

**Wiltshire Council  
Constitution  
Part 3  
Responsibility for Functions  
and Schemes of Delegation**

## Contents

### **SECTION A: GENERAL**

1. <u>Introduction</u>	4
2. <u>Definitions</u>	4
3. <u>Principles</u>	4

### **SECTION B: FUNCTIONS OF COUNCIL, COMMITTEES AND CABINET**

1. <u>The Council</u>	6
2. <u>Committees</u>	8
2.1 <u>Strategic Planning Committee</u>	8
2.2 <u>Area Planning Committee</u>	9
2.3 <u>Licensing Committee</u>	10
2.4 <u>Staffing Policy Committee</u>	11
2.5 <u>Standards Committee</u>	13
2.6 <u>Officer Appointments Committee</u>	15
2.7 <u>Audit and Governance Committee</u>	15
2.8 <u>Appeals Committee</u>	16
2.9 <u>Electoral Review Committee</u>	17
3. <u>Cabinet</u>	18
3.1 <u>General</u>	18
3.2 <u>Local Choice Options</u>	19
3.3 <u>Cabinet Members</u>	19
4. <u>Area Boards</u>	20
<u>Joint Committees</u>	
5. <u>Police and Crime Panel</u>	24
6. <u>Wiltshire Pension Fund Committee</u>	25
<u>Other Bodies</u>	
7. <u>Health and Wellbeing Board</u>	26
8. <u>Local Pension Board</u>	27
9. <u>Local Authority Panels</u>	28
<u>Schedule 1 - Area Boards: Electoral Division and Parish Allocations</u>	30

### **SECTION C: DELEGATION OF EXECUTIVE FUNCTIONS**

<u>Appendix 1 - Cabinet Committees and Joint Executive Committees</u>	37
<u>Appendix 2 - Cabinet Member Areas of Responsibility</u>	40

<b><u>SECTION D: SCHEME OF DELEGATION TO OFFICERS</u></b>	43
<b><u>D1: SCHEME OF DELEGATION</u></b>	44
1. <u>Scheme of Delegation to Directors</u>	44
2. <u>Decision Making</u>	45
3. <u>Record Keeping</u>	46
4. <u>Emergency Powers</u>	46
5. <u>Solicitor to the Council</u>	46
<b><u>D2: SCHEME OF SUB DELEGATION</u></b>	48
<b><u>D3: SCHEME OF DELEGATION SPECIFIC TO PLANNING</u></b>	49
<b><u>D4: SCHEME OF DELEGATION SPECIFIC TO LICENSING</u></b>	52
<b><u>D5: INDEMNITY TO OFFICERS, MEMBERS AND OTHERS</u></b>	58

# PART 3

## RESPONSIBILITY FOR FUNCTIONS

### SECTION A: GENERAL

1. **Introduction**
- 1.1 Part 3 of this Constitution deals with responsibility for functions and decision making.

2. **Definitions**
- 2.1 In this Part, the following words and phrases have the following meaning:

<b>Chief Executive</b>	The Head of Paid service. Note: the Chief Executive has chosen to appoint the Corporate Director, Resources as the Deputy Chief Executive, who may deputise for the Chief Executive as required on all corporate matters concerning the Council
<b>Corporate Director</b>	includes the Corporate Directors for People, Place and Resources and any Interim Corporate Director. For the purposes only of any sub-delegation arrangements the Director, Legal and Governance, shall be counted as a Corporate Director.
<b>Executive decision</b>	means a decision made or to be made by a decision maker in connection with the discharge of a function which is the responsibility of the Executive of a local authority.
<b>Incidental decision</b>	means a decision which relates to the day to day running of a service or the implementation of a decision made by Council, Cabinet or a Committee.
<b>Proper Officer</b>	means the Director, Legal and Governance, or such other officer as designated from time to time by the Chief Executive.
<b>Register</b>	means the register referred to in Part 3 Section D1 Paragraph 1.6 and stored and maintained on the Council's intranet.
<b>Regulations</b>	means the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

- 2.2 In this Part reference to any legislation includes reference to any successor legislation.

3. **Principles**
- 3.1 Wiltshire Council has a Leader and Cabinet Executive model and as a result reference should be made to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 to determine whether a function is a council executive or non-executive function.

- 3.2 Section B of this Part 3 sets out the functions specifically reserved to the Council, Cabinet or Committees.

- 3.3 The Chief Executive, as Head of Paid service, has ultimate corporate leadership responsibility for the Council and its officers. He has chosen to be supported by the Corporate Directors and Directors, to help deliver organisational priorities and Council services.

- 3.4 Where a function has not been specifically reserved in accordance with Para 3.2 above, the Chief Executive and the Corporate Director within whose remit the matter falls are empowered to make decisions on behalf of the Council in accordance with Part 3 Section D1 of the Constitution.
- 3.5 The Chief Executive and Corporate Directors may authorise officers to take decisions on their behalf provided a written scheme of sub delegation is recorded.
- 3.6 The Chief Executive and Corporate Directors may decide that any sub delegations they grant to officers within their team under their scheme of sub delegation may be subject to financial limitations. Whilst they may wish to consider using the signing and authorisation limits set for various officers under the Council's Budget and Policy Framework, they are not limited in this regard. The signing and authorisation limits set under the Budget and Policy Framework are financial management controls. A scheme of sub delegation is the delegation by the Chief Executive or a particular Corporate Director to other officers within their areas of responsibility to make particular types of decision for and in their name and therefore such sub delegation can be given up to the maximum limits of their own powers.
- 3.7 Decisions made under delegated powers should be recorded in accordance with Part 3 Section D1 Paragraphs 2.3 and 2.4.
- 3.8 The Chief Executive and Corporate Directors must ensure that schemes of sub delegation for decision making for their areas of responsibility are in place. They are also responsible for ensuring valid instruments of appointment for any powers exercised by officers by virtue of any statutory appointments are in place. The Chief Executive and Corporate Directors must ensure that schemes of sub delegation and instruments of appointment are recorded on the Register of Sub-delegations.
- 3.9 Any decision taken by an officer on behalf of the Chief Executive or a Corporate Director shall remain the responsibility of the Chief Executive or Corporate Director as the case may be.
- 3.10 In making decisions officers will comply with all other requirements of this Constitution including but not limited to:
- 3.10.1 Articles of the Constitution (Part 2)
  - 3.10.2 Access to Information Procedure Rules (Part 5),
  - 3.10.3 Financial Regulations and Procedure Rules (Parts 9)
  - 3.10.4 Contract and Procurement Rules (Part 10)
  - 3.10.5 Leader's Protocol for Individual Decision Making by Cabinet Members (Protocol 5)
- 3.11 In deciding whether or not to exercise such delegated powers, officers should consider whether to consult the appropriate Cabinet Member(s) or committee chairman and have regard to their views. Officers shall always be entitled to refer matters for decision to the appropriate Member body where they consider it expedient to do so.

- 3.12 These delegations should be interpreted widely to aid the smooth running of the organisation, the effective deployment of resources, the efficient delivery of services, and the achievement of the Council's goals.

# **PART 3**

## **RESPONSIBILITY FOR FUNCTIONS**

### **SECTION B: FUNCTIONS OF COUNCIL, COMMITTEES AND CABINET**

#### **1. The Council**

The Council will be responsible for the following functions, which it will exercise only in Full Council meetings:

- 1.1 Adopting the following statutory plans, strategies and documents as part of the policy framework of the Council:
  - 1.1.1 Emergency plans and civil contingency plans, as required by the Civil Contingencies Act 2004;
  - 1.1.2 Local Transport Plan, as required by the Transport Act 2000;
  - 1.1.3 Local development documents (including supplementary planning documents) which together comprise the Local Development Framework, as required by Planning and Compulsory Purchase Act 2004;
  - 1.1.4 Corporate Equality Plan, pursuant to the Public Sector Equality Duty under s149 of the Equality Act 2010;
  - 1.1.5 Homelessness Strategy, as required by the Homelessness Act 2002;
  - 1.1.6 Housing Renewal Strategy, as required by the Housing Act 2004;
  - 1.1.7 Licensing Authority Policy Statement, as required by the Licensing Act 2003;
  - 1.1.8 Gambling Act Statement of Principles, as required by the Gambling Act 2005;
  - 1.1.9 Pay Policy Statement, as required by the Localism Act 2011;
  - 1.1.10 Enforcement Policy, as required by the Legislative and Regulatory Reform Act 2006.
  - 1.1.11 Air Quality Strategy, as required by the Environment Act 1995;
  - 1.1.12 Contaminated Land Strategy, as required by Part2A of the Environmental Protection Act 1990.
- 1.2 Adopting the following non-statutory plans, strategies and documents which also form part of the policy framework of the Council:
  - 1.2.1 Corporate Parenting Policy;
  - 1.2.2 Business Plan;
  - 1.2.3 Treasury Management Policy;
  - 1.2.4 Capital Investment Strategy;
  - 1.2.5 Household Waste Management Strategy;
  - 1.2.6 Climate Strategy (including Carbon Reduction).
  - 1.2.7 Green and Blue Infrastructure Strategy
  - 1.2.8 Environment Policy
- 1.3 Approving the budget, including:
  - 1.3.1 Allocating financial resources to different services and projects;
  - 1.3.2 Establishing contingency funds;
  - 1.3.3 Setting the council tax;

- 1.3.4 Making decisions relating to the control of the Council's borrowing requirement;
  - 1.3.5 Setting virement limits;
  - 1.3.6 Annual Investment Strategy;
  - 1.3.7 Annual policy for making a Minimum Revenue Provision (MRP).
- 1.4 Approving and amending the constitution, except for changes approved by the Monitoring Officer as set out in Part 2 Article 15.3.2.
  - 1.5 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 an executive function which is covered by the policy framework, or the budget, where the decision maker is minded to make it in a manner which would be contrary to the policy framework, or contrary to/or not wholly in accordance with the budget.
  - 1.6 Appointing and removing the Leader of the Council from office.
  - 1.7 Agreeing and/or amending the terms of reference for committees other than joint committees, deciding on their composition and making appointments to them.
  - 1.8 Appointing Chairmen and Vice-Chairmen of Committees, unless otherwise specified within this Constitution or where choosing to allow a committee to appoint its own Chairman and Vice-Chairman.
  - 1.9 Adopting a Members' allowances scheme in accordance with the Local Authorities' (Members' Allowances) (England) Regulations 2003 following advice from an independent remuneration advisory panel comprising up to five non-elected Members. This would include making any amendments to such a scheme.
  - 1.10 Confirming the appointment of the Head of Paid Service.
  - 1.11 Appointing the returning officer and electoral registration officer.
  - 1.12 Submitting proposals to the appropriate secretary of state under the Representation of the People Act 2000.
  - 1.13 Carrying out community governance reviews and put in place or make changes to local community governance and electoral arrangements in accordance with the Local Government and Public Involvement in Health Act 2007.
  - 1.14 Making, amending, revoking, re-enacting or adopting bylaws and promoting, or opposing, the making of local legislation or personal bills.
  - 1.15 Agreeing the cycle of Council meetings.
  - 1.16 Any function under a local act.
  - 1.17 Making appointments to the Police and Crime Panel in accordance with the relevant legislation and guidance.



## **2. Committees**

The Council will exercise the following functions by delegation of powers to the under-mentioned committees:

### **2.1 Strategic Planning Committee**

#### Composition

2.1.2 The size of the committee and appointments to it will be determined by council. Appointments will be made having regard to rules on political proportionality.

2.1.3 Substitutes will be permitted in accordance with Part 4 of this Constitution.

2.1.4 Members shall not participate as Members of the Strategic Planning Committee until they have received appropriate training in respect of their functions on the committee.

#### Role and Functions

2.1.5 The committee will exercise the following functions, to make strategic planning decisions as follows:

2.1.5.1 To consider the following categories of applications for planning permission, if called in by Members, in accordance with Part 3D3 of the Constitution (Scheme of Delegation – Planning):

- Large-scale major developments which, by their nature (e.g. scale, location etc.) have wider strategic implications and raise issues of more than local importance. This will include applications of a similar nature by Wiltshire Council to develop any land of Wiltshire Council, or for development of any land by Wiltshire Council or by Wiltshire Council jointly with any other person which have similar implications or raise similar issues;
- Planning applications for minerals and waste development, other than small scale works which are ancillary to an existing mineral working or waste disposal facility;
- Applications which, if approved, would represent a significant departure from the policies of the statutory development plan, where they are recommended for approval;
- Applications called in by a Division Member that cross the boundary of two Area Planning Committees;
- To consider the implications of major developments outside of Wiltshire that could have an impact on local residents and respond to the determining authority where appropriate;

2.1.5.2 Any application where the Corporate Director, Place considers it inappropriate to exercise delegated powers having regard to the public representations received and consultee responses;

2.1.5.3 Any application the Corporate Director, Place, has deems raises issues that should be dealt with by the Strategic Planning Committee.

2.1.5.4 To consider documents relating to the Local Development Framework and advise Cabinet where appropriate.

2.1.6 There shall be no referral down of applications from the Strategic Planning Committee to the Area Planning Committees.

### Public Participation

- 2.1.7 Details of the rules concerning public participation at the Strategic Planning Committee are referenced in the Planning Code of Good Practice for Members of Wiltshire Council (Protocol 4).

## **2.2 Area Planning Committees**

- 2.2.1 There shall be four area planning committees with the following composition, role and functions.

### Composition

- 2.2.2 The size of the committees and appointments to them will be determined by Council. Appointments will be made having regard to rules on political proportionality and also having regard to the wishes of group leaders, who would be asked to nominate Members wherever possible on a geographical basis. The Corporate Director, Place, will be responsible for reviewing and updating the extent of the areas covered by each committee.
- 2.2.3 Substitutes will be permitted in accordance with Part 4 of this Constitution from those eligible, selected wherever possible on a geographical basis.
- 2.2.4 Members shall not participate as Members of the area planning committees until they have received appropriate training in respect of their functions on the committee.

### Planning Role and Functions

- 2.2.5 To consider planning applications not within the remit of the Strategic Planning Committee and not delegated to officers except where the Corporate Director, Place, considers it inappropriate to exercise delegated powers having considered public representations and consultee responses.
- 2.2.6 To consider matters of local importance within the area such as:
- 2.2.6.1 The designation and amendment of conservation areas;
  - 2.2.6.2 Village design statements where Council approval is required for them to be considered as material considerations in dealing with planning applications;
  - 2.2.6.3 Consideration of planning applications called to an area committee by division Members in accordance with Part 3D3 of the Constitution, with the exception of those that fall to be determined by the Strategic Planning Committee.
- 2.2.7 There shall be no referral up of applications from the area planning committees to the Strategic Planning Committee.
- 2.2.8 The Corporate Director, Place, after consultation with the relevant Cabinet Member, shall be responsible for determining whether an application falls within the remit of Strategic Planning Committee or the relevant area planning committee in accordance with the criteria set out above. Where requested to do so, the Corporate Director, Place shall be required to set out the reasons in writing.

### Other Roles and Functions

- 2.2.9 Where an objection has been received and that objection has not been resolved by officers, to consider matters of local importance for the following matters:

- 2.2.9.1 Registration of common land or town and village greens;
- 2.2.9.2 Variation of rights of common;
- 2.2.9.3 Determination of applications under the Manufacture and Storage of Explosives Regulations 2005;
- 2.2.9.4 Public rights of way, including modification of the definitive map and the regulation of the use of the highway.

#### Scheme of Delegation

- 2.2.10 The scheme of delegation to the Corporate Director, Place, is detailed in Part 3 Section D3 of this Constitution.

#### Public Participation

- 2.2.11 Details of the rules concerning public participation at the Area Planning Committees are referenced in the Planning Code of Good Practice for Members of Wiltshire Council (Protocol 4).

### **2.3 Licensing Committee**

#### Composition

- 2.3.1 The size of the committee and appointments to it will be determined by Council with a Membership of between 10 and 15 Members. Appointments will be made having regard to the rules on political proportionality.

- 2.3.2 Substitutes will be permitted in accordance with Part 4 of this Constitution

- 2.3.3 Members shall not participate as Members of the Licensing Committee or any of its sub-committees in relation to Licensing Act and Gambling Act matters until they have received appropriate training in respect of their functions on the committee or sub-committees.

#### Role and Functions

- 2.3.4 Taxi, gambling, casino, gaming, entertainment, food, liquor and miscellaneous licensing.

- 2.3.5 To deal with all functions:

- 2.3.5.1 To licensing and registration as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000;
- 2.3.5.2 To include all of the Council's responsibilities under the Licensing Act 2003;
- 2.3.5.3 To the Gambling Act 2005;
- 2.3.5.4 To the Council's responsibilities in respect of licensing under the Criminal Justice and Police Act 2001 and the Violent Crime Reduction Act 2006;
- 2.3.5.5 Relating to taxi licensing in accordance with Schedule 14 of the Local Government Act 1972;
- 2.3.5.6 To any other associated matters and any other similar licensing and registration functions.

- 2.3.6 The Licensing Committee has the power to appoint such sub-committees as may from time to time be necessary to discharge its duties including those under the Licensing Act 2003 and the Gambling Act 2005.

2.3.7 Each Sub-committee will comprise three Members drawn from the Licensing Committee and appointed by the Proper Officer, who in this instance would be a Democratic Services Officer on behalf of the Monitoring Officer, having regard to the following:

- 2.3.7.1 Availability of Members;
- 2.3.7.2 Members selected are not the representative for the area in which the premises subject to the hearing or review is situated;
- 2.3.7.3 Members do not have a disclosable or other interest in the matter to be determined;
- 2.3.7.4 Cross-party representation on all sub-committees is achieved where at all possible.

#### Scheme of Delegation

2.3.8 Sub-committees will have full delegated powers to determine contested applications and adjudicate over the review of licences. These will be undertaken by way of licensing hearings and conducted in accordance with relevant legislation.

2.3.9 Delegations relevant to the Licensing Committee, licensing sub-committees and officers are detailed in Part 3 Section D4 of this Constitution.

### **2.4 Staffing Policy Committee**

#### Composition

2.4.1 The size of the committee and appointments to it will be determined by Council. Appointments will be made having regard to rules on political proportionality.

2.4.2 Substitutes will be permitted in accordance with Part 4 of this Constitution.

#### Role and Function

2.4.3 To determine, monitor and review staffing policies and practices to secure the best use and development of the Council's staff, including the power to deal with all matters relating to staff terms and conditions.

2.4.4 The Staffing Policy Committee will establish the following sub-committees to deal with matters relating to the dismissal or disciplinary action against individual Members of staff and staff grievances.

#### Senior Officers' Employment Sub-Committee

2.4.5 This sub-committee is authorised to dismiss and take disciplinary action against the officers categorised below as defined within the associated "Chief Officer posts" document in accordance with the officer employment procedure rules:

- 2.4.5.1 The Head of Paid Service;
- 2.4.5.2 Statutory chief officers;
- 2.4.5.3 Non-statutory chief officers;
- 2.4.5.4 Deputy chief officers;
- 2.4.5.5 Assistants for political groups.

2.4.6 For this purpose, the sub-committee shall comprise at least three Members, at least one of whom shall be a Member of the Cabinet.

2.4.7 This sub-committee is also authorised to consider and respond to grievances raised by officers in the categories listed above under stage two to the Council's grievance procedure. For the determination of such grievances the sub-committee shall comprise at least three Members. There is no requirement for any of those Members to be a Member of the Cabinet.

#### Staffing Appeals Sub-Committee

2.4.8 This sub-committee is authorised to hear appeals against dismissal or disciplinary action:

- 2.4.8.1 By the Senior Officers' Employment Sub-Committee in relation to the senior officers specified above;
- 2.4.8.2 By the Head of Paid Service in relation to other staff.

2.4.9 The Staffing Appeals Sub-Committee has power in the case of an appeal against a warning to:

- 2.4.9.1 Dismiss the appeal;
- 2.4.9.2 Allow the appeal;
- 2.4.9.3 Allow the appeal and substitute a different warning (greater or lesser);
- 2.4.9.4 Dismiss the employee.

2.4.10 The Staffing Appeals Sub-Committee has power in the case of an appeal against dismissal to:

- 2.4.10.1 Dismiss the appeal;
- 2.4.10.2 Dismiss the appeal but offer to re-engage the employee in the same or another post with effect from a date to be determined;
- 2.4.10.3 Allow the appeal and reinstate;
- 2.4.10.4 Allow the appeal and reinstate with a written or final written warning.

2.4.11 In the case of any appeal against dismissal or disciplinary action in respect of a senior officer as identified above, the Staffing Appeals Sub-Committee shall comprise at least three Members, at least one of whom shall be a Member of the Cabinet.

2.4.12 No Member who was involved in determining a matter which is the subject of an appeal will be appointed to the Staffing Appeals Sub-Committee.

#### Grievance Appeals Sub-Committee

2.4.13 This Sub-committee is authorised to hear appeals under stage two of the Council's grievance procedure.

2.4.14 The Sub-committee shall comprise at least three Members to hear an appeal. There is no requirement for any Member to be a Member of the Cabinet.

2.4.15 No Member who was involved in determining a matter which is the subject of an appeal will be appointed to the Grievance Appeals Sub-Committee.

#### Relevant Officers Panel

2.4.16 This is an advisory sub-committee established in accordance with the requirements of the Local Authorities (Standing Orders) (England)(Amendment) Regulations 2015 for

the purpose of advising on matters relating to the dismissal of relevant officers of the council as defined in Part 14 Officer Employment Procedure Rules.

2.4.17 The Panel shall comprise three members and at least two relevant independent persons who have accepted an invitation to be appointed to the Panel.

2.4.18 The Monitoring Officer shall be responsible for providing training to the Panel.

## **2.5 Standards Committee**

### Composition

2.5.1 The size of the Standards Committee and appointments to it will be determined by Council. Appointments will be made having regard to rules on political proportionality, but may not include the Leader or any other Member of the Cabinet.

2.5.2 In addition to elected Members 4 co-opted non-voting Members shall be appointed, at least 2 of whom shall at appointment be serving town, parish or city Members from within the Council's area who are not Members or officers of the Council.

2.5.3 Appointments to the Committee will be made annually by the Council having regard to the rules on political proportionality.

2.5.4 The term of office for co-opted non-voting Members will normally be 4 years.

2.5.5 Co-opted non-voting Members will be eligible for re-appointment for additional terms, but may not serve more than 2 consecutive terms.

2.5.6 Substitutes will be permitted in accordance with Part 4 of the Constitution.

### Roles and Function

2.5.7 The Standards Committee is responsible for:

2.5.7.1 promoting and maintaining high standards of conduct by elected and co-opted Members and officers;

2.5.7.2 assisting the elected and co-opted Members to observe the Members' code of conduct;

2.5.7.3 advising the Council on the adoption or revision of the Members' code of conduct and the arrangements for dealing with Member complaints of misconduct which the Council is required to make under Section 28 of the Localism Act 2011;

2.5.7.4 monitoring and advising the Council about the operation of its code of conduct in the light of best practice and any changes in the law;

2.5.7.5 advising on and where appropriate, arranging to train elected and co-opted Members on matters relating to the Members' Code of Conduct and ensuring that Members are aware of the standards expected of them under the code, and to assist in promoting training and information for parish councils;

2.5.7.6 granting dispensations to elected and co-opted Members from requirements relating to interests;

2.5.7.7 overseeing the operation of the Council's arrangements for dealing with misconduct complaints against Members and Co-opted Members of Wiltshire Council, and Members of City, Town, and Parish councils;

2.5.7.8 overview of the whistleblowing policy;

2.5.7.9 overview of corporate complaints handling and Ombudsman investigations;

- 2.5.7.10 reviewing the implementation of recommendations made by the Ombudsman;
- 2.5.7.11 oversight of the Constitution.

#### Standards Sub-Committees

- 2.5.8 The Standards Committee has the power to appoint such sub-committees as may from time to time be necessary for the efficient discharge of its functions. In particular, the Committee will appoint:
  - 2.5.8.1 An Assessment Sub-Committee to assess complaints in respect of complaints regarding the conduct of Members of Wiltshire Council, or Members of city, town or parish councils under the Council's arrangements;
  - 2.5.8.2 A Hearing Sub-Committee to determine Member misconduct complaints under the Council's arrangements;
  - 2.5.8.3 A Dispensation Sub-Committee to determine requests for dispensation from the requirements relating to interests.
- 2.5.9 For the avoidance of doubt decisions of the Sub-Committees will be made by a simple majority of the elected Members present.

#### Assessment Sub-Committee

- 2.5.10 As it shall consider multiple complaints per meeting this Sub-Committee shall comprise 5 elected Members from among the Standards Committee and its substitutes, in case of conflicts arising. The Standards Committee will appoint the members annually. The Sub-Committee will elect a Chairman and Vice-Chairman at their first meeting following their reappointment by Standards Committee after the annual meeting of Council. The Sub-Committee may include up to 2 non-voting co-opted Members of the Standards Committee on an ad-hoc basis. All other members and substitutes of the Standards Committee will serve as substitutes for the Sub-Committee.
- 2.5.11 The above Sub-Committee is not subject to the requirements of political balance but is subject to a requirement of a maximum of 4 elected Members from any political group. The co-opted members serving on the Sub-Committee will be determined by the proper officer, who in this instance would be a Democratic Services Officer on behalf of the Monitoring Officer.
- 2.5.12 The above Sub-Committee shall meet on a monthly basis and make decisions on all Code of Conduct complaints in accordance with the Council's arrangements under Protocol 11.

- 2.5.13 Members, including co-opted members, may not serve on the Hearing Sub-Committee for a complaint they have previously considered on the Assessment Sub-Committee.

#### Hearing Sub-Committee and Dispensation Sub-Committee

- 2.5.14 In each case the above Sub-Committees shall comprise 3 elected Members from whom a chairman will be elected. The Sub-Committee may include up to 2 non-voting co-opted Members of the Standards Committee.
- 2.5.15 The above Sub-Committees are not subject to the requirements of political balance but are subject to the requirement of a maximum of 2 elected Members from any political group. The composition of any sub-committee will be determined by the proper officer, who in this instance would be a Democratic Services Officer on behalf of the

Monitoring Officer on the basis of Member availability, drawing from the Membership of the Committee and their substitutes.

2.5.16 The Hearing Sub-Committee shall make decisions where an investigation into a Code of Conduct Complaint makes a finding of a breach, in accordance with the Council's arrangements under Protocol 11.

2.5.17 The Dispensation Sub-Committee shall make decisions on requests for dispensations relating to Disclosable Pecuniary Interests in accordance with the Council's Dispensations Policy, which is to be approved by the Standards Committee.

2.5.18 Requests for dispensations relating to Other Registerable Interests and Non-Registerable Interests, as defined in Part 12 of the Constitution, shall be delegated to the Monitoring Officer to determine in accordance with the Dispensations Policy. It is the responsibility of the Member to submit a request, but the Monitoring Officer will have the authority to pro-actively engage with Members where it appears a dispensation may be appropriate or necessary.

2.5.19 In the event a Disclosable Pecuniary Interest dispensation request from a Member is received where there is insufficient time to convene a Dispensations Sub-Committee, in relation to a matter which is urgent and cannot reasonably be delayed or appropriately determined by another method, the Monitoring Officer will have authority to determine the request in accordance with the Dispensations Policy.

## 2.6 **Officer Appointments Committee**

2.6.1 This committee will comprise five Members to include at least one Member of Cabinet.

2.6.2 It will be responsible for:

2.6.2.1 Appointing the Head of Paid Service, subject to confirmation by the Council;

2.6.2.2 Appointing Directors, subject to the officer employment procedure rules as set out in Part 14 of this Constitution.

## 2.7 **Audit and Governance Committee**

### Composition

2.7.1 The size of the Audit and Governance Committee and appointments to it will be determined by Council. Appointments will be made having regard to rules on political proportionality.

2.7.2 The Audit and Governance Committee will exclude Members of the Cabinet. The exception is that up to two, of the Leader of the Council and the Cabinet Members with responsibility for finance and governance, will be appointed as non-voting Members of the Committee. As non-voting members they would not count toward the rules on political proportionality.

2.7.3 Substitute Members will be permitted in accordance with Part 4 of this Constitution.

2.7.4 In addition to the Elected Members on the Committee, the Committee can appoint up to 2 Independent Co-opted Members, who will be Non-Voting Members of the Committee. The Non-Voting Co-opted Independent Member(s) should have



experience of audit and financial management, preferably with knowledge of local authorities.

- 2.7.5 Independent Co-opted Members will be appointed by a recruitment and selection process involving members of the Committee.
- 2.7.6 The term of office for Independent Co-opted Members will normally be 4 years.
- 2.7.7 Independent Co-opted Members will be eligible for re-appointment for a second term.
- 2.7.8 Independent Co-opted Members do not count towards the quorum of the committee.

#### Role and Function

2.7.9 The Audit and Governance Committee will be responsible for:

##### External Audit Activity:

- 2.7.9.1 To receive and comment on the external audit plan;
- 2.7.9.2 To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance;
- 2.7.9.3 To monitor accounting policies and any changes made during the year;
- 2.7.9.4 To comment on the scope and depth of external audit work and to ensure it gives value for money;
- 2.7.9.5 To monitor the implementation of management actions arising from external audit work.

##### Internal Audit Activity:

- 2.7.9.6 To approve the terms of reference and strategy for internal audit, and the annual internal audit plan and subsequent changes thereto;
- 2.7.9.7 To monitor and review the effectiveness of internal audit to ensure compliance with statutory requirements;
- 2.7.9.8 To consider the annual report, opinion, and summary on internal audit activity and the level of assurance it provides on the Council's corporate governance arrangements;
- 2.7.9.9 To consider specific internal audit reports as requested, and receive details where it is proposed not to accept internal audit recommendations, and monitor the implementation of agreed management actions.

##### Regulatory Framework:

- 2.7.9.10 To monitor and review the effective development and operation of corporate governance, risk and performance management and internal control, and to receive progress reports as required;
- 2.7.9.11 To oversee the process for production of the annual governance statement (AGS), to review the supporting evidence including the arrangements for governance of partnership working, and to approve the AGS;
- 2.7.9.12 To monitor the development and implementation of the Council's anti-fraud, bribery and corruption policy, anti-money laundering policy, and anti-tax evasion policy,

##### Financial Management and Accounts:

- 2.7.9.13 To ensure the Council's arrangements for financial management are adequate and effective, and, together with its accounting policies, are regularly reviewed;
- 2.7.9.14 To review and approve the annual statement of accounts;

2.7.9.15 To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

## 2.8 **Appeals Committee**

### Composition

- 2.8.1 The size of the committee and appointments to it will be determined by Council. Appointments will be made having regard to rules on political proportionality.
- 2.8.2 An Appeals Sub-Committee will comprise three Members, drawn by the Proper Officer, who in this instance would be a Democratic Services Officer on behalf of the Monitoring Officer, from those Members of the Appeals Committee who have received appropriate training.
- 2.8.3 At each meeting of the Appeals Sub-Committee, one of its Members shall be elected to chair the appeals panel for the duration of that meeting.

### Function

- 2.8.4 An Appeals Sub-Committee is empowered to determine appeals against the following decisions of the authority:
- 2.8.4.1 Education transport;
  - 2.8.4.2 Imposition of penalty points which would result in suspension for licensed hackney carriage, taxi and private hire vehicle operators, drivers and vehicles;
  - 2.8.4.3 Refusal of applications for discretionary rate relief and cases of exceptional hardship under the national non-domestic rating regulations, council tax and housing benefit regulations and Rates Relief Policies;
  - 2.8.4.4 Suspension, removal or exclusion of providers from the Council's Directory of Registered Early Years Providers;
  - 2.8.4.5 Any other function requiring an appeal to a Member body not specifically reserved to another body in the Constitution, or by the law.
- 2.8.5 No Member who was involved in determining a matter which is the subject of an appeal will be appointed to a Sub-Committee hearing the appeal.

## 2.9 **Electoral Review Committee**

### Composition

- 2.9.1 The size of the Electoral Review Committee and appointments to it will be determined by Council. Appointments will be made having regard to rules on political proportionality.
- 2.9.2 The Committee shall appoint a chairman and vice-chairman from among its membership.

### Responsibilities

- 2.9.3 To oversee the provision of information required by the Local Government Boundary Commission for England (LGBCE) in carrying out any Electoral Review of Wiltshire, including any consultation arrangements with electors or stakeholder and To update Full Council on the progress of any Electoral Review.
- 2.9.4 To make recommendations to Full Council on proposed submissions to the LGBCE relating to:

- 2.9.4.1 The total number of councillors on Wiltshire Council;
  - 2.9.4.2 The number and boundaries of electoral divisions within Wiltshire Council;
  - 2.9.4.3 The number of councillors to be returned by any electoral division;
  - 2.9.4.4 The name of any electoral division.
- 2.9.5 To provide such further advice and support as may be requested by the Council related to or impacted by any Electoral Review.
- 2.9.6 To oversee all details relating to any community governance reviews within the Wiltshire Council area, including contacting parishes or parties for proposals, setting the areas and scope for any review, its methodology including for any consultation arrangements, its timescales, and determining what if any changes to recommend as part of the review, and to conclude a review or part of a review where no changes are recommended. The Committee will prepare final recommendations for any changes for consideration by Full Council.
- 2.9.7 The Committee will consider whether it is appropriate to make, and is empowered to suggest for consultation and recommendation, changes to parish areas and parish electoral arrangements, to include:
- 2.9.7.1 The alteration, merging, creation or abolition of parishes;
  - 2.9.7.2 The naming of parishes and adoption of alternative styles for new parishes;
  - 2.9.7.3 Parish council size, number of councillors to be elected, and warding arrangements;
  - 2.9.7.4 Any other electoral arrangements.
- 2.9.8 Where it would be appropriate to do so the Committee may recommend that as a result of proposed parish changes a unitary division be amended so that it remains coterminous with that parish. Any such change would need to be agreed by the Local Government Boundary Commission for England if approved by Full Council.
- 2.9.9 Where it would be appropriate to do so, to make recommendations to Full Council on the composition (Electoral Divisions and Parishes) of Area Boards, following completion of an Electoral Review or Community Governance Review, or another reason. The Committee may undertake such processes as it considers appropriate when preparing its recommendations.
- 2.9.10 To oversee the provision of information required in carrying out Polling District and Polling Place Reviews, including any consultation arrangements with electors or other stakeholders.
- 2.9.11 To make decisions in respect of Polling District and Polling Place Reviews. The Returning Officer will also have authority to change a polling place where appropriate in the event of a by election or other unforeseen circumstances after consultation with the Chairman of the Committee, which will be reported to the Committee.
- 2.9.12 To receive reports in relation to the operation and delivery of Electoral Services and make recommendations or decisions as appropriate on electoral matters not reserved to Full Council.

### **3. Cabinet**

#### **3.1 General**

3.1.1 This section should be read in conjunction with the Cabinet Procedure Rules (Part 7).

3.1.2 The Leader, either directly or through Cabinet, will carry out within the Council's Budget and Policy Framework, all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

3.1.3 Without limiting the scope of paragraph 3.1.2, Cabinet either directly or by delegating its powers as set out in Part 3 Section C of this Constitution (Delegation of Executive Functions) has the following functions and responsibilities:

3.1.3.1 Proposing the budget to Council, including the preparation of estimates and the amount of the proposed precept and any reconsideration or revision of those estimates;

3.1.3.2 Agreeing the council tax base;

3.1.3.3 Controlling capital expenditure;

3.1.3.4 Proposing to Council new policies, or amendments to existing policies, which fall within the Policy Framework as defined in Paragraph 1 of Part 3 of this Constitution;

3.1.3.5 Adopting on behalf of Wiltshire Council any plans, policies or strategies which do not form part of the policy framework and are not the responsibility of any other part of the local authority;

3.1.3.6 Implementing and delivering the agreed Budget and Policy Framework.

#### **3.2 Local Choice Options**

3.2.1 In regard to local choice options, the following will be the responsibility of the Cabinet:

3.2.1.1 Making arrangements pursuant to the School Standards and Framework Act 1998 for appeals against exclusion of pupils; admission appeals; and appeals by governing bodies;

3.2.1.2 The appointment of any individual to any office other than an office in which he is employed by the authority to any body other than the authority and to any committee or sub-committee of such a body and the revocation of any such appointment.

3.2.2 The Cabinet elects to delegate the following local choice options as follows:

3.2.2.1 Corporate Director, Place - the obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land;

3.2.2.2 Solicitor to the Council - the obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976;

3.2.2.3 Solicitor to the Council - the making of agreements for the execution of highways works.

#### **3.3 Cabinet Members**

3.3.1 The Leader of the Council chairs meetings of the Cabinet and is the principal spokesman for the Council.

- 3.3.2 The role of Leader within the Budget and Policy Framework set by the Council includes but is not limited to:
- 3.3.2.1 Setting strategic direction;
  - 3.3.2.2 Ensuring the needs and aspirations of Wiltshire people are known;
  - 3.3.2.3 Management initiatives;
  - 3.3.2.4 Identifying priorities and setting targets;
  - 3.3.2.5 Setting priorities;
  - 3.3.2.6 Probity and financial monitoring and risk management;
  - 3.3.2.7 Communication policy;
  - 3.3.2.8 Monitoring performance of Members of his or her Cabinet;
  - 3.3.2.9 Promoting the Council;
  - 3.3.2.10 Relationships with other political group leaders and the chairman of the Council.
- 3.3.3 The provisions above are without prejudice to the statutory duties of the Head of Paid Service, the Monitoring Officer and Solicitor to the Council, the Director of Children’s Services, the Director of Adult Social Services, the Section 151 Officer, the designated Scrutiny Officer or any other statutory Council officers as set out in Part 2 of the Constitution, or other council officers.
- 3.3.4 The Leader will appoint individual Cabinet Members as he or she thinks appropriate subject to reporting appointments to the first available meeting of the Council.
- 3.3.5 Individual Cabinet Members will have power within any scheme of delegation determined by the Leader in accordance with:
- 3.3.5.1 Article Seven of Part 2 (Articles of the Constitution)
  - 3.3.5.2 Part 3 Section C (Delegation of Executive Functions)
  - 3.3.5.3 Part 7 (Cabinet Procedure Rules).
- 3.3.6 In addition to the delegation of authority to individual Members, the Cabinet may choose to delegate functions further to an Area Board, joint arrangements, or an officer.

#### **4. Area Boards**

##### **Role and functions of Area Board**

- 4.1 The purpose of Area Boards is to promote the development of stronger and more resilient communities across Wiltshire’s community areas through:
- 4.1.1 Efficient, transparent and accountable decision making;
  - 4.1.2 Effective collaboration with public, voluntary and private sector partners locally to meet the aspirations of local people;
  - 4.1.3 Shaping the delivery of local services;
  - 4.1.4 Addressing local issues;
  - 4.1.5 Building community leadership and local engagement.
- 4.2 Each Area Board will have the following functions in conjunction with their local area:
- 4.2.1 To provide a focus for community leadership, local influence and delegated decision-making, through the democratic mandate of elected Members;
  - 4.2.2 To influence the allocation of resources and delivery of public services in the community area in order to pursue local priorities and issues;

- 4.2.3 To develop a strong, well established and highly functioning network of local partners, organisations and residents
- 4.2.4 To generate an in-depth understanding of their local community and the issues faced by the residents, including through use of Joint Strategic Needs Assessment data.
- 4.2.5 To empower and facilitate community led action, by recognising and encouraging the talents, expertise and knowledge of our communities, trusting and supporting them to co-deliver local services.
- 4.2.6 To effectively share data and intelligence at a local level
- 4.2.7 To determine budget priorities and spend within the revenue budget allocated by the Cabinet, including approval of funding recommended by any working groups such as Local Highways and Footway Improvement Groups;
- 4.2.8 To provide a local platform for local engagement and conversation including through the use of working groups such as Health and Wellbeing Groups and Local Youth Networks and to agree a framework for any consultations carried out in the community area on behalf of the Council;
- 4.2.9 To allocate project funding for identified community priorities;
- 4.2.10 To develop participatory budgeting processes and to be instrumental in supporting and developing funding applications to external bodies and funding streams;
- 4.2.11 To provide excellent two-way communications for the community area about public service provision and to the Council and Cabinet about the implementation and effectiveness of policies;
- 4.2.12 To publish and maintain a forward plan of forthcoming agenda items to give Members, the public, parishes and the media adequate notice of the issues that are to be considered;
- 4.2.13 To consider issues referred to the Area Board by town and parish councils, partners and the public.

#### Composition

- 4.3 The Area Boards are appointed by the Council under section 102 of the Local Government Act 1972 and are constituted as area committees within the meaning of Section 18 of the Local Government Act 2000 and regulations made under that section for the purpose of discharging functions delegated by the executive as set out below.
- 4.4 In the event of a Member being elected following a by-election, the Director, Legal and Governance has delegated authority to appoint the Member to the relevant Area Board
- 4.5 Marlborough, Pewsey and Tidworth Area Boards are established as a single area committee known as the Eastern Wiltshire Area Committee. This shall appoint three sub-committees, each of which shall operate as an Area Board, known as Marlborough Area Board, Pewsey Area Board and Tidworth Area Board respectively.

#### Membership and Representation

- 4.6 Each Area Board's Membership shall comprise of the elected unitary Members representing the electoral divisions covered by the Area Board, as set out in Schedule 1 of Part 3B.
- 4.7 The following representatives may also participate as partners in Area Boards:
  - 4.7.1 An elected representative from each town or parish council within the area covered by the Area Board as detailed in Schedule 1 of Part 3B;

- 4.7.2 Representatives are also encouraged from the following groups and organisations:
- 4.7.3 Voluntary, community and social enterprise sector organisations (regional, countywide and local level)
- 4.7.4 Wiltshire Police
- 4.7.5 Dorset and Wiltshire Fire and Rescue Service
- 4.7.6 Ministry of Defence
- 4.7.7 Bath, Swindon and Wiltshire Partnership, Healthwatch, Local Health Representatives
- 4.7.8 Local businesses, Chambers of Commerce
- 4.7.9 Schools
- 4.7.10 Housing Associations
- 4.7.11 Faith and cultural groups
- 4.7.12 Residents and resident action groups
- 4.7.13 Any other relevant groups

4.8 The Chairman and Vice-Chairman of an Area Board will be appointed at the first meeting of an Area Board, which takes place after the annual meeting of the Council, by the unitary Members on each Area Board. Except in an election year, where after the first meeting of Full Council a special meeting of each Area Board will take place to appoint a Chairman and a Vice-Chairman.

#### Election of Chairs Procedure

- 4.9 The Democratic Services representative will call for nominations for the position of Chairman of the Area Board and preside over the election. A Member's nomination must be seconded to be valid. A Member shall not be nominated in their absence without their written consent.
- 4.10 In the event of only one valid nomination being received the person presiding will declare the nominated Member elected.
- 4.11 In the case of two valid nominations the Democratic Services representative will ask for a show of hands from those Members in favour of each Member and declare the candidate receiving the majority of votes of the Members present and voting, to be the winner.
- 4.12 In the case of an equality of votes for the two candidates, the Democratic Services representative shall draw lots, or an equivalent method to break the tie, to determine the winner of the election and then declare the result.
- 4.13 In the case of three or more valid nominations being made, the Democratic Services Representative will call for a show of hands for each of the candidates. The Democratic Services representative will then announce the candidate with the least number of votes and that candidate will be eliminated (in the case of a tie for the least number of votes, the Democratic Services representative shall draw lots or use an equivalent method to determine which candidate to be eliminated). A further vote shall be taken for the remaining candidates and after each vote the candidate with the least number of votes shall be eliminated until only two candidates remain and a final vote taken.
- 4.14 The newly elected Chairman of the Area Board shall then preside over the election of the Vice Chairman in the manner described above with the ability to use a casting vote in the event of an equality of votes.

4.15 With the exception of an election year, the Chairman and Vice-Chairman of an Area Board shall remain in post until their successors are appointed.

#### Other Representation

4.16 A Member of Wiltshire Council's Cabinet will attend upon request those Area Boards which do not have a Cabinet Member as a standing Member of the Area Board. Cabinet Members attending the Area Board will not have voting rights. For the avoidance of doubt a Cabinet Member is entitled to vote as a standing Member of the Area Board in which their electoral division is located.

4.17 Directors from Wiltshire Council will attend as and when required. Their role is to advise and assist the Area Board.

4.18 No substitutes are permitted for unitary Members on Area Boards except as set out at Paragraph 4.19.

4.19 The Eastern Wiltshire Area Committee will appoint substitutes for the Members on the Pewsey Area Board, Tidworth Area Board, and Marlborough Area Boards drawn from the Members of the Eastern Wiltshire Area Committee.

#### Voting

4.20 Only the elected unitary Members on the Area Board may vote at an Area Board..

4.21 Voting is by a majority of the elected Members present. The Chairman of the Area Board has the casting vote.

4.22 Area Boards will where appropriate seek the views of any other participants. The Area Board may decide to test opinion by a show of hands before the unitary Members make their decision.

#### Quorum

4.23 The quorum for each Area Board is one quarter of its total voting Membership, subject to a minimum number of three voting Members.

#### Delegation

4.24 Decisions involving the discharge of executive functions will be made by the local Area Board, provided the decision does not:

4.24.1 Have a significant impact outside of the area concerned;

4.24.2 Have a significant impact on the overall resources of the Council;

4.24.3 Contradict any policy or service standard set by the Council;

4.24.4 Involve the taking of regulatory or quasi-judicial decisions;

4.24.5 Relate to the exercise of functions in respect of any particular person, including any individual Member of staff.

4.25 Area Boards must operate within the Council's Budget and Policy Framework and in accordance with the requirements of this Constitution. In accordance with Para 4.2.11 they may provide local views on the effective implementation of a council policy, but are not able to make resolutions contrary to the Budget and Policy Framework of the Council.



- 4.26 Each Area Board will receive delegated funding as determined from time to time by the Leader.
- 4.27 Area Boards will allocate their delegated funds in accordance with any rules and guidance issued by the Leader.
- 4.28 For the avoidance of doubt the delegation arrangements for Area Boards will operate in conjunction with the scheme of delegation to Cabinet Members and the Council's scheme of delegation to officers.
- 4.29 Area Boards will be consulted on the development of strategic policies to make sure that local priorities and concerns are taken into account. The Area Boards will also be consulted where significant changes, reductions or closures of a service are planned in their area.
- 4.30 Any key decision or policy proposal of the Council that has, or is likely to have, a significant impact in the local area will be discussed with the Area Board.
- 4.31 Area Boards must not be directly involved in deciding planning applications. However, they may be involved in the following in relation to their area:
- 4.31.1 Consideration of the impacts of larger developments;
  - 4.31.2 Pre-application discussions relating to major developments;
  - 4.31.3 Consideration of planning briefs;
  - 4.31.4 Development of Local Development Framework policies.

#### Procedure Rules and Guidance

- 4.32 Area Boards will follow any procedure rules and guidance as issued from time to time by the Leader.

#### Agenda setting

- 4.33 An agenda will be prepared for each meeting after consultation with the Chairman of the Area Board.
- 4.34 Members may request that specific items be included on an agenda subject to the delegation rules and within the powers and role of the Board as set out in this constitution. A request should take the form of a proposed topic for discussion, request for a briefing or partner event or other similar requests.
- 4.35 Any proposed subjects and proposed actions must be in accordance with the rules set out in this constitution.
- 4.36 Subject to Paragraph 4.35, and so long as sufficient notice to prepare as appropriate is given, if a majority of Board Members support an item being included on an agenda it will be included for discussion in an appropriate form.

#### Access to Information

- 4.37 Area Boards are subject to the Access to Information Procedure Rules in Part 5 of this Constitution.

## **Joint Committees**

### **5. Wiltshire Police and Crime Panel**

#### **Terms of Reference**

- 5.1 To review and make a report or recommendation on the draft police and crime plan, or draft variation, given to the panel by the Police and Crime Commissioner.
- 5.2 To review, put questions to the Police and Crime Commissioner at a public meeting, and make a report or recommendation (as necessary) on the commissioner's annual report.
- 5.3 To hold a confirmation hearing and review, make a report, and recommendation (as necessary) in respect of proposed senior appointments made by the Police and Crime Commissioner.
- 5.4 To review and make a report on the proposed appointment of the Chief Constable.
- 5.5 To review and make a report and recommendation (as necessary) on the proposed police precept.
- 5.6 To review or scrutinise decisions made, or other action taken, by the Police and Crime Commissioner in connection with the discharge of the commissioner's functions.
- 5.7 To make reports or recommendations to the Police and Crime Commissioner with respect to the discharge of the commissioner's functions.
- 5.8 To support the effective exercise of the functions of the Police and Crime Commissioner.
- 5.9 To fulfil functions in relation to complaints about conduct matters, in accordance with the responsibilities accorded to the panel by the Police Reform and Social Responsibility Act 2011.
- 5.10 To appoint an Acting Police and Crime Commissioner if necessary.
- 5.11 To suspend the Police and Crime Commissioner if it appears to the Panel that the Commissioner has been charged in the United Kingdom or Isle of Man with an offence which carries a maximum term of imprisonment exceeding two years.

#### **Procedure Rules and Panel Arrangements**

- 5.12 The Police and Crime Panel Procedure Rules and Panel Arrangements are set out in Protocol 12 of this Constitution.

### **6. Wiltshire Pension Fund Committee**

- 6.1 This joint committee will comprise five Members from Wiltshire Council and other Members as follows:
  - 6.1.1 Two voting Members from Swindon Borough Council;
  - 6.1.2 Two co-opted voting Employer Representatives;

- 6.1.3 Two co-opted non-voting employee representatives, one representing Wiltshire Council employees, and one representing Swindon Borough Council employees.
- 6.2 It will exercise the functions of the Council as administering authority under the Local Government Superannuation Acts and Regulations and deal with all matters relating thereto. The committee will publish meetings attendance records.
- 6.3 The voting Employer Representatives will serve a four-year fixed term from appointment. On expiry of the four-year term, applications for the position will be sought (from the incumbent and the applicable employer bodies) and an appointment process will be undertaken by the committee should more than one application be received for the role.
- 6.4 The full terms of reference for the Wiltshire Pension Fund Committee can be found at Protocol 2A. Terms of reference for the Local Pensions Board, whose purpose is to assist the administering authority in its role as a scheme manager of the Scheme, can be found at Protocol 2B.

### **Other Bodies**

## **7. Health and Wellbeing Board**

### **Composition**

#### 7.1 Voting Members:

- 7.1.1 1 Leader of the Council and 1 Deputy Leader of the Council
- 7.1.2 1 healthcare clinical professional director (NHS BSW ICB) and 1 GP clinical lead (Wiltshire Integrated Care Alliance)
- 7.1.3 1 Police and Crime Commissioner (PCC);
- 7.1.4 1 representative from Healthwatch Wiltshire;

#### 7.2 Non-voting Members:

- 7.2.1 1 NHS England representative.
- 7.2.2 Other Wiltshire Council Cabinet Members with responsibility for Children, Adults and Public Health; 1 Wiltshire Council portfolio holder for Adult Care and Public Health; 1 Member of Wiltshire Council who is not a Member of the ruling group(s) on the Council;
- 7.2.3 Wiltshire Council Chief Executive
- 7.2.4 Place Director for Wiltshire (NHS BSW ICB) or nominated ICB Exec Director lead as sub
- 7.2.5 Wiltshire Council officers with statutory responsibility for Children, Adults and Public Health services;
- 7.2.6 Acute Hospital Trusts representatives (Salisbury Hospital FT, Great Western Hospital FT and Bath RUH FT);
- 7.2.7 1 South West Ambulance Service (SWAS) representative;
- 7.2.8 1 Avon and Wiltshire Mental Health Partnership (AWP) representative;
- 7.2.9 1 Wiltshire Police Chief Constable representative;
- 7.2.10 1 Wessex Local Medical Committee representative;
- 7.2.11 1 Dorset and Wiltshire Fire and Rescue Service;
- 7.2.12 1 Adult community health services provider (WHC);
- 7.2.13 1 Children's community health services provider (VirginCare);
- 7.2.14 1 Child and adolescent mental health services provider (Oxford Health);

## 7.2.15 1 Voluntary Community Sector (VCS) representative

### Voting

7.3 Voting is by a majority of the voting Members present. The Chair of the Board has the casting vote. However, the Board will seek to reach decisions by consensus, where possible involving all participants.

7.4 The quorum for the meeting will be a quarter of the total membership.

### Roles and Functions

7.5 The statutory functions of the Health and Wellbeing Board contained within the Health and Social Care Act 2012 and Health and Care Act 2022 are:

- 7.5.1 to prepare Joint Strategic Needs Assessments (JSNAs) and Joint Local Health and Wellbeing Strategies (JLHWSs), which is a duty of local authorities and NHS Integrated Care Boards working through the Board;
- 7.5.2 a duty to encourage integrated working between health and social care commissioners, including providing advice, assistance or other support to encourage arrangements under Section 75 of the National Health Service Act 2006 (i.e. lead commissioning, pooled budgets and/or integrated provision) in connection with the provision of health and social care services;
- 7.5.3 a power to encourage close working between commissioners of health related services and the board itself;
- 7.5.4 a power to encourage close working between commissioners of health-related services (such as housing and many other local government services) and commissioners of health and social care services.

7.6 The Board is supported in its activities by requirements in legislation for the ICB to consult the Board on its annual report and for the ICB to include a statement of compliance from the Health and Wellbeing Board on how well the JLHWS is reflected in its forward plans.

7.7 Full Council reserves the right to delegate any other additional functions under section 196(2) of the Health and Social Care Act 2012.

### Access to Information

7.8 The Health and Wellbeing Board is subject to the Access to Information Procedure Rules in Part 5 of this Constitution.

## **8. Local Pension Board**

8.1 The purpose of the Board is to assist the Administering Authority in its role as a scheme manager of the Scheme. Such assistance is to:

- 8.1.1 Secure compliance with the Regulations, any other legislation relating to the governance and administration of the Scheme, and requirements imposed by the Pensions Regulator in relation to the Scheme; and,
- 8.1.2 To ensure the effective and efficient governance and administration of the Scheme.
- 8.1.3 This may include making recommendations it considers appropriate to the committee.

### Composition

8.2 The Board shall consist of 6 voting Members, as follows:

8.2.1 3 Member Representatives; and,

8.2.2 3 Employer Representatives.

8.3 There shall be an equal number of Member and Employer Representatives.

8.4 There shall also be an independent chairman who is not entitled to vote.

### Quorum

8.5 A meeting is only quorate when at least 50% of both Member and employer representatives are present.

8.6 A meeting that becomes inquorate may continue but any decisions will be non-binding.

### Access to Information

8.7 The Local Pension Board is subject to the Access to Information Procedure Rules in Part 5 of this Constitution.

### Terms of Reference

8.8 The full terms of reference for the Local Pension Board can be found at Protocol 2B.

## **9. Local Authority Panels**

### Channel Panel

9.1 The Channel Panel uses a multi-agency approach to protecting people vulnerable to being drawn into terrorism. The Channel Panel was established in line with the Counter-Terrorism and Security Act 2015.

9.2 The Channel Panel forms part of the council's Prevent Duty. The relevant Cabinet Member attends meetings of the Prevent Board.

9.3 The Channel Panel is required to:

9.3.1 Identify individuals at risk;

9.3.2 Assess the nature and extent of that risk;

9.3.3 Develop the most appropriate support plan for the individuals concerned.

9.4 The key requirements of the Channel Panel:

9.4.1 The local authority is the Channel Panel Chair;

9.4.2 Membership of the panel must include the local authority and the police as they have principal responsibility for Channel in their area;

9.4.3 Minimum membership of the panel includes:

9.4.3.1 The local authority representative as chair

9.4.3.2 Counter Terrorism Policing South West Prevent Officer

9.4.3.3 Safeguarding representation (as determined by the age of the case)

9.4.3.4 Mental Health representation if mental health concerns are present  
(service dependant on age of case)

9.4.3.5 Minute taker

- 9.4.4 Additional members from agencies relevant to the case are requested which could include education providers, voluntary community groups, probation services or others as appropriate.
- 9.4.5 The panel to develop a support plan for individuals accepted as channel cases.
- 9.4.6 The panel to consider alternative forms of support, including health and social services, where Channel is not appropriate.
- 9.4.7 The panel to ensure that the council's functions to safeguard and promote the welfare of children under section 11 of the Children Act 2004 are discharged;
- 9.4.8 All partners of a panel, so far as appropriate and reasonably practicable, to cooperate with the police and the panel in the carrying out of their functions;
- 9.4.9 Each case is handled separately; people deemed appropriate to receive support will have a tailored package developed for them, according to their identified vulnerabilities.
- 9.4.10 Where the panel is unable to make a unanimous decision, the question must be decided by a majority of the panel. Where the panel is unable to make a majority decision, the question must be decided by the Channel Panel Chair. In certain circumstances the Chair may wish to escalate the question internally through the agreed governance route.

# PART 3 SECTION B

## SCHEDULE 1

### AREA BOARDS: ELECTORAL DIVISION AND PARISH ALLOCATIONS

<b>Bradford-on-Avon Area Board</b>
<b>Electoral Divisions (4)</b> Bradford on Avon North, Bradford on Avon South, Holt, Winsley and Westwood.
<b>Parishes</b> Atworth, Bradford on Avon, Holt, Limpley Stoke, Monkton Farleigh, South Wraxall, Staverton, Westwood, Wingfield, Winsley.

<b>Calne Area Board</b>
<b>Electoral Divisions (5)</b> Calne Central, Calne Chilvester and Abberd, Calne North, Calne Rural, Calne South.
<b>Parishes</b> Bremhill, Calne, Calne Without, Cherhill, Compton Bassett, Heddington, Hilmarton.

<b>Chippenham and Villages Area Board</b>
<b>Electoral Divisions (10)</b> By Brook, Chippenham Cepen Park and Derriards, Chippenham Cepen Park and Hunters Moon, Chippenham Hardenhuish, Chippenham Hardens and Central, Chippenham Monkton, Chippenham Lowden and Rowden, Chippenham Pewsham, Chippenham Sheldon, Kington.
<b>Parishes</b> Biddestone, Castle Combe, Chippenham, Chippenham Without, Christian Malford, Grittleton, Hullavington, Kington Langley, Kington St Michael, Langley Burrell Without, Nettleton, North Wraxall, Seagry, Stanton St Quintin, Sutton Benger, Yatton Keynell.

<b>Corsham Area Board</b>
<b>Electoral Divisions (4)</b> Box and Colerne, Corsham Ladbrook, Corsham Pickwick, Corsham Without.
<b>Parishes</b> Box, Colerne, Corsham, Lacock.

<b>Devizes Area Board</b>
<b>Electoral Divisions (7)</b> Bromham, Rowde and Roundway, Devizes East, Devizes North, Devizes Rural West, Devizes South, The Lavingtons, Urchfont and Bishops Cannings.
<b>Parishes</b>

Bishops Cannings, Bromham, Bulkington, Cheverell Magna, Coulston, Devizes, Easterton, Erlestoke, Etchilhampton, Little Cheverell, Market Lavington, Marston, Potterne, Poulshot, Rowde, Seend, Stert, Urchfont, West Lavington, Worton.

### **Malmesbury Area Board**

#### **Electoral Divisions (4)**

Brinkworth, Malmesbury, Minety, Sherston.

#### **Parishes**

Ashton Keynes, Brinkworth, Brokenborough, Charlton (nr Malmesbury), Crudwell, Dauntsey, Easton Grey, Great Somerford, Hankerton, Lea and Cleverton, Leigh, Little Somerford, Luckington, Malmesbury, Minety, Norton, Oaksey, Sherston, Sopworth, St Paul Malmesbury Without.

### **Marlborough Area Board**

#### **Electoral Divisions (3)**

Aldbourne and Ramsbury, Marlborough East, Marlborough West.

#### **Parishes**

Aldbourne, Avebury, Baydon, Berwick Bassett, Chilton Foliat, East Kennett, Fyfield, Marlborough, Mildenhall, Ogbourne St Andrew, Ogbourne St George, Preshute, Ramsbury, Savernake, West Overton, Winterbourne Monkton.

### **Melksham Area Board**

#### **Electoral Divisions (6)**

Bowerhill, Melksham East, Melksham Forest, Melksham South, Melksham Without North and Shurnhold, Melksham Without West and Rural.

#### **Parishes**

Broughton Gifford, Great Hinton, Keevil, Melksham, Melksham Without, Semington, Steeple Ashton.

### **Pewsey Area Board**

#### **Electoral Divisions (3)**

Pewsey, Pewsey Vale East, Pewsey Vale West.

#### **Parishes**

All Cannings, Alton, Beechingstoke, Burbage, Buttermere, Charlton, Chirton, Easton, Froxfield, Grafton, Great Bedwyn, Ham, Little Bedwyn, Manningford, Marden, Milton Lilbourne, North Newnton, Patney, Pewsey, Rushall, Shalbourne, Stanton St Bernard, Tidcombe and Fosbury, Upavon, Wilcot, Huish and Oare, Wilsford, Woodborough, Wootton Rivers.

### **Royal Wootton Bassett and Cricklade Area Board**

#### **Electoral Divisions (6)**

Cricklade and Latton, Lyneham, Purton, Royal Wootton Bassett East, Royal Wootton Bassett North, Royal Wootton Bassett South and West.

#### **Parishes**



Braydon, Broad Town, Broad Hinton, Clyffe Pypard, Cricklade, Latton, Lydiard Milicent, Lydiard Tregoze, Lyneham and Bradenstoke, Marston Maisey, Purton, Royal Wootton Bassett, Tockenham, Winterbourne Bassett.

### **Salisbury Area Board**

#### **Electoral Divisions (8)**

Salisbury Bemerton, Salisbury Fisherton and Bemerton Village, Salisbury Harnham East, Salisbury Harnham West, Salisbury St Edmund's, Salisbury St Francis and Stratford, Salisbury Milford, Salisbury St Paul's.

#### **Parishes**

Salisbury

### **Southern Wiltshire Area Board**

#### **Electoral Divisions (6)**

Alderbury and Whiteparish, Downton and Ebble Valley, Laverstock, Old Sarum and Lower Bourne Valley, Redlynch and Landford, Winterslow and Upper Bourne Valley.

#### **Parishes**

Alderbury, Allington, Britford, Cholderton, Clarendon Park, Coombe Bissett, Downton, Firsdow, Grimstead, Idmiston, Landford, Laverstock & Ford, Newton Tony, Odstock, Pitton and Farley, Redlynch, West Dean, Whiteparish, Winterbourne, Winterslow.

### **South West Wiltshire Area Board**

#### **Electoral Divisions (5)**

Fovant & Chalke Valley, Mere, Nadder Valley, Tisbury, Wilton

#### **Parishes**

Alvediston, Ansty, Barford St Martin, Berwick St John, Berwick St Leonard, Bishopstone, Bowerchalke, Broadchalke, Burcombe Without, Chicklade, Chilmark, Compton Chaberlayne, Dinton, Donhead St Andrew, Donhead St Mary, East Knoyle, Ebbesborne Wake, Fonthill Bishop, Fonthill Gifford, Fovant, Hindon, Kilmington, Mere, Netherhampton, Quidhampton, Sedgell and Semley, Steeple Langford, Stourton with Gasper, Stratford Tony, Sutton Mandeville, Swallowcliffe, Teffont, Tisbury, Tollard Royal, West Knoyle, West Tisbury, Wilton, Wyllye, Zeals.

### **Stonehenge Area Board**

#### **Electoral Divisions (6)**

Amesbury East and Bulford, Amesbury West, Amesbury South, Avon Valley, Durrington, Till Valley.

#### **Parishes**

Amesbury, Berwick St James, Bulford, Durnford, Durrington, Enford, Figheldean, Fittleton cum Haxton, Great Wishford, Milston, Netheravon, Orcheston, Shrewton, South Newton, Stapleford, Tilshead, Wilsford cum Lake, Winterbourne Stoke, Woodford.

Alvediston, Ansty, Barford St Martin, Berwick St John, Berwick St Leonard, Bishopstone, Bowerchalke, Broadchalke, Burcombe Without, Chicklade, Chilmark, Compton Chaberlayne, Dinton, Donhead St Andrew, Donhead St Mary, East Knoyle, Ebbesborne Wake, Fonthill Bishop, Fonthill Gifford, Fovant, Hindon, Kilmington, Mere, Netherhampton, Quidhampton, Sedgehill and Semley, Steeple Langford, Stourton with Gasper, Stratford Tony, Sutton Mandeville, Swallowcliffe, Teffont, Tisbury, Tollard Royal, West Knoyle, West Tisbury, Wilton, Wylde, Zeals.

#### **Tidworth Area Board**

##### **Electoral Divisions (3)**

Tidworth North and West, Tidworth East and Ludgershall South, Ludgershall North and Rural.

##### **Parishes**

Chute, Chute Forest, Collingbourne Ducis, Collingbourne Kingston, Everleigh, Ludgershall, Tidworth.

#### **Trowbridge Area Board**

##### **Electoral Divisions (9)**

Hilperton, Southwick, Trowbridge Adcroft, Trowbridge Central, Trowbridge Drynham, Trowbridge Grove, Trowbridge Lambrok, Trowbridge Park, Trowbridge Paxcroft.

##### **Parishes**

Hilperton, North Bradley, Southwick, Trowbridge, West Ashton.

#### **Warminster Area Board**

##### **Electoral Divisions (5)**

Warminster Broadway, Warminster North and Rural, Warminster East, Warminster West, Wylde Valley.

##### **Parishes**

Bishopstrow, Boyton, Brixton Deverill, Chapmanslade, Chitterne, Codford, Corsley, Heytesbury, Horningsham, Kingston Deverill, Knook, Longbridge Deverill, Maiden Bradley with Yarnfield, Norton Bavant, Sherrington, Stockton, Sutton Veny, Upton Lovell, Upton Scudamore, Warminster.

#### **Westbury Area Board**

##### **Electoral Divisions (4)**

Ethandune, Westbury East, Westbury North, Westbury West.

##### **Parishes**

Bratton, Dilton Marsh, Edington, Heywood, Westbury.

# PART 3

## RESPONSIBILITY FOR FUNCTIONS

### SECTION C:

## DELEGATION OF EXECUTIVE FUNCTIONS

#### 1. **General**

- 1.1 The Leader will decide how arrangements for the discharge of cabinet functions are to be exercised except insofar as they are already set out in the cabinet arrangements adopted by the Council.
- 1.2 This scheme of delegation records the arrangements made by the Leader or the Cabinet for the discharge of executive functions by:
- 1.2.1 the Cabinet as a whole;
  - 1.2.2 a committee of the Cabinet;
  - 1.2.3 an individual Member of the Cabinet;
  - 1.2.4 an Area Board;
  - 1.2.5 an officer;
  - 1.2.6 joint arrangements or;
  - 1.2.7 another local authority.

#### 2. **Cabinet as a whole**

- 2.1 In accordance with the terms of reference of Cabinet as set out at paragraph 3 of Part 3B of this Constitution, the Leader either directly or through Cabinet will carry out within the Council's Budget and Policy Framework all of the local authority's functions which are not the responsibility of any other part of the local authority whether by law or under this Constitution.
- 2.2 Cabinet is defined at Article 7 of Part 2 of this Constitution. The procedure rules governing meetings of Cabinet are set out at Part 7 of this Constitution.

#### 3. **A Committee of the Cabinet**

- 3.1 The Leader may appoint a committee of the Cabinet for the discharge of executive functions.
- 3.2 At present the following cabinet committees have been appointed:

3.2.1 Shareholder Group

#### 4. **An individual Member of the Cabinet**

- 4.1 Cabinet Members may exercise any executive functions within their allocated areas of responsibility, as set out in Appendix 2 of Part 3C. The Monitoring Officer has delegated authority to amend Appendix 2 from time to time to reflect the decision of the Leader.
- 4.2 This does not include executive functions which are specifically reserved by law or this constitution to the Council, the Leader and/or Cabinet, or officers.

4.3 In exercising delegated functions Cabinet Members must have regard to the Leader's Protocol for individual decision making, Protocol 5 of this Constitution, which promotes good practice and ensures transparency and consistency in the decision-making process.

4.4 Cabinet Members may in consultation with the Leader refer matters to the Cabinet for decision if they consider that it is more appropriate to do so.

4.5 Where a Cabinet Member is unable to act because of absence, a conflict of interest or any other reason, the Leader may nominate another Member of the Cabinet to exercise the function on their behalf.

## **5. Portfolio Holders**

5.1 The Leader may also appoint other Members as 'Portfolio Holders' to assist Cabinet Members with the oversight, policy development and management of their areas of responsibilities.

5.2 Portfolio Holders are not Members of the Cabinet, and cannot exercise or be delegated any executive functions.

5.3 As Members of the administration involved in formulation of policy, Portfolio Holders cannot serve on Overview and Scrutiny Committees, Task Groups or Rapid Scrutiny Exercises unless called as witnesses.

## **6. An Area Board**

6.1 This scheme of delegation records the arrangements made by the Leader for the discharge of executive functions by each of the 18 Area Boards constituted in accordance with paragraph 4 of Part 3 Section B of this Constitution.

6.2 Area Boards may exercise the following executive functions within their geographical areas of responsibility subject to compliance with paragraph 4.24 – 4.31 of Part 3B of this Constitution and specifically:

6.2.1 The approval of applications from community and voluntary groups and town and parish councils for grant funding through the Area Boards grant scheme.

6.2.2 The approval of applications for the disposal of non-strategic assets with a value below £250,000 provided that each application is supported by robust and appropriate business cases that benefit local communities in accordance with the council's Community Asset Transfer Policy.

## **7. Officers**

7.1 The discharge of executive functions as delegated by the Leader having regard to the Scheme of Delegation to Officers is set out at Part 3 Section D of this Constitution.

## **8. Joint Arrangements**

8.1 The discharge of executive functions under joint arrangements with one or more local authority as described at Article 11 of Part 2 of this constitution.

8.2 At present the following Joint Arrangements have been established:

8.2.1 None

**9. Another local authority**

9.1 Cabinet may delegate cabinet functions to another local authority or the cabinet of another local authority in certain circumstances as described at Article 11.4 of Part 2 of this Constitution.

**10. Decisions**

10.1 Those delegated to take decisions within this scheme of delegation must:

10.1.1 act within the council's Budget and Policy Framework;

10.1.2 comply with the council's Constitution, including particularly its Financial Regulations and Procedure Rules (Part 9) and Procurement and Contract Rules (Part 10), and all relevant legislation, guidance and codes of practice

10.1.3 follow the principles of decision making in Article 13.2 of Part 2 of this constitution.

10.1.4 consider the implication of any council policy, initiative, strategy or procedure

10.1.5 consider the staffing, financial, legal and environmental implications of any proposal

10.1.6 consider the assessment of any risks associated with a proposal in accordance with the council's risk management strategy

10.2 This scheme may be varied at any time in accordance with paragraph 4 of the Cabinet Procedure Rules (Part 7).

# Part 3 Section C

## Appendix 1 - Cabinet Committees and Joint Committees

### Cabinet Committees

#### Shareholder Group Terms of Reference

#### 1. Overview

- 1.1 The Shareholder Group will exercise the Council's role as shareholder in any company, limited by shares wholly or partly owned by the Council for the purposes of service provision and/or trading activities including any joint venture.
- 1.2 The Shareholder Group acts with the delegated authority of Cabinet to ensure the performance of any such company is satisfactory. Some actions in relation to the Council's companies are reserved to the Cabinet. These are set out below.
- 1.3 Any reference in these terms of reference to a "company" or "companies" is defined as a company in which the Council holds shares.
- 1.4 The Shareholder Group may also decide, from time to time, whether to accept proposals to submit a bid to provide goods and / or services which, if successful would commit the council to the establishment of a new company (which may include a joint venture company). In these instances, the decision of the Shareholder Group would be referred to the Cabinet for final approval.

#### 2. Matters reserved to Cabinet

- 2.1 None

#### 3. Membership

- 3.1 The Membership shall be as follows:
  - Leader of the Council (Chairman)
  - Cabinet Member for Finance, Development Management, and Strategic Planning–
  - Cabinet Member for Housing, Strategic Assets, Asset Transfer
- 3.2 The Chief Executive, Corporate Director, Resources and Deputy Chief Executive, and the Director, Legal & Governance may attend the Shareholder Group to provide advice. Additional advisors may be invited to attend the Group as required.
- 3.3 Changes to the Membership of the Shareholder Group will be agreed by the Leader of the Council and given effect by the Director, Legal & Governance.
- 3.4 The Leader may appoint any other Member of the Cabinet as a substitute.

#### 4. Purpose

- 4.1 The Shareholder Group will:
  - 4.1.1 Have the power to appoint and remove Company Directors;
  - 4.1.2 Approve and monitor Company Business Plans;
  - 4.1.3 Approve the allotment of further shares in a Company (whether to third party shareholders or the Council);

- 4.1.4 Exercise any reserved powers in the Articles of a Company and any Shareholder Agreement with a Company;
  - 4.1.5 Endorse any amendments to Company Business Plans;
  - 4.1.6 Periodically evaluate financial performance of a Company;
  - 4.1.7 Agree significant capital or revenue investments proposed by a Company;
  - 4.1.8 Determine the distribution of any surplus or the issue of any dividends from a Company;
  - 4.1.9 Consider any recommendation from Company Directors to cease trading;
  - 4.1.10 Report to the Council annually on trading activity;
  - 4.1.11 Review the risks associated with trading activities.
- 4.2 The Shareholder Group will not have operational control over Companies. All decisions regarding the day-to-day operation of each Company, its business developments and commercial opportunities, staff terms and conditions and the development and implementation of its internal procedures, rest with the Directors of each Company.
- 5. Relationship to Scrutiny**
- 5.1 Select Committees will retain their scrutiny function in relation to the Shareholder Board. The Overview and Scrutiny Management Committee will be able to call the Shareholder Group to account for progress in relation to any Company for which the Council is a shareholder and any returns it is making.
- 6. Scope**
- 6.1 In respect of Teckal-compliant companies the Shareholder Group will:
- 6.1.1 Monitor Teckal compliance at least annually.
  - 6.1.2 Ensure the Business Plan of a Teckal compliant Company is aligned to the corporate objectives of the Council.
- 6.2 In respect of non Teckal-compliant wholly Council-owned companies the Shareholder Group will:
- 6.2.1 Seek to achieve appropriate returns on investment from trading activities.
  - 6.2.2 Ensure trading activities are conducted in accordance with the values of the Council.
- 6.3 In respect of any shareholding and/or joint ventures the Shareholder Group will:
- 6.3.1 Evaluate the return and benefits of the shareholding against the values of the Council.
  - 6.3.2 Where appropriate, exercise influence over the company and /or joint ventures in accordance with the values of the Council.
- 6.4 In respect of the submission of a bid which will commit the council to the establishment of a company (or Joint Venture) the Shareholder Group will:
- 6.4.1 Evaluate the return and benefits of the proposal, including an evaluation of the proposed profit share in a Joint Venture.
  - 6.4.2 Seek to achieve appropriate returns on investment from trading activities.
  - 6.4.3 Ensure trading activities are conducted in accordance with the values of the Council.

## **7. Operation of the Shareholder Group**

- 7.1 Subject to the matters reserved to Cabinet stated above, the Cabinet has delegated to the Shareholder Group the authority to take decisions in respect of 100% of the Council's shareholding in any Company.
- 7.2 The Shareholder Group will meet quarterly, or as required.
- 7.3 The quorum for a meeting of the Shareholder Group is a minimum of two members, one of whom must be the Leader, who will chair the meeting.
- 7.4 The Shareholder Group may take decisions outside of a Company's general meeting as follows:
  - 7.4.1 At meetings of its members by consensus of those present, unless any member of the Group requires a vote, in which event a majority decision will be taken with each member of the Shareholder Group present having a single vote. The Chairman of the meeting has a casting vote in the event that there is no clear majority; or
  - 7.4.2 In cases of urgency, by a decision made by the Leader in consultation with the Chief Executive.
- 7.5 Any decisions made by the Shareholder Group in accordance with 7.4.1 or 7.4.2 above, must be notified to the relevant Company's directors and the other Members of the Shareholder Group as soon as reasonably practicable following such decision being taken.
- 7.6 If a general meeting of a Company is called, the Shareholder Group will be required to nominate a corporate representative to attend the general meeting of a Company and vote on any resolutions proposed. In advance of any general meeting, the Shareholder Group may convene a meeting to discuss and determine any resolutions to be proposed at a general meeting. In such circumstances, decision making may be taken in accordance with the principles set out in 7.4.1 above. In cases of urgency, decision making may be taken in accordance with the principles set out in 7.4.2 above including, for the avoidance of doubt, the appointment of a corporate representative.
- 7.7 The Chairman approves the agenda for each meeting. The agenda and papers for consideration are circulated at least five working days before the meeting. After each meeting, the Chairman approves the meeting notes and actions and signs any resolutions agreed by the Shareholder Group.
- 7.8 The Shareholder Group will review the Terms of Reference annually.

### Joint Committees

- 7.9 No joint executive committees have currently been appointed.



# Part 3 Section C

## Appendix 2 - Individual Members of Cabinet

Cabinet Member Post	Responsibilities	Cabinet Member(s)
<p><b>Leader</b></p> <p><b>(Climate Change, Military-Civilian Integration, Economic Development, Heritage, Arts, Tourism and Health and Wellbeing)</b></p>	<ul style="list-style-type: none"> <li>• Setting strategic direction, priorities and targets</li> <li>• Ensuring the needs and aspirations of Wiltshire people are known</li> <li>• Management initiatives</li> <li>• Promoting the council</li> <li>• Relationships with other political group leaders and the Chairman of the Council</li> <li>• Environment and Climate Change</li> <li>• Economic Development</li> <li>• Local Enterprise Partnership</li> <li>• Military Covenant</li> <li>• Communication Policy</li> <li>• Cultural development including heritage, museums and arts</li> <li>• Tourism</li> <li>• Canals</li> </ul>	<p><b>Cllr Richard Clewer</b></p> <p>Downton &amp; Ebbles Valley Division</p> <p>Correspondence address:</p> <p>Leader of the Council Wiltshire Council Bythesea Road Trowbridge BA14 8JN</p>
<p><b>Deputy Leader and Cabinet Member for Children's Services, Education and Skills</b></p>	<ul style="list-style-type: none"> <li>• Performance of children's social services including child protection, fostering and adoption, children's homes and special educational needs</li> <li>• Relations with other organisations, especially the health service and voluntary organisations regarding children's services</li> <li>• Partnership with Wiltshire's school governors and headteachers on education matters including school performance, outcomes, funding, curriculum, buildings and admissions</li> <li>• Performance of the youth development service and early years provision and youth justice</li> <li>• Skills and Social Mobility</li> </ul>	<p><b>Cllr Laura Mayes</b></p> <p>Bromham, Rowde &amp; Roundway Division</p> <p>Correspondence address:</p> <p>Wiltshire Council Bythesea Road, Trowbridge BA14 8JN</p>
<p><b>Cabinet Member for Finance, Development</b></p>	<ul style="list-style-type: none"> <li>• Development management services including planning enforcement and conservation</li> </ul>	<p><b>Cllr Nick Botterill</b></p> <p>By Brook Division</p>

<b>Control and Strategic Planning</b>	<ul style="list-style-type: none"> <li>• Strategic planning including the Local Development Framework</li> <li>• Wiltshire and Swindon minerals and waste local plans</li> <li>• Finance</li> <li>• Probity and financial management</li> <li>• Revenues and Benefits</li> <li>• Welfare reform</li> <li>• Performance</li> <li>• Risk</li> <li>• Audit</li> <li>• Pensions</li> <li>• Investment</li> <li>• Procurement and Commissioning</li> </ul>	Correspondence address: Wiltshire Council Bythesea Road, Trowbridge BA14 8JN
<b>Cabinet Member for Transport, Waste, Street Scene and Flooding</b>	<ul style="list-style-type: none"> <li>• Flooding</li> <li>• Performance of waste management including collection, disposal and recycling</li> <li>• Highways maintenance and improvements</li> <li>• Rights of way</li> <li>• Public conveniences</li> <li>• Grounds and open space management including allotments</li> <li>• Cemeteries and markets</li> <li>• Litter and cleansing activities and environmental enforcement including abandoned vehicles, fly tipping etc</li> <li>• Traffic management including car parking, road safety and passenger transport</li> <li>• Performance and strategy for transport including the Local Transport Plan and related strategies and policies</li> <li>• Areas of Outstanding Natural Beauty</li> </ul>	<b>Cllr Dr Mark McClelland</b>  Salisbury St Francis & Stratford Division  Correspondence address:  Wiltshire Council Bythesea Road Trowbridge BA14 8JN
<b>Cabinet Member for Adult Social Care, SEND, Transition and Inclusion</b>	<ul style="list-style-type: none"> <li>• Performance of adult care services including services for people with learning disability, mental health problems or a physical impairment and for older people</li> <li>• Adult Social Care Transformation</li> <li>• Relations with other organisations, especially the health service and voluntary organisations regarding social care services</li> </ul>	<b>Cllr Jane Davies</b>  Marlborough West Division  Correspondence address:  Wiltshire Council Bythesea Road Trowbridge

		BA14 8JN
<b>Cabinet Member for Housing, Strategic Assets and Asset Transfer</b>	<ul style="list-style-type: none"> <li>• Housing</li> <li>• Provision of Gypsy and traveller services</li> <li>• Strategic Asset Management</li> <li>• County Farms</li> <li>• Strategic Housing</li> </ul>	<p><b>Cllr Phil Alford</b></p> <p>Melksham Without North &amp; Shurnhold Division</p> <p>Correspondence address:</p> <p>Wiltshire Council Bythesea Road Trowbridge BA14 8JN</p>
<b>Cabinet Member for Public Health and Public Protection, Leisure, Libraries, Facilities Management, Operational Assets</b>	<ul style="list-style-type: none"> <li>• Public health and Public Protection</li> <li>• Facilities Management</li> <li>• Operational Assets</li> <li>• Leisure and Sports</li> <li>• Libraries</li> </ul>	<p><b>Cllr Ian Blair-Pilling</b></p> <p>Avon Valley Division</p> <p>Correspondence address: Wiltshire Council Bythesea Road Trowbridge BA14 8JN</p>
<b>Cabinet Member for Governance, IT, Broadband, Digital, Licensing, Staffing, Communities and Area Boards</b>	<ul style="list-style-type: none"> <li>• Electoral Reviews</li> <li>• Statutory Governance including information management</li> <li>• Registration Services and coroners</li> <li>• Legal</li> <li>• Democratic Services</li> <li>• Member Development</li> <li>• Human Resources and organisational development</li> <li>• Equality and Diversity</li> <li>• Customer Care</li> <li>• Community Development in local areas including Area Boards</li> <li>• Campus Development</li> <li>• Community safety</li> <li>• Environmental health</li> <li>• Trading Standards</li> <li>• Licensing</li> <li>• Emergency Planning</li> <li>• Broadband</li> <li>• IT and Digital</li> </ul>	<p><b>Cllr Ashley O'Neill</b></p> <p>Calne Rural Division</p> <p>Correspondence address: Wiltshire Council Bythesea Road Trowbridge BA14 8JN</p>

# **PART 3**

## **RESPONSIBILITY FOR FUNCTIONS**

### **SECTION D: SCHEME OF DELEGATION TO OFFICERS**

This Section should be read in conjunction with the principles set out in Part 3 Section A.

#### **D1 SCHEME OF DELEGATION**

1. Scheme of Delegation to Directors
2. Decision Making
3. Record Keeping
4. Emergency Powers
5. Solicitor to the Council

#### **D2 SCHEME OF SUB DELEGATION**

#### **D3 SCHEME OF DELEGATION SPECIFIC TO PLANNING**

#### **D4 SCHEME OF DELEGATION SPECIFIC TO LICENSING**

Schedule 1 - Indemnity to Officers and Members

# PART 3 SECTION D1

## SCHEME OF DELEGATION

### 1. Scheme of Delegation to Directors

- 1.1 This Scheme of Delegation authorises the Chief Executive and Corporate Directors to exercise the functions of Wiltshire Council as set out in this document. It repeals and replaces all previous schemes of delegation.
- 1.2 This scheme is without prejudice to the exercise of the council's functions by the Council, the Cabinet, and the Council's Committees, Sub-Committees and Panels.
- 1.3 Full Council, its Committees and the Cabinet will make decisions on matters of significant policy. The Chief Executive and Corporate Directors have express authority to take all necessary actions to implement Council, Committee and Cabinet decisions that commit resources, within agreed budgets in the case of financial resources, as necessary and appropriate.
- 1.4 In relation to all delegated authority conferred on the Chief Executive and Corporate Directors by this scheme, the Chief Executive may allocate or re-allocate responsibility for exercising particular powers to any officer of the council in the interests of effective corporate management as he or she thinks fit.
- 1.5 Where a Director is absent from the workplace for a period of time that requires others to exercise delegated authority in that officer's absence, another officer should be nominated by the Chief Executive. This nomination should be formally recorded in writing and an announcement circulated to Members of the Council as soon as practicable.
- 1.6 The Monitoring Officer will maintain a central record of all delegations under this scheme and make this available for public inspection pursuant to section 100G Local Government Act 1972.
- 1.7 Without prejudice to the generality of the foregoing, the Chief Executive and Corporate Directors shall have the power:
  - 1.7.1 To take all lawful action consistent with overall council policy to deliver agreed strategy, plans and policy and to comply with statutory obligations within their areas of responsibility and within approved budget. This shall include, but not exhaustively:
    - 1.7.1.1 Invitation and acceptance of tenders;
    - 1.7.1.2 Submission of bids for funding;
    - 1.7.1.3 Write-off of irrecoverable debts;
    - 1.7.1.4 Virement (within the budget framework);
    - 1.7.1.5 Disposal and acquisition of assets;
    - 1.7.1.6 Service and placing of any necessary statutory or other notices (other than those expressly reserved to Full Council, Committee or Cabinet);
    - 1.7.1.7 After consultation with the Solicitor to the Council, authorising the institution, defence, settlement or participation in criminal or civil

proceedings in relation to any legislation which they are responsible for monitoring, enforcing or otherwise implementing on behalf of the Council;

- 1.7.2 To put in place management arrangements, which define the area of responsibility of all officers under their service area.
- 1.7.3 To determine staffing arrangements within approved budgets, subject to agreement on grading with the Head of Paid Service after consultation with the Director for HR and Organisational Development and in conformance with Council policies and the Finance Regulations and Procedure Rules (Part 9).
- 1.7.4 To take all action to recruit, appoint, develop, manage and reward employees within approved Council policies and procedures (including operation of policies for voluntary severance, early retirement, redundancy and redeployment) and relevant conditions of service.
- 1.8 Any Member of the Council may request that decisions taken by officers under delegated powers are scrutinised by the overview and scrutiny management committee.
- 1.9 For the avoidance of doubt anything which is not covered by this scheme, including the appointment of a Proper Officer for the purpose of any statutory function, will be determined by the Chief Executive after consultation with the Monitoring Officer.
- 1.10 The council has given a general indemnity to any officer acting in the purported discharge of any authority delegated to them for any action, costs, claim or liability incurred by them as set out in Schedule 1.

## **2. Decision Making**

- 2.1 In exercising these delegated powers the officers concerned shall have broad discretion, subject to complying with paragraph 2.2 below, to use the most efficient and effective means available (including the deployment of staffing and other resources within their control and the procurement of other resources necessary) whether within or outside the Council.
- 2.2 In taking any decision, the officer concerned must be satisfied that the following issues have been properly considered and completed where appropriate. All of these issues should be considered at the earliest possible stage:
  - 2.2.1 A key decision should be taken in accordance with the relevant requirements as set out in this Constitution (Part 1) and The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012;
  - 2.2.2 The views of the relevant Cabinet Member(s), Committee Chairman, Area Board(s) as appropriate;
  - 2.2.3 The implication of any Council policy, initiative, strategy or procedure. Officers need to be aware of any potential impact of a delegated decision on other services. In such cases, consultation with officers, relevant Cabinet Members(s) or Committee Chairman, from any affected portfolio, and local Members, where the issue relates to a specific area, should take place;
  - 2.2.4 Consultation in accordance with the Council's consultation guidance and the views emanating from that process;

- 2.2.5 The range of available options;
- 2.2.6 The staffing, financial and legal implications;
- 2.2.7 The assessment of any associated risks in accordance with the Council's risk management strategy;
- 2.2.8 The involvement of appropriate statutory officers and/or other Corporate Directors and Directors;
- 2.2.9 The relevance of any regional or national guidance from other bodies;
- 2.2.10 The Council's Constitution, including the Procurement and Contract Rules (Part 10) and the Financial Regulations and Procedure Rules (Part 9), all relevant guidance, legislation, codes of practice and protocols.

### **3. Record Keeping**

3.1 In taking any Executive decision, the officer concerned must prepare a record of officer decision report setting out the following:

- 3.1.1 A record of the decision including the date it was made;
- 3.1.2 A record of reasons for the decision;
- 3.1.3 Details of any alternative options considered and rejected by the officer when making the decision;
- 3.1.4 A record of any conflict of interest declared by any executive Member who is consulted by the officer which relates to the decision;
- 3.1.5 In respect of any declared conflict of interest, a note of dispensation.
- 3.1.6 The record of officer decision must be made available, as soon as reasonably practicable, at the Council main hub offices and on its website unless it contains confidential information or exempt information as defined in the Regulations and set out in Part 5.

3.2 In taking any Incidental decision, the officer concerned must consider whether a record of officer decision report is required having regard to guidance from the Monitoring Officer.

### **4. Emergency Powers**

4.1 The Chief Executive and Corporate Directors are empowered to take all necessary decisions in cases of emergency;

4.2 For the purposes of this scheme, emergency shall mean any situation in which the relevant officer believes that there is a risk of damage to property, a threat to the health or wellbeing of an individual or that the interests of the Council may be compromised.

### **5. Solicitor to the Council**

5.1 The Solicitor to the Council is authorised:

- 5.1.1 To take any action to implement any decision taken by or on behalf of the Council, including the signature and service of statutory and other notices and any document;
- 5.1.2 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;

5.1.3 To instruct counsel, solicitors and other experts in relation to legal proceedings, public inquiries, and other matters involving the Council;

5.1.4 To enter objections to any proposal affecting the county, the Council or the inhabitants of the county.



## **PART 3 SECTION D2**

# **SCHEME OF SUB DELEGATION**

1. The Chief Executive and Corporate Directors may authorise officers in their areas of responsibility to exercise, on their behalf, powers delegated under this Part 3 and Part 3 Section D1 by way of a Scheme of Sub Delegation.
2. Any decision pursuant to a Scheme of Sub Delegation must be taken in the officer's name for and on behalf of the Chief Executive and Corporate Directors as the case may be.
3. The Chief Executive and Corporate Directors are responsible for recording all delegations under this part, in writing, in such form as the Monitoring Officer may prescribe.
4. The Chief Executive and Corporate Directors shall be responsible for ensuring that their Schemes of Sub Delegation are valid and up to date in line with guidance from the Monitoring Officer.
5. All Schemes of Sub Delegation must be recorded on the Register maintained by the Monitoring Officer. The Chief Executive and Corporate Directors shall send updated Schemes of Sub Delegation to the Monitoring Officer as he/she directs.
6. Any decision taken by an Officer under a Scheme of Sub Delegation must be made in accordance with Paragraph 2 of Part 3 Section D1 and recorded in as required in Paragraph 3 of Part 3 Section D1.

# **PART3 SECTION D3**

## **SCHEME OF DELEGATION SPECIFIC TO PLANNING**

1. The Corporate Director, Place (and any officers designated by that officer under a Scheme of Sub Delegation) is authorised to:
  - 1.1 determine any planning application and discharge conditions under delegated powers (including tree/hedgerow work applications);
  - 1.2 deal with all enforcement matters (including deciding on the expediency of taking/not taking action and issuing enforcement notices, including listed building enforcement and urgent works notices and taking any further action, including prosecution and direct action in respect of any breach of control);
  - 1.3 deal with all types of appeal and their format;
  - 1.4 where an appeal has been lodged against a planning decision and counsel advises that specific refusal reasons are unreasonable and/or likely to undermine or weaken the Council's case and time constraints prevent the matter being brought back to Committee, officers, in consultation with the Committee Chairman and Local Division Member are authorised to inform the appellant and the Planning Inspectorate that the Council will not seek to defend such reason(s) at appeal, provided any such action does not overturn the substantive decision of the Planning Committee;
  - 1.5 make and confirm Tree Preservation Orders; Tree Replacement Notices and serve notices requiring action in relation to dangerous trees, and to initiate any associated direct action required to deal with dangerous trees; deciding whether to prosecute for breaches of the Planning Acts in relation to tree and hedgerow matters;
  - 1.6 determining any applications made under the high hedges provisions of the anti-social behaviour legislation; including any necessary enforcement action;
  - 1.7 deal with decisions, correspondence and consultations under relevant local government, social, planning, listed building, conservation, building and environmental and other legislation. This includes proposals to change legislation or national guidance and consultation by other planning authorities;
  - 1.8 determine the requirements for, and amend when necessary the local validation list for planning applications;
  - 1.9 make and confirm Article 4 directions restricting or removing permitted development rights;
  - 1.10 nominate officers to represent the council on forums and working parties;
  - 1.11 authorise officers to enter land and buildings in the course of their duties in accordance with the provisions of the Town & Country Planning Acts;
  - 1.12 enter into, modify or discharge planning or legal agreements securing controls over development (e.g. Section 106 of the Town & Country Planning Act 1990);
  - 1.13 make changes to conditions approved at Committee (in the light of changing circumstances between the meeting and the issue of the decision) provided this is in line with the principles of the Committee's decision. Any such

changes will be reported back to a subsequent Committee for Members' information;

- 1.14 annually recommend to the budget process all planning fees and charges;
- 1.15 refuse applications following a resolution to grant permission or consent if the required legal agreements are not completed by the applicant within the timeframe set out in the officer's report and present an information report for acceptance by the relevant Planning Committee on a quarterly basis;
- 1.16 institute and defend judicial reviews and statutory challenges in consultation with the Director of Legal and Governance;
- 1.17 Make and serve Building Preservation Notices;
- 1.18 determine whether an application falls within the remit of Strategic Planning Committee or the relevant area planning committee, after consultation with the relevant cabinet Member.

2. With the following exceptions:

2.1 Applications submitted by Wiltshire Council will not be dealt with under delegated powers where an objection has been received raising material planning considerations.

2.2 Reference to Committee by Wiltshire Council Division Member - Division 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 a Planning Committee. This is known as a call-in request.

2.2.1 Any request relating to a planning application must be received within 21 days of the circulation of the weekly list of 'applications received' in which it appears, and any request relating to an application for Permission in Principle must be received within 15 calendar days of the despatch of the email notification of the application to the Division Member. In both cases, Members must set out the material planning consideration(s) which warrant the application going before committee. Officers will confirm what action is being taken following receipt of the request.

2.2.2 Applications for tree work, prior approvals, Certificates of Lawfulness; notifications and variations/discharge of legal agreements - where the latter would bring them in line with a planning decision already made by the Council, will not be eligible for call-in and will be dealt with under delegated powers.

2.2.3 Where it has not been possible or appropriate to call an application in within this time, call in requests will be accepted in the following circumstances:

- a) An application has not been determined and it can still go to Committee and be determined within the target date.
- b) The application is already going to go out of time (because of negotiations/amended plans etc.) and taking it to Committee will make no difference to performance.

2.2.4 Where neither of the above apply, and the Division Member thinks there is a strong case to delay the determination of the application and take it to committee, they can discuss the case with Head of Development Management

who will arrange for (or discuss with the Corporate Director, Place or Chief Planning Officer prior to arranging for) an informed decision whether or not to exercise delegated powers.

2.3 If private applications are made by:

- a) a Member or their close relations;
- b) The Chief Executive, a Corporate Director, or a Director of the Council or their close relations; or
- c) a planning officer and objections are received raising material planning considerations the application will be determined by a committee.

3. It is perfectly acceptable for Members 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.
4. There will be occasions where it would be possible to deal with certain applications under delegated powers but where the Corporate Director, Place or Chief Planning Officer considers it inappropriate to do so, having considered any public representation and consultee responses. In these cases, the applications will be determined by an appropriate planning committee.

## 5. Definitions

- 5.1 Planning application means any application submitted to the Council for determination and included within the Government's planning application statistical returns. (This is a statistical questionnaire dealing with performance which local authorities have to submit regularly to the government and which divides planning application into distinct categories; householder, minor, major etc.)
- 5.2 'Large scale major development' means any application for 200 or more houses; residential development of 4ha or more or other development of more than 10,000 square metres or more than 2ha, as defined by the Government in the planning application statistical returns.
- 5.3 Householder development and the other descriptions of development referred to above shall have the meaning ascribed to them in the Government's planning application statistical returns.
- 5.4 Enforcement notices includes all other formal notices under the Planning Acts used to investigate and remedy alleged breaches of planning control or improve the appearance of an area, including Breach of condition notices and Section 215 notices.
- 5.5 A private application is one which has no connection with a Member or officer's council duties. For example, if an officer submitted a Regulation 3 application on behalf of Wiltshire Council it would not be a private application.
- 5.6 A close relation is defined as spouse, partner, sibling, parent or offspring.
- 5.7 Minor residential development means housing led development of between one and nine dwellings.

# PART 3 SECTION D4 SCHEME OF DELEGATION SPECIFIC TO LICENSING

**Licensing Act 2003: Table of Delegations of Licensing Functions**

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub-Committee</b>	<b>Officers</b>
Application for personal licence with unspent convictions		If a police Objection	If no objection made
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made or if representation made and all parties subsequently agree on a revised application.
Application for provisional statement		If a relevant representation made	If no relevant representation made or if representation made and all parties subsequently agree on a revised application
Application to vary premises licence/club registration certificate		If a relevant representation made	If no relevant representation made or if representation made and all parties subsequently agree on a revised application
Application to vary designated personal licence holder		If a police Objection	All other cases
Request to be removed as designated personal licence holder			All cases
Application for transfer of a premises licence		If a police Objection	All other cases

Application for interim authorities		If a police Objection	All other cases
Application to review premises licence / club premises registration		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc			All cases
Decision to object when local authority is a consultee and not the lead authority		All cases	
Determination of a representation to a temporary event notices		All cases	
Determination of Film Classification requests		Appeal against officer decision	All cases initially

## Gambling Act 2005: Table of Delegations of Licensing Functions

Matter to be dealt with	Full Council	Licensing Committee or Sub-Committee	Officers
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee setting – when appropriate	X		
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		X	
Application for club gaming/club machine permits		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X

Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	
Determination as to whether a person is an interested party			X
Determination as to whether representations are relevant			X
Determination as whether a representation is frivolous, vexatious or repetitive			X



**Table of Delegated Functions - Miscellaneous**

<b>Matter to be dealt with</b>	<b>Licensing Committee</b>	<b>Sub-Committee</b>	<b>Officers</b>
Schedule 3 Local Government (Miscellaneous Provisions) Act 1982 (as required by the sex establishments policy)	The Licensing Committee or Sub Committee will determine any application	The Licensing Committee or Sub Committee will determine any application	To determine Renewals where no objections have been received
Schedule 4 Local Government (Miscellaneous Provisions) Act 1982 (Consent street trading)	The Licensing Committee or Sub Committee will determine applications where refusal has been recommended by officers, and subsequent representations have been received from the applicant	The Licensing Committee or Sub Committee will determine applications where refusal has been recommended by officers, and subsequent representations have been received from the applicant	In all other cases
<p>Powers to grant licences and permits under the following legislation:</p> <p>Town Police Clauses Act 1847 as amended Sections 47, 57, 58, 60 and 79 of Local Government (Miscellaneous Provisions) Act 1976 (Hackney carriages)</p> <p>Section 13 – 17 Local Government (Miscellaneous Provisions) Act 1982 (acupuncture, tattooing, ear Piercing and electrolysis)</p> <p>Zoo Licensing Act 1981</p> <p>House to house collections Act 1939</p>	<p>For all these functions there is no role for the committee as there is a statutory right of appeal to the Magistrates' Court</p> <p>The Licensing Committee will determine any application made by an officer or Member of the Council.</p>	For all these functions there is no role for the sub - committee as there is a statutory right of appeal to the Magistrates' Court	In all other cases

Dangerous Wild Animals Act 1976			
Lotteries and Amusements Act 1976			
Hypnotism Act 1952 (as amended) and Schedule 3 Local Government (Miscellaneous Provisions) Act 1982			
The Animal Welfare (Licensing of activities involving animals) (England) Regulations 2018			All other cases  Appeals to Head of Service or Licensing Manager

**Criminal Justice and Police Act 2001 and Violent Crime Reduction Act 2006  
Table of Delegations of Licensing Functions**

<b>Matter to Be Dealt With</b>	<b>Full Council</b>	<b>Licensing Committee or Sub-Committee</b>	<b>Officers (Corporate Director Place)</b>
Making Designated Public Places Orders (DPPOs)		X	

# **PART 3 SECTION D5**

## **Indemnity to Officers and Members**

1. Under section 265 of the Public Health Act 1875 (“the 1875 Act”) councillors and local authority officers, when acting in the course of their duties and in good faith, have statutory immunity and are not personally liable for actions they take.
2. The Local Authorities (Indemnities for Members and Officers) Order 2004 (“the 2004 Order”) gives a specific power for authorities to grant indemnities to cover the potential liability of members and officers in a wider range of circumstances than under the 1875 Act.
3. Section 111(1) of the Local Government Act 1972 provides ancillary powers to local authorities which may permit them to indemnify members and officers in relation to particular decisions or acts if to do so would facilitate, or is incidental, or conducive to the discharge of a function of the authority.
4. Reference to member in this Part 3 Section D means an elected Member of the Council, a co-opted Member of a Committee or an Independent Person appointed under S27 of the Localism Act 2011.

### **5. Terms of Indemnity**

5.1 Wiltshire Council will, subject to the exceptions set out below at paragraph 6:

5.1.1 Indemnify its members and officers against claims made against them (including costs awarded and reasonable costs incurred); and

5.1.2 will not itself make claims against them for any loss or damage (other than claims falling within the cover provided to its members and officers under any policy of insurance taken out by the Council or any motor vehicle insurance policy taken out by the members and officers)

occasioned by any neglect, act, error or omission committed by them in their capacity as a member or officer of the Council or failure to act in their capacity as a member or officer of the Council whilst acting within the scope of their authority which shall include when they are acting for other persons or other bodies with the Council's consent.

5.2 The indemnity is effective to the extent that the member or officer in question:

5.2.1 believed that the action, or failure to act, in question was within the powers of the Council; or

5.2.2 where the action or failure comprises the issuing or authorisation of any document containing any statement as to the powers of the Council, or any statement that certain steps have been taken or requirements fulfilled, believed that the contents of that statement were true,

and it was reasonable for the member or officer to hold that belief at the time when they acted or failed to act] [provided that it shall not extend to any act or omission which is beyond the powers of any external body even where the action was taken in the reasonable belief that it was within the outside bodies powers]

## **6. Exceptions**

6.1 The indemnity will not extend to loss or damage directly or indirectly caused by or arising from:

- 6.1.1 fraud, dishonesty, deliberate wrongdoing or recklessness on the part of the member or officer;
- 6.1.2 subject to the provisions of paragraph 6.3, a criminal offence on the part of the member or officer;
- 6.1.3 any neglect, error or omission by the members or officer otherwise than in the course of his duties;
- 6.1.4 liability in respect of losses certified by the appropriate auditor as caused by wilful misconduct;
- 6.1.5 subject to the provisions of paragraph 6.3, failures by the member to comply with the Code of Conduct.

6.2 No indemnity may be provided in relation to the making by the member or officer indemnified of any claim in relation to an alleged defamation of that member or officer but may be provided in relation to the defence by that member or officer of any allegation of defamation made against them.

6.3 Notwithstanding paragraph 6.1.2 and 6.1.5 this indemnity does extend to:

- 6.3.1 the defence of any criminal proceedings brought against the member or officer; and
- 6.3.2 any civil liability arising as a consequence of any action or failure to act which also constitutes a criminal offence.

Provided that:

- 6.3.3 In the case of criminal proceedings, if the member or officer in question is convicted of a criminal offence and that conviction is not overturned following appeal the indemnity shall not apply. In any such cases the officer or member shall reimburse the Council for any sums expended by it in relation to those proceedings pursuant to the indemnity and those sums shall be recoverable by the Council as a civil debt, and
- 6.3.4 In the case of any proceedings pursuant to Section 34 Chapter 7 of the Localism Act 2011 (meaning any investigation, report, reference, adjudication or any other proceeding):
  - 6.3.4.1 If a finding is made in those proceedings that the member in question has failed to comply with the Code of Conduct and that finding is not overturned following appeal the indemnity shall not apply, or

- 6.3.4.2 If the member admits that they have failed to comply with the Code of Conduct that member shall reimburse the Council for any sums expended by it in relation to those proceedings pursuant to the indemnity and those sums shall be recoverable by the Council as a civil debt.
- 6.3.5 The indemnity will not apply if a member or officer, without the written authority of the Council, admits liability or negotiates or attempts to negotiate a settlement of any claim falling within the scope of this resolution, or where there is evidence that the member or officer had acted with reckless disregard for the consequences.
- 6.3.6 The Indemnity will not cover any loss or expense for which the member or officer can obtain reimbursement from any other source, including insurance, whether taken out by the Council, Member, Officer or by any other person.
- 6.3.7 Any decision as to whether or not this indemnity applies will be undertaken, and if applicable authorised, by the Chief Executive in consultation with the Chief Finance Officer and the Monitoring Officer.

## **7. Notification obligations**

7.1 The indemnity contained in this Part 3 Section D is subject to the Officer or Member:

- 7.1.1 notifying the Director, Legal and Governance as soon as possible of any claim being made or intimated against him or her, and of any circumstances arising which may give rise to a claim.
- 7.1.2 giving the Director, Legal and Governance and its professional advisors access at reasonable times to any relevant documents and records within the power and control of the officer or member so as to enable the Director, Legal and Governance and its professional advisors to examine them and take copies for the purpose of assessing the claim.

## **8. General**

- 8.1 The indemnity contained in this Part 3 Section D is without prejudice to the right of the Council to take or institute disciplinary or other suitable action against a member or officer in respect of any neglect, act, error or omission.
- 8.2 The indemnity shall only extend to cover actual loss and expense incurred and evidenced by the member or officer to the satisfaction of the Director of Legal and Governance.
- 8.3 These indemnities shall continue to apply (on the terms set out in this Part 3 Section D) after the member or officer has ceased to be a member or officer of the Council where it relates to any act or failure to act during the time the member or officer was a member or officer of the Council.

- 8.4 Nothing in this Part 3 Section D restrict or limit the officer and members general obligation at law to mitigate any loss it may suffer or incur as a result of any event that may give rise to a claim.
- 8.5 The indemnity shall not extend to any loss or damage directly or indirectly arising from any motor vehicle claims in which an officer using his or her own private vehicle on the Council's business has been involved in an accident.
- 8.6 The Council or its insurers will be entitled to take over and conduct in the name of the member or officer the defence of any proceedings brought against the member or officer.