

Constitution and Standards Committee

Friday 10 May 2019

10.00 am Taunton Library Meeting Room



To: The Members of the Constitution and Standards Committee

Cllr W Wallace (Chair), Cllr H Davies, Cllr M Dimery, Cllr D Loveridge, Cllr T Munt,
Robin Horton, Janice Middleton, Tim Ward and Wesley Wooding

Issued By Scott Wooldridge, Strategic Manager - Governance and Risk - 2 May 2019

For further information about the meeting, please contact Scott Wooldridge or 01823 357628 or
swouldridge@somerset.gov.uk

Guidance about procedures at the meeting follows the printed agenda.

This meeting will be open to the public and press, subject to the passing of any resolution
under Section 100A (4) of the Local Government Act 1972.

This agenda and the attached reports and background papers are available on request prior to
the meeting in large print, Braille, audio tape & disc and can be translated into different
languages. They can also be accessed via the council's website on
www.somerset.gov.uk/agendasandpapers



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AGENDA

Item Constitution and Standards Committee - 10.00 am Friday 10 May 2019

*** Public Guidance notes contained in agenda annexe ***

1 Apologies for absence

2 Declarations of Interest

Details of all Members' interests in District, Town and Parish Councils will be displayed in the meeting room. The Statutory Register of Member's Interests can be inspected via the Community Governance team.

3 Minutes from the previous meeting 8 February (To Follow)

The Committee is asked to confirm the minutes are accurate.

4 Public Question Time

The Chairman will allow members of the public to present a petition on any matter within the Committee's remit. Questions or statements about any matter on the agenda for this meeting will be taken at the time when each matter is considered.

**5 Annual Review of the Council's Constitution and democratic arrangements
(Pages 5 - 16)**

To consider the report and recommendations from the Monitoring Officer ahead of their consideration at Full Council on 15 May

6 Annual County Councillor complaints report 2018/19 (Pages 17 - 24)

To consider the report from the Monitoring Officer

7 Annual report of the Constitution and Standards Committee (Pages 25 - 26)

To consider and comment on the report ahead of its presentation to Full Council on 15 May

8 Forward Work Programme (Pages 27 - 30)

To consider the proposed work programme

9 Any other urgent items of business

The Chairman may raise any items of urgent business.

Guidance notes for the meeting

1. Inspection of Papers

Any person wishing to inspect Minutes, reports, or the background papers for any item on the Agenda should contact the Committee Administrator for the meeting on 01823 359045 or email: democraticservices@somerset.gov.uk
They can also be accessed via the council's website on www.somerset.gov.uk/agendasandpapers

2. Members' Code of Conduct requirements

When considering the declaration of interests and their actions as a councillor, Members are reminded of the requirements of the Members' Code of Conduct and the underpinning Principles of Public Life: Honesty; Integrity; Selflessness; Objectivity; Accountability; Openness; Leadership. The Code of Conduct can be viewed at: <http://www.somerset.gov.uk/organisation/key-documents/the-councils-constitution/>

3. Minutes of the Meeting

Details of the issues discussed, and recommendations made at the meeting will be set out in the Minutes, which the Committee will be asked to approve as a correct record at its next meeting.

4. Public Question Time

If you wish to speak, please tell the Committee's Administrator by 5.00pm on the Monday before the meeting.

At the Chair of the Committee's invitation you may ask questions and/or make statements or comments about any matter on the Committee's agenda – providing you have given the required notice. You may also present a petition on any matter within the Committee's remit. The length of public question time will be no more than 30 minutes in total.

A slot for Public Question Time is set aside near the beginning of the meeting, after the minutes of the previous meeting have been signed. However, questions or statements about any matter on the Agenda for this meeting may be taken at the time when each matter is considered.

You must direct your questions and comments through the Chair. You may not take a direct part in the debate. The Chair will decide when public participation is to finish.

If there are many people present at the meeting for one particular item, the Chair may adjourn the meeting to allow views to be expressed more freely. If an item on the Agenda is contentious, with a large number of people attending the meeting, a representative should be nominated to present the views of a group.

An issue will not be deferred just because you cannot be present for the meeting. Remember that the amount of time you speak will be restricted, normally to two minutes only.

5. Exclusion of Press & Public

If when considering an item on the Agenda, the Committee may consider it appropriate to pass a resolution under Section 100A (4) Schedule 12A of the Local Government Act 1972 that the press and public be excluded from the meeting on the basis that if they were present during the business to be transacted there would be a likelihood of disclosure of exempt information, as defined under the terms of the Act.

6. Committee Rooms & Council Chamber and hearing aid users

To assist hearing aid users the meeting rooms, have infra-red audio transmission systems. To use this facility, you need a hearing aid set to the T position.

7. Recording of meetings

The Council supports the principles of openness and transparency. It allows filming, recording and taking photographs at its meetings that are open to the public - providing this is done in a non-disruptive manner. Members of the public may use Facebook and Twitter or other forms of social media to report on proceedings and a designated area will be provided for anyone wishing to film part or all of the proceedings.

No filming or recording may take place when the press and public are excluded for that part of the meeting. As a matter of courtesy to the public, anyone wishing to film or record proceedings is asked to provide reasonable notice to the Committee Administrator so that the relevant Chair can inform those present at the start of the meeting.

We would ask that, as far as possible, members of the public aren't filmed unless they are playing an active role such as speaking within a meeting and there may be occasions when speaking members of the public request not to be filmed.

The Council will be undertaking audio recording of some of its meetings in County Hall as part of its investigation into a business case for the recording and potential webcasting of meetings in the future.

A copy of the Council's Recording of Meetings Protocol should be on display at the meeting for inspection, alternatively contact the Committee Administrator for the meeting in advance.

Annual Review of the Constitution and Council's democratic arrangements

Lead Officer& Author: Scott Wooldridge, Monitoring Officer
Contact Details: 01823 357628

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 2018 (as summarised in section 3.2) and recommend the Council to approve the revisions to the Constitution as set out in sections 3.2, 3.3 and 4 of this report.**
- 2.2. **To authorise the Monitoring Officer to make any necessary changes to the Constitution in relation to the recommendations set out in this report.**
- 2.3. **To note the annual review of the democratic arrangements and the work being undertaken by the Monitoring Officer (see section 5 of the report)**

3. Background

- 3.1 Following the Council's Annual General Meeting in May 2018 the only changes made to the Constitution related to:
 - Part 2, Appendix A – Amendments to the Financial Regulations (approved by the Committee on 8 February 2019)
 - Part 2, Appendix B - Amendments to the Contract Standing Orders (approved by the Committee on 8 February 2019)

In addition the Committee is scheduled to consider the following proposed changes at their meeting on 10 May 2019:

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

3.2 A summary of the changes endorsed by the Committee on 8 February 2019 are:

1) Part 2, Appendix A – Financial Regulations

The amendments agreed by the Committee were in response to assurance regarding the adequacy of the Financial Regulations following a review by the Chief Finance Officer and Chief Internal Auditor, which proposed very minor amendments for clarity.

Financial Regulations are of critical importance to the County Council as they govern which officers and members can take actions and decisions that could impact significantly on the financial standing and resources of the local authority. They bind officers, members and anyone acting on behalf of the Council and are mandatory.

Small technical amendments have been made to update details, such as job titles and those of committees. Throughout the document, the term Chief Financial Officer has now been used, as this is a specific meaning that refers to the statutory role, regardless of what the actual Job Title of the postholder becomes in the future.

Small changes to the text have been made for clarity only, and there was **no changes to who is entitled to make financial decisions, or to the financial thresholds that apply.**

Amendments made included:-

- A.21 To state explicitly the role of the Somerset Waste Board alongside other Committees.
- A.25 To update Financial Regulations with regard to the newly agreed Deputy section 151 officer.
- B.7 / B.12 / B18 To clarify the role of Scrutiny as part of the budget preparation processes and budget reporting.
- B.20 / B.22 To clarify that the Chief Finance Officer remains responsible for determining the prudent level of general reserves required, based on his or her professional judgement, and also has to approve the establishment of any new earmarked reserves.
- C. 2 To acknowledge the role of the Audit Committee in the day-to-day monitoring of risk management activities.
- C.10 To acknowledge the previous Council decision to “opt in” to the national PSAA scheme for the appointment of our external auditors.
- C.22 To emphasise on the need for SLT to maintain staffing levels in strict accordance with both the approved establishment and their delegated budgets
- D.2 / D. 4 To strengthen the right of the Chief Finance Officer to require the use of corporate finance systems and to approve (or not) any alternative systems proposed.
- D. 13-15 To emphasise the need for trading units to recover all their costs and breakeven on their activities and the need for strong business cases for their establishment and continuation.

The report from the S151 Officer and the amended financial regulations can be viewed on the website at:

<http://democracy.somerset.gov.uk/ieListDocuments.aspx?CId=244&MId=824&Ver=4>

Part 2, Appendix B - Contract Standing Orders

- 2) The amendments agreed by the Committee followed an annual review of the Contract Procedure Rules and Standing Orders by the Head of Commercial and Procurement.

One of the key areas for amendment was to Section 43 Approval to Award, in response to the introduction of Somerset County Council's 10 Point Plan in June 2018.

The review of the CSOs also highlighted the need for a number of minor amendments, as follows;

- to amend references throughout The Rules to the Director of Commercial and Business Services and replace them with the Director of Corporate Affairs to reflect organisation change;
- to update The Rules in line with the General Data Protection Regulations;
- to extend the requirement for publishing Tenders and Contracts to Grants in line with the Local Government Transparency Code 2015;
- to require all breaches of The Rules to be reported to Governance Board to provide oversight and transparency of associated risks that the Council may be exposed to prior and during a procurement procedure and in to contract delivery.

The report from the Head of Commercial and Procurement and the amended CSOs can be viewed on the website at:

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3.3. Proposed changes to Access to Information Procedure Rules

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.

- 3.4. The Council reviewed the Access to Information Rules in May and July 2018 and agreed several amendments, particularly in relation to the public question time rules for Full Council and committee meetings.
- 3.5. A review of the meeting procedures has been undertaken following the operation of the amended arrangements. The following amendments are recommended for the Committee to comment upon ahead of their consideration by Full Council:

Audio recordings of Council meetings (8.6.8 of Part 1): The Council revised its policy to clarify its procedures and reasons for making the recordings and which meetings it would record. The intention of the council's audio recordings has always been to

assist with the production of the minutes of a meeting which are the legal record. This is consistent with what other councils do.

The policy is not explicit for how long the audio recordings are retained on the council's servers. Some councils retain the audio recordings for up to six months after a meeting has been held and some councils delete the audio recording immediately when the minutes have been agreed. In order to protect the status of the minutes as the legal record it is recommended that the audio recording is deleted when the minutes have been agreed and it is recommended that 8.6.8 of the Constitution is amended as follows:

8.6.38 The Council makes audio recordings of its main decision making meetings – Full Council, Cabinet and Regulation Committee – available to access on the website immediately following meetings and until the minutes of the meeting have been signed as a correct record at the next meeting. Following approval of the minutes the audio recording will be deleted from the council's systems. Audio recordings are also made separately available to members via private access arrangements for the same period. Other formal meetings may be recorded on an ad-hoc basis depending on the circumstances and those attending will be informed where this is the case in advance of the start of the meeting.

Part 1, Section 4 - Public question time rules

One of the amendments made to the public question time rules in 2018 was a new provision which allowed for statements or questions to be read out by the Chair of the meeting or the Monitoring Officer if someone was unable to attend a meeting (see 4.10.5 of the Constitution).

There have been a number of occasions when this provision has been used and in some cases there have been several instances at the some meetings when people have submitted and not attended. The intention of the provision was for the rare occasions when people cannot attend rather than as a mechanism for remote submission of questions.

As the Council publishes details of questions and statements received then it is proposed to amend this provision so that the Chair, Monitoring Officer or Democratic Services Manager present refer instead to what has been published and issued to the committee members and not to read these out to the meeting. The relevant Cabinet Member or Officer will still provide a response to the committee.

It is therefore proposed that 4.10.5 is amended as follows:

4.10.5 Members of the public have up to 3 minutes to introduce and present their representations. If a member of the public is unable to attend a meeting in person, then the Democratic Services Manager will ensure that the relevant committee members are aware of the representation ahead of / at the meeting. Officers will make every effort to ensure that a response will be provided to the Committee at the meeting and subsequently to the member of the public.

4. Technical amendments to the Constitution

4.1. 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. These technical amendments will be undertaken by the Monitoring Officer.

5 Review of the Council's Democratic Arrangements

5.1 Ahead of the Annual General Meeting, the Monitoring Officer will undertake a review of the Council's Democratic Arrangements to identify if there are any proposed revisions needed to meet statutory requirements. This review also involves considering any proposals that may have been made by the Leader of the Council or any of the Chairs of the Council's committees.

5.2 The review has not identified any specific recommendations for the Annual General Meeting of Full Council to consider. However, it should be highlighted that there are two reviews that are currently being undertaken for which specific recommendations may come forward to Full Council during 2019/20:

Scrutiny arrangements

A Peer Challenge review of Somerset County Council was undertaken with the Local Government Association and this was reported to the County Council meeting in May 2018. One of its recommendations to the Council was:

“Somerset County Council should review its overall approach to scrutiny, ensuring all councillors are equipped to play an active role and contribute to the policy making and key decisions affecting the future of Somerset's residents and the council, and that its governance arrangements are reflective of this.”

The Leader of the Council and the Chief Executive committed officer support to work with the Chairs of the three scrutiny committees to undertake a review of the council's scrutiny arrangements with the aim of reporting the review to the Scrutiny Committees and Full Council by summer 2019.

Undertaking a review of this nature can be resource intensive and the Council commissioned the Centre for Public Scrutiny to work with its officers to complete this review.

Currently the investigative and research work is being undertaken. The review is scheduled to be reported to Scrutiny Committees during June.

Pensions Board

A periodic review of the governance of the Somerset County Council Pension Fund to make sure it is fit for purpose has been undertaken. The Governance of the Fund is split between the Pensions Committee and the Pension Board.

The Pension Board was formed in 2015 following a change in Local Government Pensions Scheme (LGPS) regulations which required each Administering Authority to set up and operate a Pension Board to assist the Administering Authority (the Pensions Committee) in discharging the requirements of the regulations, the Board has no decision-making powers.

The Pension Board has 6 positions although 3 of these are currently unfilled. Filling positions was a challenge when the Board was set up with the number of applicants from the original process matching but not exceeding the number of vacancies.

Largely due to the vacancies on the Board there has been a constant struggle to ensure meetings are quorate and a significant number of meetings have been cancelled over the last 2 years. Work will be undertaken by Democratic Services and Finance officers in order to try and improve recruitment to vacancies.

In addition to the above, the LGPS Scheme Advisory Board, a national Board charged with assisting MHCLG with the smooth running of the LGPS, has instigated a review into the Governance of the LGPS which is currently underway. The focus of the review is broadly the management of conflicts of interest within the Council between its roles as both the Administering Authority and an employer, however it is possible that the review will have implications for the current set up of a Committee and a Board and their respective roles in governance. This review is expected to take place throughout 2019 and reach conclusions in 2020.

6. Implications

6.1. 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.

6.2. Impact Assessment:

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

6.3. Financial: Not applicable.

6.4. HR: Not applicable.

7. Background papers

7.1. Council's Constitution

Reports to Constitution and Standards Committee in June 2018 regarding Public Question Time procedures

Reports to Constitution and Standards Committee on 8 February 2019

Note: For sight of individual background papers please view these on the Council's website or alternatively contact the report author.

Annual Review of the Constitution

Lead Officer& Author: Scott Wooldridge, Monitoring Officer
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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.
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In addition the Committee is scheduled to consider the following proposed changes at their meeting on 10 May 2019:

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3.2 A summary of the changes endorsed by the Committee on 8 February 2019 are:

1) Part 2, Appendix A – Financial Regulations

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6. Implications

6.1. 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.

6.2. Impact Assessment:

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

6.3. Financial: Not applicable.

6.4. HR: Not applicable.

7. Background papers

7.1. Council's Constitution

Reports to Constitution and Standards Committee in June 2018 regarding Public Question Time procedures

Reports to Constitution and Standards Committee on 8 February 2019

Note: For sight of individual background papers please view these on the Council's website or alternatively contact the report author.

Annual report on standards of conduct 2018/19

Lead Member: Cllr William Wallace, Chair of the Committee

Lead Officer: Scott Wooldridge, Monitoring Officer

Contact Details: tel (01823) 357628 or e-mail: swooldridge@somerset.gov.uk

1. Summary

- 1.1. The current standards regime was introduced by the Localism Act, 2011 and the Council is no longer statutorily required to have a Standards Committee, but it decided that it should continue to do so in the interests of promoting transparency and high ethical standards in local governance. Following the May 2017 elections, the Council formed the Constitution and Standards Committee.
- 1.2. The operation of the Council's arrangements for members' conduct is fundamental to the Council's compliance with the requirements of the Localism Act 2011 and by promoting good ethics the Council is demonstrating its core values as contained in the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- 1.3. The functions of the Constitution and Standards Committee include promoting high standards of conduct by Members, Co-opted Members and Officers; monitoring the operation of the Members' Code of Conduct and the Council's Whistleblowing Policy.

2. Recommendations

- 2.1 **That the Committee considers this annual report and provides any comments to the Monitoring Officer.**

3. Standards Activity

- 3.1. The Council publishes on the website its processes, guidance notes and forms for people to make a complaint about a County Councillor. The process is summarised in the attached appendix.

Since May 2018, the Monitoring Officer has received three complaints relating to alleged breaches of the Code of Conduct by County Councillors. Two of the complaints related to the same elected member and their register of interests. The two complaints were subsequently withdrawn following preliminary investigation and clarification by the Monitoring Officer.

The third complaint was investigated at Level 1 and Level 2 and the complaint was not upheld.

The Council's Independent Person and Chair of the Constitution and Standards Committee were consulted and supported the proposed recommendation prior to the Monitoring Officer's determination.

- 3.2. During 2018/19, the Council was notified that the Parliamentary Committee on Standards in Public Life was undertaking a review of local government ethical standards and had commenced a consultation on this subject. The consultation was based upon a number of questions around ethical standards and associated issues.

The review was considered to be long overdue following the wholesale change to local authority standards arrangements made by the Government in 2011. The 'old' Standards Committee of the Council made representations to the secretary of State as early as 2012 asking for a review of the arrangements to address a number of concerns of the Committee. It is fair to say since then the Government has had similar representations from across the country highlighting perceived shortcomings of the new standards regime implemented in 2011. Key concerns raised at the time focused on:

- The change in the requirements and status of standards committees – with an associated reduction in the influence of the co-opted independent members of standards committees
- The risk of greater political influence over any standards arrangements put in place locally by councils
- The lack of 'serious' local sanctions for significant breaches of the Code of Conduct.

All elected members were sent the link to the consultation and invited to comment on the questions. Comments received included:

- Being strongly lobbied in their local councillor role, especially on regulatory matters such as planning applications.
- Comments on social media about elected members and the anxiety that this can bring
- Some examples of members mindful of their personal safety when meeting constituents and meeting them in public places and not in their homes, whenever possible.

Following consideration and endorsement at the Committee's meeting in May 2018, the Monitoring Officer consulted with the political group leaders prior to submitting the Council's proposed response.

3.3. In January 2019, the Parliamentary Committee on Standards in Public Life published their report and this was reported to the Constitution and Standards Committee meeting in February 2019. The report includes a series of recommendations to the Government for improvements to local authority standards arrangements including strengthening the ability for a council to take actions where a serious breach of the Code of Conduct is proven. The Committee welcomed the report and recommendations and the Government's response to the report is awaited.

3.4. On the whole elected members take the need to maintain high ethical standards seriously. The Monitoring Officer will continue to examine ways and means to improve awareness and understanding of the Members' Code of Conduct, including seeking the views of the Constitution and Standards Committee.

4. Conclusions

4.1. The Committee remains committed to promoting high standards of conduct by Members, Co-opted Members and Officers and for the policies and processes which support this aim.

5. Background papers

- 5.1.** Further information about the Committee including dates of meetings, agendas and reports from previous meetings are available via the Council's website and can be found at:

<http://democracy.somerset.gov.uk/mgCommitteeDetails.aspx?ID=244>

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

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Process for dealing with complaints against councillors – proposed improvements

1. General rules

- 1.1 Complaints older than 6 months at the time of receipt by the Monitoring Officer (MO) will only be considered in exceptional circumstances and if the MO considers that it is in the public interest to investigate the matter.

2. Preliminary Consideration

- 2.1 Formal complaint received by Monitoring Officer (MO)
- (a) The MO will acknowledge the complaint within 10 working days.
 - (b) The MO will then consider whether the complaint falls within the scope of the process, at what level and whether there is some evidence that there may have been a material breach of the Code

3. Level 1 complaint -

- 3.1 Complaints about procedural matters, unhappiness with decisions, those which are not Code related, or may be technical very minor breaches will be determined by MO with no or very limited further inquiry and the complainant advised within 20 working days or as soon as possible thereafter
- 3.2 The decisions which could be reached by the Monitoring Officer following consultation with the Independent Person (IP) are
- (a) Not Code related – No Further Action
 - (b) Insufficient evidence to determine whether there has been or may have been a breach and investigation is not merited. Possible outcome – No Further Action or guidance / training given to subject member.
 - (c) No Breach - No Further Action or limited action agreed with the subject member. Possible outcome – guidance / training given to subject member.
 - (d) Potential Technical or Minor Breach but insufficient justification under the public interest test to investigate further – No Further Action or limited action agreed with the subject member, eg an apology given to the subject member or guidance provided.
 - (e) Potential complaint with substance requiring further assessment at Level 2.
- 3.3 The MO will inform the subject member about the complaint and will inform the subject member and the complainant about the decision.
- 3.4 If the MO receives numerous complaints about a member all of which could be classed as minor or technical then the Monitoring Officer can decide to treat the accumulation as a Level 2 Complaint.
- 3.5 Complaint numbers and conclusions only to be reported to Standards Committee.

4. Level 2 complaint – Initial Assessment

- 4.1 If a complaint is considered to be beyond Level 1 and therefore potentially a complaint with substance, the subject member will be given a full copy of the complaint and invited to make written representations. These should be

- received by the MO usually within 20 working days of the member receiving the notification but additional time can be allowed for this stage by the MO.
- 4.2 MO may invite the complainant and other witnesses to provide additional information by way of written invitations to inform an initial assessment.
- 4.3 Following completion of the initial 'desktop' assessment of the evidence by the MO, the MO will consult the IP and the Chairman of the Standards Committee on the conclusion of the assessment and actions proposed.
- 4.4 MO will then contact the complainant and the subject member to confirm whether the complaint relates to a breach of the code of conduct and what action is proposed, if any.
- 4.5 The decisions which could be reached by the MO are
- (a) No Breach - No Further Action or limited action agreed with the subject member. Possible outcome – advice/ guidance / training given to subject member.
 - (b) Potential Breach - Insufficient evidence to justify further investigation under the public interest test - No Further Action or limited action agreed (e.g. advice / guidance / training given to subject member),
 - (c) Potential Breach – Considered to be potentially serious enough to refer for Investigation at level 3,
 - (d) Potential Breach – Sufficient evidence of a breach to seek the agreement of the subject member to conclusions /actions without further investigation. If subject member does not agree then MO decision to refer to level 3.
- 4.6 Complaint numbers and conclusions to be reported to Standards Committee and Full Council.

5. Level 3 – Investigation

- 5.1 Further investigation will only be undertaken in exceptional circumstances where the complaint is very serious in respect of a potential breach of the Code and where it is considered to be in the public interest to investigate to establish the extent of the potential breach.
- 5.2 Prior to implementing Level 3 the MO will seek the views and advice of the Governance Board on the actions proposed in relation to the complaint.
- 5.3 MO will seek legal opinion and advice as necessary to clarify any aspect of the complaint or written evidence obtained. It is expected that this advice will normally be sourced internally within the Council and only in exceptional circumstances will external investigation and advice be sought.
- 5.4 At the end of the investigation, the MO will issue a draft outcomes report and invite comments which must be received within 10 working days. The draft report will be issued to the complainant, members of the Standards Committee, the subject member, and the IP.
- 5.5 Outcome 1 - If the outcomes report reveals no failure to comply with the code or that a minor/technical breach may have occurred or identifies actions that involve giving advice / guidance / training to the subject member as opposed to any sanction as being the appropriate response, then the MO, after consulting with the IP will close the matter and issue his final report to the complainant and the subject member.
- 5.6 Outcome 2 - If the investigation indicates that there may be evidence of a significant breach of the Code then the MO in consultation with the IP will seek a local resolution of the complaint including actions providing all parties

agree (acting reasonably). The parties will have 20 working days to respond to the proposal for a local resolution. Local resolution may be achieved via a restorative justice meeting between the complainant and the subject member, held with a trained mediator as necessary, to agree outcomes and actions.

- 5.7 Under Outcome 2, in the unlikely case that a local resolution is not appropriate or not agreed by the parties then the outcome of the investigation will be referred on to the Hearings Panel stage for determination.

6. Hearing Stage

- 6.1 Prior to a hearing, there will be a 'case management' meeting involving the Chairman of the Standards Committee, the subject member, the Monitoring Officer, the County Solicitor and a co-opted member of the Standards Committee to consider options for the procedure to be followed. Following this meeting, the Chairman in consultation with the Monitoring Officer will have delegated authority to confirm the scope and content of the hearing panel process. The delegated authority to include agreeing the format of the hearing including whether with the agreement of the subject member there should be a full public hearing with witnesses etc or whether it could be dealt with by way of written representations.
- 6.2 The hearing panel in whatever format is agreed will include the 5 elected members as voting members and the decision makers, a non-voting co-opted member as an adviser on process, the IP as a consultee on the decisions reached by then panel and the MO and Deputy MO as advisers to the panel.
- 6.3 If a hearing is required it will be held in public subject to the rules on exempt information and will be conducted on a relatively informal basis. However both parties will be able to make representations and call a limited number of witnesses to be agreed in advance with the Chairman. At the end of the Hearing, the Panel, after consulting with the IP will decide whether, on the balance of probabilities there has been a failure to comply with the Code of Conduct and what 'sanction' or 'sanctions' should be imposed.
- 6.4 At the conclusion of the evidence and following any confidential members' discussion to reach draft decision, the Panel members will meet in exempt session with the MO, County Solicitor (in order to have access to legal advice), the co-opted member to advise on process and with the IP present, to formally agree their decision prior to the decision and outcomes being confirmed to the subject member and published.

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Draft Annual Report of the Constitution and Standards Committee 2018/19

Lead Member: Cllr William Wallace, Chair of the Committee

Lead Officer: Scott Wooldridge, Strategic Manager - Governance and Democratic Services

Contact Details: tel (01823) 357628 or e-mail: swooldridge@somerset.gov.uk

1. Summary

- 1.1. The Constitution and Standards Committee is required by the Constitution to make an annual report to the County Council regarding its work since May 2018.
- 1.2. The Constitution and Standards Committee was formed following the May 2017 elections and its functions include responsibility to maintain an effective, up to date and legally compliant Constitution; considering proposals from Council committees for changes to the constitutional arrangements of the Council; take all required decisions in respect of the County Council elections; promoting high standards of conduct by Members, Co-opted Members and Officers; monitoring the operation of the Members' Code of Conduct and the Council's Whistleblowing Policy.

2. Recommendations

- 2.1 **That the Committee considers and comments upon this draft Annual Report to the County Council meeting on 15 May 2019 and delegate authority to the Monitoring Officer to finalise it following consultation with the Chair of the Committee.**

3. Background

- 3.1. The Council at its meeting on 24th May 2017 agreed to amalgamate the Constitution Committee and the Standards Committee to form a new Constitution and Standards Committee. In making this decision the Council considered the recommendations from both committees supporting an amalgamation.
- 3.2. Political proportionality was waived in relation to the elected membership of the Committee with one member per political group appointed. The co-opted members of the former Standards Committee were appointed to the new Committee as non-voting members and with a renewed term of office. In line with other committees, the County Council appoints the Chair of the Committee.
- 3.3. The Committee's operating arrangements are well established and it is working well within its terms of reference.
- 3.4. The Committee has met a total of 4 times since May 2018.
- 3.5. Support to the Committee comes principally from the Monitoring Officer and County Solicitor.

4. Work Programme

- 4.1. The Committee's work programme over the last year has been varied and has included:
 - Disclosure and Barring Service checks for elected members (July and October

2018)

- Empowerment of the Interim Director of Finance (July 2018)
- Meeting procedure rules, Scrutiny call-in procedure and Public Question Time rules (July 2018)
- Access to Information – Audio Recordings of Council meetings (July 2018)
- Changing the names of Electoral Divisions (July 2018 and October 2018)
- Review of the Whistleblowing Policy (October 2018)
- Review of the Council's scrutiny arrangements (October 2018)
- Annual review of Contract Standing Orders (February 2019)
- Annual review of Financial Regulations (February 2019)
- Review of ethical standards in local government (Government consultation)
- Annual review of the Constitution (May 2019)
- Annual report of the Committee to Council (May 2019)

5. Conclusions

- 5.1.** The Committee remains committed to promoting high standards of conduct by Members, Co-opted Members and Officers and for the policies and processes which support this aim, together with ensuring that the Council maintains an effective, up to date and legally compliant Constitution.

7. Consultations undertaken

- 7.1.** The Committee meetings are open to all County Councillors to attend and contribute to its meetings.

8. Implications

- 8.1.** The Committee considers carefully, and often asks for further information about the implications as outlined in, the reports considered at its meetings.
- 8.2.** For further details of the reports considered by the Committee please contact the author of this report.

9. Background papers

- 9.1.** Further information about the Committee including dates of meetings, agendas and reports from previous meetings are available via the Council's website and can be found at:

<http://www1.somerset.gov.uk/council/boards.asp?boardnum=9>

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

Committee Forward Work Plan

Lead Officer: Scott Wooldridge, Strategic Manager–Governance & Democratic Services
Contact Details: tel (01823) 357628 or e-mail: swooldridge@somerset.gov.uk

1. Summary/link to the County Plan

- 1.1. Members have asked that we review forthcoming items coming to Constitution and Standards Committee. A Forward Work Plan will be brought to each meeting for review and discussion to assist with planning business for future meetings.

2. Issues for consideration

- 2.1. **Members are asked to note the outline agendas for the next two committee meetings as set out in Appendix A to this report, and to comment on any further items that they would like to be scheduled at these or at future meetings.**

3. Background

- 3.1. This item is designed to enable good planning and scheduling of business for committee meetings in order to make the best use of the available time and resources.

4. Implications

- 4.1. Any items requested not yet covered by the Forward Work Plan at Appendix A will require scheduling by officers, in conjunction with the Chair.

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Constitution & Standards Committee Work Programme 2019

Future Agenda Items	Notes
21 June 2019	
DBS checks update	To receive an update regarding DBS checks for elected members in accordance with the Council's policy agreed in November 2017
Task and Finish Group protocol	Protocol to provide a framework for scrutiny task and finish groups
Review of Scrutiny arrangements	Receiving the review of the effective Scrutiny arrangements and consider any recommendations
Officer Code of Conduct	To consider and approve for inclusion within the Constitution
Annual Review of Whistleblowing Policy	To receive the annual review report of this policy and consider any recommendations
Annual review of the Members Code of Conduct and annual report on complaints against County Councillors	To receive the annual review, an update on any national or local policy changes, and consider any recommendations. In addition, receive an annual report regarding complaints against County Councillors
Annual review of County Councillor Complaints Procedure	To receive the annual review and consider any recommendations
11 October 2019	
Annual review of Member and Officer Protocol	To receive the annual review and consider any recommendations
Annual Review of Code of Planning Practice	To receive the annual review and consider any recommendations

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