

## Annual Review of the Constitution

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### 1. Summary

- 1.1. The Council's Constitution requires the Council to review its Constitution on an annual basis. This is typically done at the Council's AGM in May of each year although the last revision was agreed at the Council meeting in July 2017.
- 1.2. In May 2017, Council revised its committee arrangements by establishing the Constitution and Standards Committee and including within its responsibilities the requirement to recommend an amended Constitution to the Council for approval.
- 1.3. Accordingly, this report recommends a revised and updated Constitution to the Council for approval.
- 1.4. The Constitution also requires that the Committee provide an annual report to the County Council setting out its work over the previous year.

### 2. Recommendations

- 2.1. **The Committee is asked to note the revisions endorsed since May 2017 (as summarised in this report and Appendix A) and recommend the Council to approve the revised Constitution – Part 1 - attached as the Appendix B to this report.**

### 3. Background

- 3.1 Following the elections in May 2017 the only changes made to the Constitution since the Council's approval of an updated version in July 2017 related to:
  - Part 2, Appendix B - Amendments to the Contract Standing Orders (approved by the Committee on 6 October 2017)

In addition the Committee is scheduled to consider the following proposed changes at their meeting on 27 April 2018:

- Part 1, Section 8 - revised Access to Information Rules

The changes proposed in this report only impact on Part 1 of the Constitution – Constitutional Arrangements. It is only Part 1 that is attached for consideration at Appendix B as there are only minor changes undertaken at this stage to Part 2 of the Constitution (see Appendix A which summarises these) which contains the supporting 'Rules, Codes and Protocols'.

- 3.2 New / revised content is summarised in red in Appendix A and as tracked changes within Appendix B (noting that the proposed changes to Part 1

Section 8 are subject to the Committee's approval at its meeting on 27 April 2018).

In summary:

Part 2, Appendix B - Contract Standing Orders

- Section 28 amended to see the tender evaluation criteria ratio change from 60:40 to 70:30 weighted in favour of price.
- Section 55.1.m amended to reinstate an omission relating to the Pension Fund that existed in the Constitution dated January 2016.

Part 1, Section 8 - Access to Information Rules

- Detailed provisions and guidance on access to information are set out in the Constitution for reasons of transparency and understanding and are important for the day to day process of decision making and running of the Council. Currently the relevant content is in two places in the Constitution:

Part 1: Section 8 – Decision Making: This is summary content setting out the main requirements and processes behind the formal decision making process. This document can be accessed via the link below and the relevant pages are 74 to 82.

<http://www.somerset.gov.uk/organisation/key-documents/the-councils-constitution/>

and

Part 2: Appendix F – Protocol on Members' Access to Information and other Confidential Issues. This includes more detail than Part 1 Section 8 in respect of member entitlements to information as part of the decision making process as well as more general provisions in relation to members and access to information. This document can also be accessed via the link set out above.

- The intention has been to produce a single set of rules within Part 1 of the Constitution giving greater clarity to members, officers and the public alike.
- The review of the rules with the Committee has focused upon:
  - i. The need to know principle. The content would benefit from a more detailed explanation of the 'need to know' principle which is the common law right of members to inspect council documents and is often quoted by members seeking access to confidential information.
  - ii. Use of Council information by members: Making it explicit that Council information can only be used by the member in connection with the proper performance of Council duties.
  - iii. Requests for information: Clarifying the process for members to request information from services.

- iv. Passing on confidential information: To include some additional content about clarifying the status of information where it is unclear if it is confidential or not.
- v. Members' access to confidential or exempt information: As stated in the previous report the Council's current policy of providing access to confidential and exempt information to members goes beyond what is required by statute. The content therefore needs to outline the statutory position as well as our current practice.
- vi. Audio recordings of Council meetings: Since the introduction of audio-recording all formal committee meetings had been recorded. The recordings had not been published on the Council's website but had been made available on request to members and the public via transfer to audio disc. No time limit had been applied to this access. Making the recordings available in this way is an expensive and labour intensive process.

#### **4. Technical amendments to the Constitution**

##### **4.1. Full Council amendments:**

The Council' agreed at its meeting in November 2017 to publish details of written public questions / statements submitted for a County Council meeting on the council's website the working day before a County Council meeting is held.

##### **4.2. Organisational changes:**

Changes in post holder titles and responsibilities of Senior Leadership Team Directors require consequential amendments to the Constitution where specific posts are referred to.

#### **5. Implications**

##### **5.1. Legal & Risk:**

The Council's Constitution sets out the 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. All of the proposed amendments to the Constitution are in accord with the legislative requirements which give considerable scope for the Council to agree its own constitutional arrangements.

##### **5.2. Impact Assessment:**

There are no direct equalities implications arising from any of the proposals in this report. There are also no sustainability or community safety implications.

##### **5.3. Financial: Not applicable.**

##### **5.4. HR: Not applicable.**

## **6. Background papers**

### **6.1. None**

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