Good Practice).

8 **Recommendations from the Constitution Focus Group: Part 4A (Petitions Scheme)** *(Pages 73 - 96)*

To receive a report from the Monitoring Officer on recommendations from the Constitution Focus Group on proposed changes to Part 4A of the Constitution (Petitions Scheme).

9 **New Standards Procedures and Appointment of Standards Assessment Sub-Committee** *(Pages 97 - 124)*

Following changes to Protocol 11 of the Constitution by Full Council on 9 July 2019, to appoint the members of the Standards Assessment Sub-Committee with effect from 1 January 2020.

To consider any additional details regarding the revised Standards arrangements and procedures approved by Full Council on 9 July 2019.

10 **Date of Next Meeting**

To confirm the date of the next scheduled meeting as 29 January 2020.

11 **Urgent Items**

Any other items which the Chairman agrees to consider as a matter of urgency.

Part II

Item(s) during consideration of which it is recommended that the public should be excluded because of the likelihood that exempt information would be disclosed

STANDARDS COMMITTEE

MINUTES OF THE STANDARDS COMMITTEE MEETING HELD ON 26 JUNE 2019 AT KENNET ROOM - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Derek Brown OBE, Cllr Allison Bucknell, Cllr Ernie Clark, Cllr Peter Evans, Cllr Peter Fuller, Cllr Howard Greenman (Vice-Chairman, in the Chair), Cllr Ruth Hopkinson, Cllr Fred Westmoreland, Mr Mike Lockhart, Cllr Richard Britton (Substitute) and Cllr Gordon King (Substitute)

21 Apologies

Apologies were received from Councillors Bob Jones MBE, Paul Oatway QPM and Stuart Wheeler, and Co-opted Members Richard Baxter and Pam Turner.

Councillor Jones was substituted by Councillor Gordon King. Councillor Wheeler was substituted by Councillor Richard Britton.

In the absence of the Chairman Councillor Howard Greenman, Vice-Chairman, chaired the meeting.

22 Minutes

The minutes of the meeting held on 1 May 2019 were presented and it was,

Resolved:

To approve and sign the minutes as a true and correct record.

23 Declarations of Interest

There were no declarations.

24 Chairman's Announcements

There were no announcements.

25 Public Participation

There were no statements or questions submitted.

26 **Status Report on Code of Conduct Complaints**

Sukdave Ghuman, Team Leader Public Law and Compliance, presented a report on the status of existing code of conduct complaints. Details were provided of the number of complaints received, the nature of the complaints and the outcomes of any assessments concluded between 1 April 2019 and 18 June 2019.

9 complaints were received in that time. Details were sought on what constituted a failure to act in the public interest in a complaint, and it was stated that it encompassed a broad range of alleged behaviours.

It was then,

Resolved:

To note the current position on Code of Conduct complaints.

27 **Amendment to the Terms of Reference of the Constitution Focus Group**

Kieran Elliott, Senior Democratic Services Officer, presented a report recommending amendments to the terms of reference of the Constitution Focus Group.

As noted in the report the membership of the Focus Group included representatives of Audit Committee and the Overview and Scrutiny Management Committee, and the Chairman of the Standards Committee. At its meeting on 26 September 2019 the Standards Committee had agreed that Councillor Stuart Wheeler could attend the Focus Group in the Chairman's place. It was recommended that the terms of reference be amended such that 'a representative' of the Standards Committee be a member and that Councillor Wheeler be appointed as that representative. It was reported that the Chairman and Councillor Wheeler were content with the proposal.

It was then,

Resolved:

To amend the terms of reference of the Constitution Focus Group as set out in Appendix 1, and that Councillor Wheeler be appointed as the representative of the Standards Committee.

28 **Recommendations from the Constitution Focus Group**

Kieran Elliott, Senior Democratic Services Officer, presented a report detailing a series of constitutional changes recommended by the Constitution Focus Group.

It was noted that as a result of changes to the legal status of the Swindon and Wiltshire Local Enterprise Partnership, and subsequent decision by the Leader of the Council and their counterpart in Swindon Borough Council, the Joint Strategic Economic Committee terms of reference and authority would be removed from the Constitution and reported to Full Council. This would affect Part 3C Scheme of Delegation (Executive Arrangements) and Part 2 Schedule 1, Committee Structure.

Details were also reported on the ongoing work to update the formatting and numbering of the Constitution to ensure consistent presentation, under the authority delegated to the Monitoring Officer under Article 15.3.2 of Part 2 of the Constitution.

The Committee then discussed the series of changes proposed in relation to Protocol 12, Part 3B, and associated documents in relation to arrangements for dealing with Code of Conduct complaints. This followed an initial report to the Committee at its meeting on 1 May 2019.

The Committee agreed that the proposals to revise the procedure so that the Review Sub-Committee was replaced with a standing Assessment Sub-Committee, which would consider all Code of Conduct complaints, would enhance the role of Members in the process and provide a more efficient process. Queries were raised in relation to the need for complainants to provide sufficient information for a complaint to be considered, and that indicated timescales for stages of the process could be extended by the Monitoring Officer, that this would be limited and only if particular circumstances of the case justified it. It was also noted that, if approved by Full Council, it was recommended the changes come into effect from 1 January 2020 in order for town and parish councils to be informed, and to organise future meetings.

After approving the above changes for onward recommendation, the Committee considered the proposed revisions to Protocol 4 of the Constitution, Planning Code of Good Practice. It was noted that the revision process had begun following a recommendation relating to site visit procedures from an overview and scrutiny task group. The Focus Group had considered the overall protocol was also in need of review and considered revisions to the entire protocol.

It was explained that all planning committee chairmen and the relevant Cabinet Member had been invited to attend the meetings of the Focus Group which had considered the revised protocol to contribute to its development.

Details were provided of proposed revisions, including additional detail on member responsibilities, bias and predetermination, planning committee training, legislative and procedural updates and other changes.

The Committee discussed the proposed revisions at length, in particular in relation to declaration of non-pecuniary interests and at what level these should be declared and whether the member should at that point seek advice on whether to participate or vote upon an application. Some members considered that reference to material interests in an application lacked appropriate

definition, whereas others considered the phrase had an accepted ordinary meaning indicating that not all interests should require a member seeking advice or not participating, but that a certain level of interest would require this. After debate, it was agreed to retain the wording as detailed in the agenda papers.

At the conclusion of discussion, it was,

Resolved:

- 1) **To recommend Full Council approve the revisions to Protocol 12 and Part 3B of the Constitution in relation to the arrangements for dealing with Code of Conduct complaints, such revised arrangements to take effect from 1 January 2020 after town and parish councils have been informed of the changes.**
- 2) **That, subject to Council's approval of the revised arrangements, the Standards Committee adopt the proposed revisions to the Assessment Criteria and Assessment Sub-Committee procedure.**
- 3) **To recommend Full Council approve the proposed revisions to Protocol 4 of the Constitution.**
- 4) **To note the changes to Part 3C of the Constitution which are expected to be reported to the next meeting of Full Council in relation to the Joint Strategic Economic Committee.**
- 5) **To note the ongoing updates to the Constitution by the Monitoring Officer under Article 15.3.2 of Part 2 delegated authority.**

29 **Publication of Code of Conduct Decision Notices**

Paul Taylor, Senior Solicitor, introduced a report relating to the publication of Code of Conduct Decision Notices. Under Protocol 12 matters relating to Code of Conduct Complaints remain confidential unless otherwise indicated by the Monitoring Officer, Review Sub-Committee or Hearing Sub-Committee.

It was noted that complainants and subject members might for varying reasons wish for their identities to remain confidential at the conclusion of a standards process, and that details of the cases would in some situations identify an individual even without their name provided. Attention was also drawn to the recent decision of the First-tier Tribunal in *Cyril Bennis vs Information Commission and Stratford-upon-Avon District Council* which had touched upon the issue.

It was recommended that the Standards Committee approve a policy on publication of decision notices, to be made clear in any complaints form and website information, that all parties would be informed the final decision would be published on the Council's website. They would be given the opportunity to

make a representation as to why their personal details should be excluded, which would be considered by the Monitoring Officer, who might redact the published decision notice or produce a summary version, if appropriate.

At the conclusion of discussion, it was,

Resolved:

- 1) That on completion of the code of conduct process (where the matter does not lead to a hearing) once the parties have seen the final decision notice, they are informed that the notice will be published on the Council's website and are given an opportunity to make representations as to why their personal details should be excluded;**
- 2) If representations are made, consideration is given by the Monitoring Officer to redacting the published decision notice, or publishing a summary of the decision;**
- 3) That an appropriate data protection privacy notice is included on the complaint form.**

30 **Urgent Items**

There were no urgent items.

(Duration of meeting: 10.00 - 11.00 am)

The Officer who has produced these minutes is Kieran Elliott of Democratic Services, direct line 01225 718504, e-mail kieran.elliott@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115

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Wiltshire Council

Standards Committee

14 November 2019

Code of Conduct Complaints - Status Report

Statutory Background

1. All local authorities are required, by s.28 Localism Act 2011, to adopt a code of conduct for their members. All such codes are required to cover the following:
 - The principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership
 - The registration and disclosure of pecuniary and other interests
2. Wiltshire Council, as a principal authority, is required to have in place arrangements for investigating and determining allegations that a member of the Council, or a member of a parish council with the County, has failed to comply with the relevant Code of Conduct.
3. These arrangements must include the appointment of at least one independent person, whose views must be taken into account before a decision is made on any alleged breach of a code of conduct.

Council Structure and Procedures

4. Wiltshire Council's arrangements for considering complaints about alleged code of conduct breaches are set out in Protocol 12 to the Constitution. At present all complaints are subject to an initial assessment on behalf of the Monitoring Officer, having sought comments from the Subject Member (the councillor who is the subject of the complaint). This initial assessment may conclude that no further action should be taken; it may refer the complaint for investigation or it may recommend that an alternative resolution be explored with the parties.
5. Currently both parties (the Complainant and the Subject Member) have a right to a review of the initial assessment. This is considered by the Review Sub-Committee of the Standards Committee.
6. As members will now be aware, this procedure will be changing with effect from 1 January 2020. From that date, all valid code of conduct complaints will be determined by the Assessment Sub-Committee.
7. If it is determined that a formal investigation should be undertaken (either at the initial assessment stage or by the Review Sub-Committee), an investigating officer is appointed by the Monitoring Officer. If the recommendation of the investigating officer is that there has been a substantial breach of the Code of Conduct, and that alternative resolution is not appropriate, then a Standards Hearing Sub-Committee will be convened. This will conduct a hearing into the complaint to determine whether there has been a breach of the Code and, if so, what sanctions, if any, should be applied to the Subject Member. If the Subject Member is a member of a town or parish council, the Hearing Sub-Committee's decision regarding sanctions will be in the form of a recommendation to the relevant council.

8. The full Standards Committee has oversight of the operation of the procedures for dealing with Code of Conduct complaints as well as a general responsibility to promote and maintain high standards of conduct by elected and co-opted members and officers.

Summary of complaints received 1 July 2019 to 6 November 2019

9. Between 1 July 2019 and 6 November 2019, the Monitoring Officer received 9 complaints under the Code of Conduct. Of these complaints, 2 concerned members of Wiltshire Council, while the remainder were against members of town and parish councils within the authority's area.
10. Of the cases received, four have been assessed by, or on behalf of, the Deputy Monitoring Officer. In each case the decision was to take no further action. Decision notices are yet to be issued in respect of the remaining five cases, the majority of which were only recently received.
11. A summary of the number of cases received each month is attached at **Appendix 1**.

Reviews

12. One complaint was considered by the Review Sub-Committee in the period covered by this report. A further three requests for review are to be considered shortly.

Investigations

13. In the period under review, investigations have been carried out in respect of two complaints. The investigation reports are currently being considered.

Types of Complaint

14. Many of the complaints received cover a number of issues. All nine received since June were alleging some form of inappropriate behaviour, such as failing to treat the complainant with respect.

Proposal

15. The Committee are asked:
 - a. To note the current position on Code of Conduct Complaints
 - b. To consider whether there is any further or different information that they would wish to see in future updates

Ian Gibbons, Monitoring Officer

Report Author: Paul Taylor, Joint Acting Team Leader, Public Law and Compliance

Appendix 1 – Summary of Complaints

Appendix 1 - Monthly Code of Conduct Cases 2019

	Cases received	Assessed investigation	Assessed no further action	Assessed alternative resolution/complaint withdrawn	Pending assessment (*assessed & decision notice being finalised)	Other	Requests for review received
2019							
January	3	0	3	1	0	0	0
February	4	0	4	0	0	0	0
March	2	0	2	0	0	0	1
April	4	1	3	0	0	0	0
May	0	0	0	0	0	0	0
June	5	0	4	0	0	1^	3
July	2	0	1	1	0	0	0
August	3	0	2	0	0	1^	0
September	0	0	0	0	0	0	0
October	3	0	0	0	3 (*2)	0	0
November	2	0	0	0	2	0	0

^ = on hold a request of complainant

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Wiltshire Council

Standards Committee

14 November 2019

Recommendations of the Constitution Focus Group: Protocol 4 of the Constitution (Planning Code of Good Practice)

Purpose

1. This report asks the Standards Committee to consider recommendations of the Constitution Focus Group in relation Protocol 4 of the Constitution (Planning Code of Good Practice)

Background

2. Following meetings of the Focus Group on [5 September 2018](#), [24 May 2019](#) and [14 June 2019](#), the latter two of which the Chairmen of all planning committees were invited along with the relevant Cabinet Member, the Standards Committee at its meeting on [26 June 2019](#) recommended a series of revisions to Protocol 4 of the Constitution.
3. Following a briefing for Members on [2 July 2019](#) the proposals were considered at Full Council on 9 July 2019 ([Report](#), [Schedule of Changes](#), [Webcast](#) and [Minutes](#)). Following debate, the Protocol was referred back to Standards Committee for reconsideration.
4. Concerns raised in debate focused primarily upon restrictions on how long local Members could speak at Committee, the requirement to require planning reasons when calling-in an application, the timescales for call-in and paragraph 12.6 of the revised Protocol, which relates to call-in of applications by a neighbouring Member against the wishes of the local Member.
5. All Members were emailed on 29 July 2019, 9 August 2019 and 28 August 2019 requesting details of any concerns in respect of any part of Protocol 4 of the Constitution, to assist the Focus Group on behalf of Standards Committee in reconsidering the proposals.
6. The Focus Group considered the responses received and the concerns raised by Full Council at its meeting on 2 September 2019. The notes of that meeting are attached at **Appendix A**.

Main Considerations

7. The existing wording of the Protocol in relation to overruling the local members' views on call-in is as follows:

9.3 While there is a strong presumption that the Division Member's views on call in should prevail, if another Member (i.e. one from a neighbouring division which is affected by the development) thinks an application should go to committee and this is contrary to the view of the local Division Member, it will be open to that member to discuss the application with the Chairman of the committee.

Having discussed the application and considered the possible impacts the Chairman will then have the ability to ask for the application to proceed to committee for determination. In the rare event that the application is in the Chairman's own division, the adjoining member can discuss the application with the Director of the service.

8. The proposed revision to this section as previously recommended by the Standards Committee was as follows:

12.6 While there is a strong presumption that the Division Member's views on call in should prevail, if another Member (i.e. one from a neighbouring division which is affected by the development) thinks an application should go to committee and this is contrary to the view of the local Division Member, it will be open to that member to discuss the application with the ~~Chairman of the committee~~Head of Development Management.

~~*Having discussed the application and considered the possible impacts the Chairman will then have the ability to ask for the application to proceed to committee for determination. In the rare event that the application is in the Chairman's own division, the adjoining member can discuss the application with the Director of the service.*~~

9. A concern raised at Full Council was the possibility of officers rejecting the call-in of a local member. In practice, officers are not aware of any examples of a local members' call-in request being rejected. However, the wording of Protocol 4 has no impact upon the requirements of the Scheme of Delegation in respect of call-in.

Legal Position

10. Determining planning applications is a council function which is delegated to the five planning committees and officers. Approximately 96% of applications are determined by officers under delegated powers.
11. Whilst the determination of the merits of a planning application is a Council function and is determined by a collective decision of a committee of the Council or under officer delegated authority based on the Council's functions and responsibilities, the decision whether a matter should be determined by a planning Committee or officer delegated decision making is administrative in nature and related to the day to day operation of the Council and is therefore an executive function actioned by officers overseen by Cabinet.
12. It is not permissible in law to delegate such an administrative, executive function to an individual member and it would not be consistent with the Council's constitution and in particular Part 3D which sets out the scheme of delegation adopted by the Council.
13. The Scheme of Delegation recognises this legal position in Part 3D(4) Para 1.2, by stating '*Divisions Members can request in writing/email that a planning application, or an application for Permission in Principle for Minor Residential Development, within their Division proceed to determination by way of an Area Planning Committee*'.

14. This is not intended to place a barrier before a division member calling-in a planning application to committee, but simply states the legal position that the existing position which has been utilised by members since the establishment of the council in 2009, is that an officer makes the decision to call-in an application, following the request of the division member. The wording of Protocol 4 proposed at Full Council on 9 July 2019 placed no additional obligations on members nor provided additional authority to officers.

Neighbouring divisions

15. Paragraph 1.2 of Part 3D(4) only permits a call-in request from a member regarding applications '*within their division*'. However, it has been recognised that there are occasions where an application site may be located in one division, but the impacts from that application will disproportionately or entirely impact another division.

16. Paragraph 9.3 of Protocol 4, renumbered as Paragraph 12.6 in the revised document, is intended to explain to Members how they might request an item be determined by committee even if it lies outside their division. As established in preceding paragraphs, the legal position is that officers must exercise the administrative, executive function of determining which items proceed to committee, any member who wishes to see an item outside their division would need to make that request to the appropriate officer. This was why the wording was amended to remove reference to the Chairman and other following text for simplicity, in order to reflect the actual legal position.

17. Under Part 3B para 1.3 of the Constitution, the Director of Economic Development and Planning, and through them the Head of Development Management, may bring to Committee '*Any application where the Director for Economic Development and Planning considers it inappropriate to exercise delegated powers having regard to the public representations received and consultee responses*'. This power was used most recently at Northern Area Planning Committee on 7 August 2019.

18. Therefore, although the Scheme of Delegation only explicitly states that Members may request a call-in for matters within their division, any Member may request any item be determined by Committee, and if compelling reasons are given the request may be and is likely to be granted.

Revision

19. The Focus Group considered the legal position, and the concerns expressed by Full Council, and as such proposed amended wording as follows:

12.6 While there is a strong presumption that the Division Member's ~~views on request for~~ call-in should prevail, if another Member (i.e. one from a neighbouring division which is ~~materially~~-affected by the development) thinks an application should go to committee ~~and this is contrary to the view of the local Division Member~~, it will be open to that member to discuss the application with the ~~Chairman of the committee~~ they can make that request in the same way as a request within their own division .

20. This wording is consistent with the Scheme of Delegation, is clearer about the neighbouring member being materially affected in order for their request to carry additional weight if there is disagreement, without imposing additional procedures on members who wish to request a call-in of an application.
21. The Focus Group additionally felt that all references to call-in of applications should be listed as 'request for call-in'. It was accepted that such requests had not been rejected and given the system had been in operation for 10 years this would not be expected to change, however the Focus Group considered there was confusion as to the actual processes as a result of the current wording and therefore has suggested an appropriate change to remove any risk of confusion.

Other comments

22. The Focus Group noted the successful amendment at Full Council relating to there being no five-minute limit for local members to present their views to the relevant Committee, and that this should be incorporated within the revised document.
23. Other comments had been received regarding members speaking as a member of the public where they have an interest, planning reasons for call-in, and clarity over the need to register interests.
24. The Focus Group considered all comments and considered that the wording of the document sufficiently addressed the concerns, setting out the members must withdraw in their capacity as a member if they have a disclosable interest but retained speaking rights as a member of the public, that the Scheme of Delegation required planning reasons for call-in but that in any case no call-in requests had been rejected, and that references to material interests clarified that not every communication or discussion with objectors or supporters required a disclosure.

Safeguarding Implications

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

Equalities Impact of the Proposal

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

Risk Assessment

27. There are no risk issues arising from this report.

Financial Implications

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

Legal Implications

29. The recommendations in this report are consistent with the council's duties under relevant legislation.

Public Health Impact of the Proposals

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

Environmental Impact of the Proposals

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

Proposal

32. That Standards recommend that Protocol 4 be amended by Full Council as detailed at **Appendix B**.

Ian Gibbons, Monitoring Officer

Report Author: Kieran Elliott, Senior Democratic Services Officer, 01225 718504,
kieran.elliott@wiltshire.gov.uk

Appendix A - Notes of the Constitution Focus Group meeting on 2 September 2019

Appendix B - Revised Protocol 4

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Appendix A Standards 14 11 19

CONSTITUTION FOCUS GROUP

MINUTES OF THE CONSTITUTION FOCUS GROUP MEETING HELD ON 2 SEPTEMBER 2019 AT SALISBURY ROOM - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Richard Clewer (Chairman), Cllr Richard Britton, Cllr Jon Hubbard, Cllr Stuart Wheeler and Mr Michael Lockhart

41 Apologies

An apology was received from Councillor Graham Wright.

42 Notes of the Previous Meeting

The notes of the meeting held on 14 June 2019 were received and it was,

Resolved:

To approve and sign the notes as a true and correct record.

43 Protocol 4 of the Constitution: Planning Code of Good Practice

At Full Council on 9 July 2019 it was determined to refer the revised Protocol 4 back to Standards Committee for further consideration. Full Council had also voted in favour of an amendment removing the five-minute time limit for local members to present to a planning committee. All Members had been contacted on three occasions to enquire over any aspects of the proposed revised protocol they had concerns with. All comments received by the meeting had been circulated to the Focus Group.

The main point of concern that had been raised at Full Council was in relation to a Member request for call-in of a planning application. The Focus Group had proposed a slight change to existing wording to recognise that the Chairman of a planning committee held no delegated authority to call-in an application, but that the Head of Development Management did, and therefore if a Member wished to bring an item not within their division to a committee could put that request.

There had been concerns expressed by Members that this amounted to an officer being able to reject a call-in by a Member. The Focus Group noted those

concerns, however it was explained that all call-in requests were legally just requests, as it was not legally permissible for an elected Member to be delegated such authority. This was because while the decision on a planning application was a council decision, the decision on whether an application should be dealt with under delegated powers or not was an executive decision. As such, all Member call-ins were in fact Member requests for call-in, and the scheme of delegation reflected this.

The Focus Group was assured that officers were not aware of a situation where a Member request for call-in had ever been rejected. Noting this, and the legal situation around call-in requests, the Focus Group suggested amended wording to make the situation clearer to all Members, and that all references to call-in be replaced with 'member request for call-in'. This was not to make it more difficult for members to call-in applications, or apply a stricter standard for officers to accept such requests, but simply to recognise the legal position.

Resolved:

That Standards recommend the revised Protocol 4 to Full Council accordingly.

44 **Part 4A of the Constitution: Petitions Scheme**

The Focus Group considered a revised Part 4A of the Constitution in relation to a council Petitions Scheme, incorporating changes proposed at their meeting on 10 April 2019.

The Focus Group supported the proposed scheme as simpler and clearer, along with additional changes to clarify procedures around debates and receipt of petitions. After discussion they supported a threshold of 5000 signatories for a debate to be held at full council, and a limit of three minutes for speeches by members, while doubling the length of debate. For Area Boards they agreed there should be no lower limit of signatures for a debate, but felt that if at least 50 signatures had been received on a valid petition it should require a debate if requested.

It was also agreed that a request for review of the petition process by a petition to Overview and Scrutiny was not appropriate, and any concerns around administrative processes could be referred to the council's corporate complaints procedure.

Resolved:

That Standards recommend Full Council adopt the revised Petitions Scheme.

45 **Future Items**

The Focus Group noted further items for potential review including Part 3 and Part 8 in relation to decision making processes, and the protocol on individual Cabinet Member decisions.

46 **Date of Next Meeting**

The scheduled meeting on 17 September 2019 was cancelled. Further dates would be provided in due course.

47 **Urgent Items**

There were no urgent items.

(Duration of meeting: 1500 - 1620)

The Officer who has produced these minutes is Kieran Elliott of Democratic Services, direct line 01225 718504, e-mail kieran.elliott@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115

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Protocol 4 – Schedule of proposed amendments – Amended by Constitution Focus Group 2 September 2019 following Full Council on 9 July 2019

Original Wording	Proposed Wording	Comment
<p>1. Why a 'Code of Good Practice' is required</p> <p>1.1. As a local councillor you will inevitably be involved in planning matters; as a councillor representing your division's constituents; as a councillor responsible for overseeing the planning framework for Wiltshire, or as a councillor responsible for deciding planning applications at an area or strategic planning committee. You will have a crucial role to play in both making the planning system work and ensuring the best possible outcomes for the community, both now and in the future.</p> <p>1.2. The key purpose of planning is to manage development in the public interest. However, concerns are sometimes expressed about the probity of councillors meeting developers, applicants and interest groups and then taking decisions on an impartial basis. The aim of</p>	<p>1. The purpose of this Code of Good Practice is to give advice to Members that will preserve the integrity of the Planning system as open and fair to all parties, whilst avoiding rigid and overbearing procedural rules</p>	<p>Excess wording removed to make the point more succinct</p>

<p>this code of good practice is to ensure that in the planning process in Wiltshire there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way. Your role as a member of the council is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons. This Code of Good Practice has been prepared to help and guide you in this task.</p> <p>2. When the Code of Good Practice applies</p> <p>2.1. This code applies to councillors at all times when involving themselves in the planning process. This includes not just the taking part in the planning committee meetings of the council, but on less formal occasions, such as meetings with officers, the public, parish/town/city councils and preapplication and consultation meetings. It applies equally to planning enforcement matters or site-specific policy issues as it does to planning applications.</p>	<p>2. When the Code of Good Practice applies</p> <p>2.1 This code applies at all times when Members are involved in the planning process, including</p> <ul style="list-style-type: none"> • As a Member representing your division's constituents • As a Member responsible for overseeing the planning framework 	<p>Bullet points added for ease of reference</p>
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<p>2.2. If you have any doubts about the application of this Code or Wiltshire Council’s Code of Conduct for Members to your own circumstances, and in particular where you may have a disclosable pecuniary interest in any planning matter, you should seek advice early, from the Monitoring Officer or one of his/her staff, and preferably well before any meeting takes place.</p> <p>2.3. This code is based upon the ‘Model Members Planning Code’ adopted by the Association of Council Secretaries and Solicitors in 2003 (updated in 2007). The Model Code was produced following consultation with the Standards for England, the Local Government Ombudsman and the Audit Commission but has been updated to take account of the clarification of the predetermination rules and the new standards regime introduced by the Localism Act 2011.</p> <p>3. Relationship to Wiltshire Council’s Members Code of Conduct</p>	<p>for Wiltshire; or</p> <ul style="list-style-type: none"> • As a Member responsible for deciding planning applications at an area or strategic planning committee • Planning enforcement matters • Involvement in local and neighbourhood plans • Occasional involvement in appeals <p>https://www.local.gov.uk/Pas-probity-planning</p>	<p>Link added for ease of reference</p>
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<p>3.1. The Members' Code of Conduct must be complied with at all times when you are acting in your capacity as a member or co-opted member. This Planning Code of Good Practice seeks to explain and supplement the Members' Code of Conduct for the purposes of planning. It provides helpful guidance for members. However, you are advised that if you do not abide by this Code of Good Practice, you may put the council at risk of proceedings on the legality of the related decision or a complaint of maladministration to the Local Government Ombudsman, and yourself at risk of a complaint under the Members' Code of Conduct.</p> <p>3.2. In the event of a conflict between this Planning Code of Good Practice and the Members' Code of Conduct the latter will prevail.</p>	<p>3. Relationship to Wiltshire Council's Members' Code of Conduct</p> <p>3.1 The Members' Code of Conduct must be complied with at all times when you are acting in your capacity as a Member. This Planning Code of Good Practice constitutes guidance for Members of Planning Committees. However, you are advised that if you do not abide by this Code of Good Practice, you may put the Council at risk of proceedings on the legality of any related decision or a complaint of maladministration to the Local Government Ombudsman, and yourself at risk of a complaint under the Members' Code of Conduct. http://www.wiltshire.gov.uk/complaints-members-code-of-conduct</p> <p>3.2 In the event of a conflict between this Planning Code of Good Practice and the Members' Code of Conduct the latter will prevail.</p> <p>If you have any doubts about</p>	<p>Emphasis on guidance status of protocol rather than a supplement to the code of conduct</p> <p>Link added for ease of reference</p>
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	<p>the application of this Code or Wiltshire Council's Code of Conduct for Members to your own circumstances, and in particular where you may have a disclosable pecuniary interest in any planning matter, you should seek advice early from the Monitoring Officer or one of his/her staff, and preferably well before any meeting takes place.</p> <p>https://www.local.gov.uk/sites/default/files/documents/members-interests-bias-an-533.pdf</p>	<p>Note re advice from Monitoring Officer. Link to note from PAS on member interests</p>
<p>4. Development proposals and interests under the Members' Code of Conduct</p> <p>4.1. It is a fundamental point of principle that those who have a significant interest in the outcome of a planning decision should not take part in the decision making process, for example, Members may wish to make their own planning proposals, such as extending their own property. Members should disclose the existence and nature of their</p>	<p>4. Development proposals and interests under the Members' Code of Conduct</p> <p>4.1 It is a fundamental point of principle that those who have a material interest in the outcome of a planning decision should not take part in the decision-making process. Members should disclose the existence and nature of their interest at any relevant meeting, including informal meetings or discussions with officers and other Members.</p>	<p>Wording about members' own planning applications removed as this is inserted at 4.4 below</p>

<p>interest at any relevant meeting, including informal meetings or discussions with officers and other members. Such interests should be declared at the start of the meeting.</p> <p>4.2 The requirements for the registration and declaration of interests are set out in Wiltshire Council's Members' Code of Conduct and in the underlying legislation contained in the Localism Act 2011, and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. You should be aware that failure to comply with the requirements relating to disclosable pecuniary interests without reasonable excuse could result in prosecution.</p> <p>4.3 If you have a disclosable pecuniary interest in any planning matter you must not participate in any discussion of the matter or vote on it at the meeting of the Committee unless you have obtained a dispensation from the Standards Dispensation Sub-Committee. In addition you should:</p>	<p>Such interests should also be declared at the start of the meeting.</p> <p>In the event of a member having any material interest or the application concerns a property in the vicinity of their own property then the member should seek guidance from the Monitoring Officer</p> <p>4.2 The requirements for the registration and declaration of interests are set out in Wiltshire Council's Members' Code of Conduct and in the underlying legislation contained in the Localism Act 2011, and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. http://www.legislation.gov.uk/uksi/2012/1464/made</p> <p>4.3 If you have a disclosable pecuniary interest in any planning matter you must not participate in any discussion of the matter or vote on it at the meeting of the Committee unless you have obtained a</p>	<p>Link to DPI regulations. Note that interests also apply to spouses, civil partners and people living together a husband and wife. In addition WC's own guidance in 3D of the Constitution goes further than the DPI regulations by also including other family members</p>
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<ul style="list-style-type: none"> • Consider employing an agent to act on your behalf in dealing with officers and any public speaking at Committee (although you may participate as and to the same extent as a member of the public); • Ask another elected member to represent division views¹; • Not participate in the processing of the application or the making of any decision on the matter by the Council; • Not seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment because of your position as a councillor • Withdraw from the meeting in your capacity as a councillor when business relating to your interest is being considered. <p>Your proposal will not be dealt with by officers under delegated powers if a valid planning objection to it is received. Where this happens it will</p>	<p>dispensation from the Standards Dispensation Sub-Committee. In addition, you should:</p> <p>4.3.1 Consider employing an agent to act on your behalf in dealing with officers and any public speaking at Committee (although you may participate as and to the same extent as a member of the public);</p> <p>4.3.2 Ask another elected member to represent division views;</p> <p>4.3.3 Not participate in the processing of the application or the making of any decision on the matter by the Council;</p> <p>4.3.4 Not seek or accept any preferential treatment or place yourself in a position that could lead the public to think you are receiving preferential treatment because of your position as a Member.</p> <p>4.3.5 Withdraw from the meeting in your capacity as a Member when business relating to your interest is being considered.</p>	<p>Points reordered</p>
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<p>be reported to a committee for a decision.</p> <p>1 It is acceptable for councillors 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. In the case of death, the Chairman will nominate a stand in.</p>	<p>http://www.wiltshire.gov.uk/part_03_c_-_scheme_of_delegation_planning_.pdf</p> <p>4.4 It is acceptable for councillors to nominate an alternative member to undertake their planning responsibilities, including application 'member request for call-in', if they have a conflict of interest or during periods of absence such as holidays or illness. In the case of death or incapacity the group leader will nominate a stand in in consultation with the relevant Chairman.</p> <p>5. Your role as a Member of the Planning Authority [NB taken from para 1.2 of the existing code]</p> <p>5.1 To ensure that planning decisions are made openly, impartially, with sound judgment and for justifiable planning reasons.</p>	<p>Link attached for ease of reference</p> <p>Moved from a footnote.</p>
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		<p>Added as a standalone para</p>
<p>5. Bias and Predetermination [NB this has been moved to Section 9 in the amended document]</p> <p>5.1 A planning decision may be challenged and ruled unlawful on the ground of bias. The test is whether a fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the member was biased. In particular, under the Council's Code of</p>	<p>6. The purpose of the Planning system [NB this is a new para]</p> <p>6.1 Planning has a positive and proactive role to play at the heart of local government in Wiltshire:</p> <ul style="list-style-type: none"> • It helps the Council to stimulate growth whilst looking after important environmental assets. 	<p>Added as a standalone para</p>

<p>Conduct for Members, bias would occur if you place yourself under a financial or other obligation to third parties that might seek to influence you in the performance of your official duties.</p> <p>5.2 The integrity of and public support for the planning process relies on members of planning committees making decisions that are open, transparent and above board. To participate in decision-making on planning matters, it is essential that you do not have a closed mind and that you make your final decision only when you have seen and heard all the evidence and arguments presented, including the Officer’s report and representations on both sides. The Localism Act has helpfully clarified the rules on predetermination. Predetermination occurs where someone has a closed mind so that they are unable to apply their judgment fully and properly to the issue requiring a decision. This can lead to legal challenges and decisions being set aside.</p>	<ul style="list-style-type: none"> • It can help translate goals into action • It balances social, economic and environmental needs to achieve sustainable development. <p>6.2 Planning decisions are based on balancing many competing interests and making an informed judgement against a local policy (ie local plan and neighbourhood plan) and national policy framework. The decision-making process is open and transparent. Decisions can be controversial. The risk of controversy and conflict are heightened by:</p> <ul style="list-style-type: none"> • the openness of a system which invites public opinion before taking decisions and • the legal nature of the development plan and decision notices. <p>In other words, members have to take into account</p>	
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<p>The Act makes it clear that a member is not deemed to have had a closed mind on an issue just because they have indicated what view they have taken or may take before the issue is decided. A member is not, for example, prevented from participating in discussion of an issue or voting on it if they have campaigned on the issue or made public statements about their approach to it.</p> <p>The general position, however, remains that, whatever their views, members must approach their decision-making with an open mind in the sense that they must have regard to all material considerations and must be prepared to change their views if persuaded that they should.</p> <p>5.3 If you are a member of a Wiltshire Council planning committee and also a member of a parish, town or city council, you can still take part in debates on planning proposals at parish/town/city council meetings, provided that:</p>	<p>not only relevant planning policy when making decisions but they also have to be aware of the legal framework in which the planning system operates.</p> <p>7. How the Planning system works [NB this is a new para]</p> <ul style="list-style-type: none"> - Planning applications registered by the Council are uploaded to the planning pages of the Council’s web site, including details of the plans and reports submitted by applicants; representations received by the Council and consultation responses. - Each week, a list of applications that have been registered by the Council in the week leading up to publication (‘the weekly list’) is sent to members. This contains a description of the 	<p>Brief rundown of procedure</p>
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<ul style="list-style-type: none"> • You make it clear at the meeting that any views you express are based on the limited information before you only and that you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Wiltshire Council Planning Committee; • You make it clear that you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that parish, as and when it comes before the Committee and you hear all of the relevant information; • When the development proposal comes up for consideration at a Wiltshire Council Planning Committee, you should disclose your interest regarding your membership or role at the town/city or parish council. <p>6. Contact with applicants, developers and objectors [NB see paragraph 10 of the amended document]</p>	<p>proposal, including its location and the name of the Planning Officer handling the application.</p> <ul style="list-style-type: none"> - The Council receives over 5,000 planning applications each year. To deal with this workload as efficiently and effectively as possible, the vast majority of these are dealt with by planning officers under delegated powers. <p>The Scheme of Delegation to Officers (Part D3 of the Constitution) http://www.wiltshire.gov.uk/p/plan/art_03_c_-_scheme_of_delegation_planning_.pdf is part of the Council's Constitution and sets out the remits of the Strategic Planning Committee and Area Planning Committees and the rules relating to referring applications to a planning committee.</p> <ul style="list-style-type: none"> - However, as a Member, you can request that a 	
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<p>6.1. As a community leader and local representative you will want to be involved in relevant public meetings, pre-application discussions and policy development. You can involve yourself as a councillor in discussions with developers and others about planning matters provided you keep to the following guidelines:</p> <ul style="list-style-type: none"> • Where developers organise a public exhibition or display of their proposals, it is acceptable for you to visit to examine the proposals and ask questions of the developers to ensure that you are fully informed of the nature of the proposals. You may feed in your own and your local community's concerns and issues and engage in discussion. However, irrespective of any position adopted in advance of a planning meeting you must have and be seen to have an open mind at the point of decision-making and base your decision on the information available at that time. 	<p>planning application in your division be referred to a planning committee and not be dealt with under delegated powers. This is known as a 'member request for call-in' and is dealt with in Section 12.2 – 12.6 below. There are a few exceptions, such as tree applications, that cannot be called-in and these are set out the scheme of Delegation [link]</p> <p>8. Procedure if the application is decided at committee [link to committee procedure]</p> <p>9. Bias and Predetermination [NB this is para 5 in the existing protocol]</p> <p>9.1 Members of a planning committee need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application. This is because a planning decision may be challenged and ruled unlawful on the ground of bias. The test is</p>	<p>Link to list of applications that can't be called in</p> <p>Rundown of order of procedure at committee,</p>
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<ul style="list-style-type: none"> • Pre-application meetings with developers or prospective applicants may be a positive way of engaging the developer to seek to ensure that community needs are met. However, if approached, you should refer any requests for such a meeting to an officer of the Development Service. The officer(s) will then organise the meeting and ensure that those present are advised from the start that the discussions will not bind the authority to any particular course of action and that the meeting is properly recorded. • Refer those who approach you for planning, procedural or technical advice to officers; • Advise those looking for policy guidance to examine the policies in adopted local plans and the Local Development Framework; • Avoid meeting developers alone or putting yourself in a position where you appear to favour a person, company or group. <p>7. Lobbying and councillors [NB see para 11 of proposed amendment]</p>	<p><i>whether a fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the Member was biased.</i></p> <p>In particular, under the Council’s Code of Conduct for Members, bias would occur if you place yourself under a financial or other obligation to third parties that might seek to influence you in the performance of your official duties.</p> <p>9.2 The integrity of and public support for the planning process relies on members of planning committees making decisions that are open, transparent and above board. To participate in decision-making on planning matters, it is essential that you do not have a closed mind and that you make your final decision only when you have seen and heard all the evidence and arguments presented, including the Officer’s report and representations on both sides.</p>	<p>Link to Section 25 Localism</p>
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<p>7.1. Lobbying is recognised as a normal and proper part of the political process. However, it is important for members to protect their impartiality and integrity in planning matters. You will not breach this Code of Good Practice by listening to or receiving viewpoints from residents or other interested parties provided that you make it clear that your final position will be determined at the end of the planning process when you are aware of all of the material considerations. Councillor’s attention is drawn to the following advice:</p> <ul style="list-style-type: none"> • Do not place yourself under a financial or other obligation to any person involved or affected by a planning proposal; • Pass a copy of any lobbying correspondence that you receive to the relevant Development Control Area Team Manager or the case officer at the earliest opportunity; • Do not pressurise or lobby officers for a particular recommendation; 	<p>9.3 The Localism Act sets out the rules on predetermination. http://www.legislation.gov.uk/ukpga/2011/20/section/25/enacted</p> <p>Predetermination occurs where someone has a closed mind so that they are unable to apply their judgment fully and properly to the issue requiring a decision. This could, for example, occur where a member clearly expresses an intention to vote in a particular way before a meeting. This can lead to legal challenges and planning decisions being set aside.</p> <p>9.4 The Act makes it clear that a member is not deemed to have had a closed mind on an issue where they make it clear that they are willing to listen to all considerations presented at the committee before deciding on how to vote. A member may not, for example, be automatically prevented from participating in discussion of an issue or voting on it if they have made public statements about their approach to it. Advice should be sought</p>	<p>Act 2011</p>
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<ul style="list-style-type: none"> • Promptly refer to the Development Control Area Team Manager any offers made to you of planning gain or constraint of development, through a Section 106 Planning Obligation or otherwise; • Inform the Monitoring Officer where you feel that you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality) who will in turn advise the appropriate officers to follow the matter up. • Political Groups should never dictate how Members should vote on a planning issue and members should not excessively lobby fellow councillors regarding concerns or views, nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken. <p>7.2. Can I remain a member of an amenity society when it makes representations on planning</p>	<p>from the Monitoring Officer in these circumstances.</p> <p>9.5 The general position, however, remains that, whatever their views, Members must approach their decision-making with an open mind in the sense that they must have regard to all material considerations (a summary of these can be found at https://www.planningportal.co.uk/faq/faq/4/what_are_material_considerations and must be prepared to change their views in light of all the information presented at the meeting if persuaded that they should.</p> <p>9.6 If you are a Member of a Wiltshire Council planning committee and also a Member of a parish, town or city council, you can still take part in debates on planning proposals at parish/town/city council meetings, provided that:</p> <p>9.6.1 You make it clear at the</p>	<p>Link to short summary of what constitutes a material consideration</p>
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<p>matters? [NB – please see para 11.3 of the proposed guidance]</p> <p>There are many general interest groups who concentrate on issues beyond particular planning proposals. These include bodies such as the National Trust; CPRE; Wiltshire Archaeology and Natural History Society; Ramblers Association; local civic societies. It is acceptable to be members of these societies, provided that an interest is declared when that organisation has made representations on a particular proposal and you make it clear that you have reserved judgement and the independence to make up your own mind on each separate proposal. However, if you become a member of or lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals, you will have to ensure that you still have an open mind and will again have regard to all material considerations at the time any decision is made.</p>	<p>parish/town or city council meeting that any views you express are based on the limited information before you only and that you will not in any way commit yourself as to how you or others may vote when the proposal comes before a Wiltshire Council planning committee;</p> <p>9.6.2 You make it clear that you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that parish, as and when it comes before the Committee and you hear all of the relevant information;</p> <p>9.6.3 When the development proposal comes up for consideration at a Wiltshire Council</p>	
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<p>8. The role of officers [NB – see para 14 of amended document]</p> <p>8.1. Officers and members work together to deliver the outcomes that seek to deliver the outcomes that seek to deliver the right development at the right place at the right time, whilst protecting the built and natural environment. It is therefore essential that there is mutual trust and understanding between officers and members. Officers will advise and assist members in their formulation of planning advice and the determination of applications and will provide:</p> <ul style="list-style-type: none"> • Impartial and professional advice; • Committee reports that include a clear and accurate analysis of the issues <p>in the context of the relevant development plan and other material considerations; the substance of the representations and views of those who have been consulted and a clear recommendation of action.</p>	<p>Planning Committee, you should disclose your interest regarding your membership or role at the town/city or parish council.</p> <p>10. Discussions and contact with applicants, developers and objectors [NB this is para 6 of the existing protocol]</p> <p>10.1 Discussions between a potential applicant and the Council can benefit both parties and are encouraged as a way of gathering information. They are not to be seen as a means of influencing members. Whilst potential applicants may seek the professional advice of planning officers in relation to relevant planning policies and material planning considerations, on major applications (sites of ten houses or developments of above 1000 square metres floorspace) officers will always encourage potential applicants to discuss their proposals with the local parish, town or city council before submitting a planning application. Members have an</p>	
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<p>Officers will process and determine applications in accordance with the council's code of Conduct for Officers and the Royal Town Planning Institute's Code of Professional Conduct.</p> <p>9. Decision making [NB – see para 12 of amended document]</p> <p>9.1 By law, the council has to make decisions in accordance with the Development Plan unless material planning considerations indicate otherwise. The National Planning Policy Framework is a material planning consideration.</p> <p>9.2. As a member, you can request that the relevant planning committee considers a planning application in your division and not be dealt with under delegated powers (although there are a few exceptions, such as tree applications, set out in the Scheme of Delegation). To call-in an application, you need to do this in writing, (an electronic proforma is available for electronic submission),and send it to the</p>	<p>important role to play in such pre-application discussions, bringing your local knowledge and expertise along with an understanding of community views.</p> <p>10.2 As a community leader and local representative, you may want to be involved in relevant public meetings and discussions to help make sure that issues of local concern don't come to light for the first time at a planning committee meeting. You can involve yourself as a Member in discussions with developers and others about planning matters provided you keep to the following guidelines, which also apply to officers:</p> <p>10.2.1 Where developers organise a public exhibition, or display of their proposals, or arrange a meeting with a parish, town or city council to which you are invited</p> <p>You can:</p> <ul style="list-style-type: none"> • visit/attend to examine 	
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<p>relevant area team manager or case officer handling the application. Requests must be received within 21 days of the circulation of the weekly list (but there are some exceptions set out in detail in the Scheme of Delegation to Officers – Part 3B of the Constitution). The proforma must record planning reasons why the committee should deal with the application. (It would be helpful if councillors would contact the case officer prior to call-in to discuss the planning issues involved and whether a call-in is necessary.) Following receipt of a request, officers will confirm the action to be taken and keep the member informed when they are ready to make a recommendation.</p> <p>9.3. While there is a strong presumption that the Division Member’s views on call in should prevail, if another Member (i.e. one from a neighbouring division which is affected by the development) thinks an application should go to committee and this is contrary to the view of the local Division Member, it will be open to that</p>	<p>the proposals</p> <ul style="list-style-type: none"> • ask questions of the developers to ensure that you are fully informed of the nature of the proposals. • feed in your own and your local community's concerns and issues • engage in discussion <i>provided that you always make it clear that any views you express are personal and provisional and will not bind the Council to making a particular decision if an application is subsequently submitted.</i> <p>Irrespective of any position adopted in advance of a planning committee meeting you must have and be seen to have an open mind at the point of decision-making and base your decision on the information available at that time</p> <p>10.2.2 Where developers or</p>	
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<p>member to discuss the application with the Chairman of the committee. Having discussed the application and considered the possible impacts the Chairman will then have the ability to ask for the application to proceed to committee for determination. In the rare event that the application is in the Chairman’s own division, the adjoining member can discuss the application with the Director of the service.</p> <p>9.4 Councillors should arrive at meeting with an open mind and make a decision only after due consideration of all the information reasonably required to make that decision including any matters reported at the meeting. If you feel that there is insufficient information before you, you should request that further information. If necessary, defer or, if the grounds are adequate, refuse the proposal.</p> <p>9.5 Site Visits – Councillors will be expected to be familiar with the site and issues surrounding the decision when they arrive at a committee meeting. It is acceptable</p>	<p>prospective applicants approach you for an individual meeting.</p> <p>You can attend an informal meeting subject to the following caveats:</p> <ul style="list-style-type: none"> • avoid giving separate advice on the development plan or material considerations • avoid being drawn into negotiations; • refer those who approach you for planning, procedural or technical advice to officers; • Advise those looking for policy guidance to examine the policies in adopted local plans, Neighbourhood Plans and the Local Development Framework. These are all available on the Council’s website http://www.wiltshire.gov.uk/planning-policy • Avoid putting yourself in a position where you appear to favour a person, company or group. 	<p>Link to Council planning policy</p>
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<p>to visit the site and, if necessary, surrounding properties that may be affected by the proposal, as an individual councillor before the meeting, although councillors should not enter onto a site without the consent of the owner. On no account should councillors express a view on the merits of the application to anyone, including the applicant, owner or any third party. With regard to the Strategic Committee, for major and controversial applications arrangements will exceptionally be made for organised site visits where these are considered necessary.</p> <p>The committee reports and officer presentations should provide ample information for councillors to determine applications. Very exceptionally, councillors at a committee may feel that a site visit is appropriate to assess the implications of the development. In these cases, reasons for the site visit will be provided and consideration of the application should be deferred pending the visit. (The site visit will be arranged by officers and although the</p>	<p>11 Lobbying and Members [NB – this is para 7 of the existing protocol]</p> <p>11.1 Lobbying is a normal and proper part of the political process. Those who may be affected by a planning decision will often seek to influence it through an approach to their Division Member or to a member of the planning committee. However, it is important for Members to protect their impartiality and integrity in planning matters. This Code of Good Practice recognises the value of listening to or receiving viewpoints from residents or other interested parties provided that you make it clear that your final position will be determined at the end of the planning process when you are aware of all of the material considerations.</p> <p>11.2 Members' attention is drawn to the following advice:</p> <ul style="list-style-type: none"> • Do not place yourself under a financial or other obligation to any person involved or affected by a planning proposal. 	
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<p>owner’s permission will be required, there should be no dialogue with members of the public or applicant/owner during the visit.) The application will then be re-listed on the following agenda.</p> <p>9.6. Public Speaking at Meetings [NB see para 12.11 of amended document]</p> <p>The council has an established procedure in respect of public participation at planning meetings. This should be complied with. In particular, it is not permissible during meetings for members of the public to communicate with councillors debating the proposal either orally or in writing, as this may give the appearance of bias.</p> <p>Consultees and members of the public who wish to speak at a planning meeting, either in favour of or against an application will be asked to register with Democratic Services. Notification can be given in advance of the meeting, but not before the agenda has been published, by contacting the Democratic Services Officer</p>	<ul style="list-style-type: none"> • Consider referring any correspondence that you receive to the relevant Development Management Team Leader or the case officer at the earliest opportunity; <ul style="list-style-type: none"> • Do not put pressure on or lobby officers for a particular recommendation or decision • Do not do anything which compromises or is likely to compromise the officer’s impartiality or professional integrity; • Do promptly refer to the relevant Development Management Area Team Leader any offers made to you of planning gain or constraint of development, through a Section 106 Planning Obligation or otherwise; <ul style="list-style-type: none"> https://www.gov.uk/guidance/planning-obligations • Do Inform the Monitoring Officer where you feel that you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality) who will in turn 	<p>Link to planning obligations section in National Planning Policy Guidance</p>
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<p>identified on the agenda. However it should be noted that the Democratic Services Officer must receive registrations in person at least ten minutes prior to the meeting; registration will take place on a first come first served basis and if someone fails to register in person the opportunity to speak will be offered to someone else if appropriate. If a large number of speakers wish to speak on an application, Democratic Services will advise them to coordinate their speakers.</p> <p>Town/parish/city councils will have an individual four minute representation slot should they wish to speak. Only one representative per council should speak and it is important that the spokesperson expresses the formal views of their council, and not their own individual thoughts. If an application is near the boundary with an adjacent parish, each affected council will have a four minute slot. Any additional time will be at the committee chairman's discretion.</p>	<p>advise the appropriate officers to follow the matter up.</p> <ul style="list-style-type: none"> • Planning decisions cannot be made on a party political basis. Political groups should never dictate how Members should vote on a planning issue and Members should not excessively lobby fellow Members regarding concerns or views, nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken. <p>Can I remain a member of an amenity society when it makes representations on planning matters? [NB – this is 7.2 of the existing protocol]</p> <p>11.3 There are many general interest groups who concentrate on issues beyond particular planning proposals. These include bodies such as the National Trust; CPRE; Wiltshire Archaeology and Natural History Society; Ramblers Association; local civic societies. It is acceptable to be members of these societies, provided that:</p>	
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<p>There will be a maximum of three members of the public permitted to speak in objection to an application and three members of the public permitted to speak in support of an application. Where a committee member with a disclosable pecuniary interest wants to participate in their private capacity as a member of the public (as they are entitled to do) they will need to secure one of the ‘public slots’.</p> <p>Each speaker will be allotted 3 minutes to address the committee and an audible 30 second warning may sometimes be given before the end of the three minutes.</p> <p>In the case of particularly controversial or large scale applications the chairman of the committee will have discretion over these timings and will be able to allow more speakers. It is imperative, however, in the interests of natural justice that any increase in time allowance is applied equally between those speaking for and against.</p>	<p>- an interest is declared when that organisation has made representations on a particular proposal</p> <p>- you make it clear that you have reserved judgement and the independence to make up your own mind on each separate proposal</p> <p>However, if you lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals, you should seek the advice of the Monitoring Officer about any decisions to be made affecting that organisation.</p> <p>12 Decision making</p> <p>12.1 By law, the council has to make decisions in accordance with the Development Plan unless material planning considerations indicate otherwise. The Development Plan includes the Wiltshire Core Strategy and any made Neighbourhood Plans. The National Planning Policy</p>	<p>Difference between membership of an amenity group and leadership/representation of lobby group</p> <p>Link to NPPF</p>
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<p>9.7 Decisions Contrary to Officer Recommendation</p> <p>There will be occasions when councillors wish to make a decision that conflicts with the planning officer's recommendation. In these circumstances, members proposing, seconding or supporting such a decision must clearly identify and understand the planning reasons leading to this decision and must give the planning officer an opportunity to explain the implications of it. The reasons for the decision must be given prior to the vote and be recorded. If an application is to be approved, councillors should set out any particular conditions they would like imposed which will be in addition to the 'standard' conditions for that type of development which will be added by officers. An opportunity must be given to the planning officer to comment on conditions suggested by members and if necessary, the application should be deferred to the next available meeting to enable proper consideration to be given to the wording needed to achieve</p>	<p>Framework (NPPF) sets out Government planning policy and is also a material planning consideration. https://www.gov.uk/government/publications/national-planning-policy-framework--2</p> <p>Member request for Call-in 12.2 The Council receives over 5,000 planning applications each year. To deal with this workload as efficiently and effectively as possible, the vast majority of these are dealt with by Planning Officers under delegated powers. However, as a Member, you can request that a planning application in your division be referred to a planning committee and not be dealt with under delegated powers. This is known as a 'member request for call-in'. There are a few exceptions, such as tree applications, that cannot be called-in and these are set out in the Scheme of Delegation (Part 3D of the Constitution). http://www.wiltshire.gov.uk/part_03_c_-_scheme_of_delegation_planning</p>	<p>link to scheme of delegation NB check 3D</p>
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<p>members' objectives or members may delegate to the officers the imposition of suitable conditions.</p> <p>Reasons for refusal against officer advice must be planning related, clear and convincing. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge or appeal. Where councillors think they could have concerns about any given recommendation at committee, officers will be happy to discuss the application beforehand to explore the options which may be open to the Members.</p> <p>In cases where councillors have overturned a recommendation and the applicant lodges an appeal with the Planning Inspectorate which will be dealt with by way of hearing or public inquiry, Members should be prepared to defend that decision. This defence should be made in person or, at the Member's discretion in writing. Where Members attend and give evidence as part of the council's 'official team,' e.g., they are supported by</p>	<p>.pdf</p> <p>12.3 Before deciding whether to request call-in of any application, you should seek to discuss the matter with the Planning Officer handling the application, or in their absence, with one of the Area Team Leaders overseeing applications in your division. If you are in agreement with their likely course of action, it will seldom be necessary for the application to be placed before a planning committee. If you are not in agreement, then you will need to activate the member request for call-in procedure. While you may be requested by an agent, applicant or parish council to call an application to committee, it is important to carefully consider each request on its planning merits and discuss with the planning officer before agreeing to request a call-in.</p> <p>12.4 To request call-in of an application, you need to complete the on-line call-in request form http://thewire.wiltshire.council/inde</p>	<p>Link to call-in form</p>
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<p>counsel (as opposed to turning up to speak on an individual basis,) a Rule 6 statement will be required which usually has to be submitted nine weeks before the appeal hearing/inquiry. (Members may of course also be called upon to support the council’s case on appeal where the decision has been made in line with the officer recommendation.)</p> <p>10. Training [NB See para 13 of the amended document]</p> <p>Planning is a complex area, but one that generates a great deal of interest amongst local residents and is at the heart of much of the activity of the council. Great care needs to be taken over procedural matters and to ensure that consideration of applications takes place in a clear and open manner and that decisions are based on sound planning principles. For these reasons, it is mandatory for all elected councillors of Wiltshire Council to have training in planning matters prior to sitting on a planning committee. All elected</p>	<p>x/councillors-area/planning-app-to-be-considered-by-committee.htm</p> <p>The proforma must record the planning reasons why the committee should deal with the application.</p> <p>12.5 Requests to call-in an application must be received within 21 days of the circulation of the weekly list on which the application is recorded, although there are some very limited exceptions to this time limit detailed in the Scheme of Delegation, for example the time limit is 15 days for applications for Permissions in Principle [link]. The reason for this is that the Government lays down strict time limits for the determination of planning applications, and if these are exceeded applicants may appeal to the Secretary of State, taking the matter out of the hands of the Council. As applications may be amended during the consultation process, often dealing with issues that have been raised, Members may</p>	
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<p>councillors will be able to attend this training and it will be arranged immediately after each election. For those elected at by-elections, similar training will be made available.</p> <p>11. The order of events at committee meetings</p> <p>Meetings will normally commence at 6 p.m. and the applications will be determined in the order in which they appear in the agenda unless the chairman has valid reasons for changing the order. Officer will try and ensure that applications which are likely to attract large numbers of the public appear early in the agendas. If the order is changed, this will be announced at the start of each meeting.</p> <p>The usual procedure will be:</p> <p>a) The planning officer will introduce each item and set out any representations, amended plans or material considerations which have been received or come to light in the period between the publication</p>	<p>withdraw their requested call-in at any time up until a committee agenda is published containing a report on the called-in application. Once a report on an application has been published on a committee agenda, the committee will proceed to determine the application (unless the application is withdrawn by the applicant or their agent before the meeting takes place). Members can request to be kept advised as to the date when the application will be put before a planning committee for determination.</p> <p>12.6 While there is a strong presumption that the Division Member's request for call in should prevail, if another Member (i.e. one from a neighbouring division which is materially affected by the development) thinks an application should go to committee they can make that request in the same way as a request within their own division.</p> <p>12.7 Members should arrive at meeting with an open mind and make a decision only after due</p>	
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<p>of the agenda and the committee meeting.</p> <p>b) Committee Members will then ask the officer to clarify any points/ask technical questions.</p> <p>c) Members of the public who wish to make representations opposing the application will then be invited to do so. (up to 3 minutes each)</p> <p>d) Members of the public/applicant/agent (in this order) who wish to make representations in support of the application will then be invited to do so.</p> <p>e) Consultees who wish to make representations will be invited to do so. (up to 3 minutes each)</p> <p>f) The town/city or parish council representative, if present, will then be invited to make representations. (up to 4 minutes each)</p> <p>g) The division member will be invited to make representations².</p>	<p>consideration of all the information reasonably required to make that decision including any matters reported at the meeting.</p> <p>12.8 Members should expect to receive officer reports that are accurate and include the substance of any objections and consultation responses. The reports should contain a clear assessment of the proposal against the relevant policies of the development plan and any other material planning considerations, with a written recommendation for a decision to be made. If the report's recommendation is contrary to the provisions of the development plan, the material considerations that justify the departure must be clearly stated. If you feel that there is insufficient information before you to make an informed decision, you should request such further information. In the absence of such further information it may be necessary for the application to be deferred or even refused.</p>	
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<p>h) The planning officer will then have an opportunity to respond to comments or provide clarification of any points raised.</p> <p>i) The chairman will then normally ask if anyone is prepared to move the officer recommendation or propose an alternative motion. Once a motion has been seconded it will be open to the councillors to debate it and ask further questions of officers if required and determine the issue. The rules of debate as detailed in Part 4 of the Constitution will apply.</p> <p>2 Any division member, be they a member of the committee or not is welcome to attend committee meetings and make representations on any application within their division. Councillors who are part of the committee will have voting rights but those who are not can speak, but are not eligible to vote. Division members who are not on the committee may be invited to participate in any debate at the chairman's discretion.</p>	<p><u>Site Visits</u> (see Appendix 1 – <u>Wiltshire Council Planning Site Visit Protocol</u>)</p> <p>12.9 Members will be expected to be familiar with the site and the issues surrounding the application when they arrive at a committee meeting. It is acceptable to visit the site and surrounding properties that may be affected by the proposal, as an individual Member before the meeting, although Members should not enter onto a site without the consent of the owner. On no account should Members express a view on the merits of the application to anyone, including the applicant, owner or any third party. The Head of Development Management may, after consultation with the chairman of the relevant committee, arrange for an organised site visit before the committee meeting by the committee where this is considered necessary for major and/or controversial applications, or other exceptional circumstances.</p>	
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	<p>12.10 The committee reports and officer presentations should provide ample information for Members to determine applications. If there has been no organised site visit prior to the meeting, Members at a committee may, exceptionally, feel that a site visit is appropriate to assess the implications of the development. In these cases, Members must give reasons for the site visit before consideration of the application for deferral pending the visit. The site visit will be arranged by officers and although the owner's permission will be required, there should be no dialogue with members of the public or applicant/owner during the visit. The application will then be re-listed on the following agenda.</p> <p>Public Speaking at Meetings</p> <p>https://cms.wiltshire.gov.uk/documents/s134074/Public%20Participation%20FAQ.pdf</p> <p>12.11 The council has an</p>	
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	<p>established procedure in respect of public participation at planning meetings. This should be complied with in the interests of equity. In particular, it is not permissible during meetings for members of the public to communicate with members either orally or in writing once debate has commenced, as it could be seen as seeking to influence a member improperly and may give the appearance of bias.</p> <p>Decisions Contrary to Officer Recommendation</p> <p>12.12 Planning committees can, and often do, make a decision which is different from the officer recommendation. Sometimes this will relate to conditions, or sometimes it will change the outcome, from an approval to a refusal or vice versa. This will usually reflect a difference in the assessment of how a policy has been complied with, or different weight ascribed to material considerations.</p>	
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	<p>12.13 If a member is concerned about an officer recommendation, it may be helpful to discuss their areas of difference and the reasons for that with officers in advance of the committee meeting. A better mutual understanding of each other's reasons may avoid misunderstandings at the meeting.</p> <p>12.14 In circumstances where members are proposing a decision contrary to the officer recommendation, members should be prepared to give a full explanation of their planning reasons, including reference to relevant policies, for not agreeing with the officer's recommendation. This is because the applicant and members of the public should be clear about why a decision has been made. The reasons for the decision must be given prior to the vote and be recorded in the minutes.</p> <p>12.15 The Planning Officer should also be given an opportunity to explain the implications of any</p>	
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	<p>contrary decision, including an assessment of any reasons put forward for refusal, or conditions suggested for approval. Where a refusal is proposed, this may include an assessment of a likely appeal outcome and chances of a successful award of costs against the Council, should one be made. In exceptional circumstances, the application may be deferred to the next available meeting to enable proper consideration to be given to the wording needed to achieve members' objectives or members may delegate to the officers the imposition of suitable conditions. Reasons for refusal against officer advice must be:</p> <ul style="list-style-type: none">• planning related,• clear• evidence based. <p>This is because at any subsequent appeal, should one be lodged, a Planning Inspector will carefully scrutinise the reasons and the evidence relied upon.</p> <p>12.16 In cases where members have overturned a recommendation</p>	
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	<p>and the applicant lodges an appeal, most appeals will be defended by the Planning Officers employed by the Council. However, there may be rare cases at hearings or public inquiries where planning officers are unable to defend the reasons put forward by members and no external professional can be called upon. In these circumstances, members may be required to defend that decision, appearing as the Council's witness. Officers will assist and support but may not be able to give evidence. This is because if they have taken a different stance on the application leading up to the decision, cross examination of them as witnesses at any subsequent appeal will weaken the Council's case.</p> <p>13 Training [NB this is para 10 of the existing protocol]</p> <p>13.1 Planning is a complex area, but one that generates a great deal of interest amongst local residents and is at the heart of much of the activity of the Council. Great care needs to be taken over procedural matters</p>	
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	<p>and to ensure that consideration of applications takes place in a clear and open manner and that decisions are based on sound planning principles.</p> <p>13.2 For these reasons, it is mandatory for all elected members of Wiltshire Council to undergo training in planning matters prior to sitting on a planning committee. All elected members will be able to attend this training and it will be arranged immediately after each election. For those elected at by-elections, similar training will be made available.</p> <p>13.3 The legislation surrounding planning matters is often subject to change. Officers will provide ongoing training, which is also mandatory, including updates through written briefings, e-learning and training events and will be happy to answer questions that members may raise on planning matters</p> <p>14 The role of officers [NB this is para 8 of the existing protocol]</p>	
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	<p>14.1 Officers and members work together to deliver the right development at the right place at the right time, whilst protecting the built and natural environment. It is therefore essential that there is mutual trust and understanding between officers and members. Officers will advise and assist members in their formulation of planning advice and the determination of applications and will provide:</p> <ul style="list-style-type: none">• Impartial and professional advice;• Committee reports that include a clear and accurate analysis of the issues in the context of the relevant development plan and other material considerations• Details of the representations and views of those who have	
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	<p>been consulted and</p> <ul style="list-style-type: none">• a clear recommendation of action.	
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APPENDIX 1 – SITE VISIT PROTOCOL

Appendix 1 to Protocol 4

Wiltshire Council Planning Site Visit Protocol – NB updated in accordance with current best practice

1. Arranging the visit

1.1 When members have decided in committee that they would like to visit a site, they will be asked to agree a time and date at the end of the meeting. If this is not possible, a schedule for the visit will be agreed between the chairman and officers.

- 1.2 Democratic services will then notify the applicant or their agent of the time and date of the site visit and seek authority for councillors and officers to visit the site. Where the application site is on private land, the applicant or agent will be requested to be in attendance only to facilitate access.
- 1.3 All members of the relevant committee (including any substitutes) will be invited to attend the site visit as will the local division member should he or she not be on the committee. Where a proposal would have a significant impact on an adjoining division, the adjoining division member will similarly be invited to attend.
- 1.4 On occasion, officers of other services such as highways or drainage may be invited (by the Head of Development Management or the relevant Area Team Leader) to attend a site visit to clarify factual matters.
- 1.5 Councillors are reminded that they have no right of entry to private land except by permission of the owner and that they and officers should not enter a private site until all are present and an officer has made contact with the landowner/operator/applicant.
- 1.6 In the unlikely event that the landowner will not give permission to enter a private site, the site will have to be viewed from public highway.

2. Conduct of the visit

- 2.1 The purpose of the site visit is to enable councillors to familiarise themselves with the site and its surroundings in order to understand the planning issues related to the proposal more clearly when considering the application at committee.
- 2.2 While it may be necessary for an applicant or his agent to be present on the site (e.g. to provide access or for safety reasons), discussions between members and the applicant or their agent or any third party should be avoided and they will be advised that lobbying of councillors is unacceptable.
- 2.3 At the request of the chairman, and after taking a note of the members present for the site visit, the planning officer will describe the proposal to councillors and will display and/or circulate appropriate plans or drawings of the proposal. (It is expected that councillors will already be familiar with the planning officer's report) The planning officer will indicate matters of fact in relation to the proposal and surrounding land which councillors should take into account when the application is brought back before them for determination.
- 2.4 Questions by councillors should be addressed to the planning officer and be of a factual nature, for example, distances to adjoining or objectors' properties; the landscape features to be retained; the status of any nearby heritage assets. If it is necessary to seek information from the applicant or agent on site this will be done by an officer.
- 2.5 At no time during the site visit should councillors debate or comment on the planning merits or otherwise of a proposal. The application will be debated in public at a subsequent planning committee meeting.

2.6 On occasion, it may be helpful to members to view the site from a neighbouring property. This should only be done where consent has been obtained by officers from the landowner concerned and again, at no time should councillors debate or comment on the planning merits of the proposal.

2.7 The role of the local division member at the site visit will be limited to drawing attention to features of the site and its surroundings that he/she considers relevant to the committee's understanding of the site, its surroundings and the proposal. The local member will not be permitted to make representations on the merits or otherwise of the application.

3. General

3.1 Councillors should avoid being separated; it is essential that they should not allow themselves to be lobbied at the site visit or enter into a debate about the application with any third party, including applicant, agent, supporters or objectors, as this could create a perception of bias.

3.2 Councillors should ensure that they have seen all aspects of the site suggested by the accompanying officer or the chairman during the visit.

3.3 Councillors will not make any decision at the site visit and individual members should keep an open mind about the merits or otherwise of the proposal to which the site visit relates.

3.4 The application will usually be the first item on the agenda of the following Planning Committee meeting where the decision will be made.

4. Record of the visit

4.1 A record of the visit will be retained on the planning application file. The record will include the timetable for the meeting, attendees and what matters were viewed on site.

5. Notes

5.1 Officers will identify relevant health and safety issues for all site visits. All health and safety instructions, as issued by the site owner/operator must be strictly followed.

5.2 Where appropriate, protective clothing e.g. visibility jackets, hard hats will be provided for councillors on arrival at the site. Councillors should, however, be aware of the need to wear appropriate footwear.

5.3 In the interests of sustainability and highway safety, it is recommended that car- sharing opportunities be used where practical to minimise travelling and parking.

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Planning Committee Meeting Procedure and Public Speaking

Agenda Order

1. Applications will be determined in the order they appear on the agenda unless the Chairman, with the agreement of the Committee, has valid reasons for changing the order.
2. Officers will seek to ensure that applications which are likely to attract large numbers of attendees appear earlier in the agenda.
3. If the order is changed, this will be announced at the start of the meeting.

Meeting Procedure

4. In the interests of fairness, consistency and transparency, the procedure below should be complied with by each planning committee. Members of the public in particular should note that it is not permissible during meetings to communicate with members debating the proposal either orally or in writing, as this may give the appearance of bias. Any participation in the meeting should be as set out below.
5. For each application the planning officer will introduce the application and the key issues involved, as well as the reasoning behind the recommendation as set out in their report. They will also set out any representations, amended plans or material considerations which have been received or come to light in the period between the publication of the agenda and the committee meeting.
6. Committee Members may then ask the officer to clarify any points/ask technical questions.
7. Members of the public who wish to make representations opposing the application will then be invited to do so. Up to three speakers will be invited for up to three minutes each.
8. Members of the public who wish to make representations in support of the application will then be invited to do so. This section includes the applicant, the agent, and any other professionals employed by the applicant. Up to three speakers will be invited for up to three minutes each.
9. Statutory Consultees who wish to make representations will then be invited to do so for up to three minutes each, whether in support or in objection to the application.

10. The parish council representative for the area in which the applications sits, if present, will then be invited to make a representation of up to four minutes. This must be the formal view of the parish council, not an individual representation. If the application is on the edge of several parishes which are directly affected, the Chairman may allow other parishes, to a maximum of three total, to speak for up to four minutes each. Other members of a parish council may register to speak, but would need to utilise a public speaking slot.
11. The unitary division member for the application will then be invited to make a representation. The Chairman may allow a neighbouring or any other member of the council to make a representation at this time if they consider it appropriate.
12. The planning officer will then have an opportunity to respond to comments or provide clarification of any points raised by the public or members.
13. The Committee will then debate the application. The first member to speak will be expected to move a proposal for deliberation. The rules of debate as detailed in Part 4 of the Constitution will apply.

General Public Participation

14. In the case of all public speaking categories, speakers must register with Democratic Services no later than 10 minutes before the start of the meeting. Public are encouraged to contact Democratic Services sooner in order to register, but not prior to the publication of the agenda.
15. If more than three persons wish to speak on an application, they will be listed on a first come first served basis, and if at the registration deadline a speaker does not confirm their attendance in person, the opportunity to speak will be offered to someone else if appropriate. Prior to the meeting speakers will be advised to coordinate themselves and, regardless of order of registration, if they are in agreement any chosen three may speak in whichever order they wish. In the absence of agreement, the Chairman will take the speakers in the order as registered.
16. While the Chairman of a committee has discretion over the timings and number of speakers in the case of controversial or large-scale applications, in the interests of natural justice it is imperative that any increase is applied equally between those speaking for and against the application.
17. No contributions from the public will be accepted outside the public speaking slots detailed above.

Questions and Petitions

18. Submitted questions and petitions on non-determined planning applications are excluded from the usual council procedures at Part 4 of the Constitution. This means that any questions or petitions in relation to an agenda item at a meeting will be logged by planning officers as a representation and addressed in their introduction of the item.

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Wiltshire Council

Standards Committee

14 November 2019

Recommendations of the Constitution Focus Group: Part 4A of the Constitution (Petitions Scheme)

Purpose of Report

1. This report asks the Standards Committee to consider recommendations of the Constitution Focus Group in relation to Part 4A of the Constitution (Petitions Scheme).

Background

2. 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 in carrying out this function.
3. The Focus Group met on 10 April 2019 and 2 September 2019 to review sections of the Constitution, including those as detailed in paragraph 1.
4. The relevant notes of the Focus Group meeting listed in paragraph 3 can be found at **Appendix A**.

Main Considerations

5. The Council is not required to establish a petitions scheme but has chosen to establish a discretionary petitions scheme at Part 4A of the Constitution.
6. The Focus Group considered that the existing scheme, as detailed at **Appendix B**, was lacking in clarity in respect of certain procedures, was not laid out in a clear fashion, and that it was appropriate to recommend amendment to sections in relation to thresholds to trigger council debates and the length of any debate that was triggered.
7. The Focus Group therefore recommended a series of changes intended to enhance the role of members of the public, and provide greater clarity around thresholds, expectations on petition organisers, and council procedures when a debate has been triggered by a petition.
8. The proposed changes, set out in **Appendix C**, include:
 - Increasing the length of a debate at Full Council on a petition from 15 minutes to 30 minutes.
 - That 30 minutes would not include the representation from the Petitions organiser, response of the Cabinet Member or the response of group leaders. Accordingly, to maximise the number of contributions from Members, for such debates only the contributions for Members would be for three minutes.

- Clarifying details that should/should not be included in a petition, and timescales for a response.
- Requiring submission of a petition at least 10 clear working days before a council meeting, in line with rules for motions on notice, to allow the petition details to be verified.
- That rather than a 1% of council area population threshold for triggering a council debate, if requested, there be a target number set at the beginning of each council term. That threshold to be set at 5000 people.
- For Area Boards, to remove the threshold for a petition to be debated. With more than 10 signatures it would be for the Chairman to accept a debate on the subject. For greater than 50 signatures a debate would be required, if requested by the petition organiser, and if the petition is within the remit and powers of the Area Board.
- That complaints about how petitions are dealt with be directed to the council's complaints service rather than Overview and Scrutiny.

Safeguarding Implications

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

Equalities Impact of the Proposal

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

Risk Assessment

11. There are no risk issues arising from this report.

Financial Implications

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

Legal Implications

13. The recommendations in this report are consistent with the council's duties under relevant legislation.

Public Health Impact of the Proposals

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

Environmental Impact of the Proposals

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

Proposal

16. **To recommend Full Council approve the revisions to Part4A of the Constitution as detailed in Appendix C.**

Ian Gibbons, Monitoring Officer

Report Author: Kieran Elliott, Senior Democratic Services Officer, 01225 718504,
kieran.elliott@wiltshire.gov.uk

Appendices

Appendix A - Notes of the Constitution Focus Group: 10 April 2019 and 2 September 2019

Appendix B – Existing Part 4A

Appendix C – Revised Part 4A

Background Papers

[Part 4 of the Constitution](#)

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Appendix A Standards 14 11 19

CONSTITUTION FOCUS GROUP

MINUTES OF THE CONSTITUTION FOCUS GROUP MEETING HELD ON 10 APRIL 2019 AT SALISBURY ROOM - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Richard Clewer (Chairman), Cllr Richard Britton and Cllr Stuart Wheeler

Also Present:

Cllr Tony Jackson

14 **Apologies**

Apologies were received from Councillors Jon Hubbard and Graham Wright.

15 **Minutes of the Previous Meeting**

The notes of the meeting held on 20 March 2019 were received and it was,

Resolved:

To approve and sign as a true and correct record the notes of the meeting held on 20 March 2019.

16 **Assessment Sub-Committees**

The Focus Group discussed proposals raised at the last meeting to replace the existing review sub-committee procedure with assessment sub-committees, which would determine all code of conduct complaints after receiving and considering a recommendation from the Monitoring Officer, rather than the Monitoring Officer making the decision, which could be reviewed.

The Focus Group discussed potential aspects to the new procedure with a view to receiving revised drafts of all relevant documentation at its next meeting. Issues discussed involved pre-assessment management and screening of complaints against jurisdictional matters outlined in the arrangements such as a complaint being out of time, how these should be reported to the Assessment Sub-Committee for decision, and the stages and time frames for any investigation.

It was agreed that complainants and subject members should receive the opportunity to make a statement at any Assessment Sub-Committee on initial assessment, but that they should not when the Sub-Committee received the outcome of an investigation report upheld by the Monitoring Officer, on the grounds that all parties at that point had received ample opportunity for comment.

Other matters agreed were that Independent Persons would attend the Sub-Committee and not be required to consult with the Monitoring Officer as the latter formed their recommendation, that the membership of the Sub-Committee would be appointed by the Standards Committee and that timeframes for responses to various stages should be adhered to as rigidly as was practicable and reasonable.

Resolved:

To receive draft revisions to appropriate documentation implementing the proposed changes at the next meeting.

17 **Petitions Scheme**

The Focus Group considered information relating to the petitions schemes of other authorities and made a series of proposals to form the basis of a redrafted petitions scheme to be considered at the next meeting.

It was confirmed that the Focus Group believed the period for debate on a petition at Council should be extended to 30 minutes and members limited to contributions of 3 minutes each, and that this time should not include the response of the Cabinet Member or group leaders. It was considered that permitting three public speakers for any petition being presented was reasonable, and that a deadline for submission of any petition for presentation or debate be set to coincide with the deadline for motions on notice to Council.

The Focus Group considered that thresholds for petitions to be debated at area boards were unnecessary and that this should be at the Chairman's discretion, as was already the case should a petition not meet the threshold. Additionally, the threshold for a debate at Full Council should be a set number agreed at the beginning of each Council term in line with the present number, but without the need to reassess it as a percentage of the council area population.

The Focus Group also discussed further details and clarifications that could be included in any scheme, such as the chairman moving a motion for debate on any petition, guidance for members and the public on what actions could be taken with petitions on particular subjects depending on the decision maker and status of the matter in question, and expectations for petition organisers.

Resolved:

To receive a draft revised petitions scheme at the next meeting.

18 **Part 10: Procurement and Contract Regulations**

The Focus Group received details of proposed changes to Part 10 of the Constitution, correcting out of date information and seeking to simplify and clarify the processes for procurement within the Council alongside work to improve the existing procurement manual for officers.

Details were sought on the level of responsibility the wording placed on the Head of Procurement rather than the defunct Procurement Board, how procurement and other risks were being identified, reported and actioned between the procurement team and the services and the existing rules in relation to extraordinary exemptions. In particular it was requested that additional drafting be considered if necessary to ensure processes in relation to extraordinary exemption were sufficient.

Resolved:

Taking account of the comments made at the meeting, that the Standards Committee recommend Council approve the proposed changes.

19 **Protocol Updates**

The Focus Group noted that the Audit Committee would be considering proposals in relation to partnership working and corporate governance, which would replace Protocol 8 and update Protocol 10 respectively.

Resolved:

Subject to the decision of the Audit Committee, that the Standards Committee recommend Council remove Protocol 8 of the Constitution and update the number of other protocols accordingly, and approve the changes to Protocol 10.

20 **Urgent Items**

There were no urgent items.

(Duration of meeting: 12.30 - 2.15 pm)

The Officer who has produced these minutes is Kieran Elliott, of Democratic & Members' Services, direct line 01225 718504, e-mail kieran.elliott@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115

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Appendix A Standards 14 11 19

CONSTITUTION FOCUS GROUP

MINUTES OF THE CONSTITUTION FOCUS GROUP MEETING HELD ON 2 SEPTEMBER 2019 AT SALISBURY ROOM - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Richard Clewer (Chairman), Cllr Richard Britton, Cllr Jon Hubbard, Cllr Stuart Wheeler and Mr Michael Lockhart

41 **Apologies**

An apology was received from Councillor Graham Wright.

42 **Notes of the Previous Meeting**

The notes of the meeting held on 14 June 2019 were received and it was,

Resolved:

To approve and sign the notes as a true and correct record.

43 **Protocol 4 of the Constitution: Planning Code of Good Practice**

At Full Council on 9 July 2019 it was determined to refer the revised Protocol 4 back to Standards Committee for further consideration. Full Council had also voted in favour of an amendment removing the five-minute time limit for local members to present to a planning committee. All Members had been contacted on three occasions to enquire over any aspects of the proposed revised protocol they had concerns with. All comments received by the meeting had been circulated to the Focus Group.

The main point of concern that had been raised at Full Council was in relation to a Member request for call-in of a planning application. The Focus Group had proposed a slight change to existing wording to recognise that the Chairman of a planning committee held no delegated authority to call-in an application, but that the Head of Development Management did, and therefore if a Member wished to bring an item not within their division to a committee could put that request.

There had been concerns expressed by Members that this amounted to an officer being able to reject a call-in by a Member. The Focus Group noted those

concerns, however it was explained that all call-in requests were legally just requests, as it was not legally permissible for an elected Member to be delegated such authority. This was because while the decision on a planning application was a council decision, the decision on whether an application should be dealt with under delegated powers or not was an executive decision. As such, all Member call-ins were in fact Member requests for call-in, and the scheme of delegation reflected this.

The Focus Group was assured that officers were not aware of a situation where a Member request for call-in had ever been rejected. Noting this, and the legal situation around call-in requests, the Focus Group suggested amended wording to make the situation clearer to all Members, and that all references to call-in be replaced with 'member request for call-in'. This was not to make it more difficult for members to call-in applications, or apply a stricter standard for officers to accept such requests, but simply to recognise the legal position.

Resolved:

That Standards recommend the revised Protocol 4 to Full Council accordingly.

44 **Part 4A of the Constitution: Petitions Scheme**

The Focus Group considered a revised Part 4A of the Constitution in relation to a council Petitions Scheme, incorporating changes proposed at their meeting on 10 April 2019.

The Focus Group supported the proposed scheme as simpler and clearer, along with additional changes to clarify procedures around debates and receipt of petitions. After discussion they supported a threshold of 5000 signatories for a debate to be held at full council, and a limit of three minutes for speeches by members, while doubling the length of debate. For Area Boards they agreed there should be no lower limit of signatures for a debate, but felt that if at least 50 signatures had been received on a valid petition it should require a debate if requested.

It was also agreed that a request for review of the petition process by a petition to Overview and Scrutiny was not appropriate, and any concerns around administrative processes could be referred to the council's corporate complaints procedure.

Resolved:

That Standards recommend Full Council adopt the revised Petitions Scheme.

45 **Future Items**

The Focus Group noted further items for potential review including Part 3 and Part 8 in relation to decision making processes, and the protocol on individual Cabinet Member decisions.

46 **Date of Next Meeting**

The scheduled meeting on 17 September 2019 was cancelled. Further dates would be provided in due course.

47 **Urgent Items**

There were no urgent items.

(Duration of meeting: 1500 - 1620)

The Officer who has produced these minutes is Kieran Elliott of Democratic Services, direct line 01225 718504, e-mail kieran.elliott@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115

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Schedule 1 – Part 4A Wiltshire Council Petitions Scheme

1. **Petitions**
- 1.1 The council recognises that petitions are one way in which the people can let it know their concerns. All petitions sent or presented to the council will receive an acknowledgement from the council **within 10 working days of receipt.**
- 1.2 Anyone who signs a petition must meet the following eligibility requirements:
 - 1.2.1 For a petition to be presented to **Full Council**, signatories must be **aged 13 or above, live, work or study in Wiltshire**, or have a **direct connection to the service which is the subject of the petition**. For the petition to be noted at Full Council it requires a **minimum of 25 signatures**.
 - 1.2.2 For a petition to be presented to an **Area Board**, signatories must be **aged 13 or above, live, work or study within the relevant community area**. For the petition to be noted at a meeting of an Area Board, it requires a **minimum of 10 signatures**.
- 1.3 Any acknowledgement will set out what the council plans to do with the petition. The council will treat something as a petition if it is identified as such, or it seems that it is intended to be a petition.
- 1.4 Paper petitions can be sent to: **Democratic Services, Wiltshire Council, County Hall, Bythesea Road, Trowbridge, BA14 8JN.**
- 1.5 Wiltshire Council welcomes petitions submitted electronically. To aid this process an e-Petitions facility is available at <https://cms.wiltshire.gov.uk/mgEPetitionListDisplay.aspx> or by following a link from the [Petitions Homepage](#).
- 1.6 This facility allows e-Petitions to be created, signed and submitted only by registering with the council, using a valid email address. Electronic petitions hosted via other websites can be sent to committee@wiltshire.gov.uk for consideration by Democratic Services.
- 1.7 **If your petition has been signed by a number equivalent to at least 1% (approximately 4,700 people) of the total population of Wiltshire it will also be scheduled for a Council debate** (more information is contained in the section below on [How will the council respond to petitions?](#))
- 1.8 If this is the case the council will let you know the date of the meeting when it will be heard. These meetings take place at least four times a year. Dates and times can be found [here](#).

- 1.9 If you would like to present your petition to the council, or would like your local Member or someone else to present it on your behalf, please contact Democratic Services on 01225 718214/01722 434560, or committee@wiltshire.gov.uk, at least ten working days before the meeting and an officer will talk you through the process.
- 1.10 Alternatively, if your petition does not have sufficient signatures to trigger a debate at Full Council you may wish to discuss what other options are available or refer the petition to a select committee. Please contact Democratic Services and they will talk you through your options.
- 1.11 Or if your issue is a local one and falls within the remit and powers of the Area Boards you may wish to present your petition at an Area Board. See Part 3 Section 4 of Wiltshire Council's Constitution, for more information on the remit and powers of Area Boards. **The council has set a nominal threshold of 1% of the total population of the area covered by the area board to trigger a formal debate at an Area Board.** However, any petition received for an Area Board will be discussed with the appropriate Chairman and the appropriate action taken.
- 1.12 A map showing Area Board Petition Thresholds is available at Part 4 Schedule 2 of the Constitution
- 1.13 So, no matter the nature or number of signatories to your petition, you will be kept informed of how the council proposes to deal with it and the action to be taken. The council remains convinced of the need for local discretion and flexibility in the way petitions are managed. Petitions that trigger the thresholds will be referred to Full Council or to an Area Board as appropriate.
- 1.14 There will, however, be local discretion and flexibility in dealing with any other petitions. Discussions will take place with the relevant Cabinet member or appropriate Area Board Chairman to determine the most appropriate way of dealing with the petition. The options may include referring the matter to the Cabinet or the appropriate Area Board, or any of those options listed in the section below on How will the council respond to Petitions?

2. What are the Guidelines for Submitting a Petition?

- 2.1 Petitions submitted to the council must include:
- 2.1.1 a clear and concise statement covering the subject of the Petition. It should state what action the petitions wish to take; and
- 2.1.2 the name, address and signature of any person supporting the petition.
- 2.2 Petitions should be accompanied by contact details, including an address of the Petition organiser. This is the person the council will contact to explain how they will respond to the petition.
- 2.3 The contact details of the petition organiser will not be placed on the council's website. If the petition does not identify a petition organiser, the council will contact the first named signatory to the petition to agree who should act as the petition organiser.

- 2.4 For further information see the [What information should my Petition contain?](#) and [What is not suitable for a Petition?](#) information pages on Wiltshire Council's website.
- 2.5 Petitions which are considered to vexatious, abusive or otherwise inappropriate will not be accepted. In the period immediately before and election or referendum the council may need to deal with your petition differently – if this is the case the council will explain the reasons and discuss the revised timescale which will apply. If a petition does not follow the guidelines set out above, the council may decide not to anything further with it. In that case, they will write to you to explain the reasons.

3. What will the Council do when it receives my Petition?

- 3.1 An acknowledgement will be sent to the petition organiser within ten working days of receiving the petition. It will let them know what the council plan to do with the petition and when they can expect to hear from them again. It will also be published on the council's website.
- 3.2 If the council can do what your petition asks for, the acknowledgement may confirm that the council has taken the action requested and the petition will be closed.
- 3.3 If the petition has enough signatures to trigger a debate, then it will be referred to a meeting of Full Council or an Area Board and the acknowledgement will confirm this and tell you when and where the meeting will take place.
- 3.4 If the petition is dealt with in a different way of it the petition needs more investigation, the council will tell you the steps they plant to take.
- 3.5 If the petition applies to a [planning](#) or [licensing](#) application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as [Council Tax Banding](#) and [Non-Domestic Rates](#), other procedures apply.
- 3.6 Further information on all these procedures and how you can express your views is available through the links above and [Wiltshire Council's Website](#).
- 3.7 To ensure that people know what the council is doing in response to petitions received, the details of all petitions submitted will be published on the council's website, except in cases where this would be inappropriate. Whenever possible the council will also publish all correspondence relating to the petition (all personal details will be removed).
- 3.8 When you sign an e-petition you can elect to receive this information by email. The council will not send you anything that is not relevant to the e-petition you have signed, unless you choose to receive other emails from us. You can change what information you receive and keep in touch with the progress of a petition at any time by contacting Democratic Services on 01225 718214/ 01722 434560, or committee@wiltshire.gov.uk.

4. How will the Council respond to Petitions?

- 4.1 The council's response to a petition will depend on what a petition asks for and how many people have signed it, but many include one or more of the following:
- 4.1.1 taking the action requested in the petition;
 - 4.1.2 considering the petition at a Full Council meeting;
 - 4.1.3 holding an inquiry into the matter;
 - 4.1.4 undertaking research into the matter;
 - 4.1.5 holding a public meeting;
 - 4.1.6 holding a consultation;
 - 4.1.7 holding a meeting with the petitioners;
 - 4.1.8 referring the petition for consideration by one of the council's select committees*
 - 4.1.9 calling a referendum
 - 4.1.10 writing to the petition organiser setting out the council's views about the request in the petition

(*The Council's [Select Committees](#) perform the overview and scrutiny function with the council where Members are responsible for scrutinising the work of the council – in other words, the select committee has the power to hold council's decision makers to account.)

- 4.2 In addition to these steps, the council will consider all the specific actions it can potentially take on the issues highlighted in the petition.
- 4.3 If your petition is about something over which the council has no direct control (for example the local railway or hospital) the council will consider making representations on behalf of the community to the relevant body. The council works with a large number of local partners and where possible will work with these partners to respond to your petition. See the [Wiltshire Family of Partnerships](#) page for more details on our partnership working arrangements.
- 4.4 If the council is not able to do this for any reason (for example if what the petition calls for conflicts with council policy), then they will set out the reasons for this in writing. If the petition is of a sufficient size to trigger a debate at a Full Council meeting then a representative of the partner organisation will be invited to attend the meeting to assist with the debate.
- 4.5 You can find more information on the services for which the council is responsible for on the Council's Website. If your petition is about something that a different council is responsible for the council will consider what the best method for responding is. This might consist of simply forwarding the petition on to the relevant council, but could involve other steps. In any event the council will always notify you of the action they have taken.

5. Full Council Debates

- 5.1 If the petition is of sufficient size to trigger a debate at Full Council the issue raised in the petition will be discussed at a meeting which all Members can attend. The

council will endeavour to consider the petition at its next schedule meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting.

- 5.2 The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by the Members for a maximum of 15 minutes. In addition to your petition the council may also consider the view of Cabinet or Cabinet Member. If you would like you also have the opportunity to answer questions or clarify issues for the Members.
- 5.3 The council will decide how to respond to the petition at this meeting. The council may decide to take the action the petition requests, not to take the action requested for reason put forward in the debate or to commission further investigations into the matter, for example by a relevant committee.
- 5.4 Where the issue is one on which the Council's Cabinet are required to make the final decision, the council will decide whether to make recommendations to inform that decision.
- 5.5 The petition organiser will receive written confirmation of the decision. This confirmation will also be published on the council's website.
- 5.6 Alternatively, and if timing permits, the petition may be referred to the Cabinet for its views so that at the Full Council meeting those views can be considered alongside the petition and a final decision made.

6. E-Petitions

- 6.1 Wiltshire Council welcomes petitions submitted electronically. To aid this process the council has developed an e-Petitions facility which is available at <https://cms.wiltshire.gov.uk/mqEPetitionListDisplay.aspx> or by following a link from the Petitions Homepage.
- 6.2 This facility allows e-Petitions to be created, signed and submitted only by registering with the council, using a valid email address.
- 6.3 Electronic petitions hosted via other websites can be sent to committee@wiltshire.gov.uk for consideration by Democratic Services.
- 6.4 e-Petitions are subject to the same guidelines as paper petitions. The petition organiser will need to provide the council with their name, postal address and email address. You will also need to decide how long you would like your petition to be open for signatures. Most petitions run for six months, but you can choose a shorter or longer timeframe, up to a maximum of twelve months.
- 6.5 When you create an e-petition, it may take up to five working days before it is published online. This is because the council must check that the content of your petition is suitable before it is made available for signature.

- 6.6 If the council feels they cannot publish your petition for some reason, they will contact you within this time to explain. You will be able to change and resubmit your petition if you wish. If you do not do this within ten working days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.
- 6.7 When an e-petition has closed for signature, it will automatically be submitted to Democratic Services. In the same way as a paper submission, you will receive an acknowledgement within ten working days.
- 6.8 If you would like to represent your e-petition to a meeting of Full Council, please contact Democratic Services on 01225 718214/ 01722 434560, or committee@wiltshire.gov.uk within ten working days of receipt of the acknowledgement.
- 6.9 A petition acknowledgment and responses will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgment and response will also be published on this website.
- 6.10 Petitions submitted electronically but not through the e-petition facility will be dealt with in accordance with the provisions for paper petitions.

7. How do I 'sign' an E-Petitions

- 7.1 You will see all the e-petitions currently available for signature at the e-Petitions page.
- 7.2 When you sign an e-petition you will be asked to provide your name, postcode and a valid email address. When you have submitted this information, you will be sent an email to the address provided.
- 7.3 This email will include a link which you must click to confirm the email address is valid.
- 7.4 Once this step has been completed your 'signature' will be added to the petition.
- 7.5 People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.

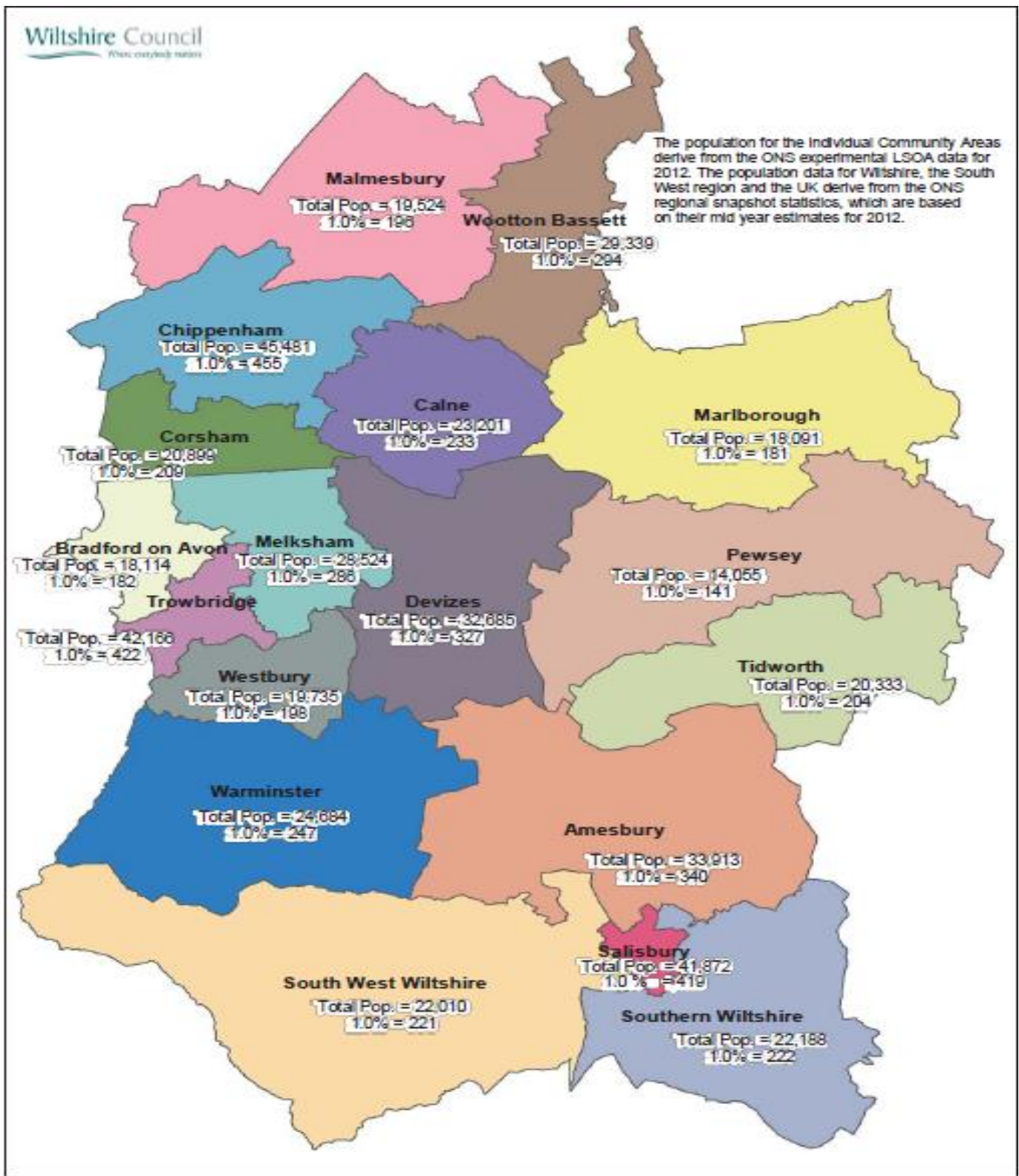
8. What can I do if I feel that my petition has not been dealt with properly?

- 8.1 If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that one of the council's Select Committees review the steps the council has taken in response to your petition.
- 8.2 It is helpful to everyone, and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the council's response is not considered to be adequate.

- 8.3 It is important to emphasise here that the review process is concerned with whether the steps taken by the council in its response to the petition were adequate – that is, did the council follow the correct procedure to reach its decision, not it is not the response wanted.
- 8.4 The committee will endeavour to consider you request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting.
- 8.5 Should the committee determine that the council has not dealt with you petition adequately, it may use any of its powers to deal with the matter. These powers include an investigation, making recommendations to Cabinet and arranging for the matter to be considered at a Full Council meeting.
- 8.6 If the select committee feels that it may have a conflict of interest by virtue of any previous involvement in the petition in question, the council can arrange for a different committee to deal with your request.
- 8.7 Once the appeal has been considered the petition organiser will be informed of the results within five working days. The results will also be published on the council's website.

EXISTING PETITIONS SCHEME

Schedule 2 – Part 4B Area Board Petition Thresholds



Schedule 1 - Part 4A Wiltshire Council Petitions Scheme

1. Petitions

- 1.1 A petition is any communication which is signed by or sent to the Council on behalf of a number of people. This includes both written and electronic petitions (“e-petitions”).
- 1.2 The Council has set up a [Petitions Homepage](#) to provide further information and guidance to Members and the public.

2. Receipt and Registration

- 2.1 In order to be received all petitions must:
- 2.1.1 contain the name and contact details of the petition organiser. Only the name of the organiser will be published;
 - 2.1.2 contain a clear and concise statement of the concern, and what action the petitioners wish the Council to take;
 - 2.1.3 be relevant to the role and responsibility of the Council;
 - 2.1.4 contain at least ten names or signatures, or at least 25 names or signatures to be reported or presented to Full Council;
 - 2.1.5 those names to be accompanied by a postcode and house number for paper petitions, and full address and email address for electronic petitions. Only the name and postcode will be displayed in any Council report;
 - 2.1.6 Not be defamatory, frivolous, offensive, vexatious, unlawful or otherwise improper;
 - 2.1.7 Not name or identify individual service users, members of staff or members of staff of partner agencies
- 2.2 Anyone who signs a petition must meet the following eligibility requirements:
- 2.2.1 For a petition to be presented to Full Council, signatories must be aged 13 or above, live, work or study in Wiltshire, or have a direct connection to the service which is the subject of the petition. For the petition to be noted at Full Council it requires a minimum of 25 signatures.
 - 2.2.2 For a petition to be presented to an Area Board, signatories must be aged 13 or above, live, work or study within the relevant community area. For the petition to be noted at a meeting of an Area Board, it requires a minimum of 10 signatures.
- 2.3 Petitions in respect of non-determined planning or licensing applications will not be covered by this petitions scheme, and will be referred to the relevant service as formal representations. Petitions in respect of statutory petitions or on matters with existing right of appeal such as Council tax banding and non-domestic rates, are covered by other procedures.

3. Submission and Acknowledgement

- 3.1 Paper petitions can be sent to: Democratic Services, Wiltshire Council, County Hall, Bythesea Road, Trowbridge, BA14 8JN.
- 3.2 A Wiltshire Council e-Petitions facility to allow the creating, signing and submission of e-petitions is available at [this link](#). This requires registration with the Council using a valid email address. The Council will review the content of the petition and approve it to go live within five working days.
- 3.3 The Council will accept e-petitions hosted on other sites, which can be sent to committee@wiltshire.gov.uk for consideration. The same eligibility requirements will apply.
- 3.4 All petitions provided to the Council will receive an acknowledgement within 2 working days of receipt, and a substantive response of how the Council will respond to the petition within 15 working days of receipt. If that is not possible, an explanation will be given as to the reason for the delay, what action is being taken, and when a response will be sent.
- 3.5 Any response will set out what the Council plans to do with the petition. The Council will treat something as a petition if it is identified as such, or it seems that it is intended to be a petition.
- 3.6 The local Members will be informed of any petition and response for a petition relating to matters within their Area Board.

4. Council Response

- 4.1 The Council's response to a petition will depend on what it asks for and how many people have signed it, but may include one or more of the following:
- 4.1.1 taking the action requested in the petition;
 - 4.1.2 referring the petition to the relevant Council department for consideration in consultation with the relevant cabinet member and/or local member;
 - 4.1.3 referring the petition to the relevant Area Board Chairman;
 - 4.1.4 referring the petition to Full Council, a Committee or the Cabinet;
 - 4.1.5 consider the petition as a consultation response if received during a consultation period;
 - 4.1.6 holding an inquiry into the matter;
 - 4.1.7 undertaking research into the matter;
 - 4.1.8 holding a public meeting;
 - 4.1.9 holding a consultation;
 - 4.1.10 holding a meeting with petitioners;
 - 4.1.11 calling a referendum;
 - 4.1.12 writing to the petition organiser setting out the Council's views about the request in the petition;
 - 4.1.13 other suitable action.

- 4.2 If more than one petition is received on a similar subject matter the Chairman may determine that they be considered by the Council as a single matter and taken together.
- 4.3 A petition will not normally be considered for presentation or debate where it is received within six months of another petition being considered by the Council on the same matter. In exceptional circumstances the Chairman, after consultation with the Monitoring Officer, may determine that the context of the matter has materially changed since the initial consideration and agree to reconsider the matter for presentation or debate.
- 4.4 If a petition is received immediately before an election or referendum it may be necessary to deal with the petition differently, in which case the petition organiser will be contacted to discuss the course of action.
- 4.5 Actions taken on any validly received petition will be reported to Full Council to note.

5. Presentation of Petitions

- 4.1 Petitions may be presented to Full Council provided they have received 25 signatures, if requested by the petition organiser.
- 4.2 Petitions may be presented to Cabinet or to a Committee, including Area Boards, if they have received ten signatures and are relevant to the remit of the Committee, and if requested by the petition organiser.
- 4.3 The petition organiser should submit their petition to Democratic Services at least ten clear working days before a meeting to ensure the petition is relevant to the remit of Council, or a Committee and to be registered.
- 4.4 Petitions submitted without notice at any meeting will be received by the Democratic Services Officer present to be registered and dealt with at the next meeting, if appropriate.
- 4.5 In these instances, the petition organiser will have up to three minutes to speak and the matter would not be debated. The petition will be taken as a public statement and recorded. Up to two other public speakers will be invited to speak for up to three minutes each.

6. Full Council Debates

- 6.1 If a petition has been signed by at least 5000 people and is validly received, upon request of the petition organiser it will also be scheduled for a Council debate.
- 6.2 Any petition which is to be debated must be submitted and acknowledged at least ten working days before the Full Council meeting at which it will be debated.
- 6.3 The petition organiser will be invited to speak for up to five minutes. Up to two other public speakers will be invited to speak for up to three minutes each.
- 6.4 The relevant Cabinet Member will then respond to the petition.

- 6.5 The Chairman of the Council will then move a motion relating to the petition for Full Council to debate.
- 6.6 The period for debate on any petition or grouped series of petitions will normally be 30 minutes, not including the contribution of the Cabinet Member in response or Group Leaders.
- 6.7 Members will be limited to contributions of three minutes each during a Full Council debate on a petition.

7. Area Board Debates

- 7.1 If relevant to the remit and powers of an Area Board a petition may be presented or debated at that Area Board.
- 7.2 Any petition with more than ten signatures may be considered for debate at an Area Board. This would be granted at the discretion of the Chairman of the Area Board if submitted and acknowledged at least ten working days before the meeting. Any valid petition with more than 50 signatures submitted and acknowledged at least ten working days before a meeting will be granted a debate if requested by a petition organiser.
- 7.3 The arrangements for a debate will be at the discretion of the Chairman of the Area Board, subject to consultation with the Monitoring Officer or their representatives and considering the remit and powers of the Area Board.

8. Complaints

- 8.1 If a petition organiser considers that their petition has not been dealt with properly, they may submit a complaint to the council's Complaints Service.
- 8.2 Any complaint should be made within twenty working days from the Council response to the petition organiser.
- 8.3 Any complaint must set out in what way it is considered that the petition has not been dealt with properly. Any review undertaken would consider whether the steps taken by the Council in response to the petition were adequate, not whether the decision on how to respond to the petition was correct.

Wiltshire Council

Standards Committee

14 November 2019

New Standards Procedures and Appointment of Standards Assessment Sub-Committee

Purpose of Report

1. This report asks the Standards Committee to consider note preparations underway for implementation of new Standards procedures, and to appoint the membership of the Standards Assessment Sub-Committee, to come into effect from 1 January 2020.

Background

2. Following consideration by the Constitutions Focus Group and the Standards Committee, Full Council on 9 July 2019 resolved to approve amendments to Protocol 12 (now 11) of the Constitution: Arrangements for dealing with Code of Conduct complaints.
3. The amendments included establishing a revised procedure for consideration and determination of Code of Conduct complaints, with determination by a standing Standards Assessment Sub-Committee rather than by the Monitoring Officer.
4. The new Sub-Committee would meet on a monthly basis and be comprised of five Members or Substitute Members of the Standards Committee, with all other Members and Substitute Members acting as substitutes for the Sub-Committee. Up to two Co-opted Members of the Standards Committee would be able to attend the Sub-Committee on an ad hoc basis.
5. A revised assessment criteria and assessment sub-committee procedure are attached as previously approved at **Appendix A**.

Main Considerations

6. On 9 September 2019 a Councillor Briefing Note was circulated to all Members of Wiltshire Council and to town and parish council clerks for information about the revised procedure approved by Full Council. This is attached for information at **Appendix B**.
7. Officers have also been preparing for updates to council webpages and internal processes in order to prepare for implementation of the new procedures, including clarifying with the Independent Persons their role within the new procedures.
8. These updates include a revised complaints form and report structure, which have been attached as drafts at **Appendix C** for information.
9. On 23 August 2019 all Members and Substitute Members of the Standards Committee were emailed on behalf of the Chairman, requesting expressions of interest to serve as Members of the Standards Assessment Sub-Committee. Given

the increased likelihood of Members being conflicted from sitting on the Sub-Committee with more complaints considered at each meeting, all other Members and Substitute Members would be provided the dates for the Standards Assessment Sub-Committee meetings to attend if necessary.

10. Five Members responded with expressions of interest to sit on the Standards Assessment Sub-Committee. These Members, if appointed, would provide a political balance of three Conservatives, one Liberal Democrat and one Independent. Whilst the Sub-Committee is not required to maintain political balance, this would be achieved by appointing those Members.
11. Additionally, the Members in question represent area from the Northern, Southern, Eastern and Western parts of the Council area as divided for regulatory matters. Their appointment would therefore offer a wide geographic range for the Sub-Committee.
12. Accordingly, the Sub-Committee is recommended to appoint the Members as detailed at paragraph 20 to the Standards Assessment Sub-Committee, and to determine who should serve as Chairman and Vice-Chairman.

Safeguarding Implications

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

Equalities Impact of the Proposal

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

Risk Assessment

15. There are no risk issues arising from this report.

Financial Implications

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

Legal Implications

17. The recommendations in this report are consistent with the council's duties under relevant legislation.

Public Health Impact of the Proposals

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

Environmental Impact of the Proposals

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

Proposal

20. **To note the preparations for the new Standards procedures coming into effect on 1 January 2020.**

21. **To appoint the following membership of the Standards Assessment Sub-Committee, also to come into effect on 1 January 2020:**
- **Cllr Richard Britton**
 - **Cllr Ernie Clark**
 - **Cllr Ruth Hopkinson**
 - **Cllr Fred Westmoreland**
 - **Cllr Stuart Wheeler**
22. **To appoint a Chairman and Vice-Chairman of the Standards Assessment Sub-Committee**

Ian Gibbons, Monitoring Officer

Report Author: Kieran Elliott, Senior Democratic Services Officer, 01225 718504,
kieran.elliott@wiltshire.gov.uk

Appendices

- Appendix A – Revised assessment criteria and procedure
- Appendix B – Briefing note
- Appendix C – Updated Complaints Form and Report

Background Papers

[Approved Protocol 11 of the Constitution \(into effect 1 January 2020\)](#)

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STANDARDS COMPLAINTS ASSESSMENT CRITERIA

The Monitoring Officer and Assessment Sub-Committee will adopt the approach and apply the criteria set out below in the assessment of complaints under locally adopted Codes of Conduct for Members.

1. Relevance

1.1 The criteria and procedures set out in this document only apply to complaints made against individual members that fall within the relevant code of conduct. It is likely that complaints will be received by the Monitoring Officer which do not relate to local codes of conduct for members. These might include complaints relating to the provision of services by councils; matters relating to the council as a corporate body (including decisions made by the council); or matters which should be dealt with under a council's complaints procedure. They may be complaints relating to council employees, other authorities or matters relating to a member's private life which do not fall within the remit of the Standards Committee.

1.2 Where complaints are received that are outside the scope of these procedures, the Monitoring Officer will advise the complainant that they cannot proceed under local codes of conduct, but that the complainant should contact the relevant council in order to bring a complaint under the appropriate alternative complaints procedure, where available.

2. Alternative resolution

2.1 The Monitoring Officer or Assessment Sub-Committee will always consider whether an alternative means of resolving the complaint would be appropriate.

3. Initial Tests

3.1 Before the assessment of a complaint begins, the Assessment Sub-Committee should be satisfied that:

- a) The complaint is about the conduct of a member of a council within the area of Wiltshire Council;
- b) That the member was a member at the time of the incident giving rise to the complaint;
- c) That the member remains a member of the relevant council, or, if not, that there are exceptional circumstances to justify a decision that it is in the public interest to continue to consider the complaint;

- d) That a Code of Conduct for the relevant council is in force and has been provided;
- e) That the matters giving rise to the complaint would, if proven, be capable of breaching that Code.

3.2 If the complaint fails one or more of these tests it cannot be investigated and no further action will be taken.

4. Sufficiency of information

4.1 As any assessment will be conducted solely on the papers provided, it is essential that the complainant provide sufficient information to enable the subject member and those responsible for assessing the complaint to understand the substance of the complaint. If insufficient information is provided, the Monitoring Officer will not normally proceed with consideration of the complaint. It is the responsibility of the complainant to provide any supporting evidence for their complaint to justify a full investigation.

4.2 If the complaint meets the criteria set out in 3. a-e above, and the complainant has provided sufficient information to enable the issues complained of to be understood, the Monitoring Officer will send a copy of the complaint to the subject member and ask for the subject member's comments. When these have been received, the Monitoring Officer will consider the complaint and provide a report and recommendation on it to the Assessment Sub-Committee, together with copies of the original complaint (and any supporting documentation) and the Subject Member's response.

4.3 At this assessment stage, the Assessment Sub-Committee will not normally consider any further representations or correspondence from either the complainant or subject member.

5. Seriousness of the Complaint

5.1 A complaint will not be referred for investigation if, on the available information, it appears to the Assessment Sub-Committee to be trivial, vexatious, malicious, politically motivated or 'tit for tat'.

5.2 A complaint will not normally be referred for investigation if the subject member has offered an apology, a reasonable explanation of the issues, or if the Assessment Sub-Committee takes the view that the complaint can reasonably be addressed by other means.

5.3 Bearing in mind the public interest in the efficient use of resources, referral for investigation is generally reserved for serious complaints where alternative options for resolution are not considered by the Monitoring Officer or Assessment Sub-Committee to be appropriate, particularly in

cases where a subject member is no longer a member of a relevant council.

6. Length of Time Elapsed

6.1 A complaint will not be referred for assessment when it is made more than 20 working days from the date upon which the complainant became, or ought reasonably to have become, aware of the matter giving rise to the complaint. Any such complaint will be dismissed by the Monitoring Officer, and will not be referred to the Assessment Sub-Committee, although the Monitoring Officer retains the discretion to refer a complaint for assessment that would otherwise be out of time, in exceptional circumstances.

6.2 In any event, the Assessment Sub-Committee may decide not to refer a complaint for investigation where, in their opinion, the length of time that has elapsed since the matter giving rise to the complaint means that it would not be in the interests of justice to proceed.

7. Anonymous Complaints

7.1 Anonymous complaints will not be accepted for consideration unless the Monitoring Officer is satisfied that there would otherwise be a serious risk to the complainant's personal safety, in which case the Monitoring Officer will decide how the complaint should be taken forward.

8. Multiple Complaints

8.1 A single event may give rise to similar complaints from a number of complainants. Where possible these complaints will be considered by the Assessment Sub-Committee at the same time. Each complaint will, however, be considered separately. If an investigation is deemed to be appropriate the Monitoring Officer may determine that, in the interests of efficiency, only one complaint should go forward for investigation, with the other complainants being treated as potential witnesses in that investigation.

9. Confidentiality

9.1 All information regarding the complaint will remain confidential to the parties until determined otherwise by the Monitoring Officer, Assessment Sub-Committee or Hearing Sub-Committee.

10. Withdrawing Complaints

10.1A complainant may ask to withdraw their complaint before it has been assessed.

10.2 In deciding whether to agree the request the Monitoring Officer will consider:

- a) the complainant's reasons for withdrawal;
- b) whether the public interest in taking some action on the complaint outweighs the complainant's wish to withdraw it;

whether action, such as an investigation, may be taken without the complainant's participation.

STANDARDS COMMITTEE

PROCEDURAL RULES FOR THE ASSESSMENT SUB-COMMITTEE

1 Purpose

- 1.1. These rules have been prepared to facilitate proper consideration by the Standards Committee's Assessment Sub-Committee, when making assessment decisions in respect of Code of Conduct complaints ('the Assessment') and receiving details of completed investigations.
- 1.2. The rules set out a framework for how Assessments are to be conducted and explain the role of the participants at the Assessment.

2. Definitions

2.1 The following definitions describe the participants at and the subject matter of a Review:

- **'Subject Member/Member'** means a member of Wiltshire Council, or of a parish, town or city council within the Wiltshire Local Authority area, against whom a complaint has been made under the Code of Conduct.
- **'Complainant'** means the person(s) who have lodged a complaint against the conduct of a Member
- **'Council'** means Wiltshire Council.
- **'The Monitoring Officer'** is a senior officer of the authority who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the arrangements for dealing with complaints of member misconduct. It includes any officer nominated by the Monitoring Officer to act on his or her behalf in that capacity.
- **'Democratic Services Officer'** means the Council's Officer who is present at an Assessment Sub-Committee meeting to take minutes and advise on procedure.
- **'Independent Person'** means a person appointed under Section 28(7) of the Localism Act:
 - a) whose views must be sought and taken into account before a decision is made on an allegation of member misconduct under these arrangements;
 - b) who may be consulted by the Member about the complaint.
- **Assessment** means a review of the complaint and any written response by the subject member to consider whether on the papers the complaint merits a formal investigation as set out in paragraph 4.1 and the following provisions of Protocol 12 of the Wiltshire Council Constitution (Arrangements for dealing with Code of Conduct Complaints).
- **'Code of Conduct'** means the code of conduct for members which the Council and Parish Councils are required to adopt under Section 27 of the Localism Act 2011.

- **'Local Assessment Criteria'** are the arrangements made under Section 28 of the Localism Act 2011. They set out the process for dealing with a complaint that an elected or co-opted member of Wiltshire Council or of a parish, town or city council within its area has failed to comply with their Code of Conduct.
- **'Party'** means the Subject Member and the Complainant
- The **'Hearing Sub-Committee'** is a sub-committee of the Council's Standards Committee appointed to determine complaints of member misconduct under the arrangements in Protocol 12 of the Constitution..
- The **'Assessment Sub-Committee'** is a sub-committee of the Council's Standards Committee appointed to make determinations under sections 4 and 6 of the arrangements in Protocol 12 of the Constitution. This can include voting and co-opted non-voting members of the Standards Committee.
- The **'Constitution'** means the Constitution of Wiltshire Council, which includes rules on public participation at committees and the code of conduct complaints procedure.

3. The Assessment

- 3.1. The Assessment is dealt with on the papers and is not to be treated as a hearing of the complaint itself, which can only be convened after an investigation has been concluded and a decision has been made under paragraph 6.4 of the arrangements for dealing with Code of Conduct Complaints referring the matter for hearing.

4. Attendance at Meetings

- 4.1. The Assessment Sub-Committee is a committee of the Council and as such the meeting shall take place in public, However, the Sub-Committee may exclude the public from all or part of the Assessment, by passing a resolution in accordance with Section 100A(4) of the Local Government Act 1972, where it considers that there is likely to be disclosure of exempt information and that it is in the public interest to do so . Given the nature of the issues to be considered by the Sub-Committee it is very likely that such a resolution would normally be appropriate at this stage in the process.
- 4.2. The Complainant and the Subject Member, as parties to the Review, would not be covered by such a resolution to exclude the public and press and may attend the Assessment Sub-Committee. However, the Sub-Committee will normally retire to consider their decision and return to inform the parties of their decision.
- 4.3. If a party has informed the Council that they do not intend to attend the Sub-Committee meeting, or have not given any indication as to whether or not they intend to attend, the Assessment will proceed in their absence. As it is an assessment on the papers, no adverse inference will be drawn from any parties' non-attendance at a meeting.

- 4.4. If a party has indicated an intention to attend the meeting, but is not present at the start of the meeting, the Assessment will proceed in the absence of that party, unless the Sub-Committee considers it necessary to adjourn the meeting to enable the party to attend and make their representations.
- 4.5. If a party does not intend to attend and speak to the meeting, they may submit a short written representation that will be taken into account by the Sub-Committee in reaching their decision.
- 4.6. In addition to the Sub-Committee members and any co-opted member, the meeting may be attended by one or more Independent Persons, Democratic Services Officer(s) and the Monitoring Officer..

5. Procedure

- 5.1. The Complainant and the Subject Member (or their representative) will be permitted up to three minutes to make any statement. If there is more than one complainant or subject member present, then, subject to the discretion of the Chairman, the maximum total time for statements by all complainants shall be three minutes. Any statements made should relate to the specific issues being considered by the Assessment Sub-Committee and should not raise any new issues or allegations.
- 5.2. Complainants and subject members for each complaint will be brought before the sub-committee to make a statement separate from any other complaint, except in the case of the same complaint submitted against multiple members
- 5.3. The Monitoring Officer will provide reports on any complaint that is to be assessed.
- 5.4. The report shall contain a summary of the complaint, supporting evidence, and response of the subject member, which aspects of a relevant code are alleged to have been breached, and options on whether to refer the complaint for investigation, dismiss the complaint, refer for alternative resolution, with reasoning for any recommended outcome.
- 5.5. The reports will also include in full any relevant material and supporting evidence provided by the complainant or subject member
- 5.6. No new documentation is to be introduced at the Sub-Committee meeting without the agreement of the Sub-Committee. New documentation should only be admitted if is considered by the Sub-Committee to be essential to its consideration of the issues in the Assessment
- 5.7. The Sub-Committee may take into account written representations made by, or correspondence from, a party that have been received since the publication of the agenda, where it is considered that this will assist the Assessment.
- 5.8. No questioning of the parties will be permitted, other than by the Sub-Committee with the agreement of the Chairman, to seek clarification of any point that has been made
- 5.9. Following any statements by the parties, the Assessment Sub-Committee will normally withdraw, with the Independent Person(s) if in attendance, and relevant officers, to consider the case.

5.10. Taking into consideration the documents provided, namely the original complaint, response of the Subject Member and any relevant additional material, the Sub-Committee will apply the tests required under paragraph 3 of the local assessment criteria, namely whether:

- a) the complaint is about the conduct of a member of a council within the area of Wiltshire Council;
- b) the member was a member at the time of the incident giving rise to the complaint;
- c) the member remains a member of the relevant council; or, if not, that there are exceptional circumstances to justify a decision that it is in the public interest to continue to consider the complaint;.
- d) a Code of Conduct is in force for the relevant council and provided;
- e) the matters giving rise to the complaint would, if proven, be capable of breaching that Code.

5.11. If the Sub-Committee are not satisfied that the criteria in a-e above are met, the complaint will be assessed as requiring no further action.

5.12. If the Sub -Committee are satisfied that a-e in para 5.7 above are met, they shall consider whether, under the rest of the local assessment criteria, the complaint should proceed to investigation. The Sub-Committee may also recommend any other suitable action, including mediation.

5.13. Before making any decision, the sub-committee will have regard to the views of an Independent Person. The Independent Person, if in attendance, may contribute to the discussion of the Sub-Committee at any time

6. Decision

6.1. The parties will be informed of the Sub-Committee's decision once it has been made and a full decision with written reasons shall be sent to the Complainant and Subject Member as soon as practicable thereafter.

7. Post-Investigation

7.1 If , following an investigation, the outcome of that investigation is a finding of no breach, the Monitoring Officer will prepare a report and recommendation to the Assessment Sub-Committee. This will be considered using the same procedure as detailed above.

Assessment Sub-Committee Meeting Procedure Summary

1. If appropriate, the Chairman invites those present to introduce themselves.
2. The Chairman outlines the Assessment Procedure as set out in the Agenda, makes any relevant announcements and asks for any declarations of interest.
3. The Sub-Committee determines whether to pass a resolution to exclude the press and the public from the rest of the meeting.
4. Each complainant and subject member will be given the opportunity to make a statement to the Sub-Committee of up to three minutes for each party. In the interests of confidentiality the subject members and complainants for separate complaints will be brought before the assessment sub committee separately. A complaint made multiple members may be considered together.
5. The Monitoring Officer presents a report for each complaint requiring assessment.
6. Taking into consideration the evidence, namely the original complaint, response of the Subject Member and any relevant additional material submitted in the request for a review of the initial assessment, the Sub-Committee will then apply the tests required under paragraph 3 of the local assessment criteria, namely whether:
 - a) The complaint is about the conduct of a member of a council within the area of Wiltshire Council;
 - b) That the member was a member at the time of the incident giving rise to the complaint;
 - c) That the member remains a member of the relevant council, or, if not, that there are exceptional circumstances to justify a decision that it is in the public interest to continue to consider the complaint;.
 - d) That a Code of Conduct for the relevant council is in force and has been provided;
 - e) That the matters giving rise to the complaint would, if proven, be capable of breaching that Code.
7. If the criteria in 8 a) to e) are met, the Sub-committee will consider whether, under the local assessment criteria, they feel the complaint should be referred for investigation or other suitable action, including mediation, or whether the complaint should be dismissed or no further action should be taken.

Before reaching their decision the Sub-Committee will request and receive the views of an Independent person in person or in writing.

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Briefing Note No. 19-025

Changes to arrangements for dealing with Code of Conduct Complaints

Service: Governance Services
Further Enquiries to: Ian Gibbons, Monitoring Officer and Frank Cain, Deputy Monitoring Officer
Date Prepared: 9 September 2019
Contact: governance@wiltshire.gov.uk

Background

1. The Localism Act 2011 introduced new arrangements for the standards regime for local authorities, which deals with conduct complaints against elected and coopted members of town and parish councils as well as principal authorities. All Councils are required to adopt a Code of Conduct.
2. As the principal authority Wiltshire Council on 26 June 2012 adopted arrangements for resolving Code of Conduct complaints in accordance with the 2011 Act. These came into effect on 1 July 2012.
3. At its meeting on 9 July 2019 the Council, following a review by the Standards Committee involving comparison with the arrangements of other authorities, made changes to the arrangements.
4. Those changes are the subject of this briefing note, to inform town and parish councils of the changes ahead of their implementation on 1 January 2020.

Existing Arrangements

5. Under the [present arrangements](#) complaints are initially assessed by the Monitoring Officer of Wiltshire Council in accordance with the arrangements and the local [assessment criteria](#) approved by the Standards Committee
6. Following that initial assessment either the complainant or subject member may request a review of that decision. Such a review is carried out by a Standards Review Sub-Committee, a Sub-Committee of the Standards Committee, which may uphold the decision of the Monitoring Officer or overturn it.
7. At the initial assessment and review stage the test is whether the matters alleged would be capable of breaching the relevant Code of Conduct, not whether such a breach has been proven. If it is determined that the matters would be capable of breaching the relevant Code and other relevant assessment criteria are met, it would be referred for formal investigation.

8. If referred for investigation the Monitoring Officer appoints an Investigating Officer who investigates the matters and reports their findings and conclusions. If the Monitoring Officer is satisfied that the investigation is sound and the conclusion is that a breach has occurred, the matter is referred to a Hearing Sub-Committee of the Standards Committee for determination. If the Monitoring Officer supports a conclusion that there has been no breach the complainant may request a further review before a Review Sub-Committee.
9. A Hearing Sub-Committee would consider evidence and hear representations from all relevant parties before determining if a breach has occurred and if so recommending appropriate sanctions.

Review of Arrangements

10. The Standards Committee had concerns that the process for assessing complaints was not as efficient or effective as it could be, and undertook a review, including comparisons with the arrangements of other local authorities. In particular, there were issues relating to administrative efficiency to reduce delays in processing complaints, the multi-stage nature of the process; the handling of trivial or vexatious complaints and the level of member oversight.

Revised Arrangements

11. The revised arrangements approved by Full Council on 9 July 2019 make a series of changes, and the full document can be found at [this link](#). A summary flowchart of the process is included with this briefing note. The report and minute to Full Council detailing the changes can be found at [this link](#).
12. The new arrangements will come into effect on 1 January 2020. Any complaints submitted before that date will be subject to the existing arrangements.
13. The principal change to the arrangements is that initial assessment of complaints will no longer be determined by the Monitoring Officer. Instead, a standing Assessment Sub-Committee of the Council's Standards Committee will make determinations on all complaints. The assessment decision of the Sub-Committee will be final.
14. This change will streamline the process, making it more efficient, provide greater certainty for complainants and subject members as to when their complaint will be determined, and will enhance the role of elected members in assessing complaints against elected and coopted members across Wiltshire.
15. The Assessment Sub-Committee will also be involved in reviewing the investigating officer's report at that stage of the process.
16. Greater emphasis will be placed on seeking informal resolution to complaints, recognizing that alternative forms of resolution can achieve better outcomes than following a formal standards process through to its end.

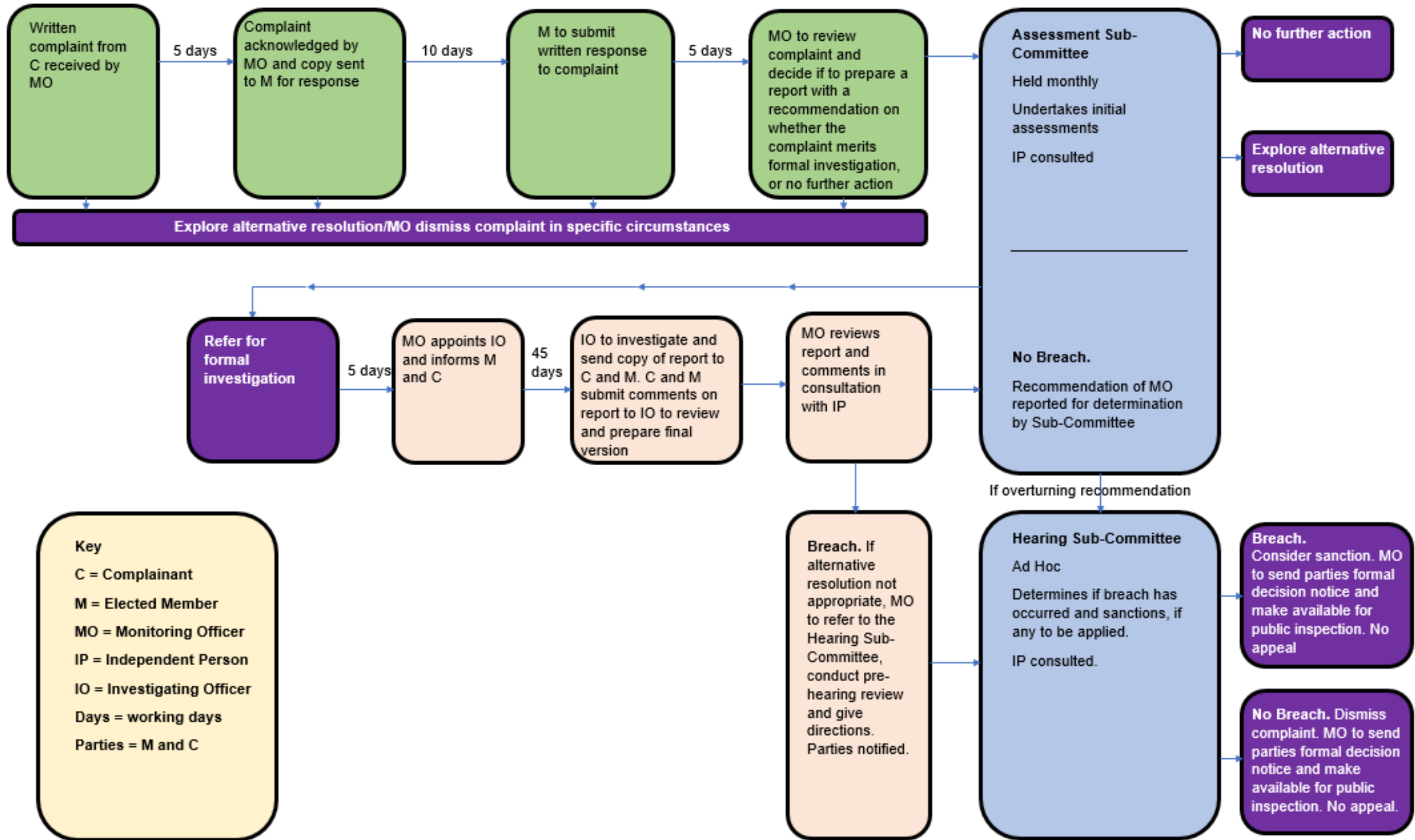
17. Further changes were also made to ensure that complainants provide sufficient information when submitting a complaint to enable assessment; to slightly increase the length of time for an investigation and to provide that only in exceptional circumstances should a complaint against a member who has subsequently resigned be taken forward.

18. Lastly, provision has been made for the Monitoring Officer to summarily dismiss complaints which on the available information are considered to be trivial, vexatious, malicious, politically motivated or 'tit for tat' and it would not be in the public interest, including particularly the efficient use of resources, to proceed.

Applicability

19. The revised arrangements detailed in this Briefing Note come into effect on 1 January 2020 and will apply to all town and parish councils in the Wiltshire Council area.

Protocol 11 Schedule 2 – Flowchart of arrangements for dealing with Code of Conduct Complaints under the Localism Act 2011



COMPLAINT FORM – MEMBERS

This form is for complaints against Members of Wiltshire Council and Members of Town/Parish/City Councils within the Wiltshire Council Unitary Authority area, in accordance with the arrangements set out in [Protocol 11](#) of the Wiltshire Council Constitution and the Localism Act 2011.

Complaints must relate to the behaviour of a Member of a Council when on official business, and that behaviour considered to be in breach of that Council’s Code of Conduct for Members.

In accordance with Paragraph 4.6 of Protocol 11, the Monitoring Officer may decide not to take any further action on a complaint where, on the available information, it appears to be trivial, vexatious, malicious, politically motivated or ‘tit for tat’, and it would not be in the public interest, including particularly the efficient use of resources

If you have any questions relating to completion of this form or the complaints process, please email governance@wiltshire.gov.uk or write to Governance, County Hall, Trowbridge, BA14 8JN or Tel : 01225 718400

Your details

Date of complaint	
Title	
First name	
Last name	
Address	
Daytime phone	
Evening phone	
Mobile	
e-mail address	

We will not disclose your contact details to anyone unless it is necessary to do so in order to process and resolve your complaint.

However, we will tell the following people that you have made a complaint:

- The Member you have complained about (“The Subject Member”);
- The clerk of the parish council (if applicable)

- The Monitoring Officer and other officers supporting the arrangements for processing and resolving complaints;
- The Independent Persons;
- Those Members of the Wiltshire Council Standards Committee considering the complaint.

An Independent person means a person appointed under Section 28(7) of the Localism Act 2011 whose views must be sought and taken into account before a decision is made on an allegation of Member misconduct under these arrangements, or who may be consulted by the Member about the complaint. An Independent Person consulted by the Member about the complaint would not be the same Independent Person whose views were sought before a decision is made.

Please indicate the box that best describes you:

Member of the public	
Elected or co-opted Member of a Council	
Member of Parliament	
Wiltshire Council Employee	
Other (please specify)	

Subject Member

Please give us the name of the Member you believe to have breached their Council's Code of Conduct, and the name of the council they belong to. If you wish to complain about more than one Member, please complete a separate form for each Member.

First name	Last name	Council

Code of Conduct and Guidance for Submission of a Complaint

Every local council has its own Code of Conduct. Members of a Council only have to comply with the Code of Conduct relevant to the Council of which they are a Member. Codes are often accessible from the relevant Council website, if they have one, or otherwise upon request from the Clerk of that Council. If someone is a Member of several Councils, they may be subject to multiple Codes.

In all cases, the Code of Conduct **ONLY** applies when the Member is acting in their capacity as a Member and does not apply to their private lives or when they are acting in other capacities. However, it is possible that someone could be acting in multiple capacities simultaneously.

If, having read the relevant Code, you believe that the Member has breached their local Code, please enclose a copy of that Code with your complaint. Please also provide an explanation of which elements of the code you believe to have been breached and how.

It is important that you provide us with all the information you want to be taken into account. This is because the Council's Assessment Sub-Committee will need to decide on the basis of information as submitted whether there is sufficient evidence to proceed to an investigation. If insufficient information is included, it may determine not to proceed.

For example, please make sure you tell us:

- Exactly what you are alleging the Member said or did. For instance, instead of just saying that the Member failed to act in the public interest in the conduct of their duties, please also state exactly what they said or did to lead you to that conclusion.
- You should give the date of the alleged incident(s) wherever possible. Where you cannot do so you must at least provide a general timeframe.

This is particularly important as a complaint will not be referred for investigation when it is made more than 20 working days after the date upon which the Complainant became, or ought reasonably to have become, aware of the matter giving rise to the complaint.

In any event, the Monitoring Officer may decide not to refer a complaint for investigation where, in their opinion, the length of time that has elapsed since the matter giving rise to the complaint means that it would not be in the interests of justice to proceed.

- You should let us know whether there were any witnesses to the alleged incident(s) and provide their names and contact details if possible.
- You should provide any relevant background information.

The assessment criteria used for consideration of complaints can be found on the council's website [at this link](#).

Decision Notices

When a final decision is made in relation to your complaint, whether it is to take no further action or, following an investigation and hearing, it is determined that the Member complained of is in breach of a relevant Code, a decision notice will be prepared. As the Complainant you will receive a copy of the decision notice ahead of its publication on the Council's website. You will have an opportunity to make representations if you believe that personal details should be excluded from that decision notice, but must do so within five days of receiving the draft decision notice.

If such representations are made, the Monitoring Officer will give consideration to redacting parts of the decision notice or publishing a summary of the decision.

Privacy Notice

Wiltshire Council holds and processes personal data in accordance with all current legislation relating to data protection and complies with the Data Protection Regulation 2016. By completing this form, you are giving your consent for us to process the information. Your details will be processed strictly in accordance with that legislation.

Details of Complaint

Write down the details of your complaint here. Continue on a separate sheet if there is not enough space on this form.

Only complete this section if you are asking us to keep your identity confidential
Confidential from Subject Member

In the interests of fairness and natural justice, we believe that Members who are complained about have a right to know who made the complaint. We will provide them with a copy of this complaint form. We will not withhold your identity or details of your complaint unless there is good reason to believe that releasing that information would result in:

- You or your witnesses being unlawfully bullied or intimidated or;
- The destruction of information or evidence that would seriously hamper an investigation of the complaint.

We will not automatically agree to a request to keep your identity or the substance of your complaint confidential. Your request and your reasons for asking for confidentiality will be considered by the Monitoring Officer. If they decide that your identity and information about your complaint must be released to the Member you are complaining about, we will let you know. Normally we would then allow you to withdraw your complaint if you wish to do so.

Provide us with details of why we should withhold your identity from the Member about whom you are complaining:

Confidential (general)

As detailed previously a summary of the details of the complaint, including names of the parties, will become public once the matter has been concluded. If for any reason you believe that there is justification for personal details set out in the complaint confidential once the matter is concluded please indicate these below.

Provide us with details of why personal details and/or identity should be kept confidential in relation to this complaint.

Wiltshire Council

Standards Assessment Sub-Committee

XX XXXXXXXX 2020

Assessment of a complaint regarding the conduct of Councillor XXXXXXXX XXXXXX, a Member of XXXXXXXX Council

Purpose

1. To determine whether to refer for investigation, take no further action, or seek alternative resolution, in respect of a complaint against Councillor (insert councillor name), a Member of (insert council name) Council.

Background

2. On (insert date) the Monitoring Officer received a complaint from (insert complainant detail) ("The Complainant"), against Councillor (insert councillor name) ("The Subject Member"), a Member of (insert council name) ("The town/parish Council").
3. The complaint and any additional clarifying information (delete if not applicable) is included at **Appendix A**. The response of the Subject Member is included at **Appendix B**.

Alleged Breach

4. The Subject Member is alleged to (insert details of complaint here).
5. It is alleged that as a result they have breached the (insert council name) Code of Conduct under (insert relevant paragraphs of Code):

(insert details of relevant paragraphs of Code)

Main Considerations

6. The Assessment Sub-Committee ("The Sub-Committee") is required to assess the complaint in accordance with Protocol 11 of the Wiltshire Council Constitution, and using the Local Assessment Criteria approved by the Standards Committee and included within the agenda papers.

Initial tests

7. (Paragraph establishing whether the Subject Member is a Member of a particular council, if they are dual hatted and whether the complaint applies to one or both roles etc.)
8. (Paragraph relating to the initial tests. Was Code in force, were they in office at the time and does it relate to official business. If they are no longer a councillor say so – options section will then explain that sub-committee must decide whether to proceed.)

9. If the Sub-Committee is satisfied the initial tests above are met, it must determine whether it believes that the matters giving rise to the complaint would, if prove, be capable of breaching that Code.
10. The Sub-Committee should not make any determination as to the truth of any allegation, but must determine whether on the information as submitted the matter should be investigated as a potential breach of the relevant Code.

Details of complaint

11. (A number of paragraphs setting out the facts of the incident giving rise to the complaint)

Substance of complaint

12. (A number of paragraphs setting out in summary what the specific behaviours alleged to have been in breach are eg email alleged to be bullying, campaign of harassment,etc)

The Law

13. (if relevant include details of legal matters which arise from complaint and must be considered eg in relation to freedom of expression, breach of GDPR, and how this figures into a Code of conduct matter)

Other relevant points

14. (Such other points as may be relevant)

Independent Person

15. The Sub-Committee is required under the Localism Act 2011 to consider the views of an Independent Person before making its decision.

Conclusion

16. Taking into account the points above, the Sub-Committee should assess whether the complaint, if proven, would represent a breach of the relevant Code of Conduct and, if so, whether it was appropriate under the Local Assessment Criteria to refer the matter for investigation.

Options

17. The Sub-Committee is requested to reach one of the following decisions:
 - a. to take no further action on the complaint;
 - b. to refer the complaint to the Monitoring Officer for investigation or alternative resolution.

Ian Gibbons, Monitoring Officer

Report Author: (Insert report author details)

Date of Report: (insert report date)

Appendices

Appendix 1A – Original Complaint

Appendix 1B – Additional Information (if applicable)

Appendix 2A – Subject Member Response

Appendix 2B – Additional Information (if applicable)

Background Papers

None

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