

Wiltshire Council

Full Council

17 October 2023

Proposed Changes to the Constitution – Part 12: Code of Conduct

Summary

This report asks Full Council to consider recommendations of the Standards Committee on proposed changes to Part 12 of the Constitution.

Proposals

That Council approve the following updated section of the Constitution:

- **Part 12 – Code of Conduct**

Reason for Proposals

To ensure that the constitution remains up to date and effective.

Perry Holmes - Director, Legal & Governance (and Monitoring Officer)

Wiltshire Council

Full Council

17 October 2023

Proposed Changes to the Constitution

Purpose of Report

1. This report asks the Council to consider proposed changes to the following section of the Constitution:
 - Part 12 – Code of Conduct
2. The changes have been recommended by the Standards Committee.

Background

3. The Standards Committee has responsibility for oversight of the Council's constitution and making recommendations to Council.
4. The Standards Committee has established the Constitution Focus Group to review sections of the Constitution and present it with proposals to consider.
5. The Focus Group met on 3 May, 19 May, and 7 June 2023 to consider the above section of the Constitution, among others.
6. The Standards Committee met on 20 June 2023 to consider the proposed changes.

Main Considerations

7. Following review by a working group and recommendation from the Committee, Full Council adopted a revised Code of Conduct, including within the constitutional text associated guidance, at its meeting on 18 October 2022. This was based upon and adapted from the Local Government Association's Model Code of Conduct.
8. The new Code has been in operation for 12 months. The Committee on Standards in Public Life, in its 2019 report on Local Government Ethical Standards, suggested as best practice that principal authorities review their Code of Conduct each year.
9. As a number of practical considerations have arisen with the revised Code within that period, these were reviewed by the Focus Group and the Standards Committee. A number of amendments is proposed to address these practical considerations, whilst retaining the behavioural aspects which Council approved.
10. The Code is principally focused with setting out standards to which Members are to adhere, and guidance as to how to determine whether behaviour rises to a level in breach of those standards. However, it also includes various procedural requirements in the event of declaration of certain types of interest.

11. In particular, the adapted LGA Code and guidance includes requirements for Members to leave the room if a matter relating to an interest arises at a meeting. As membership of a town or parish council would be considered a disclosable interest under the Code, this in effect requires a significant increase in Members being required to leave a room, or a dispensation in order to remain, with a particular impact upon Area Boards. By their nature as area committees, the possibility of a local matter arising in which some or all of the Members are members of a local council is high.
12. Full Council adopted revised arrangements for the granting of dispensations in such a circumstance on 16 May 2023 in order to provide an expedited process given the increase in non-pecuniary interest dispensations that would be required.
13. The Focus Group reviewed the procedural aspects further, noting the focus of the initial working group on behavioural aspects. They concluded that it would be reasonable to amend the Code and its guidance to enable Members to remain in the room when they had an interest which was not a disclosable pecuniary interest. This would obviate the need for a dispensation purely to resolve issues of quorum which would obstruct reasonable decision making processes.
14. They also noted that over half the members of the council were members of city, town, or parish councils, with dispensations being a necessity in order to transact business at Area Boards where such an interest would frequently arise. As such they considered it would be reasonable to set out a standing dispensation for Members with such an interest, feeling that the local circumstances in Wiltshire were not suitable for that aspect of the LGA Code guidance.
15. The result would be that dispensations could still be requested if considered appropriate for non disclosable pecuniary interests which would prevent voting participation, but that there would no requirement to leave the room unless the Member considered this to be reasonable in the circumstances. Accordingly, the level of dispensations required would be significantly reduced.
16. The revisions, if adopted, would therefore retain the majority of the Code as recommended by Standards Committee and approved by Council, but would update its procedural requirements to be more efficient and effective. It seeks to do this by:
 - Providing a general exemption for those with town and parish council membership from the requirement to seek a dispensation to remain in the room, participate, or vote on matters relating to that council. This would not prevent an individual determining it was not appropriate in a particular circumstance to not participate, for example due to their close involvement in a matter.
 - Removing the requirement to leave the room for any category of interest other than Disclosable Pecuniary Interest, thus removing any impact on quoracy and reducing the need for most dispensation requests.
 - Including an updated flowchart within the body of the constitution to assist Members in understanding what to do in particular circumstances, and text to make clearer that the guidance is itself part of the Code, as was set out when the Code was adopted.
 - Reiterating that voluntary declarations, that is interests which are not required to be disclosed but where the Members has done so in the interests of openness and transparency, do not require further action, for example leaving the room.

- Other general clarifications or updates for consistency.

17. The Standards Committee considered the proposals and considered them to be appropriate. The proposed revised Part 12 is set out in **Appendix A**.

Overview and Scrutiny Engagement

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

Safeguarding Implications

19. There are no safeguarding implications.

Public Health Implications

20. There are no public health implications.

Procurement Implications

21. There are no procurement implications at present.

Equalities Impact of the Proposal

22. There are no equalities implications.

Environmental and Climate Change Considerations

23. There are no environmental or climate change implications.

Risks that may arise if the proposed decision is not taken

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

Risks that may arise if the proposed decision is taken

25. No risks have been identified.

Finance Implications

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

Legal Implications

27. There are no legal implications.

Workforce Implications

28. There are no workforce implications.

Conclusions

29. The Standards Committee considers the proposals to improve the effectiveness of the Constitution and the Code.

Proposal

30. To recommend Full Council approve changes to the following section of the Constitution:

- Part 12 – Code of Conduct

Perry Holmes - Director, Legal and Governance (and Monitoring Officer)

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5 October 2023

Appendices

Appendix A – Proposed Part 12 of the Constitution

Background Papers

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