

Somerset Council

Constitution and Governance Committee

17 April 2024



Review of Part I2 – Officer Scheme of Delegation

Lead Officer: David Clark, Monitoring Officer, Service Director - Governance, Democratic and Legal Services

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Executive Lead Member: Councillor Bill Revans, Leader of the Council

Division / Local Member: All

1. Summary and background

- 1.1.** Part I2 - Officer Scheme of Delegation is a key document in the Council's Constitution which provides information on the arrangements for the delegation of authority to officers to carry out the Council's various functions on a day-to-day basis.
- 1.2.** The Constitution sets out which decisions must be taken by the Full Council, a Committee of the Council or by the Executive. The key principle is that Members determine the direction of the Council, decide strategies, agree policies or changes to existing policies and set the Annual Budget. All other functions of the Council are delegated to officers so that they can take day-to-day and service delivery decisions.
- 1.3.** The Officer Scheme of Delegation has been subject to an annual review by the Monitoring Officer in consultation with this Committee and senior managers on the effectiveness of its operation and to identify any potential changes or improvements.
- 1.4.** In parallel with the review work that has been undertaken, the Monitoring Officers is working with the Section 151 Officer on the review of the Contract Procedure Rules and Financial Regulations to ensure key elements of the Council's Governance Framework remain effective and fit for purpose.
- 1.5.** The review and any proposed changes to the Officer Scheme of Delegation will be considered by the Constitution and Governance Committee at its meeting

on 17 April, so that the Committee can consider these and make its recommendations to the Council's Annual General Meeting on 22 May 2024.

2. Issues for consideration / Recommendations

2.1. The Committee is asked to :

- 1) Review the proposed changes to Part I2 – Officer Scheme of Delegation set out in Appendix 1 and provide any comments or suggested amendments for the Monitoring Officer to make following the meeting in consultation with the Chair of the Committee; and
- 2) Recommend the revised Part I2 – Officer Scheme of Delegation to the Council's Annual General Meeting in May.

3. Background

- 3.1.** A brand-new Officer Scheme of Delegation was drafted as part of the development of the Somerset Council's new Constitution following a review of Peer Councils. The Buckinghamshire Council Scheme was used as a starting point and amended by reference to the five legacy councils to suit local circumstances and to provide some continuity. For example, the "Key Decision" threshold was set at the same level as the former Somerset County Council threshold of £500K and the Scheme was drafted so that officers are granted specific delegations ensuring absolute clarity as to what they are authorised to do.
- 3.2.** The review in 2022 and 2023 ensured that former county council delegations were included and updated with the former district council Schemes of Delegation e.g. development control and licensing matters. Overall, there were no significant departures from the former county and district arrangements.
- 3.3.** The Scheme ensures that there is appropriate Member consultation before certain decisions are taken. Consultation with Lead Members is required where a "Key Decision" is being taken, there is significant opposition from the public or significant media interest.
- 3.4.** There is also the ability for Lead Members and Chairs of Committees, following consultation with the Chief Executive and in relation to decisions that fall within their remit, to refer a matter that has been delegated to an officer to an appropriate Council body. The same applies to officers who, despite having delegated authority, may decide it more appropriate for the decision to be taken by the Executive or relevant Committee.
- 3.5.** The Scheme includes safeguards to ensure that when officers are not available, decisions can be taken by other officers. The Chief Executive, for example, can

exercise any officer delegation and the Executive Directors can exercise the Chief Executive delegations if the Chief Executive is absent or unavailable.

3.6. It is important to emphasise that officers can only take decisions that fall within the framework set by Members i.e. within the budgetary framework, the approved budget and the strategies and policies set by the Council.

3.7. Throughout 2023/24, the Monitoring Officer and Head of Governance and Democratic Services have :

- Undertaken a members' survey and officers' survey to review the operation of decision making arrangements and processes;
- Compiled feedback on the Scheme of Delegation and areas for potential change;
- Issued revised guidance to officers to assist with awareness and understanding of the requirements for decision making and drafting reports;
- Supported Executive and Service Directors to put in place sub-delegation arrangements to Heads of Service and Service Managers;
- Reviewed committee and decision-making report templates and processes to make process efficiencies; and
- Review the Scheme of Delegation to take account of organisational changes and changes with other parts of the Constitution.

3.8. Key areas of feedback to guide the review of the current Scheme of Delegation included:

- Whether internal governance procedures for internal consultation and 'sign-off' could be further streamlined for committee and decision-making reports
- Unclear sub-delegations or lack of sub-delegation by Executive or Service Directors to managers within their services
- Too many decisions being escalated to the Executive or a committee
- The threshold of £500k or greater for a key decision still being about right for the Council
- The need for mandatory training on decision making
- Easier to access information on decision making for officers
- Contract Procedure Rules and Financial Regulations need to be reviewed to better align with MSDynamics and the Council's business procedures
- Report authors to consider all decisions that a programme or project may require to avoid multiple reports being prepared at different stages in the development and implementation

- Delays in receiving responses from members and senior managers when consulted on draft reports
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3.9. Better guidance and training has already been put in place for officers and members. This will continue to be kept under review and targeted at any specific areas where further understanding is needed or better compliance is needed.

3.10. Some process efficiencies have already been implemented with committee and decision-making reports and internal systems. Further work will continue with these areas throughout 2024.

3.11. Following review of feedback, the proposed changes to Part I2-Scheme of Delegation are set out in Appendix 1 for the committee to consider.

4. Consultations undertaken

4.1. The review is being led by the Monitoring Officer with the support of officers from Democratic Services, Legal Services, Licensing and Planning Services, Corporate and Resources and other relevant services supporting specific committee.

5. Implications

5.1. Legal - under Section 9P of the Local Government Act 2000, the Council is required to prepare and keep up to date a Constitution containing the standing orders of the Council and such other information as is required or desirable.

Without a Scheme of Delegation, officers will not be able conduct the day to day running of the organisation and any decisions taken will be unlawful and open to legal challenge. In addition, without a Scheme of Delegation then all decisions would need to be considered by the Executive or relevant committee(s).

5.2. No specific negative equalities implications have been identified with the proposals set out in the new Constitution. Decisions taken by the Council, in accordance with its Constitution, will consider equalities implications and have due regards to its legal duties under the Equality Act 2010. The arrangements for committee meetings will take full consideration of equalities and public accessibility requirements. An Equalities Impact Assessment is not considered necessary for this decision as there are no direct impacts.

6. Background papers

6.1. Somerset Council Constitution – February 2023 and May 2023

Approach to Constitution Review - Report to Constitution and Governance
Committee on 18 October 2023 and 31 January 2024

Note For sight of individual background papers please contact the report author or the Council's website