

Somerset County Council  
Constitution Committee - 11 April 2017

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# Report of the Monitoring Officer – Review of the Constitution

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## 1. Summary

1.1. This report covers progress with the fundamental review of the Constitution.

## 2. Recommendations

2.1. **The Committee is recommended to note the progress with the fundamental review. At this stage the only recommendations proposed in the name of the Committee relate to the proposed amalgamation of the Constitution and Standards Committees. This was discussed at your last meeting and is brought back to the Committee for further review as part of this report.**

## 3. Background

### 3.1 Fundamental Review of Elements of the Constitution

3.1.1 At the Committee's last meeting a report was considered setting out the intended elements of a review of the Constitution which was to span the prep and post -election periods and lead to the adoption of a revised Constitution by the Council post the elections. An update on the position reported last time is set out below. *The update is in italics.*

3.1.2 The key elements of the fundamental review are:

- A review of the HR Policy Committee including the meetings with the trade unions. *This has received initial consideration by the HR Policy Committee and has been put on hold until post-election as it was considered more appropriate for the new Council to consider the options and make decisions.*
- A review of the officer appeals process including the role of the Officer Appeals Committee. *This has also received initial consideration by the HR Policy Committee and has been put on hold until post-election as it was considered more appropriate for the new Council to consider the options and make decisions.*
- The process for the appointment of Chief Officers and in particular the Appointments Panel and Appointments Committee arrangements. This was undertaken the HR Policy Committee and resulted in recommendations to the November Council for some changes which were agreed. The changes were relatively minor and the Monitoring Officer subsequently made some amendments to the wording of the

relevant part of the Constitution. *The changes amounted to including an option for the Appointments Panel to meet virtually as an option and a change in the maximum number of members required for an Appointments Committee. The Panel is not a public meeting and its role is to review terms and conditions of a Chief Officer post when a vacancy occurs and agree the appointment process. The additional flexibility agreed will allow speedy resolution of this part of the process if required. The reduction in the maximum size of the Appointments Committee that is responsible for Chief Officer appointments from 8 members to 5 reflects the fact that 5 is considered sufficient to make an appointment based on previous practice and allows appropriate political representation. It also reflects the fact that elected members are often involved in these appointments in more informal ways.*

- The Standards Committee arrangements – see section 3.1.5 onwards below.
- The Access to Information Rules. *It has been planned to review these rules in the spring but other priorities have meant that there has been no capacity to undertake this piece of work. The intention is to return to this piece of work in the autumn.*

Review of the Council's scrutiny arrangements. *This work has been progressed through a specific piece of work undertaken by the Scrutiny for Policies, Children & Families Committee reviewing its operation since its establishment midway through the quadrennium. The Committee will be formally considering the review report at its April meeting to help inform the decisions of the new Council. In addition to this an informal discussion has been held recently with the three scrutiny committee chairmen to review the scrutiny processes to inform future decisions. This discussion focussed on the number of Committees and meetings per year which the chairs were comfortable with and support from officers where they would welcome additional officer capacity to support the work of the committees particularly around policy review and development. No structural concerns were raised in this discussion.*

- 3.1.3** At your last meeting you added the following item to the review to include a separate section to cover bodies which report to Council but are not formal committees (eg the Corporate Parenting Board; Police & Crime Panel), and include a requirement for annual reports from these bodies to be made to Council if other mechanisms are not in place for them to be held to account. This request will be picked up in the revised Constitution and including specific additions to the functions of the Full Council meeting. The Committee will be pleased to know that I am taking on responsibility for the support of the Avon and Somerset Police and Crime Panel from 1<sup>st</sup> October 2017 from Bristol City Council and I have already raised the issue of the Panel's accountability with the Panel's current Chairman, Nigel Ashton, Leader of North Somerset Council. He understands the point and is keen to

improve communications with the Councils that constitute the Panel so we should see some rapid improvements on this issue during the autumn.

**3.1.4** In addition to the above, work has started on a review of the operation of the Regulation Committee. This will be undertaken following the election with the new Committee and will cover the Committee's functions, delegations to officers and the Planning Code of Practice.

**3.1.5** Future standards arrangements.

Members will recall the discussion at the last meeting about the future of the Standards and Constitution Committees and the Committee's recommendation that the two committees should be combined to create a single Governance and Standards Committee. You specified the following principles to be applied to the proposed amalgamation:

- Strict political balance was not required to be applied to the elected membership of the Committee but that an appropriate level of representation should be given to the political groups according to their size whilst keeping the overall membership manageable
- Membership of the new committee should include the current co-opted members of the Standards Committee as non-voting members,
- The Chairman of the new committee should be appointed by the Committee itself.

Your recommendations echoed those of the Standards Committee at that stage except for the recommendations in respect of the elected membership of the Committee. On this point the Standards Committee would prefer political proportionality requirements not to be applied to membership of the new Committee.

**3.1.6** At that stage it was noted that the Standards Committee would be returning to this subject at its March 2017 meeting to review the practices of other councils prior to confirming its recommendations to Council.

**3.1.7** To aid the Standards Committee's considerations, the Monitoring Officer reviewed the current arrangements of other County Councils and continued discussions with the Somerset district council Monitoring Officers.

**3.1.8** The outcome of this research is summarised below:

1. Prior to 2011 the statutory requirement for each Council to have a standards committee meant a consistent approach to arrangements. Since 2011 a variety of approaches have developed to meet local requirements and structures. This reflects the position in Somerset where different approaches have emerged.
2. Councils have retained elected member involvement in standards issues in a variety of ways. This is required given the common approach of 'hearing panel' arrangements to deal with serious alleged breaches.
3. The variety of approaches can be summarised under the following headings

- Retain a separate Standards Committee. Some councils' have retained a separate Committee but only in a minority of cases are these meeting on a regular basis and these tend to have a wider range of corporate responsibilities than is the case with our Committee. Examples include responsibility for Council complaints and compliments, responsibility for officer conduct, and for considering internal and external audit reports. Some council's standards committees are meeting very infrequently which echoes the Somerset position that there is little formal business to be considered.
- Amalgamate 'standards' business with wider constitutional business or audit business in a single committee. The latter arrangement is by far the most common although Cambridgeshire County Council has a Constitution and Ethics Committee which seems to cover the functions that were proposed for a combined committee here in the previous discussions.

### **3.1.9** The 'expanded' Audit Committee option

The Standards Committee considered the Audit Committee expansion option as on the face of it the Audit, Constitution and Standards Committees cover common ground to the extent that they have the good governance of the Council as their central focus. The Audit Committee is one of the 'main committees' of the Council and has an expansive remit which focuses on ensuring that the Council operates within a framework of robust governance, risk management and control. This framework seeks to ensure that service delivery is strong; that it delivers value for money; and that it safeguards public funds. The Audit Committee is already one of the main committees and has a busy work programme meeting at least 8 times a year. The Standards Committee members agreed with the officers' conclusion that expanding the Audit Committee was not the right option for the County Council. Their fear was that the Standard Committee business would get lost in the bigger committee and that the wish to maintain co-opted member input into the committee would be lost within the larger politically balanced membership. The Standards Committee therefore agreed to reaffirm its recommendation for a combined Constitution and Governance Committee to cover the work of the existing Constitution and Standards Committees.

- 3.1.10** The Constitution Committee is invited to review its conclusions on this matter from its last meeting in the light of this further commentary and decide whether any changes to its recommendations from its last meeting are necessary.

## **4. Implications**

- 4.1.** Legal & Risk: The Council's Constitution sets out the key legal framework within which the Council takes decisions and fulfils its functions and responsibilities. It needs to be kept up to date and legally compliant.
- 4.2.** Impact Assessment: The Council's duty under Section 149 of the Equality Act 2010 is to have "due regard" to the matters set out in relation to equalities when considering and making decisions on the provision of services. There are no direct impacts on equalities, sustainability, health and safety, or community safety as a result of this report.

4.3. Financial: No impact.

4.4. HR: No impact.

## 5. Background papers

5.1. None

**Note:** For sight of individual background papers please contact the report author.