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**CONSTITUTION AND GOVERNANCE
COMMITTEE**



**Thursday 15 December 2022
2.00 pm Luttrell Room - County Hall,
Taunton**

To: The members of the Constitution and Governance Committee

Cllr T Butt Philip (Chair), Cllr S Carswell (Vice-Chair), Cllr B Clarke, Cllr H Davies, Cllr D Johnson, Cllr H Kay, Cllr C Lawrence, Cllr M Lovell, Cllr M Murphy, Cllr S Osborne, Cllr S Pugsley, Cllr R Wilkins and Cllr A Wiltshire

All Somerset County Council Members are invited to attend.

Issued By Scott Wooldridge, Monitoring Officer and Head of Governance and Democratic Services - 7 December 2022

For further information about the meeting, please contact Clare Rendell - Governance Specialist on 01823 357628 or email - democraticservicesteam@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

Are you considering how your conversation today and the actions you propose to take contribute towards making Somerset Carbon Neutral by 2030?



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AGENDA

Item Constitution and Governance Committee - 2.00 pm Thursday 15 December 2022

****Public guidance notes contained in agenda annexe****

1 **Apologies for Absence**

To receive member's apologies.

2 **Declarations of Interest**

Details of all Members' interests in District, Town and Parish Councils can be viewed on the [Council Website](#)

The Statutory Register of Member's Interests can be inspected via request to the Democratic Service Team. Any new or updated declarations of interest will be received.

3 **Minutes from the Previous Meeting held on 21 November 2022** (Pages 9 - 13)

To note the minutes from the previous meeting of the Constitution and Governance Committee, circulated within the agenda.

4 **Public Question Time**

The Chair will allow members of the public to ask a question or make a statement about any matter on the agenda for this meeting. **These questions may be taken during the meeting, when the relevant agenda item is considered, at the Chair's discretion.**

5 **LGR - Constitution Documents for proposed new Licensing function** (Pages 15 - 39)

To consider report.

6 **Pension Fund Governance** (Pages 41 - 62)

To consider report.

7 **Work Programme** (Pages 63 - 64)

To consider the work programme of the Committee.

8 **Any other urgent items of business**

The Chair may raise any items of urgent business.

Item Constitution and Governance Committee - 2.00 pm Thursday 15 December 2022

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Guidance notes for the meeting

1. **Council Public Meetings**

The former regulations that enabled virtual committee meetings ended on 7 May 2021. Since then, all committee meetings need to return to face-to-face meetings. The requirement is for members of the committee and key supporting officers to attend in person, along with some provision for any public speakers. Provision will be made wherever possible for those who do not need to attend in person including the public and press who wish to view the meeting to be able to do so virtually.

2. **Inspection of Papers**

Any person wishing to inspect minutes, reports, or the background papers for any item on the agenda should contact Democratic Services at democraticservicesteam@somerset.gov.uk or telephone 01823 357628. They can also be accessed via the council's website on www.somerset.gov.uk/agendasandpapers. Printed agendas can also be viewed in reception at the Council offices at County Hall, Taunton TA1 4DY.

3. **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: [Code of Conduct](#)

4. **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.

5. **Public Question Time**

If you wish to speak, please contact Democratic Services by 5pm 3 clear working days before the meeting. Email democraticservicesteam@somerset.gov.uk or telephone 01823 357628.

Members of public wishing to speak or ask a question will need to attend in person or if unable can submit their question or statement in writing for an officer to read out.

After entering the Council building you may be taken to a waiting room before being taken to the meeting for the relevant agenda item to ask your question. After the agenda item has finished you will be asked to leave the meeting for other members of the public to attend to speak on other items.

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

At the Chair'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 (20 minutes for meetings other than County Council meetings).

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 an item on the agenda is contentious, with many people wishing to attend 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, to three minutes only.

In line with the council's procedural rules, if any member of the public interrupts a meeting the Chair will warn them accordingly.

If that person continues to interrupt or disrupt proceedings the Chair can ask the Democratic Services Officer to remove them as a participant from the meeting.

Provision will be made for anybody who wishes to listen in on the meeting only to follow the meeting online.

6. **Meeting Etiquette for participants**

- Only speak when invited to do so by the Chair.
- Mute your microphone when you are not talking.
- Switch off video if you are not speaking.
- Speak clearly (if you are not using video then please state your name)

- If you're referring to a specific page, mention the page number.
- Switch off your video and microphone after you have spoken.
- There is a facility in Microsoft Teams under the ellipsis button called turn on live captions which provides subtitles on the screen.

7. **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.

If there are members of the public and press listening to the open part of the meeting, then the Democratic Services Officer will, at the appropriate time, ask Participants to leave the meeting when any exempt or confidential information is about to be discussed.

8. **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. No filming or recording may take place when the press and public are excluded for that part of the meeting.

Please contact the Committee Administrator or Democratic Services on 01823 357628 or email democraticservicesteam@somerset.gov.uk if you have any questions or concerns.

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CONSTITUTION AND GOVERNANCE COMMITTEE

Minutes of a Meeting of the Constitution and Governance Committee held in the Luttrell Room - County Hall, Taunton, on Monday 21 November 2022 at 2.00 pm

Present: Cllr T Butt Philip (Chair), Cllr S Carswell (Vice-Chair), Cllr B Clarke (attended virtually), Cllr H Davies, Cllr D Johnson, Cllr H Kay (attended virtually), Cllr M Lovell, Cllr M Murphy, Cllr S Osborne, Cllr S Pugsley, Cllr R Wilkins and Cllr A Wiltshire

Other Members present: Cllr S Collins and Cllr M Stanton

Other Members present virtually: Cllr R Woods, Cllr L Redman, Cllr L Trimnell, Cllr M Lewis, Cllr A Bradford, Cllr J Bailey, Cllr S Wakefield and Cllr H Bruce

1 **Apologies for Absence** - Agenda Item 1

Apologies were received from Cllr C Lawrence.

2 **Declarations of Interest** - Agenda Item 2

There were no additional declarations of interest made at the meeting.

3 **Minutes from the previous meeting held on 20 October 2022** - Agenda Item 3

The minutes of the meeting held on Thursday 20 October 2022 were approved and signed as a correct record.

4 **Public Question Time** - Agenda Item 4

There were no questions asked, statements made or petitions presented.

5 **Elections Act 2022** - Agenda Item 5

The Committee considered a report from the Council's Monitoring Officer and Head of Governance and Democratic Services, Scott Wooldridge, concerning The Elections Act 2022 which received Royal Assent on 28 April 2022. It contains a wide range of proposals to make "new provision for and amend existing electoral law to ensure that UK elections remain secure, fair, modern, inclusive and transparent".

Mr S Lake, Electoral Services Manager at Mendip Council and Ms L Potter, Electoral Services Manager at Sedgemoor District Council attended the meeting and provided further details and information on the wide-ranging changes, which apply to all UK Parliamentary elections in Great Britain, Police & Crime Commissioner elections in England & Wales, English local government polls

(excluding parish polls) and Recall Petitions. The first election planned to be held within the Somerset Council area will be the Town Council elections, on 4 May 2023.

The [Appendix](#) to the report outlined the main elements of the Act and the impacts on the team. Mr Lake highlighted a number of the changes, some of which will apply more immediately whilst others will be in place into 2024 - the requirement for local authority Electoral Registration Officers (ERO) to issue free voter identification documents to eligible residents without valid photo ID (process to commence from January 2023); requirement for voters to show photo ID at polling stations before a ballot paper is issued; the list of acceptable documents which was detailed in the Appendix, and which will need to be reflected in the poll card sent to polling station electors; ERO's will be required to provide a Voter Authority Certificate free of charge to any elector who applies for one; accessibility in polling station changes; changes for EU citizens; scrapping the '15 year rule' which will allow all British citizens living overseas to vote in UK Parliamentary elections, regardless of when they left the UK (expected to be in place from July 2023); require postal voters to reapply every 3 years (transitional arrangements in place from Jan 2024); changes to applying for postal votes and handling of postal votes and limiting number of people someone may act as a proxy voter; 'First past post' to be used at next PCC elections in 2024; change for numbers of subscribers to a nomination papers from 10 people to 2; some changes to the Electoral Commission, law about political finance and for digital campaigning material to display a digital imprint.

During the debate, the following points were highlighted: -

- Whether the new ID rules also apply to parish polls

Mr Lake advised that this rule will not apply to parish polls - these elections retain the requirement for using a stamping instrument to physically perforate the ballot papers and the hours of polling are 4 – 9 pm

- Clarification on the changes for overseas electors (scrapping of the '15 year rule')

Mr Lake advised that this will allow all British citizens living overseas to vote in UK parliamentary elections, regardless of when they left the UK – may need some sort of attestation from the applicant at some point

- Clarification on the handling of postal votes

Mr Lake advised that political parties will not be able to handle (completed) postal votes in future and there will also be a limit on the numbers people can hand in at a polling station (numbers will be set out the secondary legislation).

- Questions on the photo ID changes and if there will be any publicity about the changes

Mr Lake confirmed that the necessary secondary legislation has just been made and that photographic ID will be required in all polling stations - the process will 'go live' on 16 January 2023 – it will be on-line and will be a 'step through

process'; it will be ran on national system and certificate issued centrally, by post; there will be national advertising and ERO's will pick this up locally; the Electoral Commission will issue the comms and a suite of resources which the ERO can use; very likely that councils will also write to electors advising them of the changes; believe that approx. 2 – 4% of people won't have the suitable ID and the Voter Authority Certificate will be available to them; applications for the Voter Authority Certificate will close 5 days prior to polling day; there will also be a temporary voter certificate if the elector loses their Voter Authority Certificate (can be used in the 5 day gap and on last day before an election, the elector could appoint an emergency proxy); the first election which this applies to will be the Taunton Council elections and cannot judge the impact as cannot judge likely turnout, being the first ever election for this new Council; the first Somerset-wide election will be the PCC elections in 2024; polling staff will keep records of those electors who arrive at the polling station without ID; in the polling station, only the Presiding Officer or a Poll Clerk is permitted to inspect the identity document and will make the decision if a person is or is not the person in front of them

- Questions about Parliamentary Recall Petition

Mr Lake mentioned that this facility is not often used and that polling stations would be open 9 – 5 pm - electors would need ID to sign the petition

- Questions on the costs of implementing the changes and if the Council will be reimbursed.

Mr Lake confirmed that Councils will be reimbursed on a number of the changes, via grant / justification led bids; extra staff resources will be needed in office checking people are properly registered and anticipate that will take approx. 6 minutes per application (online) and 8 minutes for paper applications made; will need additional / extra staff in every polling station.

The Monitoring Officer highlighted the work of the LGR Governance workstream around risk and mitigation. He also flagged that both the Electoral Commission and the Association of Electoral Administrators have been lobbying government for some time for clarity on resources and about the timetable for implementation.

The Chair thanked officers for their work and the Committee noted the update on The Elections Act 2022, which includes the requirements for voter photo ID, the wide-ranging changes outlined and the significant work and challenges involved for future elections.

6 2023 Boundary Review - Parliamentary Constituencies - Final Proposals - Agenda Item 6

The Committee received a PowerPoint presentation from the Council's Monitoring Officer and Head of Governance and Democratic Services, Scott Wooldridge, providing an covering the final proposals for the changes to

Parliamentary Constituencies published by The Boundary Commission for England on [8 November 2022](#).

Mr Wooldridge explained that the consultation closes on 5 December 2022 and that the Commission will then analyse all the responses submitted during this final consultation stages, to decide whether to make any final adjustments to the revised proposals. The outcome of these deliberations will be their final report and recommendations, which should be provided to Parliament (and published) by 1 July 2023.

There are currently five constituencies within the existing Somerset County boundaries and the proposals are for there to be 7 Constituencies. The only amendments affecting initial proposals for Somerset constituencies are the inclusion of the Norton Fitzwarren and Staplegrove ward in the Taunton constituency and the Upper Culm ward in the Tiverton and Minehead constituency.

The Committee discussed the proposals for Somerset and how best to respond to the consultation. It was noted that it is open to individual members to separately submit their own responses.

It was agreed that the following response be submitted to the consultation: -

1. To request that the following County constituencies be renamed, as follows:
 - (a) 'Taunton County Constituency' – renamed as 'Taunton and Wellington County Constituency' and to endorse the proposal to include Norton Fitzwarren and Staplegrove ward in the constituency
 - (b) Tiverton and Minehead County Constituency' – renamed as 'West Somerset and Tiverton County Constituency'
 - (c) 'Wells and Mendip Hills County Constituency' – renamed as 'Wells County Constituency'

2. Raise concerns about the inclusion of Bruton in the Frome County Constituency as opposed to the Glastonbury and Somerton County Constituency, due to its historic ties with Wincanton and additionally the proposed County Constituency boundary divides the secondary school in Bruton.

7 **Work Programme** - Agenda Item 7

This is a standing agenda item for the Committee so that it could review and sets its forward plan of work to support the delivery of the Council's priorities.

The Committee considered the work programme of future work and items to be considered at future meetings and the Monitoring Officer advised that the following changes needed to be made: -

- Proposals for LCN functions and arrangements – January meeting
- Scheme of Delegations / Proper Officer appointments – January meeting
- Senior Officer arrangements – February meeting

The Committee AGREED that the work programme be updated as discussed.

8 **Any other urgent items of business** - Agenda Item 8

There were no other items of business raised at the meeting.

(The meeting ended at 3.45 pm)

CHAIR

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Somerset County Council
Constitution and Governance Committee
15 December 2022

LGR - Constitution Documents for proposed new Licensing function

Lead Officer(s): Scott Wooldridge, Monitoring Officer/ Lesley Dolan, Principal Lawyer and Practice Manager, Mendip District Council

Author: Lesley Dolan – Principal Lawyer and Practice Manager, Mendip District Council

Contact Details: Lesley.dolan@mendip.gov.uk 07980 666126

1. Summary

- 1.1.** The Somerset (Structural Changes) Order 2022, signed by the Secretary of State for Levelling Up, Housing and Communities on the 17 March 2022 proposes a single tier of Local Government for Somerset with effect from 1 April 2023. On that date the four district Councils, Mendip, Sedgemoor, Somerset West and Taunton and South Somerset are to be wound up and abolished. Their functions are to be transferred to the new Council.
- 1.2.** Presently all four Districts and the County Council have licensing functions.

2. Issues for consideration / Recommendations

- 2.1.** The proposals detailed in this report, offer a structure that will bring the County and District licensing functions together in a single Committee format.

The Constitution and Governance Committee is asked to –

- (1) Approve the proposals set out in paragraphs 2.2 to 2.8 below, in relation to revision of the Council's Constitution.
- 2.2.** It is proposed that a new regulatory Committee be established to be known as the **Licensing and Regulatory Committee** for the discharge of the Council's licensing, certification and registration functions to include matters presently set out in paragraphs (d)-(m) of the terms of reference of the County Council's Regulation Committee.
- 2.3.** It is proposed that the new Licensing and Regulatory Committee will establish a standing Sub-Committee to be known as the **Regulatory Sub-Committee**, to consider and determine applications and/or matters that by law or in accordance with the Council's adopted Policies or this Constitution require a hearing to be conducted.
- 2.4.** It is proposed that the new Licensing and Regulatory Committee will establish a standing Sub-Committee to be known as the **Licensing Sub-Committee**, to consider and determine any applications and or/ matters that by law or in accordance with the Council's adopted Licensing Policy and Gambling Statement of Principles or this Constitution require a hearing to be conducted.

- 2.5. A structure chart of the proposed new committees can be seen at Appendix 1 to this report.
- 2.6. Proposed Terms of Reference for the new Committee and its two Sub-Committees are set out at Appendix 2 to this report.
- 2.7. The proposed Scheme of Delegation for the licensing functions is set out at Appendix 3 to this report.
- 2.8. Attached at Appendix 4 is the proposed Hearing Procedure Rules for hearings conducted before the Licensing Sub-Committee. Whilst written for the Licensing Sub-Committee, they can be easily adapted for any licensing hearing. Following current common practice it is proposed to extract the Rules relating to "At Hearing" into a "tick box" list for the Chair to enable an easy single glance to ascertain where the procedure is at any stage of the hearing.

3. Background

- 3.1. Composition of the licensing committees. The Local Government and Housing Act 1989 has introduced a requirement that appointments by 'relevant authorities' (and committees of relevant authorities) to committees, sub-committees and other bodies achieve a political balance.

The provisions of the 1989 Act apply to -

- Ordinary committees and Sub-Committees, and
- Advisory committees and sub-committee.

Ordinary committees are later defined to include a Council's social services committee and all others appointed under section 102(1)(a) of the Local Government Act 1972, which section provides for appointments pursuant to arrangements under s.101 of the same Act.

The licensing committee is appointed under the Licensing Act 2003 and not under the general powers of the Local Government Act 1972 and so are more akin in nature of social service committees, which are appointed pursuant to a separate enactment. This interpretation is reinforced by the consequential amendments enacted as part of the Licensing Act 2003, which add a new subsection to s.101 of the Local Government Act 1972 to the effect that the section does not apply to any function under the Licensing Act 2003. There are no consequential amendments to Schedule 1 of the Local Government and Housing Act 1989. For these reasons, there is no legal requirement of political balance on licensing committees. However good practice dictates that licensing committees reflect the political make-up of the authority on their licensing committees as a matter of good governance.

- 3.2. It is proposed that because of their size (3 Members) and frequency, the Regulatory Committee and the Licensing Sub-Committee operate without

political balance.

4. Consultations undertaken

- 4.1.** Licensing Professionals across all the Somerset Districts, LGR Governance Workstream and the Legal Sub-Workstream together with the joint Leads for the Service Alignment Workstream and the S151 Officer
- 4.2.** The constitution documents for the licensing function at Buckinghamshire and Dorset Unitary Councils' have been taken into consideration in the creation of the proposed Constitution documents for the licensing function for the new Somerset Council.

5. Implications

- 5.1.** Details of the scheme for licensing functions for Somerset Council and how it will operate will need to be in place at vesting day. Members of the proposed Licensing and Regulation Committee will require training ahead of vesting day as without it, they will be unable to sit on the new Committee and Sub-Committees.
- 5.2.** Without a scheme for licensing functions, any decisions purporting to be taken, will be unlawful and open to legal challenge.

6. Background papers

- 6.1.** None

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

Appendices:

Appendix 1: Structure Chart – Proposed Committee Structure

Appendix 2: Proposed Terms of Reference (TOR)

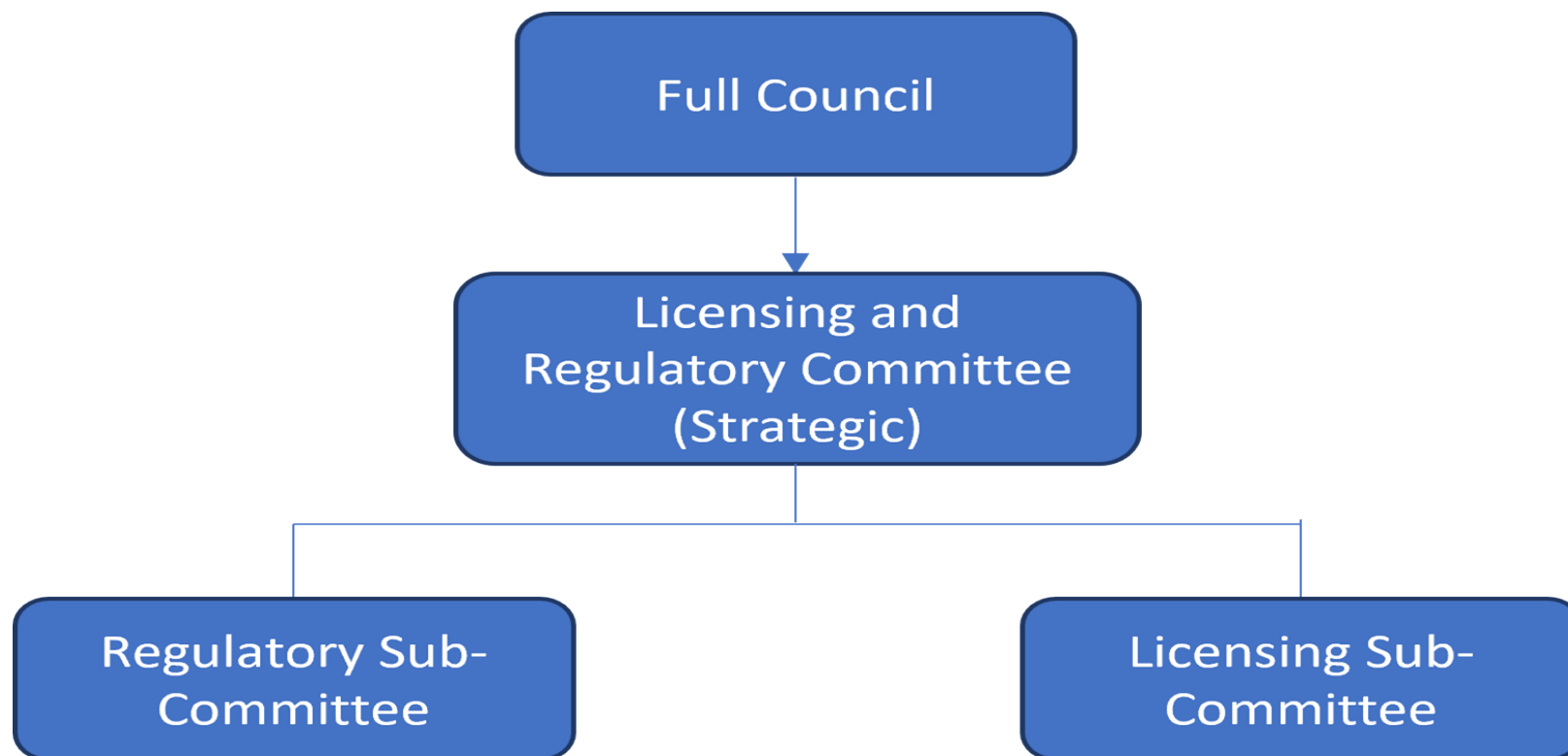
- Licensing and Regulatory Committee
- Regulatory Sub-Committee
- Licensing Sub-Committee
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Appendix 2: Proposed Scheme of Delegation for Licensing Functions

Appendix 3: Licensing Sub-Committee Hearing Procedure

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PROPOSED COMMITTEE STRUCTURE FOR LICENSING



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SOMERSET COUNCIL

Licensing and Regulatory Committee, Regulatory Sub-Committee and Licensing Sub-Committee

Licensing and Regulatory Committee

General

A regulatory Committee of the Council established to be responsible for the discharge of the **Council's licensing, certification and registration functions** under the Licensing Act 2003 and s.101 Local Government Act 1972 and any of the "relevant statutory provisions" within the meaning of Part 1 of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer and matters presently set out in paragraphs (d) to (m) of the Terms of Reference of the County Council's Regulation Committee.

Membership, Chair and Quorum

| | |
|--|--|
| Number of Members | 15 |
| Substitute Members Permitted | Yes |
| Political Balance Rules apply | Yes |
| Appointments/Removals from Office | By resolution of Full Council |
| Restrictions on Membership | <p>Leader, Deputy Leader may not be a member of this Committee.</p> <p>Members of this Committee including substitutes will be required to undertake training as determined by the Monitoring Officer on licensing and regulatory functions and procedures</p> |
| Restrictions on Chair/Vice-Chair | Executive Leads or Deputy Executive Leads may not hold these offices. |
| Quorum | 5 |
| Number of ordinary meetings per Council Year | At least 4 meetings per municipal year to be diarised. |
| Standing Sub-Committees | Licensing Sub-Committee and Regulatory Sub-Committee |

Terms of Reference

- 1.1 To exercise the Council's responsibilities and functions relating to licensing, registration and other miscellaneous functions as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended ("2000 Regulations").
- 1.2 For the avoidance of doubt, in relation to the grant or issue by the Committee of any approval, consent, licence, permission or registration, the exercise of the responsibilities for the functions referred to above, includes responsibility for: -
 - a. The imposition or amendment, modification or variation of any term, condition, limitation, or restriction.
 - b. The decision to take enforcement or other action in respect of a breach of any term, condition, limitation, or restriction.
 - c. The decision to revoke, vary or modify any approval, consent, licence, permission, or registration.
 - d. Where permissible by law, the decision to impose a charge and the amount of any such charge.
 - e. Where permissible by law, to determine and set the fees and charges in respect of any approval, consent, licence, permissions, or registration including consideration of any representations thereon or objections thereto.
- 1.3 To exercise the Council's functions under the Gambling Act 2005 as amended but not covered by the 2000 Regulations including those functions under Part 8 of the Gambling Act 2005 **except** the adoption of the Section 349 Gambling Act 2005 - Statement of Principles (adoption by full Council) and the passing of a resolution under Section 166 of the Gambling Act 2005 - resolution not to issue a casino premises licence (resolution by full Council - S154 (2)(a) of the Gambling Act 2005) having first sought the views of the Executive.
- 1.4 To exercise the Council's licensing and registration functions under the Local Government (Miscellaneous Provisions) Act 1982, as amended.
- 1.5 To set all non-statutory/discretionary fees and standard conditions and the licensing of premises for skin piercing and associated practices including acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis.
- 1.6 To exercise the Council's licensing and registration functions under the Caravan Site Act 1968 and Mobile Homes Act 2013 and related legislation including the setting of fees.
- 1.7 To develop, review and adopt statutory and relevant discretionary Policies in relation to the functions undertaken by this Committee. and to refer agreed policies to

full Council where relevant, for noting.

- 1.8 To consider any matter referred to the Committee by the Council, another Committee, the Executive or an Executive Lead which relates to functions for which the Committee is responsible.
- 1.9 To establish a standing Sub-Committee to be known as the **Regulatory Sub-Committee** to consider and determine any applications and/or matters that by law or in accordance with the Council's adopted Policies or this Constitution require a hearing to be conducted.
- 1.10 To establish a standing Sub-Committee to be known as the **Licensing Sub-Committee** to consider and determine any applications and/or matters that by law or in accordance with the Council's adopted Licensing Policy and Gambling Statement of Principles or this Constitution require a hearing to be conducted.

Delegations

- 1.12 All functions are delegated to the Licensing and Regulatory Committee other than any matter delegated to a named Officer in the Scheme of Delegation for Officers in connection with licensing functions.

Regulatory Sub-Committee

General

A regulatory sub-committee of the Licensing and Regulatory Committee established to conduct hearings and make determinations in respect of the Council's regulatory licensing functions.

Membership, Chair and Quorum

| | |
|--|--|
| Number of Members | 3 |
| Substitute Members Permitted | Yes - from Members of the Licensing and Regulatory Committee |
| Political Balance Rules apply | No |
| Appointments/Removals from Office | By the Democratic Services Manager subject to member's availability and when reasonably practical, on the basis of appropriate geographical representation |
| Restrictions on Membership | Only members of the Licensing and Regulatory Committee are eligible |
| Restrictions on Chair | None |
| Quorum | 3 |
| Number of ordinary meetings per Council year | Sub-Committee meetings to be scheduled once a month |

Terms of Reference

- 1.1 To conduct hearings and make determinations under or in respect of the following legislation and functions as required by law or in circumstances where the appropriate designated officer is unable to make a decision under the Scheme of Delegation for Officers or considers it appropriate to refer the decision to the Regulatory Sub-Committee.
- a. licensing of Hackney Carriage Private Hire Drivers, Vehicles, Operators and related enforcement
 - b. classification of films
 - c. licensing of sex establishments and venues
 - d. registration/licensing of premises and individuals for skin piercing and associated practices including acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis
 - e. licensing of caravan sites and camp sites
 - f. licensing/ consent for Street Trading and
 - g. such other matters as the Sub-Committee may be required by law either by means of policy or bye law adoption or statutory guidance in connection with the discharge of any of the matters referred to in these Terms of Reference

Delegations

1.2 Decisions on all matters falling within these Terms of Reference.

Notes

- 1.3 The Democratic Services Manager is authorised to constitute the Sub-Committee from the membership of the Licensing and Regulatory Committee having regard to member availability, together with a standby in case a member of the Sub-Committee is unable to participate or continue for any reason.
- 1.4 When reasonably practical, a Sub-Committee meeting should be held at the area offices or a suitable alternative which are closest to the premises or issue that is the subject of the meeting.
- 1.5 Members are appointed for a single meeting/hearing only.
- 1.6 The licensing of scrap metal dealers under the Scrap Metal Dealers Act 2013 is not specified in the 2000 Regulations and therefore until such time as there is further guidance or a change in the legislation the duties and responsibilities under the 2013 Act are deemed to be an executive function and do not therefore fall within the remit of the main Licensing Committee or Sub-Committee.

Licensing Sub-Committee

General

A licensing sub-committee of the Licensing and Regulatory Committee established to conduct hearings and make determinations in respect of the Council's statutory licensing functions

Membership, Chair and Quorum

| | |
|--|--|
| Number of Members | 3 |
| Substitute Members Permitted | Yes |
| Political Balance Rules apply | No |
| Appointments/Removals from Office | By the Democratic Services Manager subject to member's availability and when reasonably practical, on the basis of appropriate geographical representation |
| Restrictions on Membership | Only members of the Licensing and Regulatory Committee are eligible |
| Restrictions on Chairmanship | None |
| Quorum | 3 |
| Number of ordinary meetings per Council year | Sub-Committee meetings to be scheduled once a month |

Terms of Reference

- 1.1 To conduct hearings and make determinations under or in respect of the following legislation and functions as required by law or in circumstances where the appropriate designated officer is unable to make a decision under the Scheme of Delegation for Officers or considers it appropriate to refer the decision to the Licensing Sub-Committee -
- a. Licensing Act 2003
 - b. Gambling Act 2005
 - c. Such other matters as the Sub-Committee may be required by law or in connection with the discharge of any of the matters referred to in these Terms of Reference.

Delegations

- 1.2 Decisions on all matters falling within these Terms of Reference.

Notes

- 1.3 The Democratic Services Manager is authorised to constitute the Licensing Sub-Committee from the membership of the Licensing and Regulatory Committee having regard to member availability, together with a standby in case a member of the Sub- Committee is unable to participate or continue for any reason.
- 1.4 When reasonably practical, a sub-committee meeting should be held at the Council offices or a suitable alternative which are closest to the premises or issue that is the subject of the meeting.
- 1.5 Members are appointed for a single meeting/hearing only.

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PROPOSED SPECIFIC DELEGATIONS FOR THE LICENSING FUNCTIONS

In producing this table, available statutory guidance has been followed. Many of these functions will be purely administrative in nature. The Policy reflects this point, by underlining the principle of delegation, in the interests of speed, efficiency and cost effectiveness.

| MATTER TO BE DEALT WITH | FULL COMMITTEE | SUB-COMMITTEE | OFFICERS |
|---|-----------------------|--|-------------------------------|
| Application for personal licence | | If a police objection is made and not withdrawn | If no objection |
| Application for personal licence, with unspent convictions | | All cases | |
| Application for Premises Licences/Club Premises Certificate | | If a relevant representation is made and not withdrawn | If no relevant representation |
| Application for provisional statement | | If a relevant representation is made and not withdrawn | If no relevant representation |
| Application to vary Premises Licences/Club Premises Certificate | | If a representation is made and not withdrawn | If no representation |
| Application to vary Designated Premises Supervisor | | If a police objection is made and not withdrawn | All other cases |

Appendix 3

| MATTER TO BE DEALT WITH | FULL COMMITTEE | SUB-COMMITTEE | OFFICERS |
|--|----------------|---|-----------------|
| Application for transfer of Premises Licences | | If a police objection is made and not withdrawn | All other cases |
| Application for an interim authority notice where the Licence holder dies, becomes mentally incapable, becomes insolvent or, is no longer entitled to work in the UK | | If a police objection is made and not withdrawn | All other cases |
| Application to review Premises Licences/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 relevant authority considering the application | | All cases | |
| Determination of an objection to a temporary event notice | | If a representation is made and not withdrawn | |
| Application for a minor variation | | | All cases |

| MATTER TO BE DEALT WITH | FULL COMMITTEE | SUB-COMMITTEE | OFFICERS |
|---|-----------------------|---|-----------------|
| Application to remove the requirement for a Designated Premises Supervisor and personal licence at a community premises | | | All cases |
| Decision to make, vary or revoke an Early Morning Restriction Order | Yes | | |
| Decision to publish a cumulative impact assessment | Yes | | |
| Hearing and determining applications for a Hackney Carriage and Private Hire Vehicle Driver's Licence or Private Hire Operator's Licence Including applications to renew any such licence | | Where Officers have material concerns as to whether the applicant is a "fit and proper" person to hold such licence | All other cases |

Appendix 3

| | | | |
|---|--|--|-----------|
| To grant delegated authority to officers to suspend or revoke Hackney Carriage or Private Hire Driver's Licences when required to do so with immediate effect to ensure public safety | | | All cases |
|---|--|--|-----------|

SOMERSET COUNCIL

Licensing Sub-Committee

Hearing Procedure

Procedure at Hearings before the Licensing Sub-Committee in relation to matters mainly under the Licensing Act 2003 as amended ("The 2003 Act") **except** Interim Hearings (Summary Review of Premises Licence) conducted pursuant to Section 53B of the Licensing Act 2003, as amended (Separate Procedure).

Hearings for Gambling Premises are dealt with under the Gambling Act 2005 as amended.

ADMINISTRATION IN RELATION TO A HEARING

1. Prior written notice of the Hearing will have been given to the interested/relevant Parties.
 - (a) Where a party has informed the Council that they will not be attending or represented, the Hearing may proceed in their absence.
 - (b) Where a party has not replied to the notice, does not attend and is not represented, the Sub-Committee may proceed with the Hearing in that party's absence or adjourn the Hearing if it is considered necessary in the public interest to do so.
 - (c) If a party has indicated they will attend but does not appear, that party must inform the Council of any delay, with reasons and in consideration the Sub-Committee may decide to proceed with the Hearing or adjourn to later that same day or another time. If a party is more than 15 minutes late and has not contacted the Council with details of any delay, the Sub-Committee can decide to proceed with the Hearing or adjourn to later that same day or to another time.

If the Hearing is held in a party's absence, the Sub-Committee will consider the application, representation or notice made by that party.

2. The Hearing can be dispensed with if all parties give notice that they consider a Hearing unnecessary. If this is the case the application/notice will still be determined by the Sub-Committee in public, unless it is considered to be in the public interest that the determination should be in private, on the basis of advance papers provided, with the Licensing Officer introducing his/her report and answering any queries the Sub-Committee may have before it makes its' determination.
3. Representations can be withdrawn by prior notice up to 1 day before the Hearing or orally at the Hearing.
4. Hearings shall take place in public **except where** the Council considers that the public interest in excluding the public from all or part of the Hearing outweighs the public interest in it remaining public. The Council considers it to be in the public interest to exclude the press and public, including the parties, when the Sub-Committee is deliberating in order to reach its' decision. Where facilities permit, public hearings will be available to be viewed and participated in online using the Council's webcast service. Members of the public who wish to record, photograph, film and report on public hearings are asked to advise the Democratic Services Officers before the Hearing so that where possible all necessary practical arrangements can be made.
5. At the Hearing any party can be assisted or represented by any person whether or not that person is legally qualified.
6. The Hearing will be before the Licensing Sub-Committee which will be made up of three Members of the Council's Licensing and Regulatory Committee who will at the beginning of the Hearing agree and identify which of them is to act as the Chair for the Hearing. Each matter/application with dealt with individually and the three Members **must** be able to participate in relation to each application to be considered at the Hearing and remain until the application/notice is determined.
7. The Chair will address any issues relating to registerable interests under the Council's Member Code of Conduct at the Hearing after the introductions of persons in attendance have been made.

Appendix 4

8. Members of the Licensing Sub-Committee must consider beforehand if they need to declare any registerable interest in which case they will not be allowed to attend the Hearing. Members who have a Disclosable Pecuniary Interest will not be able to attend the Hearing either. Members should also consider beforehand if they have or would be considered to have predetermined the matter in which case, they should also distance themselves from determination of the matter and not attend the Hearing.
9. Members of the Licensing Sub-Committee will have received in advance (5 clear days) in relation to each application/notice to be considered, the Licensing Officer's Report and associated papers and will come to the Hearing having read those papers.
10. Account can be taken of documentary or other information produced by a party in support of their application, representation or notice (as applicable) either 1 working day before the Hearing or, with the consent of all other parties, at the Hearing, in which case sufficient copies are required to be provided for all relevant parties. Any party wishing to call another person (other than the person representing them) to make oral representations, must provide details of this to the Council within the time stated in the Notice of Hearing which the Council will serve on the Parties. At the beginning of the Hearing the Sub-Committee will consider any such requests and confirm whether permission is granted for that person to speak.
11. The Sub-Committee may disregard any information which is not considered relevant to the application/representation/notice and the promotion of the licensing objectives.
12. The purpose of the Hearing is to enable those with a right to appear to amplify their written application or representation and to contest the case of their opponents. It is also to assist the Sub-Committee to gather evidence and understand the relevant issues. The parties (including other persons on their behalf) will be allowed an equal reasonable period of time to address the Hearing and ask questions. The Chair may set such maximum period of time in the interests of the progress of the Hearing and in the public interest. Where representations made relate to the same or similar issues, a spokesperson should be appointed where possible to speak on behalf of any person who has made a written representation.

Appendix 4

13. The parties can ask questions of each other in accordance with the procedure below. The Chair can stop a party asking questions if they feel the questions are unnecessary. Parties are expected to treat other parties with respect and any form of harassment or excessive questioning will not be tolerated. In such cases the Chair will ask the party to discontinue that type of questioning. The Chair can require any person (including any of the parties) who is disrupting the proceedings to leave the Hearing.
14. The Decision of the Licensing Sub-Committee will be made after the close of the Hearing for that matter and confirmed in writing to the Applicant and all parties who submitted relevant representations together with details of the right to appeal, within the time limits set out in the legislation and regulations. The date of formal notification for the purpose of any appeal against the Licensing Sub-Committee's decision will either be the date of the letter or electronic communication from the Council enclosing the Decision Notice and confirming the rights of appeal and the timescales involved, is deemed to have been served on the parties.
15. The Sub-Committee may depart from this procedure (as varied/amended from time to time based on changes to law and practice) if it considers it necessary and/or equitable to do so.

AT THE HEARING

1. The Chair will open the Hearing and start the introduction of the Sub-Committee and Officers and ask each party to introduce themselves. The Chair will confirm that if a party is not present the representation/application will have been read and will be considered in reaching the decision.
2. The Chair will address any registerable interest arising under the Code of Conduct.
3. The Chair will consider any submitted requests from a party for permission for another person to appear at the Hearing. If necessary, the Sub-Committee will retire to deliberate before making a decision.
4. The Chair will confirm that the Hearing will take the form of a round-the-table discussion led by the Sub-Committee in accordance with the procedure. If all parties present confirm that they have seen and understood the procedure to be followed at the Hearing and agree that they are ready to proceed then the Hearing

shall commence as set out in accordance with paragraph 9 and subsequent paragraphs below.

5. The Chair will remind everyone that the purpose of the Hearing should be borne in mind at all times i.e.
 - to enable those with a right to appear to advance their point of view and concerns and to test the case of their opponents; and
 - to assist the Sub-Committee to gather evidence and to understand the relevant issues.
6. The Chair will confirm what advance papers have been received and that these have been read and therefore there is no need to repeat these matters.
7. The Chair will make clear that the parties should only address to Sub-Committee in relation to matters previously raised/submitted. Late evidence to be submitted at the Hearing will only be considered by the Licensing Sub-Committee with the consent of all parties present.
8. The Chair will then outline the procedure to be followed by reading out points 9-15 below and ask all parties present if they have seen and understood the procedure and are ready to proceed with the Hearing.
9. The Chair will ask the Applicant whether they wish to make any amendments to their application with a view to addressing any issues raised by the representations.
10. Order of Oral Presentation
 - a. The Licensing Officer will present their report outlining the details of the application/notice and representations received.
 - b. Any party may question the Licensing Officer.
 - c. The Members may question the Licensing Officer.
 - d. The Responsible Authorities will present their case and call their witnesses*.
 - e. Any other party may question the Responsible Authorities and their witnesses.
 - f. The Members may question the Responsible Authorities and their witnesses.
 - g. Each Interested Party will present their case in turn and call their witnesses*.

- h. Any other party may question the Interested Party.
- i. The Members may question the Interested Parties.
- j. The Applicant/Licence Holder will present their case and call their witnesses*.
- k. The other parties may question the Applicant/Licence Holder and their witnesses.
- l. The Licensing Officer may question the Applicant/Licence Holder and their witnesses.
- m. The Members may question the Applicant/Licence Holder and their witnesses.

** If permission has been given to do so*

- 11. Before moving on to the next party, the Chair will check there are no further points the current party wishes to make or any further questions that need to be put to that party.
- 12. On a without prejudice basis, the Licensing Officer will present the schedule of proposed non-mandatory Conditions to be imposed on any Licence, if granted as set out in their Report. Each party will be asked to address/give their views on those proposed conditions and suggest any other appropriate conditions to assist the Sub-Committee. If possible, an agreed schedule of conditions will result. However, it will remain for the Sub-Committee to determine what conditions will apply should the application be successful.
- 13. Each party will be invited to make closing submissions in the following order –
 - a. Licensing Officer
 - b. Responsible Authorities
 - c. Interested Parties
 - d. The Applicant
- 14. The Chair will then close the Hearing and the Sub-Committee will retire together with the Committee Clerk and the Sub-Committee Legal Advisor for the matter to be determined.
- 15. The Sub-Committee will come to a decision which will be sent to the Applicant and all other parties who submitted relevant representations within the time limit set out in the Regulations together with details of the right of appeal.

NOTE:

IN PRODUCING THIS PROCEDURE THE FOLLOWING HAS BEEN CONSIDERED: -

- The Licensing Act 2003 *as amended* and *Explanatory Notes*
- *National Guidance*
- *The Licensing Act 2003 (Hearings) Regulations 2005, as amended*
- *The Local Government Act 1972*

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Somerset County Council
Constitution and Governance Committee
– 15th December 2022

Pension Fund Governance

Lead Officer: Jason Vaughan, Director of Finance and Governance

Author: Anton Sweet, Service Manager - Investments

Contact Details: (01823) 359584 anton.sweet@somerset.gov.uk

Cabinet Member: Not applicable

Division and Local Member: Not applicable

1. Summary

- 1.1.** Under the SCC constitution all responsibility for the running of the Somerset County Council Pension Fund is delegated to the Pensions Committee, which is supported by the Pension Board as required by the LGPS regulations laid by the UK parliament.

To clarify the functions and operation of the Pensions Committee and Pension Board Terms of Reference for each were produced and agreed in 2015. As part of the process of moving to a Unitary Council now is an opportune time to review and refresh these documents. Some elements of the Terms of Reference are also replicated in the full Constitution.

2. Issues for consideration / Recommendations

- 2.1.** The Committee is asked to review the Terms of Reference of the new Somerset Council's Pensions Fund Committee (attached as appendix A) and the Pension Fund Board (attached as appendix B) and recommend that they are adopted by the new Unitary Council, with or without amendment.

3. Background

- 3.1.** The Local Government Pension Scheme (LGPS) is governed by the Superannuation Act 1972, under which Somerset County Council is the Administering Authority for the LGPS in the area of the County Council. The fund covers all local government employees (both County and District) as well as civilian employees of Avon & Somerset police and must be offered to these staff. The LGPS can be offered to Parish and Town Council staff and to commercial employers, principally as part of the TUPE transfer of staff from local government. Post vesting the Administering Authority role within Somerset will pass to the new Unitary Council.

- 3.2. As part of the creation of the Pension Board in 2015 Terms of Reference were agreed for the set up and operation of both the Pensions Committee and Pension Board. With the move to the new Unitary Council these documents need reviewing, and in some areas amending, to ensure they remain fit for purpose
- 3.3. Each of the Pensions Committee and Pension Board has reviewed their own Terms of Reference and many of the changes made in the attached drafts specifically reflect their recommendations.
- 3.4. Each set of Terms of Reference have been amended to reflect the change in Administering Authority name from Somerset County Council to Somerset Council and associated tidying up.
- 3.5. It may be necessary to amend each set of Terms of Reference further to ensure that references to other documents, specifically the Somerset Council Constitution, remain accurate.

3.6. Key changes to new Pensions Fund Committee terms of Reference

- i) The Current Terms of Reference make provision for the make up of the Committee to be 8 representing the following stakeholders.
 - 4x County Councillors
 - 1x District Councillor
 - 1x Representative of the Police and Crime Commissioner
 - 1x Representative of the remaining employers
 - 1x Representative of the scheme members

The new Terms of Reference for the Pensions Fund Committee propose that its membership includes 7 Councillors of the new Unitary Council to replace the 4 County Councillors and 1 District Councillor. The Pensions Committee were ambivalent about an increase in overall membership but this would be more consistent with the make-up of other recent similar Unitary Council's Pension Fund Committees with which we have benchmarked.

- ii) The quoracy of the Committee currently requires 3 elected members, which excludes the 3 non-elected Committee members from counting towards the quoracy. The Pensions Committee's view is that this disenfranchises the non-elected members of the Committee and reduced the ability of the Committee to hold quorate meetings. The new Terms of Reference propose a quoracy of 3 members to include the Chair or Vice Chair.

3.7. Key Changes to the new Pension Fund Board Terms of Reference

- i) The quoracy of the Board currently requires the presence of the Chair of the Board. However, since the Board appoints the Chair themselves and

there is provision for the Chair to be rotated amongst the Board members it is suggested that this stipulation be removed to improve the ability of the Board to hold quorate meetings.

- ii) The Board requested that its duties as listed in section 3.4 specifically make separate reference to the investments of the fund and the administration of the membership and employers.
- iii) Addition of paragraph 4.3 to ensure we have a full membership of the Board of 6.

4. Consultations undertaken

- 4.1.** Each of the Pensions Committee and Pension Board were consulted on their own terms of Reference and once adopted by Somerset Council will formally adopt them themselves.

5. Implications

- 5.1.** None beyond meeting the Council's legal obligations as an administering authority of the LGPS.

6. Background papers

- 6.1.** Somerset County Council Constitution

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

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**PENSION FUND COMMITTEE OF SOMERSET COUNCIL PENSION FUND
TERMS OF REFERENCE (DRAFT)**

1. Introduction

- 1.1 This document sets out the terms of reference of the Pensions Fund Committee of Somerset Council. The Pension Fund Committee is a committee with delegated decision making powers for the Fund in accordance with Section 101 of the Local Government Act 1972.
- 1.2 The terms of reference will be formally approved by the Council as the Administering Authority and by the Committee itself thereafter.
- 1.3 These terms of reference shall be reviewed by the Council on the advice of the Committee and on a regular basis to ensure that they remain fit for purpose and in accordance with any regulations and guidance issued by the Secretary of State. Any revisions will be agreed by the Council and by the Committee.

2. Definitions

- the Fund - Somerset Council Pension Fund.
- the Committee – The Pension Fund Committee of Somerset Council.
- the Board – The Pension Fund Board of Somerset Council.
- LGPS – The Local Government Pension Scheme

3. Purpose and functions of the Committee

- 3.1 The Committee will be provided with full delegated powers to discharge the functions of the Council in its role as the administering authority of the Somerset Council Pension Fund as defined in the LGPS Regulations.
- 3.2 The Committee's principal duties are:
- (i) Ensure the fund is run in line with all relevant law, statutory guidance and industry codes of best practice.
 - (ii) Ensure all contributions due are collected from employers.

- (iii) Ensure that all benefits due are paid correctly and in a timely manner.
- (iv) Decide the aims of the investment policy.
- (v) Make arrangements for managing the fund's investments.
- (vi) Regularly monitor investment performance.
- (vii) Make arrangements to publish the fund's annual report and accounts.
- (viii) Consult stakeholders, and publish the funding strategy statement, statement of investment principles and other policies and documents as necessary.
- (ix) Order actuarial valuations to be carried out in line with the Local Government Pension Scheme Regulations.
- (x) Consider requests from organisations who want to join the fund as admitted bodies and consider any requests to change the terms of an existing admission agreement.
- (xi) Make representations to the Government about any planned changes to the Local Government Pension Scheme and all aspects of managing benefits.
- (xii) Put in place a written Scheme of Delegation to support the discharge of the above duties.

4. Membership of the Committee

4.1 The Committee shall consist of 10 members and be constituted as follows:

- (a) Nine employer representatives
 - (i) Seven employer representatives will be Somerset councillors who are not a member of the Board or Executive and will be selected by the Administering Authority having taken account of their relevant experience and their knowledge and understanding of the Local Government Pension Scheme;
 - (ii) One employer representative of the Police and Crime Commissioner for Avon & Somerset to be selected by the Police and Crime Commissioner having taken account of their relevant experience and their knowledge and understanding of the Local Government Pension Scheme;
 - (iii) one employer representative to be nominated by the remaining employers within the Fund who are not represented by (i) or (ii) above having demonstrated their relevant experience, their capacity to represent other scheme employers and their knowledge and

understanding of the LGPS. In the event of there being more than one nomination, the Administering Authority will arrange for a voting process of the qualifying employers.

- (b) One scheme member representative:
 - (i) To be nominated by the Unions.
- 4.2 The Chair and Vice Chair will be appointed annually by the Council as Administering Authority.
- 4.3 Due to the specialist knowledge requirements of Committee members, substitutes to the appointed members of the Committee are not permitted.
- 4.4 The committee will also be attended by:
 - (i) Relevant officers; and
 - (ii) a specialist independent adviser. In this respect the term independent means:
 - (i) having no current employment, contractual, financial or other material interest in either Somerset County Council or any scheme employer in the Fund; and
 - (ii) not being a member of the LGPS in the Fund.

The independent advisor will be a remunerated position.

5. Responsibilities of the Chair

- 5.1 The Chair is responsible for:
 - (a) ensuring the Committee delivers its purpose as set out in the Committee's terms of reference;
 - (b) the arrangements for meetings of the Committee;
 - (c) ensuring that Committee meetings are productive and effective and that opportunity is provided for the views of all Committee members to be expressed and considered; and
 - (d) seeking to achieve the consensus of all Committee members on the business presented to the Committee and ensure that decisions are properly put to a vote when that cannot be reached.

6. Conflicts of interest

- 6.1 All members of the Committee must declare on appointment and at any such time as their circumstances change any potential conflict of interest arising as a result of their position on the Committee.
- 6.2 On appointment to the Committee and following any subsequent declaration of potential conflict the conflict must be managed in line with the, the internal procedures of Somerset Council, the requirements of the Public Service Pensions Act 2013 and the requirements of the Pensions Regulator's codes of practice on conflict of interest for Committee members.
- 6.3 The Council's Monitoring Officer shall include interests registered by all members of the Committee in the published Members' and Co-opted Members' Register of Interests. All such interests are to be registered with the Monitoring Officer within 28 days of appointment to the Committee.

7. Knowledge and understanding including training

- 7.1 All new members must follow an induction training plan and all members of the Committee will be expected to attend the training provided to ensure that they have the requisite knowledge and understanding to fulfil their role.
- 7.2 The Committee has adopted a training policy and all members of the Committee are expected to meet the requirements of that policy.
- 7.3 Failure to attend training or participate in the processes referred to above may lead to removal from the Committee.

8. Term of office and removal from office

- 8.1 The members of the Committee serve for a four year term, subject to the following:
 - (a) the representatives of the administering authority shall be appointed annually by the Somerset Council Annual Council Meeting, but with a view to maintaining stability of membership;

- (b) the representatives of the Police and Crime Commissioner for Avon and Somerset can be replaced by them at their behest, but with a view to maintaining stability of membership;
- (c) the members' representative may be replaced by the Unions, but with a view to maintaining stability of membership.

8.2 Members of the Committee will be expected to attend all meetings and training sessions. This will be recorded and published.

8.3 Other than by ceasing to be eligible for appointment to the Committee, Committee members may only be removed from office during their term of appointment by the unanimous agreement of all of the other members of the Committee at a meeting of the Committee where this is specified as an agenda item or with the agreement of the Council at a Full Council meeting.

8.4 Arrangements shall be made for the replacement of Committee members in line with the procedures for their original appointment.

9. Meetings

9.1 The frequency of meetings is to be determined by the Committee once it has agreed a workplan, with a minimum of four meetings annually. In addition to this, training sessions will be held as necessary to ensure that Committee members have sufficient knowledge and skills to undertake the role.

9.2 The Chair of the Committee may call additional meetings with the consent of other members of the Committee. Urgent business of the Committee between meetings may, in exceptional circumstances, be conducted via communications between members of the Committee including telephone conferencing and emails.

9.3 The Committee will meet at the Council's main offices, or another location to be agreed by the Chair. Meetings will be held during normal working hours at times to be agreed by the Chair.

9.4 As a committee of the Council, the Rules of Procedure in Section 6 of the Council's constitution apply to meetings of the Committee. Committee meetings will be held in open session with closed sessions where appropriate.

The agenda papers will be circulated to members of the Committee and published in advance of meeting in line with Council policy. The minutes of meetings will be recorded and published in line with Council policy.

10. Quorum

- 10.1 The quorum of the Committee shall be 3 to include either the Chair or Vice-Chair.

11. Voting rights

- 11.1 Each of the 10 members of the Committee will have voting rights. In the event of a tied vote the Chair has the option of having a final casting vote.

12. Code of Conduct

- 12.1 All members of the Committee will be required to formally sign up to comply with the Somerset Council Code of Conduct

13. Allowances and Expenses

- 13.1 Any councillor of the Council appointed to the Committee will be entitled to receive allowances in accordance with the Council's constitution (Scheme of Members' Allowances).
- 13.2 Reimbursement of expenses for all members of the Committee will be claimable in line with Somerset Council's agreed expenses rates.

14. Budget

- 14.1 All costs arising from accommodation and administrative support to conduct its meetings and other business, and the training needs of the Committee will be met by the Fund.
- 14.2 The Council's Community Governance Team will provide the secretariat services to the Committee, the cost of which will be met by the Fund.

15. Accountability and reporting

15.1 The Committee is accountable solely to Somerset Council for the effective operation of its functions.

15.3 The Committee shall report annually to Full Council on its work.

16. Data protection and Freedom of Information

16.1 For legal purposes the Committee is considered a committee of and part of the administering authority legal entity. Therefore the Committee must comply with the Council's Data Protection and Freedom of Information policies.

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**PENSION FUND BOARD OF THE SOMERSET COUNCIL PENSION FUND
TERMS OF REFERENCE (DRAFT)**

1. Introduction

- 1.1 This document sets out the terms of reference of the Pension Fund Board of Somerset Council. The Pension Board is established under Section 5 of the Public Service Pensions Act 2013 and regulation 106 of the Local Government Pension Scheme Regulations 2013 (as amended).
- 1.2 The Board is established by Somerset Council in its capacity as the Administering Authority of the Somerset Council Pension Fund and operates independently of the Pension Fund Committee.
- 1.3 The terms of reference will be formally approved by the Council as the Administering Authority and by the Board itself at its first meeting.
- 1.4 These terms of reference shall be reviewed by the Council on the advice of the Board and on a regular basis to ensure that they remain fit for purpose and in accordance with any regulations and guidance issued by the Secretary of State. Any revisions will be agreed by the Council and by the Board.

2. Definitions

- the Fund - Somerset Council Pension Fund.
- the Board – The Pension Fund Board of Somerset Council.
- the Committee – The Pension Fund Committee of Somerset Council.
- LGPS – The Local Government Pension Scheme

3. Purpose and functions of the Board

3.1 The regulations state that the role of the Board is to assist the Administration Authority to:

- (a) secure compliance with:
 - the LGPS Regulations;
 - any other legislation relating to the governance and administration of the LGPS; and
 - the requirements imposed by the Pensions Regulator in relation to the LGPS, and
- (b) ensure the effective and efficient governance and administration of the LGPS.

3.2 The Board will assist the Administering Authority by making recommendations about compliance, process and governance. The Board does not have a decision making role with regard to strategy or policy and can only challenge decisions made by the Committee where the Board considers a decision to be in breach of the relevant Regulations (or overriding legislation). The Board's role is to have oversight of the governance process for making decisions and agreeing policy.

3.3 In discharging its role, the Board's remit shall cover all aspects of governance and administration of the LGPS, including funding and investments. The Board must have regard to advice issued by the Scheme Advisory Board in accordance with section 7(3) of the Public Service Pensions Act 2013.

3.4 The Board will exercise its duties in the following areas:

- (a) monitor compliance with the relevant legislation and Codes of Practice set by The Pensions Regulator;
- (b) review and ensure compliance of the Fund's:
 - (i) governance compliance statement
 - (ii) funding strategy statement
 - (iii) pension administration strategy statement
 - (iv) discretionary policy statement
 - (v) communications policy statement
 - (vi) statement of investment principles
 - (vii) annual report and accounts

- (c) review and scrutinise the performance of the investments in relation to its governance and administration, policy objectives and performance targets;
- (d) review and scrutinise the performance of the administration of members and employers in relation to its governance and administration, policy objectives and performance targets;
- (e) ensure policies and processes are in place so that employers comply with their obligations under the regulations;
- (f) review the processes for setting strategy, policy and decision-making and ensure they are robust;
- (g) agree the annual internal audit plan for the Fund;
- (h) consider the output of any internal audit work carried out on the Fund;
- (i) consider the external audit report on the Fund's Annual Report and Statement of Accounts;
- (j) review the Fund's risk register;
- (k) monitor the Fund's Internal Dispute Resolution Procedures;
- (l) from time to time the administering authority may consult the Board or ask assistance on specific issues.

3.5 Under Regulation 106(8) the Board has the general power to do anything which is calculated to facilitate or is conducive or incidental to, the discharge of its functions.

3.6 The Board must always act within its Terms of Reference.

4. Membership of the Board

4.1 The Board shall consist of 6 members and be constituted as follows:

(a) Three employer representatives

- (i) one employer representative will be a Somerset Councillor who is not a member of the Committee and will be selected by the Administering Authority having taken account of their relevant experience, their capacity to represent other scheme employers and their knowledge and understanding of the Local Government Pension Scheme;
- (ii) two employer representatives to be nominated by the employers having demonstrated their capacity to represent other scheme employers, their relevant experience and their knowledge and understanding of the LGPS. In the event of there being more than one nomination, the Administering Authority will carry out a selection process.

(b) Three scheme member representatives

- i) two members representatives will be nominated by the recognised trade unions having demonstrated their capacity to represent other scheme employers, their relevant experience and their knowledge and understanding of the LGPS;
- ii) one members representative will be open to all scheme members. The administering authority shall contact scheme members advising them of the role and seeking nominations and asking them to demonstrate their capacity to represent other scheme members, their relevant experience and their knowledge and understanding of the LGPS. In the event of there being more than one nomination, the Administering Authority will carry out a selection process.

4.2 Due to the specialist knowledge requirements of Board members, substitutes to the appointed members of the Board are not permitted.

4.3 If a representative is not offered by any of the groups above the administering authority can allocate the place to another group so long as there remains 3 employer and 3 scheme member representatives.

5. Responsibilities of the Chair

5.1 The Chair is responsible for:

- (a) ensuring the Board delivers its purpose as set out in the Board's terms of reference;
- (b) the arrangements for meetings of the Board;
- (c) ensuring that Board meetings are productive and effective and that opportunity is provided for the views of all Board members to be expressed and considered;
- (d) seeking to achieve the consensus of all Board members on the business presented to the Board and ensure that decisions are properly put to a vote when that cannot be reached.

5.2 The Chair will be appointed annually by Board. The Chair will be rotated around the 6 members of the Board.

6. Conflicts of interest

6.1 All members of the Board must declare on appointment and at any such time as their circumstances change any potential conflict of interest arising as a result of their position on the Board.

6.2 On appointment to the Board and following any subsequent declaration of potential conflict the conflict must be managed in line with the Board's policy on conflicts of interest, the internal procedures of Somerset County Council, the requirements of the Public Service Pensions Act 2013 and the requirements of the Pensions Regulator's codes of practice on conflict of interest for Board members.

6.3 The Council's Monitoring Officer shall include interests registered by all members of the Board in the published Members' and Co-opted Members'

Register of Interests. All such interests are to be registered with the Monitoring Officer within 28 days of appointment to the Board.

7. Knowledge and understanding including training

- 7.1 All new members must follow an induction training plan and all members of the Board will be expected to attend the training provided to ensure that they have the requisite knowledge and understanding to fulfil their role.
- 7.2 All members must be prepared to participate in such regular personal training needs analysis or other processes as are put in place to ensure that they maintain the required level of knowledge and understanding to carry out their role.
- 7.3 Failure to attend training or participate in the processes referred to above may lead to removal from the Board.

8. Term of office and removal from office

- 8.1 The members of the Board serve for a four year term, subject to the following:
 - (a) the representatives of the administering authority shall be appointed annually by the Somerset Council Annual Council Meeting, but with a view to maintaining stability of membership;
 - (b) the two union nominated member representatives can be amended at any time by the unions, but with a view to maintaining stability of membership.
- 8.2 Members of the Board will be expected to attend all meetings and training sessions. This will be recorded and published. The membership of any member who fails to attend for two consecutive meetings or two consecutive training events shall be reviewed by the Board and shall be terminated in the absence of mitigating factors

- 8.3 Subject to 8.4 below, a Board member can be removed from the Board in the following circumstances (but not limited to):
- (a) A poor attendance record;
 - (b) if a member does not undertake training as requested by the administering authority;
 - (c) if a member is In breach of Council’s Code of Conduct / Declarations policy;
 - (d) if a member has a conflict of interest that cannot be managed in accordance with the Board’s conflicts policy;
 - (e) if a representative member ceases to represent their constituency e.g. leaves the employer so no longer has the capacity to represent the Fund’s employers.
- 8.4 Other than by ceasing to be eligible for appointment to the Board, Board members may only be removed from office during their term of appointment by the unanimous agreement of all of the other members of the Board at a meeting of the Board where this is specified as an agenda item or with the agreement of the Council at a Full Council meeting.
- 8.5 Arrangements shall be made for the replacement of Board members in line with the procedures for their original appointment.

9. Meetings

- 9.1 The frequency of meetings is to be determined by the Board once it has agreed a workplan, with a minimum of two meetings annually. In addition to this, training sessions will be held as necessary to ensure that Board members have sufficient knowledge and skills to undertake the role.
- 9.2 The Chair of the Board may call additional meetings with the consent of other members of the Board. Urgent business of the Board between meetings may, in exceptional circumstances, be conducted via communications between members of the Board including telephone conferencing and emails.

9.3 The Board will meet at the Council's main offices, or another location to be agreed by the Chair. Meetings will be held during normal working hours at times to be agreed by the Chair.

9.4 As a committee of the Council, the Rules of Procedure in Section 6 of the Council's constitution apply to meetings of the Board. Board meetings will be held in open session with closed sessions where appropriate. The agenda papers will be circulated to members of the Board and published in advance of meeting in line with Council policy. The minutes of meetings will be recorded and published in line with Council policy.

10. Quorum

10.1 The quorum of the Board shall be 3. The quorum must include one employer representative and one member representative.

11. Voting rights

11.1 Each of the 6 members of the Board will have voting rights. In the event of a tied vote the Chair has the option of having a final casting vote.

12. Code of Conduct

12.1 All members of the Board will be required to formally sign up to comply with the Somerset Council Code of.

13. Allowances and Expenses

13.1 Any councillor of the Council appointed to the Board will be entitled to receive allowances in accordance with the Council's constitution (Scheme of Members' Allowances).

13.2 Reimbursement of expenses for all members of the Board will be claimable in line with Somerset County Council's agreed expenses rates.

14. Budget

- 14.1 All costs arising from accommodation and administrative support to conduct its meetings and other business, and the training needs of the Board will be met by the Fund.
- 14.2 The Council's Community Governance Team will provide the secretariat services to the Board, the cost of which will be met by the Fund.
- 14.3 The Board will have open access to all officers involved in the running of the Fund and any advisors already employed by the Fund (e.g. the Fund's Actuary).
- 14.4 The Board may make requests to the Section 151 Officer to approve any additional expenditure required to fulfil its obligations which will then be charged to the Fund. This would include any officer resources not already employed by the Fund.

15. Accountability and reporting

- 15.1 The Board is accountable solely to the County Council for the effective operation of its functions.
- 15.2 The Board shall report to the Committee as often as the Board deems necessary and at least annually on:
 - (a) a summary of the work undertaken;
 - (b) the work plan for the next 12 months;
 - (c) areas raised to the Board to be investigated and how they were dealt with;
 - (d) any risks or other areas of potential concern it wishes to raise;
 - (e) details of training received and planned; and
 - (f) details of any conflicts of interest and how they were dealt with.

- 15.3 The Board shall report annually to Full Council on its work. It will also and as necessary from time to time report to Full Council any breach in compliance, or other significant issue, which has not been resolved to the satisfaction of the Board within a reasonable time of being reported to the Committee.
- 15.4 The Board shall report to the Scheme Advisory Board:
- (a) any areas of persistent non-compliance;
 - (b) any areas of non-compliance with the LGPS Regulations that have been reported to the Committee and full council but persist to be of a material concern.
- 15.5 The Board shall report to the Pensions Regulator all material breaches of the Pensions Regulator regulatory guidance, following notification to full council and the Committee.

16. Data protection and Freedom of Information

- 16.1 For legal purposes the Board is considered a committee of and part of the Administering Authority legal entity. Therefore the Board must comply with the Council's Data Protection and Freedom of Information policies.

Constitution and Governance Committee Work Plan

| Meeting Date | Proposed / Agenda Items | Officer |
|--|---|------------------|
| 26 September 2022 @ 10 am | <i>Informal meeting to discuss work to be carried out on the New Council Constitution and Work Programme for the Committee.</i> | Scott Wooldridge |
| 12 September 2022 @ 2pm | Agenda Items | |
| | Constitution Review - Standing Item | Scott Wooldridge |
| | DBS Check Policy | Jamie Jackson |
| 20 October 2022 at 2pm | Agenda Items | |
| | Work Programme | Scott Wooldridge |
| | Public Participation | Scott Wooldridge |
| | Full Council Meeting Procedures | Scott Wooldridge |
| 21 November 2022 at 2pm | Agenda Items | |
| | Boundary Review - Final Proposals | Scott Wooldridge |
| | The Elections Act 2022 | Scott Wooldridge |
| 15 December 2022 at 2pm | Proposed Agenda Items | |
| | Draft Full Council Procedures | Scott Wooldridge |
| | Licensing Functions and Arrangements | Scott Wooldridge |
| | Pensions Board and Pensions Committee - Terms of Reference | Anton Sweet |
| 30 January 2023 at 2pm - potentially all day meeting 10am start | Proposed Agenda Items | |
| | Scrutiny Arrangements | Scott Wooldridge |
| | Executive Arrangements | Scott Wooldridge |
| | Decision Making Arrangements | Scott Wooldridge |
| | Planning Functions and Arrangements | Scott Wooldridge |
| | Scheme of Delegation and Proper Officer Appointments | Scott Wooldridge |
| | LCNs Functions and Arrangements | Scott Wooldridge |

| 14 February 2023 at 10am - <i>potentially all day meeting 10am start</i> | Proposed Agenda Items | |
|--|---|------------------|
| | Democratic Arrangements | Scott Wooldridge |
| | Annual Report of Constitution and Governance Committee and Future Role for Somerset Council | Scott Wooldridge |
| | Senior Officer Arrangements | Scott Wooldridge |
| | Overall Constitution to Recommend to Council | Scott Wooldridge |
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