

Wiltshire Council Constitution Part 2 Articles of the Constitution

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PART 2

ARTICLES OF THE CONSTITUTION

Article 1 - Main provisions of the Constitution

1.1 Powers of the Council

- 1.1.1 The Council will exercise all its powers and duties in accordance with the law and this Constitution.

1.2 The Constitution

- 1.2.1 This Constitution, and all its appendices, is the Constitution of the Wiltshire Council.

1.3 Purpose of the Constitution

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

- 1.3.2 Our vision for the Council is to:

- create stronger and more resilient communities.

- 1.3.3 Our goals are to:

- deliver high quality, low cost, customer-focused services;
- ensure local, open, honest decision making and;
- work together to support Wiltshire's communities.

1.4 Interpretation and review of the Constitution

- 1.4.1 Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

- 1.4.2 The Council will monitor and evaluate the operation of the Constitution and amend it to reflect current legislation and best practice.

Article 2 - Members of the Council

2.1 Composition and eligibility

- 2.1.1 The Council will comprise 98 members with each member representing one electoral division.
- 2.1.2 Only those over 18 years of age who are either registered voters of the local authority area, or who live, work or occupy land there will be eligible to hold the office of Member.

2.2 Election and terms of office of members

- 2.2.1 Members will be elected on 4 June 2009 and regular election of members will be held on the first Thursday in May every four years thereafter unless this is varied by order of the Secretary of State. The terms of office of Members will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election. Except that the Chairman of Council continues in office until his/her successor is appointed at the annual meeting of Council.

2.3 Roles and functions of all Members

- 2.3.1 All Members elected to Wiltshire Council are guided by the Role and Responsibilities of Members, which forms Part 12 of this Constitution.
- 2.3.2 The key roles and responsibilities of Members are to:

- champion their division;
- be a community leader;
- keep in touch with constituents and help resolve their problems;
- attend meetings and contribute to the decision-making process;
- be a 'corporate parent' for looked-after children;
- represent the Council;
- undertake training offered.

Rights and duties

- 2.3.3 Members will have a right of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- 2.3.4 Members will not make public, information which is exempt or confidential without the consent of the Council or divulge information given in confidence to anyone other than a Member or officer entitled to know it.
- 2.3.5 For these purposes, "confidential information" and "exempt information" are defined in the access to information rules in Part 5 of this Constitution.

2.4 Conduct

- 2.4.1 Members will at all times adhere to the Members' code of conduct, set out in Part 12 of this Constitution, other codes of practice as approved from time to time by the Council, and the protocol on Member/officer relations attached to this Constitution as Protocol 1.

2.5 Allowances

- 2.5.1 Members and co-opted members will be entitled to receive allowances in accordance with the Members' allowances scheme set out in Part 13 of this Constitution.

Article 3 - Members of the public and the Council

3.1 Rights of members of the public

- 3.1.1 Members of the public have the following rights. They have further rights relating to access to information details of which appear in the access to information rules in Part 5 of this Constitution.

Voting and petitions

- 3.1.2 Residents on the electoral roll for the area have the right to vote and sign a petition to request a referendum for a mayoral form of governance for Wiltshire Council.
- 3.1.3 Citizens can petition the Council to take specified action(s). Such petitions will be dealt with under the Council's Petitions Scheme, which is set out in Part 4A of the Constitution.

Information

- 3.1.4 Members of the public have the right to:
- contact the Council by telephone, post, email, fax or in person. An acknowledgement will be sent within 2 working days, and a full response to all written correspondence within 15 working days from the day your correspondence is received. Where legislation dictates otherwise, e.g. Freedom of Information, different timescales may apply. 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;
 - contact their local Member about any matters of concern to them
 - view the register of Members' interests;
 - obtain a copy of the Constitution on payment of a fee or access it on-line or at local libraries;
 - attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed;
 - attend meetings of the Cabinet when key decisions are being considered except where confidential or exempt information is likely to be disclosed;
 - find out from the forward plan what key decisions will be taken by the Cabinet and when;

- see reports and background papers, and any records of decisions made by the Council and the Cabinet, except where a document contains confidential and/or exempt information;
- inspect the Council's accounts and make their views known to the external auditor.

Participation

- 3.1.5 Members' of the public have the right to participate in the Council's meetings as set out in the guidance on public participation at meetings at Part 4 of this Constitution (Council rules of procedure) and in the Planning Code of Good Practice for Members as far as public participation at planning committees is concerned.

Complaints

- 3.1.6 Members of the public have the right to complain to:
- the Council under its complaints procedure, which appears in protocol 6 of this Constitution;
 - the local government Ombudsman for complaints covered by the ombudsman scheme;
 - the Monitoring Officer about alleged breaches of the code of conduct for Members in respect of elected Members and co-opted Members of Wiltshire Council and town and parish Councils within its area.

3.2 Responsibilities of members of the public

- 3.2.1 Members of the public must not be violent, abusive or threatening to Members or officers and must not wilfully harm property owned by the Council, Members or officers.

Article 4 - The Full Council

4.1 Meanings

Policy Framework

- 4.1.1 The policy framework means the plans and strategies set out in Part 3 of this Constitution.

Budget

- 4.1.2 The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council tax base, setting the Council tax, and making decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

4.2 Functions of the Full Council

- 4.2.1 Only the Full Council will exercise the following functions:
- adopting and changing the Constitution;
 - approving, adopting or amending the policy framework and the budget;

- subject to the urgency procedure contained in the access to information procedure rules in Part 5 of this Constitution, making decisions about any matter in the discharge of a Cabinet function which is covered by the policy framework or the budget, where such a decision would fall outside the policy framework or budget;
- appointing and removing the leader of the Council;
- agreeing and/or amending the terms of reference for committees of the Council, other than joint committees, deciding on their composition, and making appointments to them;
- appointing representatives to outside bodies unless the appointment is a Cabinet function or has been delegated by the Council to an officer;
- adopting a Members' allowances scheme;
- changing the name of the area;
- confirming the designation of the Head of Paid Service;
- making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills
- agreeing the cycle of Council meetings;
- all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet;
- all other matters which, by law, must be reserved to Council.

4.3 Council meetings

4.3.1 There are four types of Council meeting:

- the annual meeting;
- ordinary meetings;
- extraordinary meetings;
- State of Wiltshire debate meetings.

4.3.2 They will be conducted in accordance with the Council procedure rules in Part 4 of this Constitution.

4.4 Responsibility for functions

4.4.1 The Council will maintain the tables in Part 3 of this Constitution, setting out the responsibilities for the Council's functions which are not the responsibility of the Cabinet. Details of the Council's committee structure are set out at Schedule 1.

Article 5 - Chairing the Council

5.1 Role and function of the Chairman

5.1.1 The Chairman will be elected by the Council annually.

5.1.2 The Chairman of the Council, and in his/her absence, the Vice-Chairman, will have the following roles and functions:

- to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary on advice from the Executive Directors or Monitoring Officer;

- to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of members of the Council and the interests of the community;
- to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold the Cabinet to account
- to promote public involvement in the Council's activities;
- to attend, or nominate some other non-Cabinet member to attend such civic functions as he/she determines appropriate, given the essentially ceremonial character of the office, acknowledging that representation on matters of a political nature is more appropriately handled by the leader of the Council or another member of the Cabinet;
- to agree matters of special urgency to the extent permitted by the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 as amended.

Article 6 - Overview and Scrutiny Committees

6.1 Appointment

- 6.1.1 The Council will annually constitute and appoint an Overview and Scrutiny Management Committee and Select Committees in accordance with the agreed structure, each comprising at least seven Members, to discharge the functions conferred by the Local Government Act 2000, as amended, and associated regulations.

6.2 Terms of reference

- 6.2.1 The Overview and Scrutiny Management Committee will be responsible for:
- Overall management of the overview and scrutiny function in line with this article and the overview and scrutiny procedure rules set out in Part 8 of the Constitution, including call-in of Executive decisions and Member requests for reviews;
 - Co-ordination of the overall work programme, aligned to the Council's priorities;
 - Leading the working relationship with the Cabinet on the basis of agreed core values;
 - Establishing any sub-committees, endorsing the formation of task groups, appointing representatives to project boards and delegating responsibility as appropriate;
 - Assigning dedicated overview and scrutiny resources (officer team and budget);
 - Overview, policy development and scrutiny of policy framework and corporate and organisational matters;
 - Overview and Scrutiny engagement on budget setting, budget monitoring and the Medium Term Financial Strategy (MTFS);
 - Overview, policy development and scrutiny of the Council's Business Plan;
 - annual review and periodic performance monitoring;
 - developing appropriate overview and scrutiny operational protocols.

- 6.2.2 The management committee has the power of direction over the standing Select Committees. Its membership should include the Chairman of each of the standing Select Committees.
- 6.2.3 The Select Committees will deliver that part of the overall work programme relevant to their service areas under the direction of the management committee and will report back to the management committee on its work and make recommendations as necessary. The management committee and Select Committees will together:
- perform all overview and scrutiny functions on behalf of the Council;
 - review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
 - make reports and recommendations to the Full Council and the Cabinet or relevant Cabinet member and any relevant partner in connection with the discharge of any functions;
 - foster and encourage an inclusive, structured, non-partisan and non-adversarial approach to overview and scrutiny which is reliant on evidence rather than anecdote.
- 6.2.4 The Management Committee will also work with the Audit Committee to refer matters of governance and/or the control environment for further review. Likewise, the Audit Committee can refer matters arising from its remit that have a specific impact or risk to the Council's policy or operation to the Management Committee to consider the need for review.
- 6.2.5 In addition to the above, the committee responsible for health scrutiny will:
- review and scrutinise any matter relating to the planning, provision and operation of health services in Wiltshire, including any significant change to service provision and those jointly commissioned or delivered by the Council;
 - require the attendance of an officer of a local NHS body to answer questions and provide explanations about the planning, provision and operation of health services in Wiltshire;
 - require a local NHS body to provide information about the planning, provision and operation of health services in Wiltshire, subject to the exemptions outlined in the Health and Social Care Act 2001;
 - participate in cross-boundary overview and scrutiny of health services with other local authorities; including the establishment of joint committees; or the delegation of functions to another local authority;
 - report to the secretary of state for health:
 - where the committee is concerned that consultation on substantial variation or development of services has been inadequate;
 - where the committee considers that the proposal is not in the interests of the local health service;
 - maintain an overview of the Council's responsibilities and role in relation to health and wellbeing.

6.3 Finance

- 6.3.1 The Overview and Scrutiny Management Committee will exercise overall responsibility for the finances made available to it.

6.4 Proceedings of Overview and Scrutiny Committees

- 6.4.1 The Overview and Scrutiny Management Committee and Select Committees will conduct their proceedings in accordance with the overview and scrutiny procedure rules set out in Part 8 of this Constitution.

Article 7 - The Cabinet

7.1 Role

- 7.1.1 The Executive of the Council shall be known as 'The Cabinet'.
- 7.1.2 The Cabinet will carry out all of the Council's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

7.2 Form and composition

- 7.2.1 The Cabinet will consist of the leader of the Council together with at least two, but not more than nine members of the Council appointed to the Cabinet by the leader of the Council.
- 7.2.2 The Leader of the Council will report all Cabinet appointments to the first available meeting of the Council.

7.3 Leader of the Council

- 7.3.1 The Council will operate a leader and Cabinet Executive in accordance with the Localism Act 2011 with the following Executive arrangements:
- appointment by the Council of an Executive leader for a term of four years, commencing with the day of election as leader;
 - the Executive leader to determine the number of Members who may be appointed to the Executive, subject to a minimum of two and a maximum of nine (excluding the leader);
 - the Executive leader to appoint one of the members of the Executive to be his or her deputy;
 - the deputy Executive leader to hold office until the end of the term of office of the Executive leader, unless the deputy Executive leader resigns as deputy, or ceases to be a member of the Council;
 - the Executive leader to have power to remove the deputy Executive leader from office if he or she thinks fit;
 - the Executive leader to appoint a deputy Executive leader when a vacancy occurs in that office;
 - the deputy Executive leader to act in place of the Executive leader if for any reason the Executive leader is unable to act, or the office of Executive leader is vacant;
 - the Executive to act, or arrange for a member of the Executive to act, if for any reason both the Executive leader and the deputy Executive leader are unable to act, or their respective offices are vacant;

7.3.2 The leader will hold office until:

- he/she resigns from the office; or
- he/she is no longer a Member; or
- he/she is removed from office by resolution of the Council.

7.4 Other Cabinet Members

7.4.1 Other Cabinet Members shall hold office until:

- they resign from office; or
- they are no longer Members; or
- they are removed from office by the leader, who must give written notice of any removal to the Executive Directors. The removal will take effect two working days after receipt of the notice by the Executive Directors.

7.4.2 The Leader of the Council shall appoint one of the members of the Cabinet as deputy leader.

7.4.3 In the event of the office of Leader of the Council becoming vacant, the deputy leader, if eligible, shall assume the office of leader until the vacancy is filled by the Council for the remaining term.

7.5 Proceedings of the Cabinet

7.5.1 Proceedings of the Cabinet shall take place in accordance with the Cabinet procedure rules set out in Part 7 of this Constitution. Meetings of the Cabinet will be chaired by the leader. No substitutes are permitted on Cabinet.

7.6 Responsibility for functions

7.6.1 The leader will maintain a list in Parts 3C and 3D of this Constitution setting out which individual members of the Cabinet, committees of the Cabinet, officers, or joint arrangements are responsible for the exercise of particular Cabinet functions.

7.6.2 Any changes in these functions are to be reported by the leader to the first available Council meeting.

Article 8 - Regulatory functions and other committees

8.1 The Council will appoint the committees set out in Part 3 of this Constitution (responsibility for Council functions) to discharge the functions detailed under each committee.

Article 9 - The Standards Committee

9.1 Standards Committee

9.1.1 The Council will establish a Standards Committee and appoint elected members to it annually.

9.2 Composition

- 9.2.1 This Committee will comprise 13 elected Members, other than the Leader or any other member of the Cabinet, and up to 8 co-opted non-voting members, 50% of whom shall be serving town, parish or city Members from within the Council's area who are not Members or officers of the Council.
- 9.2.2 Appointments to the Committee will be made annually by the Council having regard to the rules on political proportionality.
- 9.2.3 The term of office for co-opted non-voting members will normally be 4 years.
- 9.2.4 Co-opted non-voting members will be eligible for re-appointment for a second term.
- 9.2.5 Substitutes will be permitted in accordance with Part 4 of the Constitution.
- 9.2.6 The Standards Committee will have the roles and functions set out in Part 3 of this Constitution.

Article 10 - Area Committees

- 10.1 For the purposes of this Constitution Area Boards are Area Committees.

10.2 Conflicts of interest - membership of area committees and overview and scrutiny committees

Conflict of interest

- 10.2.1 If an overview and scrutiny committee is scrutinising specific decisions or proposals in relation to the business of an area committee of which the Member concerned is a member, then the member may not speak or vote at the overview and scrutiny committee meeting unless a dispensation to do so is given by the Standards Committee.

General policy reviews

- 10.2.2 Where the Overview and Scrutiny Committee is reviewing policy generally the Member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

10.3 Area committees - access to information

- 10.3.1 Area committees will comply with the access to information procedure rules in Part 5 of this Constitution.
- 10.3.2 Agenda and notices for area committee meetings will clearly state which items on the agenda relate to the functions of the Cabinet and which do not relate to Cabinet functions.

10.4 Cabinet Members on area committees

- 10.4.1 A member of the Cabinet may serve on an area committee if otherwise eligible to do so as a Member.

10.5 Area boards

- 10.5.1 The Council will establish 18 area boards to promote the development of stronger and more resilient communities across the 20 community areas in Wiltshire.

10.6 Composition

- 10.6.1 The area boards will be constituted as area committees to enable them to exercise local, efficient, transparent and accountable decision making in accordance with arrangements delegated by the leader
- 10.6.2 Each area board will comprise the following membership:
- a) the elected unitary Members representing the electoral divisions covered by the area board;
 - b) an elected representative from each town or parish Council within the area covered by the area board;
 - c) representatives from the following groups and organisations:
 - local neighbourhood policing team (inspector with a sergeant as deputy);
 - Wiltshire National Health Service;
 - Dorset and Wiltshire Fire and Rescue Service;
 - Housing Association or housing officer;
 - Community Area Partnership and/or other groups representative of the local community;
 - Youth Advisory Group;
 - d) Other participants from the local community including (but not limited to) any of the following groups: the military, users' groups such as the Wiltshire and Swindon User Group, Healthwatch, partnership boards, minority ethnic groups, older people's groups, colleges, school Councils, governors, local businesses, Chamber of Commerce, cultural organisations, Area of Outstanding Natural Beauty groups.

10.7 Decision-making

- 10.7.1 Only the elected unitary Members on the area board may vote on matters involving the discharge of Executive functions within the scope of the delegation to area boards. However, area boards will seek to reach decisions by consensus where possible, involving all participants, before the final decision is made by the unitary Members.

10.8 Role and function

- 10.8.1 The area boards will have the role and functions set out in Part 3 of this Constitution.

10.9 Procedure Rule and Guidance

- 10.9.1 Area boards will follow such procedures rules and guidance as issued from time to time by the Leader.

10.10 Access to information

- 10.10.1 Area boards are subject to the access to information procedure rules in Part 5 of this Constitution.

Article 11 - Joint arrangements

11.1 Arrangements to promote wellbeing

- 11.1.1 The Leader/Cabinet, in order to promote the economic, social or environmental wellbeing of Wiltshire, may:
- enter into arrangements or agreements with any person or body;
 - co-operate with, or facilitate, or co-ordinate the activities of any person or body;
 - exercise on behalf of that person or body any functions of that person or body.

11.2 Joint arrangements

- 11.2.1 The Council may establish joint arrangements with one or more local authorities and/or their Cabinets to exercise functions which are not Cabinet functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- 11.2.2 The Leader / Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Cabinet functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- 11.2.3 Except as set out below, the Leader / Cabinet may appoint only Cabinet members to a joint Committee and those members need not reflect the political composition of the local authority as a whole.
- 11.2.4 The Leader / Cabinet may appoint non-Cabinet members to a joint committee in the following circumstances:
- the joint committee has functions for only part of Wiltshire, and that area is smaller than two-fifths of Wiltshire by area or population. In such cases, the Leader / Cabinet may appoint to the joint committee any Member who is a Member for an electoral division which is wholly or partly contained within the area;
 - the joint committee relates to functions of the Cabinet of the Council. In such cases, the Cabinet of the Council may appoint to the joint committee any Member who is a Member for an electoral division which is wholly or partly contained within the area.
- 11.2.5 In both of these cases the political balance requirements do not apply to such appointments.
- 11.2.6 Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

11.3 Access to information

- 11.3.1 The access to information procedure rules in Part 5 of this Constitution apply.
- 11.3.2 If all the members of a joint committee are members of the Cabinet in each of the participating authorities then its access to information regime is the same as that applied to the Cabinet.
- 11.3.3 If the joint committee contains members who are not on the Cabinet of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

11.4 Delegation to and from other local authorities

- 11.4.1 The Council may delegate non-Cabinet functions to another local authority or the Cabinet of another local authority in certain circumstances,
- 11.4.2 The Leader / Cabinet may delegate Cabinet functions to another local authority or the Cabinet of another local authority in certain circumstances.
- 11.4.3 The decision whether or not to accept such a delegation from another local authority shall be referred to the Council meeting.

11.5 Contracting out

- 11.5.1 The Cabinet may contract out to another body or organisations Cabinet functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

Article 12 - Officers

12.1 Management structure

General

- 12.1.1 The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.

Departmental structure

- 12.1.2 The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 16 of this Constitution.

Chief Officers

- 12.1.3 The Council has three Executive Directors, one which as joint responsibilities as Chief Accountable Officer for the Clinical Commissioning Group.
- 12.1.4 The Executive Directors will have overall responsibility for running the Council within the policies currently adopted by the Council and for managing the Council to achieve its aims.

- 12.1.5 The Executive Directors will have authority over all other employees of the Council subject to the officer employment procedure rules as set out in Part 14 of the Constitution.
- 12.1.6 Responsibility for overseeing the role of the Chair of the Local Safeguarding Children Board will be undertaken by the Executive Directors, other than the Director of Children's Services, on an alternating annual basis.

Statutory posts

- 12.1.7 The Council will designate the following statutory posts as shown:

Post	Designation	Legal reference
Director for HR & OD (Human Resources and Organisational Development)	Head of Paid Service	S.4(1), Local Government & Housing Act 1989
Director of Legal, Electoral and Registration Services	Solicitor to the Council/ Monitoring Officer	S.5(1) Local Government & Housing Act 1989
Executive Director Children and Education	Director of Children's Services	S.18 of the Children Act 2004
Executive Director Adult Social Care, Public Health and Digital	Director of Adult Social Services	S.6 of the Local Authorities Social Services Act 1970 and S. 73A National Health Service Act 2006
Director of Public Health	Director of Public Health	S. 73A National Health Service Act 2006
Executive Director Adult Social Care, Public Health and Digital	Returning Officer, Electoral Registration Officer	S. 8 and S. 35 Representation of the People Act 1983
Director of Finance and Procurement	S.151 Officer/Chief Finance Officer	S.151, Local Government Act 1972
Head of Democratic Services	Designated Scrutiny Officer	S.31, Local Democracy, Economic Development and Construction Act 2009
Data Protection Lead	Data Protection Officer	s.69-71 Data Protection Act 2018

- 12.1.8 Such posts will have the functions described in paragraphs 12.2 - 12.8 below.

12.2 Functions of the Head of Paid Service

Discharge of functions by the Council

- 12.2.1 The Head of Paid Service will report to the Full Council on the manner in which the discharge of the Council's functions is co-ordinated.

Restrictions on functions

- 12.2.2 The Head of Paid Service may not be the Monitoring Officer, but may hold the post of Chief Finance Officer if a qualified accountant.

12.3 Functions of the Monitoring Officer

Maintaining the Constitution

- 12.3.1 The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members of the Council, staff and the public.

Ensuring lawfulness and fairness of decision making

- 12.3.2 After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Full Council, or to the Cabinet in relation to a Cabinet function, if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

Supporting the Standards Committee

- 12.3.3 The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- 12.3.4 He/she will be responsible for all Monitoring Officer functions in respect of parish and town Councils within the area of the authority, and for making arrangements in conjunction with the Standards Committee for the provision of advice and training to members of the Council and members of parish and town Councils on the ethical framework.

Conducting investigations

- 12.3.5 The Monitoring Officer will conduct investigations into matters referred under the Council's arrangements for dealing with complaints under the code of conduct.

Advising whether Cabinet decisions are within the Budget and Policy Framework

- 12.3.6 The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework.

Providing advice

- 12.3.7 The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Members of the Council.

Complaints

- 12.3.8 The Monitoring Officer will act as corporate complaints officer and generally advise the Chief Officers of the Council in this regard.

Restrictions on posts

- 12.3.9 The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

12.4 Function of the Director of Children's Services

- 12.4.1 To:

- participate in the corporate management of the Council;
- direct the children and education department in the provision of educational services and childcare services in support of the Council's corporate goals;
- ensure the Council meets its statutory obligations under the Children Acts 1989 and 2004 and Section 75 of the National Health Service Act 2006 and as Local Education Authority;
- acts as the Council's statutory Director of Children's Services under section 18 of the Children Act 2004.

12.5 Function of the Director of Adult Social Services

- 12.5.1 To:

- participate in the corporate management of the Council
- direct the community services department in the provision of adult care services, libraries, arts and heritage, community planning and governance and community safety services in support of the Council's corporate goals and manage its partnership arrangements with external bodies, particularly the voluntary sector and health service
- ensure that the Council meets its statutory obligations under adult social services and other legislation
- act as the Council's statutory director of adult social services under section 6 of the Local Authority Social Services Act 1970.

12.6 Function of the Director of Public Health

- 12.6.1 To act as the Council's statutory Director of Public Health under section 73A of the National Health Service Act 2006.

12.7 Functions of the Chief Finance Officer

Ensuring lawfulness and financial prudence of decision making

- 12.7.1 After consulting the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Full Council or to the Cabinet in relation to a Cabinet function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully.

Administration of financial affairs

12.7.2 The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council including:

- the proper administration of the authority's financial affairs, including the Wiltshire Pension Fund and trust funds vested in the Council;
- setting and monitoring compliance with financial management standards;
- advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;
- providing financial information;
- preparing the revenue budget and capital programme;
- the maintenance of an adequate and effective internal audit
- treasury management.

12.7.3 Regulation 5 of the Audit and Accounts (England) Regulations 2011 requires the Chief Finance Officer to determine the accounting records, and accounting control systems and to ensure that the accounting control systems are observed and that accounting records are kept up to date.

12.7.4 Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer to report to the Full Council, the Cabinet and external auditor if the authority or one of its officers:

- has made, or is about to make, a decision which involves incurring unlawful expenditure;
- has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the authority;
- is about to make an unlawful entry in the authority's accounts.

Contributing to corporate management

12.7.5 The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

Providing advice

12.7.6 The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Members of the Council and will support and advise Members of the Council and officers in their respective roles.

Give financial information

12.7.7 The Chief Finance Officer will provide financial information to the media, members of the public and the community.

Financial Regulations and Financial Procedure Rules

12.7.8 The chief finance officer shall be responsible for the Financial Regulations and Procedure Rules as set out at Part 9 of this Constitution

12.8 Functions of the Designated Scrutiny Officer

12.8.1 To promote the role of the authority's Overview and Scrutiny Committees.

12.8.2 To provide support to the authority's Overview and Scrutiny Committees.

12.8.3 To provide support and guidance to:

- Members of the authority;
- Members of the Executive of the authority, and;
- Officers of the authority.

in relation to the functions of the authority's Overview and Scrutiny Committees.

12.9 Duty to provide sufficient resources to the Head of Paid Service, Monitoring Officer and Chief Finance Officer

12.9.1 The Council will provide the Head of Paid Service, the Monitoring Officer and the chief finance officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

12.10 Conduct

12.11.1 Officers will comply with the Officers' Code of Conduct set out in Part 15 of this Constitution and the Protocol on Member-Officer Relations in Protocol 1 of this Constitution.

12.11 Employment

12.12.1 The recruitment, selection and dismissal of officers will comply with the Officer Employment Procedure Rules set out in Part 14 of this Constitution.

Article 13 - Decision Making

13.1 Responsibility for decision making

13.1.1 The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Parts 3, 3A, 3B, 3C and 3D of this Constitution.

13.2 Principles of decision making

13.2.1 All decisions of the Council will be made in accordance with the following principles:

- to produce action that is proportionate to the desired outcome;
- to ensure open, fair and honest administration;
- to be clear over desired outcomes and aims;
- to record the options considered and discarded;
- to state the reasons for the action;
- to consult interested parties where appropriate and practicable;
- to consult appropriate officers and to seek their professional advice;
- to show due respect for human rights, and to provide equality of opportunity;
- to obtain best value and operate efficiently, effectively and economically;
- to serve Wiltshire communities and to work in partnership with other agencies having the same aim;

- to promote the economic, social, and environmental well-being of the county;
- to determine issues at the lowest level commensurate with their importance;
- to keep and sustain what is useful in the traditions of the authority and to reject any practices or services retained purely out of sentiment.

13.3 Decisions

Decisions reserved to Full Council

- 13.3.1 Decisions relating to the functions set out in Article 4 will be made by the Full Council and not delegated.

Key decisions

- 13.3.2 Key decisions are those described in Part 1 of this Constitution, or any decision defined as a key decision in legislation.

13.4 Decision making by the Full Council

- 13.4.1 The Council meeting will follow the Council procedure rules set out in Part 4 of this Constitution when considering any matter.

13.5 Decision making by the Cabinet

- 13.5.1 The Cabinet will follow the Cabinet Procedure Rules set out in Part 7 of this Constitution when considering any matter.

13.6 Decision making by Overview and Scrutiny Committees

- 13.6.1 Overview and Scrutiny Committees will follow the Overview and Scrutiny Procedures Rules set out in Part 8 of this Constitution when considering any matter.

13.7 Decision making by other committees and sub-committees established by the Council

- 13.7.1 Other Council committees and sub-committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

13.8 Decision making by Council bodies acting as tribunals

- 13.8.1 The Council, a Member of the Council, or an officer acting as a tribunal or in a quasi-judicial manner, or determining/considering (other than for the purposes of giving advice) the civil rights and obligations, or the criminal responsibility of any person, will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

Article 14 - Finance, contracts and legal matters

14.1 Financial management

- 14.1.1 The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules and Financial Regulations set out in Part 9 of this Constitution.

14.2 Contracts

- 14.2.1 Every contract made by the Council will comply with the contract regulations set out in Part 10 of this Constitution.

14.3 Legal proceedings

- 14.3.1 The Solicitor to the Council, or other person authorised by him/her, is authorised to institute, defend, settle or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council, or in any case where the Solicitor to the Council considers that such action is necessary to protect the Council's interests.

14.4 Authentication of documents

- 14.4.1 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Solicitor to the Council, or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person

14.5 Common Seal of the Council

- 14.5.1 The Common Seal of the Council will be kept in a safe place in the custody of the Solicitor to the Council. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which, in the opinion of the Solicitor to the Council, should be sealed. The affixing of the Common Seal will be attested by the Solicitor to the Council or some other person authorised by him/her.

Article 15 - Review and revision of the Constitution

15.1 Duty to monitor and review the Constitution

- 15.1.1 The Standards Committee on the advice of the Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

15.2 Protocol for monitoring and review of the Constitution by the Monitoring Officer

- 15.2.1 A key role for the Monitoring Officer is to monitor the effectiveness of the Constitution and to make recommendations for ways in which it could be amended in order to achieve better the purposes set out in Article 1.
- 15.2.2 In undertaking this task the Monitoring Officer may:
- observe meetings of different parts of the member and officer structure;
 - undertake an audit trail of a sample of decisions;
 - record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders;
 - compare practices in this authority with those in other comparable authorities, or national examples of best practice.

15.3 Changes to the Constitution

Approval

- 15.3.1 Changes to the Constitution will be approved by the Full Council only after consideration of the proposal by the Standards Committee and the Monitoring Officer.
- 15.3.2 An exception to this is that the Monitoring Officer has the delegated authority to amend the Constitution to reflect decisions of Full Council, changes in the law, to correct errors or clarify ambiguities where to do so does not alter (but gives further effect to) the Executive arrangements or the principles enshrined in the Constitution.

Change from a Leader and Cabinet form of Executive to alternative arrangements, or vice versa

- 15.3.3 The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

Article 16 - Suspension, interpretation and publication of the Constitution

16.1 Limit to suspension

- 16.1.1 The Articles of this Constitution may not be suspended. The rules specified below may be suspended by the Full Council to the extent permitted within those rules and the law.

16.2 Procedure to suspend

- 16.2.1 A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Members is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

16.3 Rules capable of suspension

- 16.3.1 The Council's procedure rules, set out within Part 4 of the Constitution, refer to which of the following rules may be suspended.

16.4 Interpretation

- 16.4.1 The ruling of the Chairman of the Council as to the interpretation or application of this Constitution, or as to any proceedings of the Council, shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

16.5 Publication

- 16.5.1 The Monitoring Officer will provide an electronic or printed copy of this Constitution to every Member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the Member's first being elected to the Council.

- 16.5.2 The Monitoring Officer will ensure that copies are available for inspection at Council offices, libraries, on the internet, and in other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- 16.5.3 The Monitoring Officer will ensure that a summary of the Constitution is made widely available within the area and is updated as necessary.
- 16.5.4 Access by electronic means shall be sufficient for the purposes of this rule.

Article 17 - Description of Executive arrangements

17.1 The following parts of this Constitution constitute the Executive arrangements:

- 17.1.1 overview and scrutiny committees and the overview and scrutiny procedure rules;
- 17.1.2 the Cabinet and the Cabinet procedure rules
- 17.1.3 area committees and forums – should any be appointed
- 17.1.4 area boards when discharging Executive functions
- 17.1.5 joint arrangements – should any be established
- 17.1.6 decision-making and the access to information procedure rules
- 17.1.7 Parts 3C and 3D (responsibility for functions).

PART 2 SCHEDULE 1 – WILTSHIRE COUNCIL COMMITTEE STRUCTURE

