

CONSTITUTION AND GOVERNANCE COMMITTEE



Tuesday 14 February 2023

**10.00 am 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 - 6 February 2023

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 Regulation 4 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

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

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AGENDA

Item Constitution and Governance Committee - 10.00 am Tuesday 14 February 2023

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

1 **Apologies for Absence**

To receive member's apologies.

2 **Minutes from the Previous Meeting held on 30 January 2023** (Pages 9 - 20)

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

3 **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.

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 **Planning Functions and Arrangements for new Somerset Council** (Pages 21 - 36)

To consider the amended procedures. (amendments marked in yellow)

6 **Committee Structure and Arrangements for new Somerset Council**

To consider a PowerPoint presentation.

7 **The Executive Arrangements for new Somerset Council** (Pages 37 - 74)

To consider PowerPoint presentation and report.

8 **Overall Constitution for new Somerset Council to recommend to Full Council in February 2023** (Pages 75 - 478)

Item Constitution and Governance Committee - 10.00 am Tuesday 14 February 2023

To consider report.

9 **Annual Report of Constitution & Governance Committee and future role for Somerset Council** (Pages 479 - 482)

To consider report.

10 **Work Programme** (Pages 483 - 484)

To consider the work programme of the Committee.

11 **Any other urgent items of business**

The Chair may raise any items of urgent business.

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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 30 January 2023 at 10.00 am

Present: Cllr T Butt Philip (Chair), Cllr S Carswell (Vice-Chair), Cllr B Clarke, Cllr H Davies, Cllr H Kay, Cllr M Lovell, Cllr M Murphy, Cllr S Osborne, Cllr S Pugsley, Cllr R Wilkins, Cllr D Darch (substitute for Cllr D Johnson), Cllr E Pearlstone (substitute for Cllr A Wiltshire) and Cllr M Wale (substitute for Cllr C Lawrence)

Other Members present: Cllr L Redman, Cllr V Keitch, Cllr R Wyke and Cllr S Wakefield

Other members present virtually: Cllr S Ashton, Cllr A Boyden, Cllr A Bradford, Cllr M Chilcott, Cllr S Collins, Cllr J Cook-Woodman, Cllr D Denton, Cllr A Dingwall, Cllr B Filmer, Cllr A Hadley, Cllr J Hunt, Cllr A Kendall, Cllr T Lock, Cllr D Mansell, Cllr O Patrick, Cllr F Purbrick, Cllr G Slocombe, Cllr M Stanton, Cllr C Sully, Cllr L Trimnell, Cllr R Woods and Cllr G Wren

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

Apologies were received from Cllr A Wiltshire (substituted by Cllr E Pearlstone), Cllr C Lawrence (substituted by Cllr M Wale) and Cllr D Johnson (substituted by Cllr D Darch).

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 15 December 2022** - Agenda Item 3

The minutes of the meeting held on Thursday 15 December 2022 were approved and signed as a correct record.

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

Submissions had been received from 3 members of the public and were circulated in the supplementary agenda pack. The Chair welcomed the following to the meeting: -

1. Mr Fletcher Robinson, on behalf of CPRE Somerset read out his statement in respect of agenda item 8 – planning functions and arrangements.
2. Mr Nick Hall read out his statement in respect of agenda item 8 – planning functions and arrangements.

3. Cllr L Whetlor (Somerset West and Taunton Council), read out her statement in respect of agenda item 8 – planning functions and arrangements when the item was considered at the meeting.

5 **Update on the development of the Constitution for the new Somerset Council** - Agenda Item 5

The Committee considered a report by the Council's Monitoring Officer, Scott Wooldridge which provided background and an update on the work on the Constitution for the new Somerset Council.

The Monitoring Officer highlighted the principles and approach to developing the proposed new Constitution and council decision making – accountability, transparency, efficiency and proportionality. Previous meetings of the Committee had reviewed key principles for Part C, Licensing and Regulatory arrangements, Pensions Committee and Pensions Board arrangements. This meeting would consider and review the following:

- Part C – Council functions, procedure rules and Budget and Policy Framework – and attached as Appendix 1 to this report
- Local Community Networks – draft terms of reference
- Part D - Committee procedure rules – and attached as Appendix 2 to this report
- Part D - Planning Committee terms of reference
- Part G - Scrutiny arrangements
- Part I – Officer Scheme of Delegation and List of Statutory & Proper Officers

The final draft Constitution, comprising all Parts and Appendices, would be considered at the Committee's meeting on 14 February 2023. The Committee would then recommend the new Constitution to the Council meeting on 22 February 2023 for approval and adoption. The Constitution would be subject to review over the course of the first year of operation.

During the debate the following points were highlighted: -

- *In response to a question, the Monitoring Officer said he would create a page on the internal members SharePoint site to view the draft Constitution. The overall draft Constitution for the new Somerset Council would be considered at the next meeting of the Committee*
- *Appendix 1, section 1.1 – for clarity would add an additional bullet point to the list – to receive regular reports from the Leader and the Executive and the Scrutiny Committees regarding their work, also including an Annual Report from each Committee*
- *Appendix 1, section 3.2 third bullet and process for electing the Chairs and Vice Chairs of the Committees – for clarity would add an additional bullet point – appoint the Chair and Vice Chairs of main Committees*

- Appendix 1, section 3.4 - clarification on what 'exceptional and unforeseen circumstances' meant – *would add the following to the sentence - '.....Chair of Council in consultation with the Monitoring Officer'*
- Appendix 1, section 3.46 – *would reword this to read 'the Leader of the Council or the Leader of the largest opposition political group can speak for up to 15 minutes or such longer period as the Chair shall allow'*
- Appendix 1, section 3.44 and why limit is set at 2 minutes rather than 3 minutes for the 'right to reply' – there was no consensus to change this, especially as the Chair had discretion to allow a longer period of time
- Appendix 2, committee structure schematic – *clarified these were in draft and the final draft version would come to the next meeting – at that point the Committee would be asked to recommend the draft Constitution to the Council meeting in February 2023.*
- Appendix 2, Executive arrangements diagram and the Leader appointments to the Executive sub committees – *explained that legally the appointments were a function of the Executive, and for the Leader to determine (under a strong Leader / Executive model). The draft Terms of Reference for those sub committees would also come to the next meeting, on 14 February 2023.*

The Committee:

(1) Noted the update on the development of the new Constitution.

(2) Considered and commented upon the draft Articles, set out in Appendix 1 and Appendix 2.

6 **The Scrutiny Arrangements for new Somerset Council** - Agenda Item 6

The Committee considered the report from the Scrutiny Manager, Jamie Jackson which presented the findings of the Scrutiny at Somerset Council Task and Finish Group which had been Chaired by Cllr Theo Butt Philip and Cllr Leigh Redman as Vice Chair. The report outlined the recommendations from the Task and Finish Group for the proposed scrutiny arrangements for the new Somerset Council and the draft Terms of Reference, which will form Part G (Overview and Scrutiny arrangements) of the Constitution.

During the debate the following points were highlighted: -

- Draft Terms of Reference – would require some amendment to ensure the scrutiny functions were in line with the new Directorates / areas of responsibility
- Proposal that there would be a review of the revised scrutiny structure within 12 months of vesting day to ensure it was fit for purpose (could take place sooner if required)
- Clarification that the Constitution would specify that all scrutiny Chairs should be a member of an opposition party

- Dedicated scrutiny support team and 'buy in' from the 'top' needed was referred to and the importance and value of scrutiny mentioned
- Going forward would like any changes to the document to be 'tracked' – *Scrutiny Manager to highlight if possible ahead of next meeting what elements were due to change compared to how scrutiny operated currently; and this was to be going forward as well*
- Query on the Climate and Place Committee and functions and it was suggested that it would be better if the Scrutiny Committee was changed to 'Environment and Place' and the Directorate title changed to that as well
- Part G, section 1.18 onwards – noted Councillor 'Call for Action' was proposed to be included in the new Constitution
- Call in and value of pre scrutiny of decisions, use of special urgency provision, consultation and that pre scrutiny was more critical than ever – *The Monitoring Officer confirmed that they needed to ensure that the key principles of decision making were not 'lost' in the new Constitution coming before the Committee*
- Designated Statutory Scrutiny Officer post / role highlighted – *would be included as one of the Proper Officers, set out in a later agenda item*
- Centre for Governance and Scrutiny (CfGS) - *would be involved in the review mentioned earlier*
- Resourcing of the 5 council scrutiny functions – *this was around best use of the combined democratic services resource*
- If there were any future plans for the Task and Finish Group – *the group had included current Chairs and Vice Chairs and had completed its work and referenced the proposed 6th scrutiny committee which would comprise of the scrutiny Chairs and Vice Chairs and will fulfil an oversight and steering role for the 5 formal committees*
- Confirmed that Part G would need to also include reference to 'task and finish groups' as an appendix
- Needed to ensure that the right delineation was between the Corporate Committee and Audit Committee functions

The Committee:

1. NOTED the following recommendations from the Task and Finish Group:

- (1) There should be a full review of the revised scrutiny structure within 12 months of Vesting Day to ensure it was fit for purpose. This review should take place sooner if required.
- (2) The Adults and Health Scrutiny Committee and the Children and Families Scrutiny Committees to remain as they were currently constituted.
- (3) To create a Corporate and Resources Scrutiny Committee, whose portfolio would include Finance and Procurement, Strategic Asset Management, ICT, Partnerships and Localities and Strategy and

- Performance. This committee would have specific responsibility for budget monitoring and financial scrutiny.
- (4) The new Corporate and Resources Scrutiny Committee would form part of an increase to 5 formal Scrutiny Committees – Adults and Health, Children and Families, Communities, Corporate and Resources and Climate and Place. The Task and Finish group had endeavoured to reflect the revised Senior Officer/Director’s structure within the Scrutiny Committee division of responsibilities.
 - (5) The 5 Scrutiny Committee model would be supported by an informal 6th ‘committee’ which would comprise the 5 Scrutiny Committee Chairs and Vice Chairs who would fulfil an oversight and steering role for the 5 formal Committees to ensure no duplication, efficiency of meeting time and allocation of work to Joint Scrutiny Committees. This group would also assume the responsibility for the review detailed in Recommendation 1 and would meet initially on a bi-monthly basis.
 - (6) Specific Joint Scrutiny Committee meeting dates were to be established as part of the committee meetings calendar and an on-going forward work programme to be maintained for each of them.
 - (7) To Create a dedicated scrutiny resource from the post Vesting Day Democratic Services team, to consist of a minimum of 1 x Service Manager, 1 x Governance Specialist/Team Leader, 2 x Committee clerks and 2 x Scrutiny Researchers. This would allow for much more effective and efficient scrutiny and greatly increase scrutiny opportunities, whilst ensuring resilience within the officer cohort.

2. NOTED the amendments to be made to Part G of the Constitution set out as an Appendix to the report, as detailed at the meeting.

7 **Decision Making, Scheme of Delegation and Proper Officer Arrangements for new Somerset Council** - Agenda Item 7

The Committee considered a report from the Council’s Monitoring Officer, Scott Wooldridge and Melanie Wellman, Assistant Director and Monitoring Officer, Sedgemoor District Council which detailed the draft officer decision-making structure for the new Council and the Proposed Officer Scheme of Delegation (set out at Appendix 1) and the Statutory and Proper Officers (set out at Appendix 2). The proposals offer an officer decision-making structure that would ensure that officers were able to run the Council on a day to day basis and within the parameters set by the new Council.

Ms Wellman explained that the new Officer Scheme of Delegation had been drafted following a review of Peer Councils. The Buckinghamshire Scheme had been used as a starting point and amended to suit local circumstances and to provide some continuity. For example, the “Key Decision” threshold was the same as the current Somerset County Council threshold of £500K and the Scheme had been drafted so that officers were granted specific delegations ensuring absolute clarity as to what they were authorised to do.

The Scheme ensured that there was appropriate Member consultation before certain decisions were taken. Consultation with Lead Members was required where a "Key Decision" was being taken, there was significant opposition from the public or significant media interest. Ms Wellman referred to 'safeguards' and referenced the 'general delegation' section at part 5. Mr Wooldridge confirmed that the document would need to be read in conjunction with the Executive arrangements which would be before the Committee on 14 February 2023

During the debate the following points were highlighted: -

- Appendix 1, section 2.2.1 suggested 'should' be changed to 'shall' – *this was agreed*
- Useful to have a flow chart of decision making included and role of councillors
- Appendix 2, section 119 (delegation to Chief Planning officer, and queried about where Community Infrastructure Levy and enforcement functions sat – *as part of the response the proposed role of executive subcommittee was highlighted as well. This would meet in public, have a work programme and were not private bodies – they would report back to the parent body (the Executive) and were also required to report to Full Council.*
- *Confirmed that policies, plans and budgets were set by members and that this scheme proposed to change this. The scheme would ensure officers were empowered to work in accordance with relevant policies, plans and so on*
- It was important to include local members early in any decisions.

The Committee AGREED:

(1) Recommended the draft Officer Scheme of Delegation at Appendices 1 and 2 to the report to Council for approval.

(2) Noted that there would be a review of the Scheme after the first year of the New Council.

(3) Due to the evolving nature, delegated authority to the Monitoring Officer to make changes to the draft Scheme prior to its consideration by Full Council.

8 **LCN Functions and Arrangements for new Somerset Council** - Agenda Item 9

The Executive Lead Member for Local Government, Cllr Val Keitch introduced the item.

The Committee received a PowerPoint presentation and considered a report from Jan Stafford, the Council's Interim Head of Customer and Transformation

and Sara Skirton, Head of Corporate Services, Mendip District Council, on the proposed governance arrangements for the Local Community Networks (LCNs) and included the following – the LCN Full Terms of Reference (set out at Appendix 1), and the LCN simplified Terms of Reference (ToR) for the LCNs to use (set out at Appendix 2) and a map and details of the proposed LCN areas.

They explained that the draft Terms of Reference were presented to and supported by the Executive on 18 January 2023, recognising that they represented a starting point for LCN governance arrangements, that would be tested, reviewed and revised as appropriate over time. The pilot areas also reviewed the draft Terms of Reference.

The establishment of Local Community Networks (LCNs) was a commitment in the 'One Somerset: Business case for a new single unitary council for Somerset' and LCNs would both influence and work within the corporate priorities and policy framework for the New Council.

During the debate the following points were highlighted: -

- LCN boundary query and whether there was any flexibility in the boundaries – *Cllr Keitch said that the anomaly with Ilminster area had been picked up and may well be moved and asked that any other concerns be sent through for consideration*
- The terms of reference and many questions about (core) membership, appointments, representation and voting (paragraphs 5.1 and 5.2) – *each LCN would comprise of the elected unitary councillor(s) for the local division(s), as well as city, town or parish councillors, representatives from the NHS, Police and Fire Services, and members of local churches, businesses or trade groups and voluntary organisations. It was recognised there was work to do around core membership for each LCN. The first quarter would be a 'convening' period / development period and the LCNs would go live around July.*

LCNs would meet at least six times a year and would be able to share ideas on how to deliver services, collaborate to agree local priorities for funding, draw up plans for how services may be delivered in the future, and escalate requests to the Council's Executive.

- Queried the budget for LCNs – *explained that £300,000 had been budgeted to cover the administrative costs of running the 18 LCNs in the first year – less than originally envisaged. This covered 9 LCN officers, 2 managers, technical / administrative support, democratic support and there would be a director level champion for each LCN. There was no other funding at this stage for LCNs and there would be future LCN development. The Exmoor pilot did have ringfenced funding.*
- Huge piece of work and good foundation – supported structure very important and needed dedicated officer support to work.

LCNs would need a pool of money for grants etc; to be successful it required a culture change by officers as well; membership to be more flexible – *there was a lot of community activity happening and had re-purposed / redesigned that funding to plug the gap.*

- Some LCNs would have a significant number of 'core' members and an issue around venue sizes possibly; for the smaller LCN's outside people would possibly have a greater level of influence – *were exploring hybrid meeting options.*
- Suggestion that the Monitoring Officer could set the date of the first meetings and thereafter LCN's would set them.
- Welcomed that there were 18 LCN's rather than 10 as it would give a stronger identification and a good framework to start with.
- Clarity on membership would be needed at earliest opportunity; queried about where LCNs sat in the decision-making of the Council – *clarified that LCN reported to the Executive and there was accountability 'both ways'.*
- Referred to section 5.1 and queried about parish councillor core membership and parish councillors and whether co-opted members would be eligible -*agreed that this wording would be revisited.*
- amended along the following lines, as follows:
 - ".....Each Local Community Network should comprise the following core membership:"
 - 2) be changed as follows "...is a member representative from each City, Town or Parish Council within the area covered by the LCN..."
 - 3) be changed as follows "In addition, representatives from other groups or organisations should be considered for local determination as core members....."
 - Add new (g) – "(g) others as may be considered locally important..."
- How LCNs would work; helpful to have flow charts to show how they would work and how their influence was 'fed up' (paragraph 3.1) – *each LCN would have an annual general meeting and could also re-articulate that*
- Process for electing Chair and what 'suitably qualified' meant (paragraph 10.10) – *this was around training and support provided and would be discussed further with the Monitoring Officer*

In summary the Chair read out a number of suggested wording to give effect to the following changes and to cover the constitutional issues raised by the Committee at the meeting:-

- to provide a system of clearly defining who was a member – to be signed off by the lead member in consultation
- with regard to 5.1. 3 (a) –(f), these could be altered on a LCN to LCN basis, to be signed off by the lead member in consultation

- alternative wording for the 'city, town, parish issue to be clear that meant a member of that Council not an officer of that Council
- to put in place an acknowledgment that it was for the Monitoring Officer to set the date of the first meeting

The Committee AGREED:

(1) Recommended to Full Council that the proposed LCN governance arrangements and Terms of Reference as amended be included in the Constitution of the new Somerset Council.

(2) That the Monitoring Officer scheduled the dates for the initial meetings for the LCN's

(3) To note that:-

(a) The terms of reference had been developed to reflect the proposed roles and responsibilities of LCNs in their initial stages, appropriate and proportionate to their function.

(b) Each LCN would adopt the model terms of reference to enable a level of consistency, noting that there would be scope to consider local flexibility where appropriate.

(c) The terms of reference would be reviewed during year one of the LCNs.

9 **Planning Functions and Arrangements for new Somerset Council** - Agenda Item 8

The Chair invited Cllr L Whetlor, Somerset West and Taunton Council to read out her statement to the Committee. The Chair also advised that Cllr Adam Boyden had asked to address the Committee on this item but he was unfortunately delayed. The Chair briefly summarised the concerns raised by Cllr Boyden - about the automatic referral process and that referral to the Strategic Committee should be as last resort and was asking consideration of the matter to be deferred to be considered at a later Committee meeting.

The Executive Lead Member Cllr Ros Wyke introduced the item, made some opening remarks and introduced Stuart Houlet, AD Inward Investment & Growth, Sedgemoor District Council and Lesley Dolan Legal Manager, Shape Legal Services. Cllr Wyke confirmed that she would be happy to take amendments on the proposals, but they would need to be checked by the Council's legal advisers. There would be new Chairs, new Committees and a different way of doing things and there would therefore be a review each month with each committee and a further review after 6 months.

The Committee received a PowerPoint presentation and considered a report from the Council's Monitoring Officer, Scott Wooldridge and Kevin Williams, Deputy MO, Somerset West and Taunton Council which detailed the Constitution documents for the proposed new planning function for the New Council – and included the following – proposed structure chart (set out at

Appendix 1); proposed Terms of Reference and procedures for the Committees (set out at Appendix 2) and the Planning Protocol (set out at Appendix 3).

The proposals detailed in the report, offer a structure that would bring the County and District planning functions together in a single Committee format with the creation of 4 area based planning sub committees and a Strategic Planning Committee and Mr Houlet explained the process and circumstances for matters being referred to the Strategic Committee (developments of a certain size / 'major applications'). The final draft of the arrangements would be brought to the next meeting of the Committee, as part of the overall Constitution document.

During the debate the following points were highlighted: -

- Referring to the public statements received at the meeting, the Chair said that the main issue for discussion would be the reference up to the Strategic Planning Committee and the proposals regarding public speaking
- Questioned as to why there would be automatic referral – *Cllr Wyke said that the majority of planning applications would be considered by the area sub committees in first instance. Referral would happen if it was outside a local authority area, or a decision had been taken against officer recommendation. The driver for this was to ensure consistency.*
- Clarity of what is regarded as a 'major' application – *this is an application which is 10 or more dwellings*
- Felt that automatic referral would disempower the sub committees and felt that the strategic committee would be 'swamped' with work- *following best practice, to ensure safe decisions and provided added level of protection*
- Views expressed that members of the Strategic Committee would need to know all the local plans and it would be a huge level of work - also wondered why the term 'subcommittee' was used – *clarified that referral was set at 21 days and its around time and efficiency. Confirmed that they could look at changing title of the area committees.*
- Number of other comments and concerns expressed about the role and purpose of the Strategic Committee; scepticism expressed about whether there was a need for a process beyond the area committees and if they needed to have a Strategic Committee, whether there should be the automatic referral at all – *acknowledged the issue and would revisit the issues / principle.*
- Public participation – questions on public speaking arrangements set out in section 7.17 ff (Appendix 2) and the time limit proposed for 3 minutes in total; there was disquiet in the room as it seemed unfair
- Referral by Parish Council, section 8.8 felt like a high bar
- Section 13.2 (Appendix 3) – training – needed to be changed from 'should' to 'must be done'
- Section 8.4 (Appendix 2) – subheadings needed to be rewritten

- Section 8.6 b (Appendix 2) - 'change 'senior officer' to 'senior or deputy Planning officer' and remove the word 'where possible'
- Discussion on the community infrastructure level, S106 money, role of the Executive Subcommittee Planning Policy
- Discussion on the size of the new committees and membership – *that committee of 13 accepted as a reasonable number*

Cllr Wyke confirmed again that she would take away all the comments received and look again

The Committee NOTED the proposals which would be considered again at the next meeting.

10 **Work Programme** - Agenda Item 10

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

The Committee AGREED the work programme and items to be considered at the next meeting on 14 February 2023, beginning at 10 am.

11 **Any other urgent items of business** - Agenda Item 11

There were no other items of business.

(The meeting ended at 4.53 pm)

CHAIR

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Planning Committee Procedure Rules

Terms of Reference of Planning Committees

1. **The Planning Committees**

1.1 The Full Council will appoint one Strategic Planning Committee and four area-based Planning Committees to exercise functions and responsibilities relating to:

1.2 Town and Country Development Management (excluding the preparation of plans and policies) as specified in Schedule 1 of the Local Authorities Functions and responsibilities (England) 2000 as amended by subsequent regulations including but not limited to:

- a) Planning applications
- b) Enforcement action
- c) Planning agreements i.e. s106
- d) Lawful use or development
- e) Advertisement control
- f) Listed buildings and Listed Building Consent
- g) Footpaths and highways
- h) Waste matters
- i) Hazardous substances
- j) Trees and hedgerows
- k) Mineral applications

These functions will be exercised over the whole geographical area of the Somerset Council on the basis set out below.

2. **The remit of the Strategic Planning Committee**

2.1 The remit of the Strategic Planning Committee does not include:

- matters reserved to full council
- matters where functions are exercised under delegated powers in the officer scheme of delegation save where an officer declines the delegation and the matter would otherwise fall within the terms of reference of the Strategic Planning Committee.

3. **Delegation to the area based Planning Committee(s)**

3.1 All of the functions of the strategic planning committee, set out in Para 1.2 above, will be delegated to the relevant area based (these will be known as North, East, South and West) Planning Committees save for the following:

- Waste and Minerals applications, referred from the Planning Committees where the proposed decision is to overturn the Officer recommendation. Such applications will be automatically referred up to the Strategic Planning Committee who will determine the matter at resolution

stage in place of the area based Planning Committees.

- Waste and Mineral applications that are a departure from adopted Waste and minerals development plans and recommended for approval by officers (excluding S.73 applications).
- Applications and matters that relate to the application site boundary which are not contiguous with the boundaries of a single area-based Committee or the boundary of the authority.
- Public Rights of Way (PROW) and Village Green applications (which are referred by officers to the Strategic Planning Committee.)
- Phosphates:

a. To have oversight of the programme and delivery of nutrient mitigation projects to support a series of interim measures to offset additional phosphates resulting from affected new developments within the River catchment areas affecting the Somerset Levels and Moors Ramsar site (and specifically the measures as approved by SWT Full Council on 5 October 2021);

b. To have oversight of the monitoring of the performance of the above interim projects once delivered;

c. To agree the criteria to be used for the allocation of any phosphate credits generated from interim projects and the creation of a legally robust and transparent process for such allocation (including the terms of any S106 obligations with developers/landowners);

d. To review the terms of the draft Supplemental Planning Document (SPD) on the strategic solution to the nutrient enrichment issue (to be reported to Planning Policy Executive Sub-Committee/ Full Council for prior to consultation and for adoption).

Note: for the avoidance of doubt the role of the Strategic Planning Committee does not include the determination of any planning applications that include Phosphate mitigation measures, that would ordinarily fall to one of the area-based Planning Committees.

- Consideration of quarterly officer reports from area-based Committees to monitor decision making and workload levels of the Committee.
- Functions under schedule 2 of the Local Authorities Functions and Responsibilities Regulations 2000*
(*These may move to a different Committee)

4. The Referral Process from the area-based Planning Committee to the Strategic Planning Committee

- 4.1 The consideration by the Strategic Planning Committee, of matters referred to it from the area-based Committees (set out in Para 3 above), shall be conducted as a rehearing of the original application or matter.
- 4.2 The Strategic Planning Committee shall affirm, vary or overturn the resolution recommended by the area-based Planning Committee.
- 4.3 The decision of the Strategic Planning Committee will thereupon stand as the decision of the Council as so affirmed or varied as the case may be.

5. Area-Based Planning Committees

5.1 The Full Council will appoint 4 area-based Planning Committees:

- Planning North (covering the former Sedgemoor District Council area)
- Planning East (covering the former Mendip District Council area),
- Planning South (covering the former South Somerset District Council area)
- Planning West (covering the former Somerset West & Taunton District Council area.)

5.2 The geographical responsibilities as set out in a geographical map of the four area-based Planning Committees is available via the Council's website. The principles of geographical determination are set out below:

6. Principles of geographical location

- 6.1 The exercise of the functions and responsibilities by individual area- based Planning Committees are subject to the following geographical condition:
- 6.2 The applications or matters referred to the area- based Planning Committees for determination relates to application sites and functions that arise within the divisions within the former District Council geographical areas.

Procedures

The procedures at the Strategic Planning Committee meetings and area-based Planning Committee meetings will be as follows.

7. Membership and Meeting arrangements

- 7.1 The Strategic Planning Committee will be comprised of 13 members.
- 7.2 The four area- based Planning Committees will be comprised of 13 members (or as otherwise detailed in the area-based Planning Committee Terms of Reference.
- 7.3 The membership of the Strategic Planning Committee shall be drawn from across the local government area and will be politically balanced. The membership for the area-based Planning Committees will be drawn from the area which that area-based Planning Committee covers, where possible. All these committees shall be politically balanced in compliance with the statutory scheme in the Local Government and Housing Act 1989 and any subsequent legislation.
- 7.4 The relevant Planning Committees will meet at times and places appointed and published in accordance with the requirements of the Access to Information Rules. The maximum length of a Committee meeting will be up to 4 hours duration (excluding any comfort breaks). All meetings will be webcast and employ the use of hybrid participation technology, but committee members and lead officers must be present in the room.

Number of members of Strategic Planning Committee and area based Planning Committees	13
Substitute Members Permitted	Yes. As far as possible from the same geographical area subject to the political balance rules.
Political Balance Rules apply	Yes
Appointments/Removals from Committee	By resolution of Full Council, Political balance review or notification by Political Group Leader.
Restrictions on Membership	Lead Executive Members are not barred from membership of the Planning Committees, but membership should generally be avoided due to bias or predetermination issues. Chair/Vice-Chair of Strategic Planning Committee may not sit on any area-based Planning

	<p>Committee.</p> <p>The undertaking of such training as determined by the Service Director on planning and other functions falling within the remit of the area-based Planning Committees and Strategic Planning Committee, probity in decision making, is a prerequisite to membership of, and substitutes for this Committee</p>
Restrictions on Chair/Vice Chair	As above
Quorum	5
Number of ordinary meetings per Council year	At least 2 per year for each committee

Substitution and Membership

- 7.5 Lead Executive Members are not barred from membership of the Planning Committees but membership should generally be avoided due to potential bias or predetermination issues.
- 7.6 Chair/Vice-Chair of the Strategic Planning Committee may not sit on any of the area-based Planning Committees. Ordinary members of either Committees can sit on Strategic and area-based Planning Committees.
- 7.7 Substitutes may attend meetings in that capacity only to take the place of the member for whom they are the designated substitute where the ordinary member will be absent for the whole of the meeting and where the member has notified the Democratic Services Manager or the Monitoring Officer of the intended substitution by no later than 24 hours before the start of the relevant meeting, or in exceptional circumstances and with the consent of the Chair, no later than one hour before the start of the relevant meeting.

Chair Responsibilities

- 7.8 The Chair will preside over meetings of the Planning Committee and, where the Chair is absent for the whole or part of the meeting, the Vice-Chair will preside over the meeting or that part of it. In the absence of both the appointed Chair and Vice-Chair for either the whole of or part of a meeting, the Planning Committee will appoint from those Councillors then present a person to act as Chair for the duration of that meeting or part of it. (All references to 'Chair' in these rules will be read as referring to the person acting as Chair at the relevant meeting or part of it).
- 7.9 The Chair of the Planning Committee meeting will be responsible for:

- a. calling items for consideration as they appear on the Agenda,
- b. calling and allowing persons to speak at the Planning Committee meeting,
- c. maintaining good order at the Planning Committee meeting. For this purpose, the Chair has the right to curtail any speaker (including a member of the Committee), or to suspend the Planning Committee meeting, in cases of disorder, until good order has been restored.

7.10 In all matters of procedure and interpretation of these rules, the Chair's decision will be final.

7.11 Decisions of the area-based Planning Committees and Strategic Planning Committee are not subject to scrutiny arrangements/call in.

7.12 The order of business for each meeting of the Planning Committees:

- a. Opening matters;
- b. Apologies for absence;
- c. Substitutes
- d. Minutes of the previous meeting;
- e. Declarations of interest;
- f. Planning Applications
 - i) The Chair will announce the agenda item number.
 - ii) The Planning Officer will introduce the application with any relevant updates and provide a visual presentation to aid members' understanding of the context of the application.
 - iii) The Chair will call on public speakers to present in accordance with the Public Speaking Arrangements.
 - iv) The Chair will then ask members/officers if they have any points of clarification on points raised by public speakers.
 - v) The Chair will then ask members if they have technical questions of officers.
 - vi) The entire committee will then discuss/debate the application.
 - vii) Members may seek further clarification of
 - A) particular points from officers, regarding the application, or
 - B) on points raised by speakers, in the main debate, through the Chair.
 Officers will respond to issues and questions raised by members.
 - viii) The Committee will then make a decision by vote.
- g. Other matters requiring consideration by the committee

7.13 Where there is no provision made in these Planning Committee Procedure Rules the requirements of the Committee Procedure Rules will be followed at the discretion of the Chair.

Minutes

7.14 Minutes will contain all motions and amendments in the form and order they were put.

Approval of Minutes

7.15 At every meeting of the Planning Committee(s) the Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

Declarations of Interests

7.16 Declarations will be made in accordance with the Code of Conduct. These declarations will be made at the outset of the meeting under the item listed as 'declarations of interests' on that Planning Committee's agenda or as soon as the interest comes to light.

Public Speaking Arrangements

7.17 If matters are referred to Committee the following will be invited to speak in order at the Planning Committee meeting at which a matter is considered:

- a. Members of the public, or their representatives, who have previously made written representations objecting to or in support of the application;
- b. Town or Parish Councils who have previously made written representations objecting to or in support of the application;
- c. Members of the Council who are not members of the Planning Committee; and
- d. The applicant or agent.

7.18 Anyone wishing to speak at Planning Committee on a Planning Application and who wishes to do so must register their request with Democratic Services by twelve noon one working day in advance of the relevant Committee meeting. Requests will normally be dealt with on a first come first served basis. Details on how to register will be provided in the invitation to speak.

7.19 The circulation of documentation including photographs or presentation materials will be permitted if submitted to the Case Officer and Democratic Services 48 hours prior to the Planning Committee meeting. Circulation of such documentation within 48 hours prior to the Planning Committee(s) will generally not be permissible.

7.20 Anyone wishing to raise a question(s) at Public Participation at Planning Committee must register such question(s) two working days in advance in writing, (refer to Council Procedure Rules Para X) with Democratic Services.

Details on how to register will be provided in the invitation to speak. The circulation of documentation including photographs or presentation materials will not be permitted at the Planning Committee meeting.

7.21 The order of speaking and time limits for Planning Committee meetings for each application will be as follows:

Members of the Public or their representatives objecting to or in support of the application	Parish/Town Council(s)	Members of the Council (non planning committee members)	Applicant or Agent
3 minutes for support (shared) and 3 minutes for object (shared)	3 minutes each	3 minutes each	3 minutes

7.22 Where speaking times are shared, there is an overall time limit of three minutes in total, not three minutes each. Speakers in the above categories will be encouraged to coordinate with each other so that repetition can be avoided.

7.23 At the Chair's discretion in consultation with the legal advisor the time allowed may be increased. A speaker may nominate a single spokesperson to speak on their behalf.

Voting

7.24 When a Planning Committee is considering any item, a member of the Committee must be present throughout the entire presentation and subsequent debate on the item, in order to vote on that item.

7.25 All members of the Committee will have one vote. The Chair will have a second or casting vote in the event of the votes cast being tied. Matters subject to a vote will be decided by a simple majority of the votes cast.

7.26 Voting will be either for the recommendation as it appears in the written report, including any update report, (or as amended by the Planning Officer verbally at the meeting) or subject to a. and b. below for the amendment to the recommendation (as proposed by a member of the Committee) or an alternative proposal. Where there is more than one amendment proposed, they will be voted on in the order in which they are proposed.

- a. Before voting on a resolution, the effect of which is to refuse permission contrary to the officer recommendation, the Committee must identify the planning reasons behind the decision before the vote is taken, which may need to be justified in the event of an appeal or other challenge.
- b. Before voting on a resolution, the effect of which is to grant planning permission contrary to the officer recommendation, the Committee must approve relevant conditions and reasons for the departure from the officer recommendation. The detailed compilation and attachment of relevant conditions and reasons can be delegated to Officers.
- c. Once the Committee has before it the full resolution and the reasons for such, the Chair can invite planning and legal officers to advise on the clarity and validity of the reasons, including any associated risks. If there is any concern about the reasons, the Committee may consider deferring the item to another meeting for the reasons to be tested and discussed at the next convened meeting.

7.27 Any Councillor of the Committee may request that their name be recorded in the Minutes of the meeting recording the way they have voted in respect of any item.

7.28 Where there is ambiguity in the way votes are cast, the Chair may request Committee members to confirm their votes before the Committee's decision is recorded.

Site Visits

7.29 Officers may organise a pre-Committee site visit where they feel it would be a valuable part of the planning process. However, they can cause additional costs and should only be used where the expected benefit is substantial. A decision to carry out a pre-Committee site inspection should normally only take place:

- a) If the impact of the proposed development is particularly difficult to visualise from the plans and any supporting material; or
- b) There is considerable local concern about a proposal, allied to planning reasons for carrying out the visit (e.g. the physical relationship of the site to other sites in the neighbourhood).

7.30 When site inspections take place, careful arrangements must be made to ensure that all parties are treated fairly and equitably, and that the appropriate standards of propriety are seen to be upheld, particularly to avoid the visit being seen as part of a lobbying process. Accordingly, the following rules will apply:

- a) The visit will be led by a planning officer.
- b) Members should not seek to have discussions either with the applicant or with members of the public who may be present. The public should not be invited and have no right to enter a site without the consent of the occupier. However, attendance does occur from time to time and

requires careful handling to ensure confidence in subsequent decision making.

- c) If discussions do take place, no view on the merits or otherwise of the proposal should be given, as to do so may lead to suspicion that the individual Member had already made up his or her mind. Members should keep together, avoiding side discussions.
- d) Members should not engage individually in discussions with the applicant, Agent, objectors, third parties or members of the public who may be present as again suspicion may arise that this is part of the lobbying process rather than the information-gathering process.
- e) No hospitality should be accepted at site visits,
- f) Members may, at the site visit, ask officers questions or seek clarification on matters relevant to the site inspection.
- g) A site visit is not a formal meeting of the Planning Committee and therefore a Member with a Disclosable Pecuniary Interest is not debarred from attending. However, such a member must take care to ensure that;
 - i) nothing he or she does at the site visit breaches the Members Code of Conduct and
 - ii) he or she does not imply that he or she will be part of the decision making process at the Planning Committee.

Site Inspections by Individual Members

7.31 Members are able to look at an application site following the receipt of the agenda and prior to the date of the Planning Committee meeting. This will enable them to acquaint themselves with the nature of the proposal and will help avoid delay and unnecessary site visits. However, Members should only conduct such site inspections from a public vantage point and should not meet with or discuss the application with any applicant/agent or third party on site.

Other Matters

7.32 The undertaking of such training as determined by **the Executive Director (Climate & Place)** on planning and other functions falling within the remit of the area-based Planning Committees and Strategic Planning Committee, including probity in decision making, is a pre-requisite to membership of, and substitutes for this Committee.

7.33 From time to time the Planning Committee(s) may consider reports on other items falling within the Committees terms of reference, such as performance reports, appeals, or proposed changes to national or regional planning policy.

7.34 In those circumstances the procedure to be followed will be as described for public items above except that, there being no Planning Application for the Committee to determine, there will be a provision for public questions before the Committee and before the Committee proceeds to substantive business.

8. Delegation of functions

8.1 The majority of the Committees functions will be performed by Officers as set out in Part X of the Constitution. These delegations are subject to:

- a) Any such delegation being consistent with the Development Plan, National Planning Policy Framework and any other applicable legislation and government guidance; and
- b) Statutory and customary consultation being carried out.

Where Planning functions are delegated to an officer of the Local Authority, the officer may decline such delegation and refer the application to Committee.

Exceptions to delegated powers

8.2 The following decisions are not within the scope of the powers delegated by this Scheme and shall be taken by the relevant Planning Committee. Where:

- i. The applicant is a Member of the Council or a direct relative of a Member of the Council
- ii. The applicant is one of the Council Officers listed below:
 - Senior Officers of the Council's **Senior Management Team**;
 - Where the applicant is, or is directly related to, a member of staff in the Planning Service;
 - Any other employee who has direct involvement with the planning process in the course of their duties.
- iii Matters which the relevant **Executive Director (Climate & Place)** considers to be controversial due to their size, nature or impact, or for any other reason.
- iv. Council's own development (excluding minor alterations¹ to Council owned assets)
- v. Where the proposal is a departure from the development plan and the Officer recommendation is to approve (excluding S.73 applications)

Applications delegated to Officers

8.3 Subject to the exceptions to delegated powers above the following matters are delegated to Officers and are exempt from the referral process:

- Certificates of Lawfulness Existing or Proposed
- Prior Approval/Prior Notification – all types
- Approval of details reserved by condition / discharge of Development Consent Order (DCO) requirements.
- Hazardous substance consents
- Any applications for works to trees, hedgerow removal or high hedges
- Permission in Principle (PIP)

Referral Process to relevant Planning Committee

1

8.4 The relevant Divisional Member(s) and Parish/Town Council will be notified of the following applications. They will be able to request that these applications are referred to the relevant Planning Committee:

- Planning permission (outline and full)
- Advertisement consent
- Listed building consent
- Application for planning permission for relevant demolition in a conservation area
- Reserved matters approval following outline permission
- Variation/removal of conditions – **Section 73 applications**

8.5 Divisional Members will also be notified of applications for Permission in Principle but the decision would be delegated to Officers meaning they would not be referred to the relevant Planning Committee.

8.6 Divisional Member referral (within 21 days of original notification or 14 days after notification of revisions):

- a. Within 21 days of being notified of a Planning Application, a **Somerset Council member can request referral of the application** to the relevant Planning Committee by notifying the planning officer, in writing, stating whether they support or object, with material planning reasons;
- b. **If the Officer recommendation is ultimately contrary to that of the Member view AND the application is classified as a major application² it will automatically be referred to the area-based Planning Committee.**
- c. **If the Officer recommendation is ultimately contrary to that of the Member view AND the application is not classified as a major application, then the Strategic Director (Climate and Place)(in accordance with the delegation scheme) in consultation with the Chair and/or Vice-Chair of the relevant planning committee, will (where possible) consult with the Divisional Members, will determine whether or not the matter should be referred to Planning Committee, or whether the exercise of delegated powers is appropriate, providing material planning reasons for this decision.**
- d. **On referral to Chair and/or Vice Chair, the Divisional Member will receive a copy of the officer report and will be advised of the decision on whether it stands referred.**

8.7 Divisional Member referral (post 21 days):

- a. As a direct result of substantial changes and re-notification of an application to a Member, a **Somerset Council Member** will be given a further 14 days, from the date of re-notification, to request that the

² The following types of application are classed as 'major':

- Residential applications for 10 or more dwellings
- The site is 0.5 hectares or more in size and where the number of dwellings is unknown
- Development site of 1 hectare or more
- Development involving floor space of 1,000m² or more

application is referred to the relevant Planning Committee by notifying the planning officer in writing stating whether they support or object, with material planning reasons.

- b. If the Officer recommendation is ultimately contrary to that of the Member view and the application is classified as a major application³ it will automatically be referred to the area-based Planning Committee.
- c. If the Officer recommendation is contrary to that of the Member view, and the application is not classified as a major application, then the Strategic Director (Climate and Place), in consultation with the Chair and/or Vice-Chair of the relevant planning committee, (where possible) will consult the Divisional Members and will determine whether or not the matter called-in by a councillor should be considered by Planning Committee, or whether the exercise of delegated powers is appropriate, providing material planning reasons for this decision.
- d. On referral to Chair and/or Vice Chair, the Divisional Member will receive a copy of the officer report and will be advised of the decision as to whether it stands referred.

8.8 Referral by Town and Parish Councils

- a. Within 21 days of being notified of a Planning Application, a Town or Parish Council must notify the planning officer in writing, that:
 - i They wish to refer the Planning Application to the relevant Planning Committee by either supporting or objecting to the application and;
 - ii Provide material planning reasons for the referral and;
 - iii Provide an undertaking that a representative will attend and speak at committee if the request for referral to Committee is agreed;
- b. If the Officer recommendation is ultimately contrary to that of the Parish view and the application is classified as a major application⁴ it will automatically be referred to the area based Planning Committee.
- c. If the Officer recommendation is contrary to that of the Town or Parish Council view and the application is not classified as a major application, then the relevant Strategic Director (Climate and Place), in consultation with the Chair and/or Vice-Chair of the relevant planning committee, will (where possible) consult the Divisional Members, will determine whether or not the matter referred by the Town or Parish Council should be considered by the relevant Planning Committee, or whether the exercise

³ The following types of application are classed as 'major':

- Residential applications for 10 or more dwellings
- The site is 0.5 hectares or more in size and where the number of dwellings is unknown
- Development site of 1 hectare or more
- Development involving floor space of 1,000m² or more

of delegated powers is appropriate, providing material planning reasons for this decision.

- d. On referral to Chair and/or Vice Chair, the Divisional Member will receive a copy of the officer report and will be advised of the decision as to whether it stands referred.

Comparison of public speaking arrangements across Somerset:

	Member(s)	Parish or Town Council	Opposition	Support	Applicant / Agent	Portfolio Holder	Overall Limit
Sedgemoor	3 mins each	3 mins each	1 spokesperson 3 mins	1 spokesperson 3 mins	3 mins	3 mins	
Somerset	5 mins each	3 mins each	3 mins each	3 mins each	3 mins each	3 mins each	30 mins overall limit
South Somerset	3 mins each	3 mins each	3 mins each (unlimited numbers)	3 mins each (unlimited numbers)	3 mins		15 mins overall limit
Mendip	3 mins each	3 mins shared	3 mins shared	3 mins shared			20 mins overall limit
Somerset West and Taunton	3 mins each	3 mins each	3 mins each (unlimited numbers)	3 mins each (unlimited numbers)			
Proposed Revised Arrangements for Somerset Council	3 mins each (non Planning Committee Members)	3 mins each	3 mins shared	3 mins shared	3 mins shared		
Superseded Proposed Arrangements for Somerset Council (for comparison)	3 mins each	3 mins shared	3 mins shared	3 mins shared	3 mins shared		

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Somerset County Council

Constitution & Governance Committee

– 14 February 2023

Report of the Monitoring Officer – Executive Arrangements within the new Constitution for the new Somerset Council

Lead Members: Cllr Bill Revans, Leader of the Council & Cllr Theo Butt Philip, Chair of Constitution & Governance Committee

Division and Local Member: N/A

Lead Officer & Author: Scott Wooldridge - Monitoring Officer and Head of Governance & Democratic Services

Contact Details: 01823 357628

1. Summary / Background

- 1.1.** A number of appointments to key roles within the Council and to Committees are reserved to Full Council. Full Council at its annual meeting on 25 May 2022 appointed Cllr Bill Revans as the Leader of the Council. The Leader of the Council has authority to agree the Executive Arrangements in the Constitution and any Executive appointments alongside a number of other key elected member appointments which form part of the executive functions of the Council.
- 1.2.** The Council has operated a Leader and Cabinet model since 2001, under which the majority of functions that the Council undertakes are now the responsibility of the Leader and their Executive of up to 10 members operating as an 'Executive'. The Leader has responsibility for agreeing the executive arrangements.
- 1.3.** In March 2022 the Somerset Structure Changes Order was formally approved, this legally established the process for the formation of a new single unitary council from 1 April 2023.
- 1.4.** This report sets out the Leader of Council's proposed Executive Arrangements for inclusion within the new Constitution for Somerset Council. When developing the Executive Arrangements, reference has been made to good practice within the five councils and other peer councils such as Buckinghamshire, Cornwall, Dorset and Wiltshire.

2. Recommendations

- 2.1. The Constitution & Governance Committee is asked to consider and comment upon the proposed Executive Arrangements which are for the Leader of the Council to approve.**

3.Reasons for recommendations

- 2.2.** The County Council has operated a Leader and Executive/Cabinet model since 2001, under which the majority of functions that the Council undertakes are now the responsibility of a small number of councillors operating as an 'Executive' or 'Cabinet'. The Leader of the Council, Councillor Bill Revans, has responsibility for agreeing the executive arrangements.
- 2.3.** The Leader of the Council and the Executive will continue to be responsible for the discharge of all the executive functions of the Council under Education and Social Services legislation and in its capacity as Highway Authority (other than those public rights of way determinations exercised by the Regulation Committee), Planning Authority (other than the determination of planning applications), Waste Disposal Authority, Public Transport Authority and Traffic Authority and for all its statutory duties, including the exercise of relevant powers not specifically delegated by the Council to other Committees.
- 2.4.** The Leader of Council allocates all Executive decision-making responsibilities (covering Key and Non-Key Decisions) and functions, including any 'local choice' functions, where appropriate, delegated by Full Council. The Leader is proposing no changes to the current allocation of such responsibilities to:
- (a) the Leader;
 - (b) the Executive;
 - (c) the Traffic Regulation Order Sub-Committee of the Cabinet;
 - (d) jointly to two Lead members
 - (e) individual Lead Members; and
 - (f) Senior Leadership Team Officers.

Executive Membership

- 2.5** The Leader of the Council can appoint up to 9 other members to be members (known as Lead Members with specific areas of responsibility) of the Executive. The Leader also appoints the Deputy Leader of the Council.
- 2.6** In terms of the executive decision-making Cllr Revans has indicated his intention to maintain continuity as much as possible – so it is proposed that:
- The definition of key and non-key decisions will remain unchanged as will the key and non-key decision processes contained within the Constitution;
 - The existing Executive meeting arrangements have been used as the basis for the new Council.

Note that the Chair and Vice-Chair of the Council and members performing Overview & Scrutiny or Regulation Committee functions cannot be members of the Executive due to legislation.

In the event that a Lead Member is unable to discharge his/her specific decision

making functions for any reason (e.g. illness or holiday), the Leader (or in the Leader's absence or his/her inability to act – the Deputy Leader) may discharge those functions or decisions. Associate Lead Members cannot substitute or act as a Lead Member in their absence.

Associate Lead Members

- 2.7** To provide support to the Executive and to aid succession planning, the Leader of the Council intends to continue with the appointing Associate Lead Members to support the Executive. Associate Lead Members are not able to take decisions, but they can advise Lead Members and the Executive and:
- Lead on specific areas to be determined by the Lead Member.
 - Focus on information gathering and understanding key policy/service delivery areas.
 - Assist with the development of options and policies for consideration by the Lead Member.
 - Brief and make recommendations to Lead Members and others on the relevant issues that affect the decision making; and represent or deputise for the Lead Member at non-decision making meetings or events as necessary.

As an aid, the role of an Associate Lead Member could be compared to the Junior Minister roles of central government as they have no formal or legal powers of their own and instead provide a useful policy development and support role for their Lead Members. These roles also provide a valuable personal development opportunity and improve the resilience of the Council.

Where an Associate Lead Member is temporarily unable to perform their role e.g. due to illness, then the relevant Lead Member is able to appoint a temporary Associate Lead Member. In these instances the Leader of the Council will be consulted and the Monitoring Officer informed.

Executive Arrangements

- 2.8** The Leader of the Council has proposed the Executive Arrangements set out in Appendix 1. The development of the Executive Arrangements has been undertaken by the Monitoring Officer in collaboration with the four district councils' Monitoring Officers. This has involved extensive work and included reviewing best practice from the five Somerset councils and reviewing the Executive Arrangements of previous local government reorganisations in Buckinghamshire, Wiltshire and Dorset.

Review and feedback from the Leader of the Council and the Executive has been critical in informing and influencing the drafting of the Executive Arrangements for the new Constitution.

The Leader of the Council and / or the Executive can establish Executive Sub-

Committees with specific functions, membership and delegated powers. Work is being undertaken to develop several Executive Sub-Committees with functions such as planning policy, oversight of transition and transformation programmes, Harbour Management and considering significant objections to Traffic Regulation Orders. The Leader of the Council will present the proposals regarding any Executive Sub-Committees for consideration at the Executive meeting in March. The terms of reference for any Executive sub-committees that are approved by the Executive will be automatically incorporated into the new Council's Constitution and reported to the Council's Annual General Meeting in May 2023.

Public question time arrangements at meetings of the Executive will remain unchanged – members of the public may address the Executive at their meetings, ask questions of the Executive, or present a petition provided notice of the intention has been given to the relevant Committee Administrator in the Democratic Services Team in writing by 12 noon three clear working days before a Cabinet meeting. The Leader or Deputy Leader have the discretion to vary these arrangements.

The proposed Executive Arrangements seek to enable good and effective management of the council's business and ultimately good outcomes for residents and service users. These arrangements are intended to enhance the Council's ability to effectively pursue its vision as set out in the Council Plan. The Executive arrangements of the Council are key elements within the Council's Constitution which is the key governance document of the Council and facilitates delivery of the Council Plan.

3. Other options considered

- 3.1** None considered, these proposals reflect the Leader of the Council's wishes. The proposals seek to support the transition to the new Somerset Council on 1 April 2023.

4. Legal, Financial and Risk Implications

- 4.1** Under the Local Government Act 2000 and Local Government and Public Involvement Act 2007, the Leader of the Council may appoint the Deputy Leader and an Executive of his choosing, set the Executive portfolios and decide how executive functions are to be discharged. The size of the Executive (including the Leader of the Council) can be between 3 and 10 members of the Council.
- 4.2** 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.

Legislation sets out those functions of the new Council which must not be the responsibility of the Executive and those functions which authorities

may decide either to give to the Executive or not – these are referred to as “local choice functions”, other functions are, by default, the responsibility of the Executive. All non-executive functions are for the Council to approve, whereas all executive functions are for the Leader of the Council to approve.

This report complies with all legal requirements in relation to adopting a Constitution for Somerset Council. The only risk to the Council would result from the Council failing to fulfil its legal obligations and therefore the level of risk arising from the proposals in this report are considered to be low.

Failure to agree the changes proposed may hinder the delivery of Council services and key programmes / projects such as the change programme as the Executive has a key role in day to day decision making in relation to policy setting and service delivery. It could also leave the Council exposed to potential challenge and limit the ability of the Senior Leadership Team to operate effectively.

Likelihood	1	Impact	5	Risk Score	5
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The financial implications arising from the proposals in this report can be accommodated within the proposed budget for 2023/24.

4.3 Equalities Implications

The Council’s duty under Section 149 of the Equality Act 2010 is to have “due regard” to the matters set out in relation to equalities when considering and making decisions on the provision of services. Members must consider the effect that implementing a particular policy will have in relation to equality before making a decision.

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 Executive 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.

4.4 Community Safety, Sustainability, Health & Safety, Health and Well-Being and Social Value Implications

No specific negative implications have been identified.

5. Background Papers

5.1 Council’s Constitution

Leader of Council – Appointment of Executive May 2022

Monitoring Officer report to Council in May 2022
Somerset Structural Changes Order 2022
Local Government Acts 1972 and 2000

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Part E – Executive Arrangements

Section 1 The Role of Executive

Section 2 Executive Arrangements

Section 3 Executive Procedure Rules

Section 4 Executive sub-committees (to be considered by the Executive in March 2023)

Section 5 Local Community Networks

Introduction

The Executive is a group of Councillors made up of the Leader of the Council, who is chosen by the full Council, and up to 9 other Councillors, called Lead Members, who are appointed by the Leader.

Apart from specific functions listed as Council functions in legislation all other responsibilities rest with the Leader and the Executive. These are called “executive functions”.

A specific area of responsibility is called a Portfolio and where a Councillor is assigned that area of responsibility that Councillor is also called a Lead Member.

The dates of Executive meetings are set out on the Council’s website. Members of the public can attend or watch all Executive meetings in accordance with the Access to Information Procedure Rules at Part B of the Constitution.

This Part E of the Constitution sets out in detail which functions are executive functions, the rules which govern how the Executive makes decisions, and how meetings of the Executive are run.

These rules are written in formal language. If you have specific questions our Democratic Services Team will be happy to help you.

1. The Role of Executive

Functions

1.1 The Local Government Act 2000 provides that the functions of a local authority are the responsibility of its Executive (referred to in the Act as the "Executive") except for those which the law requires to be performed by the Council; always provided that such a decision is within the Council's Budget and Policy Framework.

1.2 The Local Authorities (Functions and Responsibilities) (England) (Regulations) 2000 is the main piece of legislation governing the functions of a local authority and it lists the different functions which are detailed in the Schedules to the Regulations and can be categorised as:

Schedule 1 Functions which must not be the responsibility of the Executive;

Schedule 2 Functions which may be the responsibility of the Executive or of the Council - these are known as "local choice" functions:

Schedule 3 Functions which may not be the sole responsibility of the Executive;

Schedule 4 Circumstances in which functions which would normally be the responsibility of the Executive, are not to be the responsibility of the Executive.

1.3 As such, the Council has the discretion to decide which of the functions that fall into Schedule 2 will be the responsibility of the Council (Council Functions) and which will be the responsibility of the Executive (Executive Functions). The Council decides which of the local choice functions will be Council Functions and which of the local choice functions will be Executive Functions.

1.4 There are some other pieces of legislation which provide that certain matters must be dealt with by the full Council. These include:

(a) setting the Annual Budget and Council Precept;

(b) agreeing the Council Plan;

- (c) approving the Council's Pay Policy Statement;
- (d) approving the Council's Investment Strategy.

Executive Functions

1.5 Except those Council functions listed at in Schedule 1 of the Regulations referred to in paragraph 1.2 above, the Council has decided that all other functions, including local choice functions, are to be executive functions.

1.6 Responsibility for executive functions rests with the Leader who will decide which functions he/she will perform personally, and which will be delegated to the Executive as a whole; to an Executive Sub-Committee; individual Lead Members or to Officers.

The Leader has retained the following responsibilities:-

- (a) To refer to Council for approval any proposed executive decision which is outside of the Council's Policy Framework or Budget, or the virement limits set by the Council.
- (b) To exercise any delegated executive decision-making responsibility including where a Lead Member wants to take a decision against officer advice, or where there is uncertainty as to who may take a decision.
- (c) In addition to any specific delegations to Lead Members and Senior Leadership Team Officers, to acquire land by agreement or, failing agreement, by compulsory purchase and to dispose of County Council land – see property purchase provisions 1 to 3 below.
- (d) To appoint any individual to an outside body or partnership or joint committee of two or more authorities where the appointments relate to executive functions.
- (e) *The determination of an appeal against any decision made by or on behalf of the authority in respect of Early Years Providers. (Local choice function)*

(f) *The appointment of any individual :*

(i) *to any office other than an office in which he/she is employed by the authority;*

(ii) *to any body other than:*

- *the authority*
- *a Joint Committee of two or more authorities; or*
- *any Committee or Sub-Committee of such a body, and the revocation of any such appointment*

(‘Local choice’ function for appointments falling under the responsibility of the Leader)

Property Purchase Provision 1 - The Leader can only acquire land after having first considered the Chief Finance Officer’s advice and recommendations on the value and for a sum no greater than the maximum (if any) recommended by the Chief Finance Officer.

Property Purchase Provision 2 - When acquiring land or disposing of land, the Leader will comply with the relevant general procedures laid down by the Council including for dealing with capital payments or capital receipts.

Property Purchase Provision 3 - The Leader shall not re-delegate his / her power to acquire land, except:-

- (a) where statute permits;
- (b) where the powers concern the compulsory acquisition of land or the acceptance of gifts of land for the creation or improvement of an existing County road - these powers can be delegated to a Sub-Committee comprising the Leader, Deputy Leader and one other Member of the Executive.

The Executive:

- (a) Makes recommendations to Council on the Policy Framework, except where the statutory responsibility for the submission of such recommendations rests with another body;
- (b) Recommends the Annual Budget and Precept to Full Council for approval;
- (c) Advises the Council on the economy, efficiency and effectiveness of its

activities and the need for new services and the necessity of existing ones;

- (d) Advises the Council on the overall organisation, co-ordination and management of the Council;
- (e) Advises the Council on its policy and response to international, national and regional initiatives;
- (f) Has responsibility for the overall allocation and control of the financial, staff and land resources of the Council and acts as the 'corporate client';
- (g) Receives the annual outturn reports;
- (h) Approves the Council's risk management strategy and policy statement;
- (i) Recommends the treasury management policy statement to Full Council for approval, on an annual basis;
- (j) Reviews policy and develops and agrees new policy (aside from policies within the Council's Policy Framework) as required, seeking where appropriate to involve scrutiny in the development of proposals;
- (k) Considers recommendations from Scrutiny Committees.

Functions for Lead Members and Officers are set out below and in the Officer Scheme of Delegation.

1.7 A decision on any delegated executive function may be referred to the whole Executive when: -

1.7.1 The Leader, an Executive Sub-Committee, Lead Member or Officer believes that due to the contentious or 'political' nature of the matter it should be considered and decided by the whole Executive;

1.7.2 The Lead Member takes a different view of the proposal in question and feels unable to be associated with it; or

1.7.3 The Lead Member or Officer believes that they are conflicted or may be accused of bias.

1.8 Under the provisions of the Localism Act 2011 a Lead Member cannot deal with any matter in which they have a "Disclosable Pecuniary Interest" and must take no action other than referring the matter on; usually via the Council's Monitoring Officer and Leader.

Executive Arrangements

1.9 The following parts of this Constitution should be read in conjunction with the Council's:-

- Executive Procedure Rules
- Access to Information Procedure Rules
- Joint Arrangements
- Scrutiny Arrangements

2. Executive Arrangements

The Role of Executive

2.1 The Executive will carry out all of the executive functions

Form and Composition

2.2 The Executive will consist of the Leader of the Council together with such number of elected Councillors of the Council not exceeding [9] as he/she may appoint to the Executive.

Leader of the Council

2.3 The Leader will be a Councillor elected by Council for such term, not exceeding the date of the next elections to the Council. The Leader will hold office until:

2.3.1 he/she resigns from the office; or

2.3.2 he/she dies;

- 2.3.3 he/ she is removed from office by resolution of the Council on receipt of a Notice of Motion in accordance with the requirements for Motions as set out in the Council Procedure Rules; or
- 2.3.4 he/she is removed from office by simple resolution of the Council at the meeting of Council following a change in political control of the Council, as signalled to the Monitoring Officer. A change in political control is a change in the composition of the various political groups such that a different group or combination of groups now comprise a majority of the membership of the Council;
- 2.3.5 he/she is disqualified from being a Councillor;
- 2.3.6 should a situation arise where the Leader no longer holds office as mentioned above, the Deputy Leader will carry out the role and duties of Leader until such time as the Council elects a councillor to the position of Leader;

Deputy Leader of the Council

- 2.5 The Leader following his or her election will appoint one of the Members of the Executive as his/her Deputy.
- 2.6 The Deputy Leader may not vary the arrangements made by the Leader or alter any arrangements made by the Leader under this Constitution for the exercise of executive functions, except for:
 - 2.6.1 changes consequent upon the dismissal of a Leader during the period until the new Leader is elected;
- 2.7 The Deputy Leader shall be appointed by the Leader and shall hold office until:
 - 2.7.1 he/she resigns from office; or
 - 2.7.2 until the end of the Leader's term of office and the new Leader has been elected; or

- 2.7.3 he/she is no longer a Councillor; or
- 2.7.4 he/she is removed from office by the Leader who must give written notice of any removal to the Chief Executive. The removal will take effect two working days after receipt of the notice by the Chief Executive
- 2.7.5 he/she is disqualified from being a Councillor;

Other Executive Members

Lead Members

- 2.8 Following his/her election, the Leader will appoint up to [9] further members of the Executive; one of whom will be the Deputy Leader.
- 2.9. Only councillors of Somerset Council may be appointed to the Executive. There may be no co-optees or substitutes for Lead Members. Neither the Chair nor Vice Chair of the Council may be appointed to the Executive, and Lead Members may not be members of the Scrutiny Committees.
- 2.10 Lead Members shall be appointed annually by the Leader and shall hold office until:
 - 2.10.1 the next annual meeting of the Council; or
 - 2.20.2 they resign from office; or
 - 2.20.3 they are no longer councillors; or
 - 2.20.4 they are removed from office by the Leader who must give written notice of any removal to the Chief Executive. The removal will take effect two working days after receipt of the notice by the Chief Executive.

Proceedings of the Executive

- 2.11 Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out below in this Constitution.

Responsibility for Functions

2.12 The Leader will determine which executive functions he/she will discharge personally, which shall be retained for decision by the Executive, which shall be allocated to individual Lead Members, and (subject to any statutory requirements and in accordance with the Councils Scheme of Delegation of Officers) which executive functions shall not be retained for decision by the Executive and, therefore, shall be discharged by Officers.

A Lead Member can convene, on an ad hoc basis, a small representative group of Members of the Council (i.e. cross-party) to assist in the consideration of particular issues or matters. These are not formal meetings as defined in the Code of Conduct and the Lead Member is responsible for all of the arrangements.

2.13 These responsibilities may be amended by the Leader on written notice to the Monitoring Officer.

Children's Services - Lead Member arrangements

2.14 In respect of Children's Services, the Leader shall designate a Lead Member as "Lead Member for Children's Services", in accordance with section 19(1), Children Act 2004. The Lead Member for Children's Services shall be responsible for the strategic direction of the Council's Children's Services and their effective overview and shall carry overall political responsibility for those services.

Associate Lead Members

2.15 The Leader may appoint non-Executive Members as Associate Lead Members (provided that the total number of Associate Lead Members does not exceed the number of Lead Members) to advise and assist Lead Members in the discharge of their duties within their portfolio(s).

An Associate Lead Member is not authorised to make any decision normally made by a Lead Member or to deputise for a Lead member at Executive. Associate Lead Members will:

- (a) Support Lead Members to provide clear political leadership both within and outside of the Council in order to help advance and deliver the Council's priorities and key outcomes
- (b) Focus on information gathering and understanding key policy / service delivery in their areas of responsibility
- (c) Assist with the development of options and policies for consideration by the Executive and relevant Lead Member taking into account national policies and local circumstances
- (d) Brief and make recommendations to Executive and their relevant Lead Members and others on relevant issues in relation to policy and strategy development, service improvement or changes and decision making.
- (e) Represent or deputise for their relevant Lead Member at meetings or events as necessary. NB (The term 'deputise' does not include authority to take formal decisions.)
- (f) Promote and support good governance of the Council and its business.
- (g) Keep other Members of Council informed about their activities,
- (h) Maintain effective working relationships with Senior Leadership Team officers and other Officers.
- (i) Create and maintain effective relationships with partners and organisations to deliver the Council's priorities
- (j) Be accountable to their relevant Lead Member, and ultimately the Leader of the Council, for the development and delivery of policies and strategies to meet the outcomes required by the Council and the Executive.
- (k) Be accountable to their relevant Lead Member for supporting the commissioning and delivery of services to meet the outcomes required by the Council and the Executive. This includes supporting the delivery of Council Plan priorities and Medium Term Financial Plan savings
- (l) Play a key role in supporting transformational programmes within their areas of responsibility
- (m) Play a key role in the delivery of specific projects within their areas of responsibility.

Where an Associate Lead Member is temporarily unable to perform their role e.g. due to illness, then the Leader is able to appoint a temporary Associate Lead Member, ensuring the Monitoring Officer is informed.

Scheme of Delegation to Executive Lead Members

- 2.16 Where executive functions are not reserved to the Council, to Executive or delegated to Officers, they are Lead Member matters in accordance with this scheme and according to their portfolios.
- 2.17 The Monitoring Officer, in consultation with the Leader, shall determine the appropriate Lead Member to deal with a matter in cases of uncertainty.
- 2.18 The following areas of responsibility are included in the matters which may be determined by the appropriate Lead Member:
- 2.18.1 to consider reports prepared by officers and to make any decisions in accordance with the requirements of this Constitution;
 - 2.18.2 to consider draft reports to the Executive with the relevant Director and/or other relevant senior Officer;
 - 2.18.3 to determine how expenditure on services should be undertaken within approved budgets;
 - 2.18.4 to agree annual reports;
 - 2.18.5 to develop and approve service plans of services, including future budget requirements;
 - 2.18.6 to monitor the budget and performance for particular services;
 - 2.18.7 to determine policies for particular services, which are consistent with the Policy Framework;
 - 2.18.8 to agree responses to consultation papers;
 - 2.18.9 to make payment of grants to outside bodies within the list approved by the Executive, except those which fall to the Executive itself to decide;

2.18.10 to approve decisions affecting a particular locality (i.e. which are not service-wide, Council-wide or otherwise corporate).

3. Executive Procedure Rules

Executive Decision Making

- 3.1 The Leader may decide how the Executive performs its executive functions which may include decisions being made by:
- 3.1.1 the Executive as a whole;
 - 3.1.2 an Executive Sub-Committee;
 - 3.1.3 one or more Lead Members individually or jointly
 - 3.1.4 an Officer (subject to the Scheme of Delegation to Officers);
 - 3.1.5 joint arrangements;
 - 3.1.6 another local authority.

The Leader's Delegation of Executive Functions

- 3.2 Each year the Leader will prepare a written record of the delegations of executive functions. The record of delegations will detail the executive functions which the Leader has delegated to the Executive, Executive Committees, specific Lead Members or Officers. The record of delegations will be presented to the Council at the Council's annual meeting and will be included into the Council's Scheme of Delegation which can be found at Part I of this Constitution. The record of executive functions delegations will include:-
- The names, contact details and electoral area of those councillors appointed to the Executive by the Leader;
- 3.2.1 the executive functions to be performed by the Executive;

- 3.2.2 the executive functions to be performed by a specific Lead Member (including any limitations on his / her authority);
- 3.2.3 the terms of reference and constitution of any Executive Committee the Leader has appointed, and the names of the Lead Members appointed by the Leader to serve on any Executive Committee;
- 3.2.4 the nature and extent of any executive function delegated to any joint committee or body or any other local authority along with the names of the Lead Members appointed to any Joint Committee for the coming year;
- 3.2.5 any changes to any of the delegations of Officers, the title of the Officer(s) to whom the delegation is made and any limits on their authority.

Sub-Delegations of Executive Functions

- 3.3 Unless the Council says otherwise, where the Executive or an individual Lead Member is responsible for performing an executive function, they may subdelegate its performance to an Officer.
- 3.4 Where an executive function has been sub-delegated to an Officer it may still be performed by the person or body who made the sub-delegation.

The Council's Scheme of Delegation of Executive Functions

- 3.5 The record of delegation of executive functions to Lead Members may be amended by the Leader at any time during the year, but written notice must be provided to the Monitoring Officer and the Lead Member, body or Executive Committee concerned. The notice must set out the extent of the amendment and whether it involves the withdrawal of a delegation from the Lead Member, body or Executive Committee concerned, or the Executive as a whole. Where the amendment concerns a change to the delegation to a joint Committee or

other joint working arrangement, the Monitoring Officer will present to the Council at its next meeting the amendments made by the Leader.

- 3.6 Where the Leader seeks to withdraw a delegation from an Executive Committee, notice to do so will be considered as having been given to the Committee concerned when the Leader has given the notice to the Chair of the Committee.

Conflicts of Interest

- 3.7 Where the Leader has a conflict of interest he/she must ensure that he/she does not influence the decision to be taken and that the decision is taken by a Lead Member who does not have such a conflict of interest.
- 3.8 If every Lead Member has a conflict of interest, consideration must be given to delegating the decision to the Chief Executive, appropriate Director or senior Officer, or to seeking a dispensation to taking the decision but dispensations are not available in respect of single Lead Member decision making.
- 3.9 Where a decision is being taken regarding a service which is commissioned by a Lead Member from an external service provider, Lead Members must be mindful of potential conflicts of interest arising if they also sit on the board of directors or trustees, or are otherwise involved in the governance of the external provider. In such circumstances Lead Members should seek advice from the Monitoring Officer before agreeing to sit on such a board or governance structure.
- 3.10 If the performance of an executive function has been delegated to an individual Lead Member or Officer and a conflict of interest arises, in the first instance the executive function will be performed by the person or body by whom the delegation was made.

Executive Meetings

3.11 Executive Meetings are convened and conducted in accordance with the Access to Information Procedure Rules which can be found at Part B of this Constitution

Time and Place of Executive Meetings

3.12 The Executive will usually meet at least 10 times a year. The Monitoring Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules at Part B. At least 5 working days before a meeting, the Monitoring Officer will send a summons signed by him/her to every Member of the Council. The summons will give the date, time and place of each meeting; specify the business to be transacted and will be accompanied by such reports as are available.

Quorum for Executive Meetings

3.13 The quorum for any Executive meeting is 50% of the Executive Members. If a quorum is not present within 10 minutes of the scheduled start of the meeting or such longer time as allowed by the Chair, the business of the meeting will be adjourned to the next Executive meeting.

How the Executive Makes Decisions

3.14 Decisions as to the executive functions which have been delegated to the Executive will be decided by the Executive as a whole, and where a Key Decision is involved in accordance with the rules on Key Decision Making by the Executive and Individual Lead Members.

Chair of Executive Meetings

3.15 The Leader, or in his/ her absence the Deputy Leader, will chair Executive meetings. In the absence of both the Leader and the Deputy Leader, the Lead Members present at the meeting will choose from amongst themselves

someone to preside at the meeting. The person presiding may exercise any power or duty of the Chair.

Attendance at Executive Meetings

3.16 Members of the public and the press may attend all Executive Meetings in accordance with Council's Access to Information Procedure Rules, except:-

3.16.1 where, in accordance with Access to Information Procedure Rules, the Executive has decided that the public and the press should be excluded for all or part of the meeting because a matter to be considered is likely to result in the disclosure of exempt or confidential information.

3.16.2 where, in accordance with the Access to Information Procedure Rules, the person attending the meeting has been removed on the order of the Chair so as to prevent the disruption of the meeting.

3.17 Any non-Executive Member may attend an Executive Meeting as a member of the public in accordance with the Council's Access to Information Procedure Rules, except where excluded.

3.18 A non-Executive Member may only speak at an Executive Meeting if invited to do so by the Chair.

3.19 Officers are expected to attend Executive Meetings as follows:-

3.19.1 the Chief Executive and Executive Directors will attend Executive Meetings. Other Directors and Officers may attend Executive Meetings at the invitation of the Chief Executive and Executive Directors;

3.19.2 the Statutory Officers of the Council or their nominees may attend Executive Meetings and speak on issues affecting their statutory responsibilities as of right, or otherwise when requested to do so by the Chair.

3.20 Lead Members may not appoint substitutes to attend Executive Meetings in their place. The absence of a Lead Member will not prevent the consideration

or making of decisions in respect of a matter. If a matter has been delegated to an absent Lead Member, it may be referred to the Executive as a whole for consideration and decisions to be made. An absent Lead Member may ask an Associate Lead Member to speak on his/her behalf, if permitted by the Chair but Associate Lead Members are not able to vote at Executive Meetings.

Order of Business of Executive Meetings

- 3.21 The following business will be conducted at each Executive Meeting:-
- 3.21.1 elect a person to preside if the Leader and Deputy Leaders are not present;
 - 3.21.2 approve the minutes of the last meeting;
 - 3.21.3 receive any apologies for absence;
 - 3.21.4 receive any declarations of interest;
 - 3.21.5 receive any statements from the Leader;
 - 3.21.6 at the Chair's discretion, the allocation of time for non-Executive Members to question Lead Members;
 - 3.21.7 consider petitions referred by full Council which relate to executive functions;
 - 3.21.8 consider other matters set out in the meeting agenda. The agenda will indicate any matters which are key decisions or matters which are exempt or confidential and require the exclusion of the public and / or press.

The Agenda for Executive Meetings

- 3.22 Except in the case of an urgent Executive meeting, the Monitoring Officer will deliver to Lead Members and make available to the public, the agenda for a Executive Meeting along with the summons setting out the date, time and place of the meeting at least 5 working days before the meeting takes place.

Urgent Executive Meetings

3.23 In accordance with the Access to Information Procedure Rules, an urgent Executive Meeting may be held without 5 working days' notice if an urgent matter requires consideration.

Consultation

3.24 All reports to the Executive from any Lead Member or an Officer which concern the Budget and Policy Framework or proposals which otherwise require a consultation, must include details as to the extent of the consultation and its outcome. The extent of a statutory consultation will be as required by the law; the extent of non-statutory consultations will be as appropriate.

Minutes of Executive Meetings

Signing the Minutes

3.25 The Chair will sign the minutes of the proceedings of meetings of the Executive at the next Executive meeting. The Chair will move that the minutes of the previous Executive meeting be signed as a correct record. The only part of the minutes which can be discussed is their accuracy.

No Requirement to Sign Minutes of Previous Meeting at an Urgent Executive Meeting

3.26 Where an urgent Executive meeting is called in accordance with Rule 3.23, there is no requirement for the minutes of the previous Executive Meeting to be signed at the urgent meeting.

Form of Minutes

3.27 Minutes will contain all motions and amendments in the form and order the Chair put them.

Appointment of Substitute Members at Executive Meetings

3.28 The substitution rules do not apply to Executive meetings.

Generally

Disturbance by the Public

3.29 In accordance with the Access to Information Procedure Rules, if a member of the public interrupts the proceedings of a Executive meeting, the Chair will warn the person concerned. If they continue to interrupt, the Chair will order their removal from the meeting room, or if there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

Exclusion of the Public

3.30 Members of the public and press may only be excluded from a Executive Meeting in accordance with the Access to Information Procedure Rules in Part B of this Constitution.

Questions

3.31 Any Councillor may ask the Executive a question on any matter in relation to which the Council has powers or duties, or which affects the administrative area of the Council.

Content of Questions

3.32 In the opinion of the Chair all questions must:

3.32.1 not be unreasonable;

3.32.2 contain no expressions of opinion;

3.32.3 relate to matters on which the Council has or may determine a policy;

3.32.4 not relate to questions of fact;

3.32.5 not require the disclosure of confidential or exempt information;

3.32.6 not relate to a matter which is of purely personal concern to an individual/family member.

Time Allowed for Councillor Questions

- 3.33 The number of questions asked and the total time allowed for consideration of such questions shall be determined by the Chair.
- 3.34 At the conclusion of the response to the question under consideration or at the expiry of such time period as determined by the Chair from the time when the first questioner started to speak, the Chair shall conclude the meeting or proceed to the next item of business.
- 3.35 Any remaining questions shall be responded to in writing before the next ordinary meeting of the Executive.

Order of Questions

- 3.36 Questions from Councillors will be asked in the order determined by the Chair.

Response

- 3.37 An answer to a question may take the form of:
- 3.37.1 a direct verbal answer;
 - 3.37.2 where the desired information is in a publication of the Council or other published work, a reference to that publication; or
 - 3.37.3 where the reply cannot conveniently be given verbally, a written response will be provided no later than 5 working days after the meeting.
 - 3.37.4 copies of all questions and responses will be available on the Council's website with the minutes for the relevant meeting.

Suspension and Amendment of Executive Procedure Rules

Suspension

- 3.38 Where allowed by law all of these Executive Procedure Rules may be suspended by motion on notice or without notice if at least one half of the whole number of Lead Members are present. Suspension can only be for a single item or the duration of the Executive Meeting.

Amendment

3.39 Any motion to add to, vary or revoke these Executive Procedure Rules will, when proposed and seconded, stand adjourned without discussion to the next Executive Meeting.

Application of Executive Procedure Rules

3.40 All of the Executive Procedure Rules apply to Executive meetings and Executive sub-committees.

3.41 None of the Executive Procedure Rules apply to meetings of full Council, Committees or Sub-Committees.

Application of Access to Information Procedure Rules to Executive

3.42 The Access to Information Procedure Rules apply to the Executive. If the Executive meets to take a Key Decision, then it must comply with Access to Information Procedure Rules unless General Exception, Special Urgency or Major Emergencies rules apply. A Key Decision is defined in the glossary at Part A of this Constitution and as follows:

Key decisions are executive decisions (not those made by committee) and are defined in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) (Regulations) 2012 and are decisions which:-

- (a) Result in the Council incurring expenditure ** which is, or making savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
- (b) Are deemed significant in terms of their effect on communities living or working within the area of the Council.

**There is no definition in the legislation of the word 'significant' in (a) above. Therefore the Council has decided that the financial threshold at or above which a financial decision is significant (and a Key Decision) will be a total value of £500,000 for capital / revenue expenditure or savings. Money delegated to schools as part of the Scheme of Financial Management of Schools exercise is exempt from these thresholds once it is delegated to the school.

'Key Decisions' can be taken by the Leader, the Executive collectively, jointly by two Lead Members, individual Lead Members, Senior Leadership Team Officers,

Executive sub-Committees and Joint Committees with delegated powers from the Executive.

In the event of any doubt, the Monitoring Officer will determine whether a proposed decision is a Key Decision under the definitions set out above.

Non-Key Decisions: These are all 'executive' decisions which fall beneath the 'Key Decision' financial or geographical thresholds. 'Non-Key Decisions' can be taken by the Leader, the Executive collectively, jointly by two Lead Members, individual Lead Members, Executive Sub-Committees and Officers.

LEAD MEMBER AND OFFICER KEY AND LEAD MEMBER NON-KEY DECISIONS – CONSULTATION REQUIREMENTS

Before a Key Decision can be taken, the following must be consulted:

- (a) The relevant Lead Member(s), Associate Lead Member (where appropriate) and Senior Leadership Team Officer(s).
- (b) Any local Member whose electoral division is significantly affected. They must also be informed of any subsequent action / outcome.
- (c) The Chief Finance Officer and the Monitoring Officer and due regard given to their advice where there are likely to be financial, legal or standards implications.
- (d) The relevant Opposition Spokesperson / Leader
- (e) The Chair (or in their absence the Vice-Chair) of the relevant Scrutiny Committee.

Before a Lead Member Non-Key decision is taken, the consultation requirements at (a), (b) and (c) above must be met.

In addition, the relevant Opposition Spokesperson / Leader and the Chair (or Vice-Chair in their absence) of the relevant Scrutiny Committee must be informed of the decision.

Procedure Before Taking Key Decisions

3.43 Subject to General Exception (3.49 below), Special Urgency (3.50 below) or Major Emergencies (see 3.51 below) rules below, a Key Decision may not be taken unless:

3.43.1 at least 28 clear days' notice has been published in connection with the matter in question this Notice will be given by means of the Forward Plan;

3.43.2 at least five clear days have elapsed since the publication of the notice of the decision, unless the decision taker has resolved that implementation of the decision is urgent in which case the decision can be implemented without delay;

3.43.3 where the decision is to be taken at a meeting of the Executive or a Sub-Committee, notice of the meeting has been given in accordance with Access to Information Procedure Rule (notice of meetings).

The Forward Plan

3.44 The Leader will ensure that notice of all Key Decisions (by the Executive and by individual Lead Members) is given at least 28 clear days before they are due to be taken.

3.45 For ease the Council will list all Key Decisions once a month in a [Forward Plan] indicating which decisions the Executive anticipate that they will take during the next 4 months, together with any particularly significant Key Decisions which the Executive anticipates taking within the next 4 to 12 months. The Monitoring Officer may also include in the Forward Plan reference to such other decisions which are to be taken by the Council or any of its Committees or Sub-Committee or Officers as is considered appropriate.

3.46 The Forward Plan shall include the following information in respect of each key decision:

3.46.1 the matter in respect of which the decision is to be taken;

3.46.2 the person or body by whom the decision is to be taken;

3.46.3 the date on which, or the period within which, the decision is to be taken;

3.46.4 notice, if appropriate, that the Council intends to take a decision in private because the decision contains confidential or exempt information.

3.47 Where the Executive anticipate taking a Key Decision on a matter, and inclusion of the matter within the Forward Plan would disclose confidential or exempt information and so prejudice the conduct of the Council's business, the Executive may limit the entry in the Forward Plan to such information as may be disclosed without prejudice provided that notice under rules above has been given.

3.48 The Executive shall normally review and update the Forward Plan at least once in every calendar month and shall make arrangements for the revised Forward Plan to be made available on its website.

General Exception

3.49 Subject to Special Urgency or Major Emergencies rules below, if a matter which is likely to be a key decision has not been advertised for a minimum of 28 clear days on the Council's website, then the decision may still be taken if:

a the decision must be taken by such a date that it is impracticable to defer the decision until it has been possible for 28 clear days' notice to be given;

b the Monitoring Officer has informed the relevant Scrutiny Committee Chair in advance in writing and made copies of that notice available to the public at the offices of the Council; and on the Council's website; and

c at least five days have elapsed since the Proper Officer complied with (a) and (b) above.

Special Urgency

3.50 If the Major Emergencies rule (3.51 below) does not apply and, by virtue of the date by which a decision must be taken Procedure Rule 3.49 (general exception) cannot be followed and the five days' notice of the decision cannot be given then the decision can only be taken if the decision taker (if an individual) or the Chair of the body making the decision, obtains the agreement of the Leader and the Chair of the relevant Scrutiny Committee that the taking of the decision cannot be reasonably deferred. Notice in writing of the application to the Chair of the appropriate Scrutiny Committee must be published on the Council's website and copies made available to the public at the offices of the Council. If there is no Chair of a relevant Scrutiny Committee, or if the Chair of the relevant Scrutiny Committee is unable to act, then the agreement of the Chair of the Council, or in their absence the Vice Chair will suffice.

Major Emergencies

3.51 In a major emergency listed below, the Leader or Deputy Leader or in their absence the relevant Lead Member or, if appropriate, the Chief Executive or Director may take any immediate urgent decision required without consultation.

3.52 For the purposes of Rule 3.51, a major emergency is any event or circumstance (happening with or without warning) that causes or threatens death or injury, disruption to the community, or damage to property or to the environment on such a scale that the effects cannot be dealt with by the emergency services, local authorities and other organisations as part of their normal, day-to-day activities.

Report to Council

When a Scrutiny Committee Can Require a Report

- 3.53 If a Scrutiny Committee believes that a decision has been taken which:
- 3.53.1 was not publicised to ensure that appropriate notice was given of the decision; or
 - 3.53.2 was the subject of the general exception procedure; or
 - 3.53.3 was the subject of an agreement with a relevant Scrutiny Committee Chair, or the Chair/Vice Chair of the Council under Rule 3.50 (special urgency); or
 - 3.53.4 was taken during a major emergency in accordance with Rule 3.51;
- the Scrutiny Committee may require the Executive to submit a report to the Council within such reasonable time as the Committee specifies setting out the reasons for such urgency. The power to require a report rests with the Scrutiny Committee, but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the Scrutiny Committee when so requested by at least 50% of the members of the Scrutiny Committee. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Scrutiny Committee.

Quarterly Reports on Special Urgency Decisions

- 3.54 In any event the Leader will submit quarterly reports to the Council on the Key Decisions taken in the circumstances set out in Rule 3.50 (special urgency) and/or Rule 3.51 (major emergencies) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken and the reasons for urgency.

Record of Decisions

- 3.55 After any meeting of the Executive, the Monitoring Officer will produce a record of every decision taken at that meeting as soon as practicable. The record will include the date such a decision was made, a statement of the reasons for each

decision and, where appropriate, any alternative options considered and rejected at that meeting. The notice will also advise whether the Monitoring Officer has agreed to make a dispensation where a conflict of interest was declared before the decision was taken.

- 3.56 Where an Officer under delegated powers takes an executive decision, a written statement will be produced and published on the Council's website recording the reasons for this decision.

Executive Meetings Relating to Matters Which Are Not Key Decisions

- 3.57 The Executive have decided that meetings of Executive shall be held in public even when not relating to matters which are Key Decisions.

- 3.58 Where a Lead Member or Officer takes a decision other than a Key Decision he/she shall keep such notes and records of the decision as he/she considers appropriate in the circumstances and taking into account any requirements to produce such information to a Scrutiny Committee, if requested to do so.

Decisions by individual Lead Members or by Directors (or Relevant Senior Officers)

Reports Intended to be Taken into Account

- 3.59 Except as referred to in Rule 3.51 (major emergencies) where a Lead Member receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least five days after the receipt of that report.

Provision of Copies of Reports to Scrutiny Committees

- 3.60 On giving of such a report as detailed in Rule 3.59 to an individual decision maker, the person who prepared the report will give a copy of it to the Chair of the relevant Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time, provided that such reports do not contain confidential or exempt information.

Record of Individual Decision

3.61 As soon as reasonably practicable after any decision has been taken by a Lead Member or in the case of a Director or relevant senior Officer taking a delegated executive decision which would have been taken by a Lead Member or the Executive, the Proper Officer shall prepare, and publish, a record of the decision; and, as appropriate, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Access to Information Procedure Rules 2.10 to 2.14 (inspection of documents after meetings) will also apply to the making of decisions by Lead Members, or to a decision taken by an Officer. This does not require the disclosure of exempt or confidential information.

Scrutiny Committees' Access to Documents

Rights to Copies

3.62 Subject to Rule 3.63 below, a relevant Scrutiny Committee (including any Sub-Committees) will be entitled to copies of any document which is in the possession or control of the Executive or its Committees and which contains material relating to:

3.65.1 any business transacted at a meeting of the Executive or its Committees;

or

3.65.2 any decision taken by an individual Member of the Executive.

Limit on Rights

3.63 A Scrutiny Committee will not be entitled to scrutinise:

- a any document that is in draft form and not yet formally available for consideration by the Executive or an individual Lead Member except when this has been agreed by Executive or the Lead Member;
- b any part of a document that contains exempt or confidential information, unless the Monitoring Officer has determined that the information is relevant to an action or decision they are reviewing or scrutinising or is

relevant to a decision which they have given notice of their intention to scrutinise.

Additional Rights of Access for Councillors

Material Relating to Previous Business

3.64 Subject to the Access to Information Procedure Rules all Councillors will be entitled to inspect any document which is in the possession or under the control of the Executive and contains material relating to any business previously transacted, except to the extent that it contains any exempt information as described in Access to Information Procedure Rules in Part B of the Constitution.

Material Relating to Key Decisions

3.65 Subject to the Access to Information Procedure Rules five days before a meeting of the Council's Executive, all councillors will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive or its Committees which relates to any key decision unless Rule 3.66 a. or b above applies.

Nature of Rights

3.66 These rights of a Councillor are additional to any other right he/she may have.

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Somerset County Council

Constitution & Governance Committee

– 14 February 2023

Report of the Monitoring Officer – Proposed new Constitution for the new Somerset Council

Lead Members: Cllr Bill Revans, Leader of the Council & Cllr Theo Butt Philip, Chair of Constitution & Governance Committee

Division and Local Member: N/A

Lead Officer & Author: Scott Wooldridge - Monitoring Officer and Head of Governance & Democratic Services

Contact Details: 01823 357628

1. Summary

- 1.1 At its Annual General Meeting in May 2022, the Council agreed an interim Constitution for 2022/23 and recognised that there would be a comprehensive review of the Constitution during 2022/23 through the Constitution and Governance Committee, culminating in the proposed Constitution for the new Somerset Council being recommended to the County Council meeting on 22 February 2023 ahead of vesting day on 1 April 2023.
- 1.2 The Constitution and Governance Committee has been completing a phased review of key elements of the new Constitution for the new Somerset Council over a series of meetings. The proposed new Constitution is appended to this report for consideration by the Committee to recommend this to the County Council for approval on 22 February 2023.
- 1.3 The development of the new Constitution has been undertaken by the LGR Governance Workstream involving the Council's Monitoring Officer in conjunction with the Monitoring Officers of the four district councils. This has involved extensive work and included reviewing best practice from Somerset councils and reviewing the Constitutions of previous local government reorganisations in Buckinghamshire, Wiltshire and Dorset.
- 1.4 The new Constitution sets out how the new council will operate; how it will make decisions and the steps that are to be followed to make sure the new authority's decisions are efficient, transparent and accountable to local people. The Council must ensure that copies of the Constitution are available for inspection by the public at all reasonable hours and supply a copy of the same upon request (upon payment of such reasonable fee as the Council may determine).
- 1.5 A diagram summarising the overall proposed governance structure and illustrating the relationship between the Full Council, Council committees,

Executive, Local Community Networks and Overview and Scrutiny Committees is set out at Part D of the Constitution. The most substantive changes are summarised in the bulleted list below, relating to the Council committees dealing with planning, licensing and regulatory matters and Overview and Scrutiny Committees, along with the 18 new Local Community Networks:

- Full Council
- Council Committees (dealing with non-executive functions) such as Audit Committee, Constitution & Governance Committee, Health & Well-Being Board, Human Resources Committee, Officer Appeals Committee, Pensions Committee and Pensions Board, Standards Committee - minor modifications

New committees/substantive changes for the following:

- a Strategic Planning Committee and four area-based Planning Committees
- a statutory Licensing & Regulatory Committee and sub-committees
- Executive
- 18 Local Area Networks
- 5 Overview and Scrutiny Committees

1.6 Proposals relating to the committee membership and appointments matters will be presented to the Council meeting on 1 March, subject to the Council's approval to the new Constitution (which incorporates the proposed committee arrangements).

2. Recommendation(s)

2.1 The Committee is asked to:-

- (1) Consider and comment upon the proposed new Constitution;**
- (2) Recommend the new Constitution to the Council for approval;**
- (3) Note that the new Constitution also sets out recommended executive arrangements for executive functions for approval by the Leader of the Council;**
- (4) Delegate authority to the Monitoring Officer, in consultation with the Chair of the Committee, to make any necessary textual revisions to ensure that the separate sections of the Constitution are consistent and work together as a whole;**
- (5) Recommend to the Council that the Chief Executive is appointed as the Returning Officer and Electoral Registration Officer for the new Somerset Council**

- (6) Recommend to the Council that the Chief Executive is given delegated authority to appoint all Statutory Officers and Proper Officers of the new Council, with the exception of any Statutory Chief Officers e.g. Section 151 Officer.**
- (7) Recommend to the Council that the word “county” be omitted from the Council’s name and it be known as Somerset Council from 1 April 2023; and**
- (8) Recommend to the Council that the Constitution & Governance Committee undertakes a review of the new Constitution and report back to the Council no later than June 2024.**

3. Background

3.1 Developing the new Somerset Council’s Constitution

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.

At its Annual General Meeting in May 2022, the Council agreed an interim Constitution for 2022/23 and recognised that there would be a comprehensive review of the Constitution during 2022/23 through the Constitution and Governance Committee, culminating in the proposed Constitution for the new Somerset Council being recommended to the County Council meeting on 22 February 2023 ahead of vesting day on 1 April 2023.

The development of the new Constitution has been undertaken by the Monitoring Officer in collaboration with the four district councils’ Monitoring Officers. The developmental work has been supported by engagement with the Local Government Reorganisation Programme Board (Chief Executives of the five councils) and officers across the various workstreams supporting the delivery of Local Government Reorganisation in Somerset.

The Constitution and Governance Committee has overseen the development of the new Constitution ahead of the Committee recommending it to the Council meeting on 22 February 2023.

The approval or amendment of the Constitution is a non-executive function and is a function for the Council and not the Executive. Nevertheless the Leader and the Executive have been key consultees on proposals since it incorporates the Executive arrangements and their responsibilities in relation to Local Government Reorganisation.

- 3.2 The arrangements for the transition from the existing four district councils and county council to the single unitary council for Somerset are set out in the Somerset (Structural Changes) Order 2022.
- 3.3 The Somerset (Structural Changes) Order 2022 included provisions that the County Council can pass a resolution to omit the word "county" from its name and be known as Somerset Council and the Order agreed that subsection (3) of section 2 of the 1972 Act (constitution of principal counties in England) shall cease to apply so far as it prescribes the name of that council. It is therefore proposed that the name of the Council be agreed as Somerset Council from 1 April 2023 as this aligns with the unitary council business case and communications to date on the establishment of Somerset Council.
- 3.4 The new authority is legally required to prepare and keep up to date a Constitution which contains the authority's standing orders (i.e. rules of procedure for its meetings); the code of conduct for Members; such information as the Secretary of State may direct; and such information as the authority considers appropriate. The Structural Changes Order provides that the creation of the new unitary authority will be legally based on the district council functions transferring to the legal entity of the County Council and the County Council will then be reorganised to create the unitary authority. This is known as the continuity authority model, as opposed to creating a whole new legal entity.

The current County Council Constitution (originally based on the then Department for Transport, Local Government and the Regions model Constitution) has therefore been taken as the starting point for the new unitary authority Constitution. The amendments are therefore drafted on the basis of the continuing authority model of governance, namely the Leader and Executive model.

3.5 Principles and approach to developing the proposed new Constitution

Principles

At its meeting in September 2022, the Committee agreed the following principles to underpin the development of the new Constitution and council decision making:

- Accountability
- Transparency
- Efficiency
- Proportionality

3.6 Approach

The approach to developing the new Constitution has focused on providing an effective and efficient framework for decision making, scrutiny, participation and accountability without unnecessary burden of bureaucracy.

3.7 The new Constitution has been structured into key parts on the following basis:

- A. Summary and Explanation
- B. Public Participation (description of the arrangements for public participation in meetings, petition scheme and access to information)
- C. Council (a description of functions and procedures for Full Council meetings and arrangements for Honorary Aldermen/Alderwomen)
- D. Committees (description of the committee structure and arrangements along with terms of reference and meeting procedure rules)
- E. Executive (description of the Executive arrangements and meeting procedures)
- F. Joint Arrangements (description of any joint authorities and joint committee arrangements)
- G. Scrutiny (description of the overview and scrutiny functions and arrangements)
- H. Members (description of Member roles, Code of Conduct, Protocol on Member and Officer relations and Scheme of Members Allowances)
- I. Officers (description of management arrangements, Scheme of Delegation to Officers, list of Proper Officers, Employee Code of Conduct, Officer Employment Procedure Rules, Whistleblowing Policy, Contract Procedure Rules and Financial Procedure Rules)
- J. Decision Making Arrangements (key principles)
- K. Appendices – supporting guidance and protocols

Approval of the Members' Allowance Scheme (and any supporting documentation) is being sought through a separate process and it is recommended that the Monitoring Officer be given delegated authority to include the Scheme ultimately agreed by full Council.

Similarly, the Committee will consider a separate report regarding the proposed Planning Committees (and associated Planning Protocol and Code of Practice) and the Audit Committee is considering the proposals relating to its terms of reference and the financial regulations. It is recommended that the Monitoring Officer be given delegated authority to include these elements within the final Constitution to be considered by full Council.

The list of Proper Officers in Part I will need to be completed as at 1 April 2023

and therefore it is proposed that the Council delegates authority to the Chief Executive to appoint any statutory officers and proper officers of the new Council, with the exception of any statutory chief officers e.g. the Section 151 Officer. Full Council has powers to designate the Statutory Chief Officers of the new Somerset Council.

It is further proposed that the Council appoints the Chief Executive, Duncan Sharkey, as its Returning Officer and the Electoral Registration Officer of the new Somerset Council.

Given the size of the Constitution, it is not proposed to print hard copies of the draft new Constitution but an electronic copy is available to view with the agenda papers published on the Council's website.

- 3.8 Previous review of draft elements of the new Constitution by the Committee have focused upon:
- Public participation in committee meetings
 - Part C – Council functions, procedure rules and Budget and Policy Framework
 - Part D - Committee procedure rules
 - Part D - Planning Committee terms of reference
 - Part D – Licensing and Regulatory Committee and Sub-Committees terms of reference
 - Part E - Local Community Networks – terms of reference
 - Part G - Scrutiny arrangements
 - Part I – Officer Scheme of Delegation and List of Statutory & Proper Officers
- 3.9 Review and feedback from the Committee and wider membership of the Council (including the Executive) has been critical in informing and influencing the drafting of the new Constitution. This has included evaluating a number of options and proposals regarding the draft elements considered at previous meetings i.e. Planning Committees terms of reference and Local Community Networks terms of reference.
- 3.10 The Constitution of Somerset Council is not intended to be set in stone or be an inflexible blueprint. It is therefore recommended that the Constitution & Governance Committee, working with the Monitoring Officer, reviews the new Constitution throughout 2023/24 and makes recommendations as appropriate to ensure that it remains fit for purpose and meets the Council's requirements.
- 3.11 Subject to any comments Members may have on the draft new Constitution, it will go forward to full Council for approval of arrangements re non-executive functions and for approval of the Constitution itself.

It is also recommended that delegations be made to the Monitoring Officer by

full Council to enable the Monitoring Officer to:

- a) make any further necessary consequential or other amendments to the new Constitution for Somerset Council to reflect and implement any further developments in the local government re-organisation process prior to Vesting Day including but not limited to the inclusion of the Members' Allowances Scheme (and supporting guidance documents) once agreed under the separate process; and
- b) make any necessary textual revisions to ensure that the separate sections of the Constitution are consistent and work together as a whole.

4. Implications

4.1 Legal & Risk:

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.

Legislation sets out those functions of the new Council which must not be the responsibility of the Executive and those functions which authorities may decide either to give to the Executive or not – these are referred to as “local choice functions”, other functions are, by default, the responsibility of the Executive. All non-executive functions are for the Council to approve, whereas all executive functions are for the Leader of the Council to approve.

This report complies with all legal requirements in relation to adopting a Constitution for Somerset Council. The only risk to the Council would result from the Council failing to fulfil its legal obligations and therefore the level of risk arising from the proposals in this report are considered to be low.

4.2 Financial and equalities implications

The Council's duty under Section 149 of the Equality Act 2010 is to have “due regard” to the matters set out in relation to equalities when considering and making decisions on the provision of services. Members must consider the effect that implementing a particular policy will have in relation to equality before making a decision.

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.

The financial implications arising from the proposals in this report can be accommodated within the proposed budget for 2023/24.

4.3 **Community Safety, Sustainability, Health & Safety, Health and Well-Being and Social Value Implications**

No specific negative implications have been identified.

5. Background Papers

5.1 Council's Constitution

Reports and presentations to the Committee at its meetings in September, November, December 2022 and January 2023

Monitoring Officer report to Council in May 2022

Somerset Structural Changes Order 2022

Local Government Acts 1972 and 2000



**Somerset
Council**

Constitution

Document Control

Organisation	Somerset Council
Author	Scott Wooldridge, Monitoring Officer
Owner	Governance, Democratic & Legal Services
Protective Marking	OFFICIAL
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Somerset Council
Constitution 2023
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Somerset Council Constitution

Glossary

This glossary explains key terms used in the Council's Constitution but is not part of the Constitution.

Adjourned

To suspend (i.e. a meeting) with the intention to resume it later.

Annual Governance Statement

A public statement which reviews how well the Council has kept to its own governance rules.

Annual Statement of Accounts

See Statement of Accounts.

Anti-Fraud and Corruption Strategy

The Council's strategy for protecting its valuable resources which describes the expectations and practices to avoid their loss.

Asset Management Plan / Strategy

The Council's approach to getting the best possible value and revenue from things it owns (assets), such as buildings, land, roads and technology.

Approved Supplier List

A list of suppliers which have met specific criteria to enable them to provide particular goods or services to the Council.

Balance Sheet

A statement of the Council's assets, liabilities, and capital at a particular point in time which details the balance of the Council's income and expenditure over the preceding period.

Budget

Every year the Council puts a financial plan or budget in place. This shows how and where the Council will spend money to provide services and deliver the aims which it set out in its corporate plan / vision. It also sets the level of Council tax which it will

charge in the next financial year. All councils must set a balanced budget.

Cabinet

Also known as the Executive, the Cabinet is the Council's strategic decision-making body responsible for making the majority of decisions - "Executive Decisions"- for which the Council is responsible. The Cabinet is made up of the Leader and up to nine other elected councillors, including up to two Deputy Leaders, who are appointed and led by the Leader of the Council

Capital and Investment Strategy

The Council's medium to long term plan for investing in its asset base.

Capital Programme

Part of the Medium Term Financial Plan which sets out capital projects approved by full Council over a medium term, multi-year period.

Chair of the Council

The Chair of the Council is an elected member who chairs meetings of the Council and carries out a variety of civic and ceremonial duties. The Chair is elected to be the Chair by the other members of the Council, usually at the Council's Annual Meeting in May. The Chair cannot be a Cabinet Member and is assisted in their work by the Vice-Chair.

Chief Executive

The Council's most senior Officer who is responsible for the management and direction of the Council's Officers. The Chief Executive manages the Council's Senior Leadership Team and is accountable to the Leader of the Council, the Cabinet and the Council as a whole. The Chief Executive is designated as the Council's Head of Paid Service and is one of the Statutory Officers.

Chief Finance Officer

The Chief Finance Officer (CFO) is a Statutory Officer*. The CFO is responsible for managing the Council's finances and providing expert financial advice to the Council. The CFO must be a qualified accountant and balancing the Council's budget each year is one of their major responsibilities. This officer is referred to as the Section 151 Officer throughout this Constitution.

** Section 151 of the Local Government Act 1972 requires every Council to have a Chief Financial Officer.*

Clear Days

Does not include the starting or finishing day. Example: for 5 clear days notice: do not include the day when notice was given. If this was on a Tuesday, time starts to

run on Wednesday. Notice would not be completed until 12.01am the following Wednesday. If clear working days are used Saturday, Sunday or bank holidays would not be counted.

Code of Conduct (Councillor Code of Conduct / Officer Code of Conduct)

A set of rules which elected and co-opted councillors and officers must follow.

Commercial Agreement

A type of contract by way of which goods, services or other tasks are provided or undertaken for consideration (usually money).

Commissioning

Within the Council, the process of specifying, securing and monitoring service delivery by and from a provider- usually from outside the Council (i.e. a contractor).

Committee

A Committee is a formal group of elected councillors whose remit, terms of reference and operating rules are set out in the Council's Constitution. There are many different committees of the Council. Each one makes decisions about a specific area of responsibility – for example audit or planning.

Confidential Information

In relation to meetings and reports this is information which the Council has received from a Government department on terms but which it cannot disclose publicly.

It can also be information which (i) the Council cannot disclose due to a court order or legislation or (ii) is not in the public domain, is information which you would expect to be kept out of the public domain and was given to the Council in such a way that made it clear it was meant to be kept confidential.

Constitution

A governance document, or 'rule book', which sets out how the Council is run, how decisions are made and how it complies with the law.

Contingent Liability

A liability which may be incurred by the Council dependent upon a future uncertain event, eg a court case.

Contract

An agreement which: may be oral, written, partly oral and partly written or implied from conduct between the Council and another person; gives rise to obligations which are enforceable or recognised by law (i.e. legally binding); and commits the Council to paying or doing something.

A reference to a contract may also include a contract to which the Contract Procedure Rules apply and a "call off contract" means an order made or call off

contract entered into under a Framework Agreement.

Contractors

See suppliers.

Contract Management

The process of ensuring the contract results in the benefits and outcomes envisaged and that the advantages secured during the tendering phase are realised and improved through further proactive performance management during its term.

Contract Management System

The IT system and associated processes used to support supplier and contract management, providing visibility and a single view of all Council contracts. It includes the Council's contract register.

Contract Procedure Rules

The part of the Constitution that sets out the procedures to be followed when seeking to establish a contract with an external supplier.

Council

The term often used to refer to the whole organisation (i.e. members and officers); but see full Council below. The Council is led by councillors who are elected by the public. They set the priorities and the budget for the organisation. Staff working for the Council (officers) deliver the day to day operations. The word Council is used to refer both to the organisation as a whole and specifically to the decision-making body.

Council Body

May include any Committee, Board or Panel.

Council Tax

The income collected from residents based on banded property values and which funds a significant proportion of Council services.

Councillor

A councillor is elected and is a member of the Council. Councillors stand for election normally every four years and are accountable to the residents of a specific area (their electoral ward) but are responsible for making decisions for the entire Council area.

Councillors do not have to be a member of a political party, but most do; those who do not are known as 'un-grouped' or 'independent' councillors.

Councillor Call for Action

The Councillor Call for Action allows councillors to refer matters of concern within the community to the relevant Board or Committee. The aim of this opportunity is to provide councillors with additional powers that enable them to respond to local community concerns which have proved difficult to resolve.

Debt Management Strategy

The Council's strategy to manage and recover the sums of money it is owed.

Decisions

The choices and agreements made on a particular issue. The Council's Constitution sets out the rules on how formal decisions are to be taken in compliance with the

law. The Constitution also sets out that decisions are to be recorded and published. (see also Key Decisions)

Director

The Council's most senior officers report directly to the Chief Executive and are accountable to Members and the Cabinet. These posts include the statutory Director of Adult Social Services (DASS) and the Director of Childrens Services (DCS).

Disclosable Pecuniary Interest

Means a financial interest as defined in ['The Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#)

Division

A division is an electoral area. Somerset Council has 55 divisions.

Elected Member

See Councillor

Executive

See Cabinet

Exempt Information

In relation to meetings and reports this means information which can be withheld from the public. It must pass one of seven tests in order for it to be exempt and it must also be in the public interest to do so. If an item is deemed to be exempt during a public meeting, then members of the public and any press have to leave the meeting while exempt information is being discussed.

External Auditors

An independent auditor appointed to review the Council's financial and management arrangements.

Financial Year

The financial year for the Council is not the same as the calendar year. Our financial year starts on 1st April and ends on 31st March.

Financial Regulations

The rules which set out how the Council will manage its financial affairs

Forward Plan

A list of the 'key decisions' the Council will make over the next one to four months. The forward plan also includes a summary of any reports which will be presented to the Cabinet. You can see the forward plan for the Council on the website.

Framework

A term used in different ways which refers to the way that the Council operates, for example, policy framework, commissioning framework, governance framework.

Full Council

The full Council is all the 110 councillors who make up Somerset Council. Full Council meets throughout the year with the meeting being chaired by the Chair. Full Council takes specific decisions, including setting the budget. It also appoints committees to make decisions about specific issues such as planning and licensing.

Function

Within the Council, a function is a service which the Council provides or an activity which it undertakes, or which it is has a duty to deliver; for example housing and education.

Head of Paid Service

The Head of Paid Service is a 'statutory officer' with overall responsibility for the employment of Council Officers (currently the Chief Executive).

Independent Person

The Council has to have at least one designated independent person who is not a councillor or a member of staff. The independent person is consulted about complaints made against councillors and also about the dismissal of one of the council's statutory officers.

Key Decision

Key decisions are executive decisions (not those made by committee) and are defined in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) (Regulations) 2012 and are decisions which:-

- Result in the Council incurring expenditure which is, or making savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
- Are deemed significant in terms of their effect on communities living or working within the area of the Council.

The Council has decided that other significant decisions will be treated as key decisions, described in the Constitution. Key decisions are taken by the Leader, the Cabinet, Cabinet Members or Officers under delegated authority.

Leader (of the Council)

Councillors elect a person who will be the leader of the council. Usually this is the leader of the largest political group on the whole council. The Leader of the Council is also the Leader of the Cabinet and will appoint up to nine other councillors to form the Cabinet to take Executive decisions on behalf of the Council. The Leader can

appoint up to two Deputy Leaders from the councillors appointed to the Cabinet.

Lead Member

An elected councillor appointed to the Executive by the Leader. Some Lead Members are assigned responsibility for a specific 'portfolio' and are sometimes referred to as 'Portfolio Holders'. Lead Members can also make key decisions which are included in the Forward Plan.

Legal Professional Privilege

Confidential communications between lawyers and their clients can be withheld from a court or from a third party using legal professional privilege.

Legislation

The Law which can be made by Parliament which takes the form of an Act of Parliament (a statute) or Statutory Regulations or By-laws which can be made by the Council.

Medium Term Financial Plan

Sets out the Council's budget (revenue and capital) over a period of more than one year; is linked to the Corporate Plan and Service Plans.

Member

See Councillor.

Minutes

The formal written record of a meeting. Minutes of Council meetings are available on the Council's website.

Monitoring Officer

The Monitoring Officer is a 'statutory officer' responsible for the lawful and good governance of the Council, in particular the Constitution, decision-making and the conduct of councillors and officers.

Motion

A proposal for a discussion or debate.

Municipal Year

The period between annual meetings of the Council. The municipal year is not the same as the council's financial year, which starts on 1 April. The municipal year usually starts in May but is not a fixed date and as such the number of days in a municipal year varies slightly.

Officer

Someone employed by the council.

Planning Applications

Means planning applications for consent as well as applications for reserved matters approvals.

Planning Officer

Means an employee of the Council tasked with processing and evaluating planning applications

Policy

A policy sets out a strategic objective for the Council and provides a framework of principles and guidelines which officers must follow to achieve those objectives.

Policy Framework

Refers to the Council's strategies and policies.

Point of Order

Where a councillor considers that a breach of the Procedure Rules or legislation has occurred within a debate

Portfolio

Within the Council, a portfolio is a specific area of responsibility, for example housing. You can see the portfolios and who is responsible for each area (the Portfolio Holders) on the website.

Procedure

The means by which a strategy or policy will be implemented or a process which must be followed.

Procurement

How the Council identifies, sources, selects and manages the resources which it needs to buy in to deliver services or meet its strategic objectives.

Proper Officer

A term used to refer to the Council's lead Officer for a particular function.

Quorum

The minimum number of attendees who have to be present at a meeting of the Council, a Committee or Sub-Committee etc to begin and / or conduct its business. If at any time a meeting is not quorate, its decisions at that time are not valid.

Representations

Members of the public can give their views on any Cabinet or Cabinet Member reports or on proposed decision by informing Democratic Services by the deadline outlined in the report

Reserves

Sums of money set aside on the Council's balance sheet. The Council has 'general reserves' and 'earmarked reserves' which are set aside for a specific purpose.

Scheme of Delegation

The Scheme of Delegation sets out how the Council and the Cabinet have delegated authority to a committee or another body or to an individual councillor or senior officer to exercise their powers or perform their functions. The officer Scheme of Delegation concerns those powers and functions delegated to officers. The Scheme of Delegation will also specify any limits on the delegated authority.

Section 151 Officer (S151 Officer)

See Chief Finance Officer.

Standards Complaint

Refers to a complaint made against an elected or co-opted member that the member concerned has failed to comply with the relevant Members' Code of Conduct.

Statement of Accounts

A document required by law which sets out the Council's financial position at 31st March each year and includes the Council's income and expenditure for a given financial year.

Statute

An Act of Parliament – the law.

Statutory

Required by law. Councils have statutory duties including preventing homelessness, managing community safety and determining planning applications.

Statutory Officers

The Council is required by law to appoint officers in certain key roles. The Statutory Officers are the Head of Paid Service; the Monitoring Officer and the Section 151 Officer. The Council must also appoint other officers including a Director for Children's Services and the Director for Adult Social Services, a Director of Public Health and a Scrutiny Officer. For full details see the website.

Sub-Committee

A group of elected councillors from the committee in question convened to undertake a particular task or perform a particular function. The sub-committee then reports back and is accountable to the committee.

Suppliers

Also known as 'contractors' suppliers are those parties which enter into a contract with the Council to provide goods or services.

Trading Account

Services which are funded by generating income from internal and external sources.

Treasury Management Strategy

The way in which the Council manages its cash, borrowing, lending and investments, and associated risks.

Virement

The movement of money from one budget heading to another.

Vires (intra vires / ultra vires)

A Latin word which means 'powers'. Within the Council vires concerns the power or lawful authority to make a decision, perform a function or undertake an action. A decision made, function performed or action undertaken will be 'intra vires' if the Council has the power and lawful authority to do it and 'ultra vires' if it does not.

Part A – Summary and Explanation

Section 1 Summary and Explanation

1. Summary and Explanation

The Council's Constitution

- 1.1 Somerset Council has a Constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that decisions are efficient, transparent, and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose. The Council must operate in accordance with its Constitution and the rules set out in it which the Council has agreed.
- 1.2 The purpose of the Constitution is to ensure that the Council's decision-making and governance arrangements support its corporate aims, objectives and priorities effectively and efficiently. It also ensures that the Council meets its legal duties.
- 1.3 The Council has chosen a Leader and Executive model of governance. This is explained below.

Corporate Objectives and Values

- 1.4 The Council's current corporate objectives, priorities and values are set out in its Council Plan.

Residents' Rights

- 1.5 The Council welcomes the participation of residents in its work.
- 1.6 Residents have several rights in their dealings with the Council. Some of these are legal rights, whilst others depend on the Council's own processes.

- 1.7 Residents have the right to:
- 1.7.1 vote at local elections as long as they are registered and eligible to vote;
 - 1.7.2 contact their local Councillor about any matters of concern to them in their local division;
 - 1.7.3 contact the appropriate Lead Member about any matters of concern that relate to their portfolio;
 - 1.7.4 have access to the Council's Constitution;
 - 1.7.5 attend all meetings of the Council, Executive, Scrutiny Committees, and other Committees except where exempt or confidential matters are being discussed (these are explained in the Access to Information Procedure Rules set out in Part B);
 - 1.7.6 petition the Council on any matter relevant to the Council;
 - 1.7.7 find out what major decisions (referred to as Key Decisions) are to be discussed by the Executive, individual Lead Members and employees and what decisions are likely to be taken by Executive in private and when;
 - 1.7.9 see reports and background papers, and any record of decisions made by the Council, Executive, Scrutiny Committees and other Committees, also individual Lead Members and executive decisions made by Officers (except exempt and confidential information);
 - 1.7.10 complain to the Council through its complaints procedure about something they think the Council should have done that it has not done; something it should have done differently or something it has done that it should not have;

- 1.7.11 complain to the Local Government and Social Care Ombudsman if they think the Council has not followed its procedures properly. This should only happen if they have pursued their complaint through the Council's own complaints process and remain dissatisfied with the outcome. ;
- 1.7.12 compliment the Council where the service they have received has been exceptionally good or speedy and which could help spread good practice across the Council;
- 1.7.13 complain to the Council's Monitoring Officer if they have evidence which they think shows that a Councillor (including a Town or Parish Councillor) has not followed their relevant Councillor Code of Conduct set out at Part H.
- 1.7.14 complain to the Council about any Officers' actions or attitude; and
- 1.7.15 inspect the Council's accounts during the limited period of the audit each year and make their views known to the external auditor. The period when accounts are open to inspection is publicised in advance.

What's in the Constitution?

- 1.8 The Constitution is divided into [10] parts.
- 1.9 This part provides a summary and explanation of how the Council operates and sets out the basic principles about its procedures, about which there is more information throughout the Constitution. Part B explains resident's rights and how they can be involved with the Council. Parts C to G set out the functions of the Council, Executive and Committees and how they operate. Part H deals with Councillors including the Scheme of Members Allowances which explains how the councillors are reimbursed for their time and expenses. Part I deals with Officer matters.

- 1.10 Officers, Councillors and Committees must operate in accordance with the Council's Scheme of Delegation and the more detailed rules and procedures set out in the Constitution.

How the Council Operates

- 1.11 Until the next election in May 2027 the Council consists of 110 Councillors. Elections will normally be held on the first Thursday in May every four years beginning in May 2027. If a Council seat becomes vacant during a Councillor's term of office there may be a by-election. By-elections do not usually take place within 6 months prior to a normal election.
- 1.12 Councillors must be over 18 years old and must live or work in the Somerset Council administrative area. Councillors are democratically accountable to residents of their division. There are 2 councillors elected for each division. The overriding duty of Councillors is to the whole community of Somerset, but they have a special duty to everyone who lives in their division, including those who did not vote for them. Councillors set the policy of the Council and take many decisions. The Council's website contains details of how to get in touch with the Councillors and of any positions they hold in the Council.
- 1.13 Councillors must follow a Code of Conduct to ensure high standards in the way they undertake their duties. If they do not follow the Code, complaints can be made against them. The Code of Conduct and how to make complaints is set out in Part H.
- 1.14 All councillors meet together at least quarterly as the Council and this is called "full Council". At full Council, Councillors: make decisions that the law says are reserved to full Council (see Part C); decide on some of the Council's policies; set the Budget and Council tax each year. Members of the public are welcome to attend Council meetings. The agenda for the meeting including the location of the meeting and reports are published on the Council's website, usually the week before the meeting. The Council is committed to

transparency and will ensure it holds full Council meetings, wherever possible, in venues which have webcasting facilities, and which can accommodate members of the public who wish to attend.

Role of All Councillors

1.15 All Councillors will:

1.15.1 collectively be the ultimate policy-makers and carry out several strategic and corporate management functions;

1.15.2 act as a 'corporate parent' to Somerset's looked-after children and care leavers;

1.15.3 contribute to the good governance of the Council and actively encourage community participation and resident involvement in decision making;

1.15.4 effectively represent the interests of the communities and individual residents of the County in their own division;

1.15.5 respond to residents' enquiries and representations, fairly and impartially;

1.15.6 participate in the governance and management of the Council;

1.15.7 maintain the highest standards of conduct and ethics and observe the [Councillor Code of Conduct for Elected and Co-opted Councillors] (set out in Part X) and the other Codes and Protocols adopted by the Council;

1.15.8 be available to represent the Council on other bodies; and

1.15.9 attend meetings of bodies to which they are appointed or, if they are unable to attend, present their apologies.

1.16 Councillors are entitled to receive allowances to cover their time and expenses in accordance with the Members' Allowances Scheme set out in Part H of this Constitution.

The Chair of the Council

1.17 The Chair is elected by the full Council at its "Annual Meeting" each year, which is usually held in May. The Council also elects a Vice Chair, who acts as Chair when the Chair is not available.

1.18 The Chair (and the Vice Chair) undertake civil and ceremonial roles on behalf of the Council and represent the Council at events. The Chair promotes public involvement in the Council's activities. If you would like to ask the Chair to visit an event you can contact their office via the Council's website.

1.19 Although the Chair is an elected politician and has a vote, there is a duty on them to be impartial in carrying out the role of Chair.

1.20 The Chair presides over meetings of the full Council to ensure that business is carried out effectively and is responsible for upholding and interpreting this Constitution. The Chair's ruling about the Constitution or any proceedings of the Council cannot be challenged, although their interpretation must have regard to the purposes of this Constitution and must be reasonable and lawful.

1.21 Neither the Chair nor the Vice-Chair can be the Leader or a member of the Executive.

Council Business

1.22 At its annual meeting (usually in either April or May) the Council will approve its planned "Calendar of Business and Schedule of Meetings but nothing

prevents changes being made to the Calendar of Business and Schedule of Meetings during the following 12 months.

1.23 There are three types of full Council meeting which are conducted in accordance with the "Council Procedure Rules" which are set out in Part C:

1.23.1 the Annual Meeting;

1.23.2 ordinary meetings;

1.23.3 extraordinary meetings.

1.24. There are some decisions which can only be taken by the full Council. The Council sets the "Budget and Policy Framework" for the Council. All decisions must be taken in accordance with the Budget and Policy Framework which can only be changed by full Council. More information about the Budget and Policy Framework is included at Part C

1.25. The Council is responsible for electing (and can remove) the Leader of the Council who in turn will appoint a Deputy Leader and an Executive. The Council (mainly through the Scrutiny Committee process and the call-in of decisions) is ultimately responsible for holding the Executive to account. The role of the Council is set out in more detail in Part C and the role of the Executive is set out in more detail in Part E

How Decisions Are Made

1.26 Types of Decision:

1.26.1 Executive decisions:

- (a) Key Decisions which can be taken by Executive, or Lead Members; or in the absence of Lead Members, exercised by Officers with delegated powers,;
- (b) delegated non-Key Decisions. These are normally taken by Officers but can be referred back to Executive or Lead Members.

1.26.2 Non-Executive Decisions:

- (a) Council decisions – decisions reserved to Council by statute such as setting the precept;
- (b) Council reserved decisions – decisions which Council has reserved to itself;
- (c) delegated Council decisions – decisions delegated to Committees and Officers.

1.27 Key Decisions

1.27.1 Key decisions as defined by Regulation 8 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 are decisions which:

- (a) result in expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates;
- (b) are deemed to be significant in terms of their effects on communities living or working in an area comprising two or more electoral divisions in the area of the local authority.

1.28 The Council has resolved that those decisions detailed below shall also be treated as Key Decisions. The Council may change those decisions it has decided to treat as Key Decisions as required in the light of experience of operating the Constitution. The Council has decided that the following are to be treated as Key Decisions. A decision which:

- 1.28.1 is not consistent with the Revenue Budget, Capital Programme or Borrowing Limits and Financial Procedure Rules approved by the Council;
 - 1.28.2 is in conflict with a policy, plan or strategy approved by the Council or a Committee of the Council;
 - 1.28.3 raises new issues of strategy or Policy;
 - 1.28.4 requires the acquisition or disposal of any land or interest in land in excess of a value of £500,000;
 - 1.28.5 comprises or includes the making, approval or publication of a draft or final scheme which may require, either directly or in the event of objections, the approval of a Minister of the Crown;
 - 1.28.6 requires the passage of local legislation;
 - 1.28.7 is of such significance to the locality, the Council or the services which it provides that the decision-taker is of the opinion that it should be treated as a Key Decision;
- 1.29 A decision taker may only make a Key Decision in accordance with the requirements of Parts B and E and, in particular (and to the extent applicable in any given case) with:
- 1.29.1 the Access to Information Procedure Rules;
 - 1.29.2 the Budget and Policy Framework provisions; and
 - 1.29.3 the Executive Procedure Rules.
- 1.30 A key decision may only be taken by the Executive or Lead Members (or where Lead Members are absent, an officer with delegated powers except in a case to which Executive Procedure Rules applies (i.e. Special Urgency or Major Emergency respectively)).

- 1.31 All decisions taken by the Council, unless they are delegated to a single Councillor or to an Officer, are taken by a simple majority vote of the Councillors who are at the meeting. Councillors cannot vote unless they are physically present at the time. If there is a tie in the voting, the Chairman of the meeting has a second vote. This is called a "Casting Vote. The Scheme of Delegation in Part I gives details of responsibility for decision making.
- 1.32 When the Council knows when Key Decisions are going to be discussed or made, details will be published on the "Forward Plan" which is published on the Council's website. If these decisions are to be discussed at an Executive meeting, this will generally be open for the public to attend.
- 1.33 The Constitution also provides for decision making which enables the Council to:
- 1.33.1 provide clear leadership to the community in partnership with local people, communities, businesses and other organisations;
 - 1.33.2 support the active involvement of local people and local communities in the process of decision making;
 - 1.33.3 help Councillors represent their constituents effectively;
 - 1.33.4 create a powerful and effective means of holding decision makers to public account;
 - 1.33.5 ensure that no one will review or scrutinise a decision in which they were directly involved;
 - 1.33.6 be clear about who is responsible for making specific decisions and that they explain the reasons for decisions; and
 - 1.33.7 provide a means of improving the delivery of services to the community.
- 1.34 The Council also requires that decisions:

- 1.34.1 *are proportionate, with clear aims and desired outcomes and reasons given;*
- show due regard to all relevant and material considerations and disregard irrelevant considerations;*
- 1.34.2 *are taken after due consultation and obtaining professional advice where appropriate;*
- 1.34.3 *show respect for human rights;*
- 1.34.4 *pay due regard to equality legislation and the need to prevent people being drawn into terrorism;*
- 1.34.5 *take account of the environmental and health impact;*
- 1.34.6 *are as open and transparent as possible.*

The Executive

- 1.35 The Council has decided to adopt a Leader and Executive (or an “Executive”) form of governance. The Executive is a group of Councillors who are responsible collectively for what the law calls the “executive functions” of the Council. The law sets out what functions are for the Executive and what are the functions of the Council. In all but a very few cases, if the law does not say that something is a function of the Council, it is for the Executive, as the Executive of the Council, to decide.
- 1.36 The Executive is made up of the Leader of the Council and up to 9 other Lead Members. These will include a Deputy Leader (noting that the Deputy Leaders and Lead Members must not together exceed 9 postholders) who are chosen and appointed by the Leader. The Leader may also appoint Associate Lead Members to assist Lead Members in their roles, but these deputies cannot substitute for Lead Members at Executive and can have no individual decision making allocated to them. The Leader may change Executive portfolios and delegations.

- 1.37 Individual members of the Executive have responsibility for specific functions delegated to them by the Leader. Details are set out in Part E. Most of the decisions taken by the Authority are executive decisions in accordance with the law. The Leader also delegates executive decisions to officers.
- 1.38 The Executive is responsible for developing the policies and strategies of the Council which are then approved by Council; and takes most of the decisions on service provision. These are “executive decisions”. Some decisions are taken by Executive as a whole; but many decisions are delegated to individual Lead Members or to Officers, as set out in the Scheme of Delegation at Part I
- 1.39 The Executive and Lead Members can only make decisions which are in line with the Council's overall Budget and Policy Framework set out in Part C. If the Executive wishes to make a decision outside the Budget and Policy Framework, that decision must be referred to the full Council to decide.

Overview and Scrutiny

- 1.40 Scrutiny Committees are established to support and challenge the work of the Executive and help hold it to account. A Scrutiny Committee can consider decisions of the Executive and delegated decisions if they feel the decision should be looked at before it is implemented. This is called a “call-in”. A Scrutiny Committee may recommend that the decision is reconsidered or ask Council to consider it before it is referred back to Executive and the Executive has to hear what they say and consider the matter again. Lead Members or their Deputies cannot sit on these Scrutiny Committees. More details about Scrutiny Committees is available at Part G.
- 1.41 A Scrutiny Committee may also be consulted by the Executive or the Council on forthcoming decisions and policy development.
- 1.42 A Scrutiny Committee can also sometimes hold inquiries into matters of local concern in which residents may take part. These inquiries may lead to reports

and recommendations which advise the Executive or the Council as a whole, and in some cases outside agencies, on policies, budget, and service delivery.

Regulatory and Other Council Committees

- 1.43 Some decisions cannot by law be decided by the Executive including planning and licensing determinations. These are delegated by the Council to Committees.
- 1.44 Council Committees, unlike the Executive and its Executive Committees, must be proportionate to the size of the political groups on the Council. Members of Council Committees are appointed by full Council.
- 1.45 The Council has established Committees to deal with regulatory functions such as licensing and planning matters.
- 1.46 In addition, Councillors take part when required in Appeals Committees and Appointment and Advisory Panels.
- 1.47 These Committees and the other Committees are explained in more detail in Part D.

The Council's Employees

- 1.49 The Council has people working for it (called Officers) to give advice, implement and make decisions in accordance with the Scheme of Delegation and carry out the day-to-day delivery of Council services. Officers are paid in accordance with the Council's pay policy statement which is reviewed each year.
- 1.50 The Council's management structure is set out on the Council's website.
- 1.51 The recruitment, selection and dismissal of Officers has to comply with the Council's Employment Procedure Rules which are set out in Part I.

- 1.52 Some of the Council's officers - the Monitoring Officer (Governance) and the Section 151 Officer (Finance) have a specific duty to ensure that the Council acts within the law and uses its resources wisely.
- 1.53 Officers must comply with the Employee Code of Conduct which is set out in Part I.

Local and Partnership Working

- 1.54 The Council works closely with other organisations and creates new partnerships to help the Council meet its corporate vision and objectives. In addition, the way in which the Council delivers some of its services and functions to residents and businesses will be reviewed to ensure the Council delivers value for money.
- 1.55 Local Community Networks aim to ensure strong connections between Somerset Council and local communities. The Local Community Networks are advisory and may make recommendations to decision-makers in accordance with their terms of reference. The Local Community Networks do not have any decision-making powers other than the allocation of the budget devolved to them. More information about the Local Community Networks is available on the Council's website.
- [1.56] The Council also supports a number of strategic partnerships such as the Heart of the South West Local Enterprise Partnership, Avon and Somerset Police and Crime Panel and the Somerset Rivers Authority.

Joint Arrangements

- 1.55 The Council and the Executive may exercise their functions in several ways, for example they can:

- 1.55.1 enter into arrangements or agreements with any person or body to deliver a service;
- 1.55.2 establish joint arrangements including a joint committee with one or more other local authorities to exercise functions;
- 1.55.3 co-operate with, or facilitate or co-ordinate the activities of, any person or body;
- 1.55.4 exercise on behalf of that person or body any functions of that person or body; or
- 1.55.5 delegate functions to another local authority.

Contracts and Contracting Out

- 1.55 Every Contract made by the Council has to comply with the Contract Procedure Rules and Financial Procedure Rules set out at Part I
- 1.56 The Council (for non-executive functions) and the Executive (for executive functions) may contract out functions within the law, but the Council retains ultimate responsibility for those functions.

Documents

- 1.57 Where any document is necessary for any legal procedure or proceedings on behalf of the Council, it will be signed by the Service Director- Governance, Legal and Democratic Services, the Monitoring Officer or another person authorised by them unless any enactment requires otherwise, or the Council has authorised another person in this regard.

Common Seal of the Council

- 1.58 The Common Seal of the Council is the official stamp of the Council to be used on deeds or other documents and will be kept in a safe place under the custody of the Service Director- Governance, Legal and Democratic Services.

- 1.59 A decision of the Council or one of its Committees acting under delegated powers, or of the Executive, or of a Committee of the Executive, or the Leader or a Lead Member acting under delegated powers, or one made in accordance with the Scheme of Delegations to Officers set out in Part I of this Constitution, will be sufficient authority for sealing any document necessary to give effect to the decision.
- 1.60 The Common Seal will be affixed to those documents which in the opinion of the Service Director- Governance, Legal and Democratic Services should be sealed or are required to be sealed by the Contract Procedure Rules. The Common Seal will be attested by the Monitoring Officer, Service Director- Governance, Legal and Democratic Services or any other Officer authorised for the purpose by the Chief Executive, Monitoring Officer or Service Director- Governance, Legal and Democratic Services.

Changes to the Constitution

- 1.61 The Constitution has been formally adopted by the Council. The Council will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.
- 1.62 The Monitoring Officer has authority to make minor amendments and corrections to the Constitution to reflect decisions made by Council and Executive and changes to the legislation.
- 1.63 Any substantive changes to the Council's decision-making arrangements and Committee structure will be considered by the Constitution and Governance Committee who will recommend changes to full Council who will have to approve them prior to implementation.

Publication

1.64. The Monitoring Officer will ensure that copies of this Constitution are available for inspection by members of the public on the Council's website and at the Council's main office. A paper copy of the Constitution can be purchased by the press and members of the public on payment of a reasonable fee.

Part B – Public Participation

Section 1 Public Participation

Section 2 Access to Information Procedure Rules

Section 3 Petition Scheme

Section 4 Citizens' Responsibilities and Obligations

1. Public Participation with [Somerset Council]

- 1.1 Somerset Council encourages and actively supports people getting involved in the Council's work to the area of Somerset. The Council wants to make it easy for people to get involved and give their views to help influence and develop what the Council does and the decisions it takes.
- 1.2 The Council welcomes suggestions which will help improve the way it works and how it involves the public. You can make suggestions on the Council's website.
- 1.3 There are lots of ways you can get involved with the work the Council does and find out about the decisions it makes.

Attendance at Meetings of Council, Executive and Committee Meetings

- 1.4 The public are encouraged to attend meetings of the Council to hear debates. The public are only able to speak at certain meetings, all meetings are open but if you are unable to make the meeting you can usually watch it later on the Council's website.
- 1.5 You can find out when and where the Council has its meetings on the website. You can also see what will be covered in the meetings by looking at the agenda and reports for each meeting. These are published on the Council's website at least five days ahead of the date of the meeting.
- 1.6 There are limited occasions when the Council needs to discuss confidential issues and information. When this happens press and public can be excluded from the

meeting while confidential issues and information are discussed. This is sometimes called a private session. Private sessions will only be held when absolutely necessary and when it is legally justified; and are carried out in accordance with the requirements of local government legislation with regard to notice of what will be discussed.

Public Speaking

1.7 The public can speak in accordance with set procedures at the following meetings:

1.7.1 Scrutiny Committees;

The Scrutiny Committees are open to the public and public involvement in key issues is encouraged. Please see the website for further details.

1.7.2 LOCAL COMMUNITY NETWORKS:

The Council encourages people to attend LOCAL COMMUNITY NETWORKS meetings, ask questions and get involved. The rules for public speaking at Local Community Networks are set out in their terms of reference document which are published on the Council's website.

1.7.3 Other Meetings:

Special rules apply to the public speaking at other meetings such as at the Planning Committees, Licensing and Regulatory Committees and Scrutiny Committees. Further details can be found on the sections covering these Committees at Part D and Part G.

Planning Committees, Licensing Committee and the Licensing Sub-Committees

1.8 Although special rules apply to speaking at these Committees it is also possible to write-in beforehand with views that you want the Committee to consider. There are rules about this which are set out on our website and in Part D.

Executive

1.9 The Executive has developed a Forward Plan which can found on the Council's website . The Forward Plan indicates the most important decisions (known as Key Decisions) which the Executive will be taking in the future and when this is likely to be done.

1.10 If you are interested in attending a Executive meeting when a Key Decision is discussed, you can subscribe to electronic updates which will let you know when the meeting will take place. Details of Executive meetings are also published on the Council's website.

1.11 You can also send in your views to the Executive in writing to [democracy@somerset.gov.uk.]

Scrutiny Committees

1.12 The Council has a number of Scrutiny Committees which deal with separate parts of the Council's work. The Scrutiny Committees help the Council to develop new policy by finding out what is needed and they also act as a "critical friend" to hold decision makers to account. Scrutiny Committees also carry out inquiries and reviews and welcome suggestions from residents as to areas which could be investigate. You can find More information about the Scrutiny Committees in Part G.

LOCAL COMMUNITY NETWORKS

1.13 Local Community Networks (LCNs) will take place in local areas across Somerset. The LCNs welcome public participation. You can find out more information about the LCNs and what they do at Part E and on the Council's website.

Petitions

1.14 The Council is pleased to accept petitions dealing with something for which the Council is responsible. There are rules which set out how to make a petition to

the Council, what happens when a petition is received and how the Council will respond. The Council's Petition Scheme detailed at Section 3 below and on the Council's website.

- 1.15 Petitions need to clearly show what they are about. Names of everyone who supports the petition must be set out in an identifiable way. Some petitions, for example, those asking for the Council to have a different form of governance, must follow special rules as are set out in the law.

Consultation

- 1.16 The Council makes every effort to consult as widely and as fairly as possible on the decisions to it intends to make and the action it intends to take. Sometimes, with matters such as planning and licensing applications, there are specific statutory consultation processes which the Council must follow. Outside of the requirements of statutory consultations the Council will try to consult on important decisions as widely as possible and give consideration to the results of the consultations.

Councillors

- 1.17 The area of Somerset Council is divided into administrative areas, called Divisions. Each Division is represented by two elected Councillors as detailed on the Council's website. If you are registered and eligible to vote you can vote for the people that you want to represent your Division at Somerset Council during local elections which are normally held every four years unless there is a vacancy or the Government has set a different time for an election. You can find out more about elections and how to register to vote on the Council's website. Although they have responsibility for the whole of the Somerset Council area, your local Division Councillors also have a particular responsibility to the residents of their Division.
- 1.18 You can find out who your local Councillor is, and how to get in touch with them on the Council's website.

1.19 Your local Councillors may hold scheduled sessions where you can meet them face to face to talk about issues which concern you, or where you need advice about Council matters. You can find out how to contact your local Councillor using the contact details available on the Council's website.

Webcasting and Social Media

1.20 Members of the public are welcome to come and watch meetings of [Somerset Council] in person. Many meetings are also available to view online using the webcast service

1.21 Updates from Somerset Council can also be found on social media:

[Facebook]

[Twitter]

[Youtube]

[Linked In – Somerset Council]

1.22 Many local Councillors also have their own private (not provided by the Council) social media accounts.

Budget and Policy Development

1.23 Somerset Council wants to include and involve local people when Councillors come to set the budget and other key policies so that residents can influence the decisions the Council make.

1.24 When appropriate the Council runs consultations inviting people to have their say. Focus groups and residents or user panels may also be arranged as a way of seeking out views. In addition, LCNs will publicise proposed changes or consultations with a view to encouraging members of the community to have their say.

2. Access to Information Procedure Rules

Introduction

2.1 The Council is committed to the principles of transparency laid down in the "Access to Information Legislation" (including the Freedom of Information Act 2000 and Environmental Information Regulations 2004). In accordance with the legislation, the Council maintains a Publication Scheme approved by the Information Commissioner which is available on the Council's website. The Council is committed to:

- 2.1.1 promoting a positive attitude to dealing with requests for information;
- 2.2.1 maintaining information in an orderly and efficient fashion and disposing of information that is no longer required;
- 2.2.3 increasing awareness and understanding of the implications of the legislation, both amongst its employees and amongst members of the public.

These Access to Information Procedure Rules make provision for access to information to relevant matters set out in this Constitution. They do not affect any additional rights to information contained elsewhere in this Constitution or the law.

Scope

2.2 Unless otherwise stated these Rules apply to all meetings of the Council, Scrutiny Committees, Joint Committees, and other Council Committees including the Health and Wellbeing Board and public meetings of the Executive (together called "meetings").

Rights to Attend Meetings

2.3 Members of the public may attend, record, photograph, film and report on all meetings in accordance with the Openness of Local Government Bodies Regulations 2014 subject only to the exceptions in these Rules.

- 2.4 Members of the public who wish to report or record public meetings are required to comply with any Council guidance on the reporting and recording of meetings which may be issued on practical arrangements. The Council will not permit the recording or reporting of proceedings where the public are not allowed to attend the meeting, or that part of the meeting, by reason of the likely disclosure of exempt or confidential information.
- 2.5 It is recommended that members of the public who wish to record, photograph, film and report on public meetings advise Council Officers in advance of the meeting so that all necessary practical arrangement can be made.
- 2.6 In relation to Executive Meetings, non-Executive Members can attend the meeting as a member of the public. Members of the public are not able to ask questions at Executive Meetings however, a Councillor attending as a member of the public will be allowed to ask questions at the meeting subject to complying with any relevant procedural rules.

Notices of Meeting

- 2.7 The Council normally gives at least 5 clear days' notice of public meetings by posting details of the meeting on the Council's website and at the Council's principal offices. If the meeting is convened at shorter notice than 5 days, then public notice is given at the time the meeting is convened.
- 2.8 Meetings will normally be held in public unless the confidential content of the meeting requires it to be heard in in the absence of the public and press in a private session.
- 2.9 If the Executive wishes to consider an item in private it will give 28 clear Days' notice of its intention to do so on the Forward Plan unless there are exceptional circumstances.
- 2.10 After having given 28 clear days' notice of its intention to consider an item in private, a further notice at least 5 clear working days before the meeting that the

meeting will proceed in private will be given. This Notice will be given by the Monitoring Officer (the Proper Officer) and will give the Executive's reasons for meeting in private, details of the representations received that a private meeting should not take place and contain a statement of the Council's response.

2.11 If it is proposed that the Executive consider an item in private and 28 clear days' notice of such a meeting has not been given on the Forward Plan, the agreement of the Chair of the appropriate Scrutiny Committee is required if the public are to be so excluded.

Access to Agenda and Reports Before the Meeting

2.12 The Council will make copies of the agenda and reports of meetings open to the public available on the Council's website and available for inspection at its main office at least five clear days before the meeting. Where an urgent item is added after this time, the Monitoring Officer shall make each such report available to the public as soon as the report is completed and sent to Councillors, and will ensure that the report is open to public inspection from the time the item was added to the supplementary agenda.

Supply of Copies

2.13 The Council will make available to any person:-

2.13.1 any agenda and reports which are open to public inspection;

2.13.2 any further statements or particulars necessary to indicate the nature of the items in the agenda; and

2.13.3 If the Monitoring Officer considers it appropriate, copies of any other documents supplied to Councillors in connection with an item;

2.14 The Council may charge to supply this information where permitted to do so under its "Charging Policy"

Access to Minutes etc. After the Meeting

2.15 Draft minutes of a decision are only confirmed as a correct record of a decision when:

- 2.15.1 approved as a correct record of the decision at the next convenient meeting of the body which made the decision (Council, Committees and Sub-Committees);
- 2.15.2 signed as a correct record of the decision by the Proper Officer (Executive and Executive Committees);
- 2.15.3 Signed by the Lead Member who has taken the decision or by an Officer alone.

2.15 Where appropriate, the Council will prepare and make available on request a draft decision notice as soon as practicable after the decision has been made, but any such draft should not be relied on as a correct record until it has been confirmed as such.

2.16 The Council will make available access to copies of the following after a meeting in accordance with its "Retention Schedule":

- 2.16.1 the minutes of the meeting, or, where appropriate, records of decisions taken, together with reasons, for all meetings of the Executive excluding any part of the minutes of proceedings when the meeting was not open to the public and which disclose exempt or confidential information;
- 2.16.2 a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- 2.16.3 the agenda for the meeting; and
- 2.16.4 reports relating to items when the meeting was open to the public provided that such reports do not contain confidential or exempt

information or, if they do, the information disclosed is no longer confidential or exempt.

Background Papers

2.17 The author of a report for a meeting will set out list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

2.17.1 disclose any facts or matters on which the report or an important part of the report is based; and

2.17.2 which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information as defined in Rules 2.20 and 2.22.

If there are no relevant background papers then the report should state none.

2.18 The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers, except in so far as they disclose exempt or confidential information.

Summary of the Public's Rights

2.19 A written summary of the public's rights to attend meetings and to inspect and copy documents is kept at the Council's principal offices and is available on the Council's website here.

Confidential Information – Exclusion of the Public and Press

2.20 The public and the press must be excluded from an item at a meeting whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings, that confidential information would be disclosed.

Meaning of Confidential Information

2.21 For the purposes of access to reports, confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by reason of a court order or any enactment.

Exempt Information – Discretion to Exclude Public

2.22 The public may be excluded from an item at a meeting whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings, that exempt information would be disclosed.

2.23 Where a decision on an item at a meeting will determine any person's rights or obligations, or adversely affect their possessions, Article 6 of the European Convention on Human Rights establishes a presumption that the discussion of the item will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

Meaning of Exempt Information

2.24 Subject to paragraph 2.25 below, and to the test of the Public Interest set out in paragraph 2.25 below, information is exempt information where it falls within any of the following categories:

- (a) information relating to an individual;
- (b) information which is likely to reveal the identity of an individual;
- (c) information relating to the financial or business affairs of any particular person (including the public authority holding the information), except where the information is required to be registered under certain prescribed statutes detailed in Part 2 of Schedule 12A Local Government Act 1972 from time to time which include the Companies Acts (as defined by s.2 of the Companies Act 2006) and the Charities Act 2011.

- (d) "financial or business affairs" includes contemplated, as well as past or current activities;
- (e) information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the Authority. "Labour relations matter" means any matter which may be the subject of a trade dispute, or any dispute about any such matter (i.e. a matter specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992;
- (f) information in respect of which a claim to legal professional privilege could be maintained in legal proceedings;
- (g) information which reveals that the Authority proposes:
 - (a) to give under any enactment a notice, under or by virtue of which requirements are to be imposed on a person; or
 - (b) to make an order or direction under any enactment.
- (h) information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

2.24 Information pertaining to planning permission falling within any of the categories in paragraph 2.24 above is not thereby exempt if it relates to proposed development for which the local planning authority may grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

Public Interest Test

2.25 Information falling within any of categories in Rule 2.24 which is prevented from being exempt because either:

2.25.1 it falls within category c., and is required to be registered under the prescribed enactments; or

2.25.2 rule 2.24 applies; it is exempt information if, and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Freedom of Information Act 2000 and Environmental Information Regulations 2004

2.26 In compliance with the Freedom of Information Act 2000, the Council will respond to any requests for information. There is no charge for responding to requests for information other than 'disbursement' costs; however, a charge may be made if it exceeds the Government's advisory fee level or if the request is one which comes under the Environmental Information Regulations 2004.

Exclusion of Public Access to Reports

2.27 The Monitoring Officer may exclude access by the public and the press to a report which, in his or her opinion, relates to an item during which, in accordance with Rule 2.20 or 2.22, the meeting is likely not to be open to the public; or, as the case may be, was not open to the public. Such reports will be marked "Not for Publication", together with the category of information likely to be disclosed. Before the public and the press are excluded in accordance with this provision, the Council must have complied with the notice provisions in Rule 2.7 and notice of the proposal to meet in private will have been given by the Council's Proper Officer.

Rights of Access to Information by Councillors

- 2.28 Where a Committee has resolved to exclude the public from a meeting or part of a meeting on the grounds that exempt or confidential information is being considered, Councillors who are not members of that Committee will generally also be excluded from that meeting or part of the meeting. However, a Councillor may attend the meeting and/or inspect any exempt or confidential documents relating to the business of the Committee if he/she can demonstrate a "need to know".
- 2.29. A Councillor's "need to know" arises when he/she requires the information in order to carry out properly his/her duties as a Councillor. It may apply to information about matters affecting his/her electoral division or matters which relate to a Council body or informal working group to which he/she belongs. It does not arise where a Councillor would simply like to know what is in a document or what may be said at a meeting. It also does not enable a Councillor to "trawl" through a large number of files in search of information (sometimes known as "fishing for information"). Whether a need to know arises in a particular case will be a matter of fact and degree to be decided in the light of all the circumstances of the request.
- 2.30 It is a general presumption that all reports, including those containing confidential or exempt information, will be available to Scrutiny Committees where they are relevant to that business to be conducted by that Scrutiny Committee. This presumption may be dis-applied in exceptional circumstances.
- 2.31 In the event of a dispute, the Monitoring Officer will determine whether a Councillor has demonstrated a "need to know". The test applied is whether it is reasonable to refuse the Councillor access to the information given all the circumstances. For example, if a Councillor is motivated by improper or ulterior reasons, it would be appropriate to refuse access.

3. The Council's Petition Scheme

- 3.1 Somerset Council welcomes petitions and recognises that they are one way in which people can let us know their concerns. Councils have discretion on how petitions are approached locally. This is Somerset Council's Petition Scheme.

What is a Petition?

- 3.2 The Council treats as a petition any communication which is identified as being a petition or if it seems to us that it is intended to be a petition and has a minimum of 50 signatories of people who live, work or study in the Somerset Council area
- 3.3 Petitions of 5000 signatures (individually or collectively) will be treated as Large Petitions

The Role of Councillors.

- 3.4 Before considering whether or not to submit a petition to the Council the petition organiser may want to discuss their issue with one of their local councillors. Their Local Councillor will be able to advise whether the matter is one for the Council and also whether a petition is the best form of engagement with the Council on the matter which has been raised.
- 3.5 When a petition is received by the Council which relates to a local matter (particularly affecting a specific ward), the Council will notify each relevant local Councillor.

How Do I Submit a Petition?

- 3.6 You can submit a petition by post, by hand or e-mail
- 3.7 Petitions can be sent to: Monitoring Officer, Somerset Council, or emailed to democratic services or by hand at any of our offices E-petitions must follow the same guidelines as paper petitions. All e-petitions will run for 28 days (unless the Monitoring Officer agrees an alternative timescale) to ensure that the Council's decision making process is not delayed. The petition will need to be checked before it is published on line and if the Council is unable to publish it, an officer will contact the Petition Organiser to explain why.
- 3.8 Petitions can be presented at Council meetings by placing the petition on the front table.

How We Will Deal with a Petition

- 3.9 All petitions submitted to Somerset Council will receive an acknowledgement from the Council within 3 clear working days of receipt.
- 3.10 If the petition is not valid it will be returned to the Petition Organiser with an explanation within 10 clear working days of receipt.
- 3.11 If the petition is valid the Petition Organiser will then be informed of how the petition will be handled within 20 clear working days of acknowledgement
- 3.12 If the Petition Organiser is submitting the petition in response to a Council consultation or on a specific matter, it is important to identify the matter which it relates to, so that the Council can ensure that the petition is considered along with the original matter. See below for further guidance.
- 3.13 Please be aware any petition submitted to the Council will be publicly available and may form part of an agenda and published on the Council's website
- 3.14 A petition must include:-
 - a. what it is about – it must relate to a responsibility of the Council (this must be on each page of the petition)
 - b. What the petitioner wants the Council to do (this must be on each page of the petition)

- c. name of everyone who supports the petition must be set out in an identifiable way
- d. For paper petitions the signature of each petitioner
- e. The name and contact details of the "petition organiser" or someone the petition organiser would like any correspondence about the petition to be sent. This can be either a postal or an email address The Petition Organiser may include the addresses of petitioners, which may be useful to the Council, for example, in assessing the degree of local support or opposition to a particular matter, but this is not essential.

3.15 The Monitoring Officer may reject a petition if in their view:

- f. It is not relevant to Council functions
- g. It does not qualify under the scheme or does not comply with the above rules
- h. It is vexatious, abusive or otherwise inappropriate
- i. It is a duplicate or repeat petition
- j. It is a petition qualifying under another enactment
- k. It is excluded because for example:
 - l. It relates to a planning decision and/or ancillary applications and decisions and/or follow on decisions;
 - m. It relates to a licensing decision;
 - n. It relates to any other matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment.

3.16 In the period immediately before an election or referendum the Council may need to deal with the petition differently – if this is the case the Monitoring Officer will explain the reasons and discuss the revised timescale which will apply. Political impartiality must be maintained during the pre-election period. If the petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In this case, the Monitoring Officer will write to the Petition Organiser to explain the reasons.

3.17 Different Types of Petition

3.18 There are different types of petitions which are submitted for various reasons:-

- a. Consultation - Petitions are submitted in response to an invitation from the Council to submit representations on a particular proposal. The petition will be taken into account either by the appropriate body, officer, or the Executive Lead Member taking the decision.
- b. Council-wide - the Petition will be presented at full Council.

The Council will not debate the petition unless it is a Large Petition. The relevant Petition Organiser/or the Local Councillor will be allowed 3 minutes to present the petition at the meeting. Except with the consent of the Chairman only one person may speak to present a petition.

If the petition is a Large Petition there will be a debate at a Full Council meeting of a maximum of 15 minutes

At any one meeting, no-one may present more than two petitions unless approved at the time of receipt by the Monitoring Officer in consultation with the Chairman.

The full Council may refer the petition to the relevant Executive Lead Member for consideration. The Executive Lead Member may provide an immediate verbal response to the petition, or refer it to a relevant Committee, Community Board or the Executive for further consideration.

Presentations at Committees may be made by the relevant councillor or the petition organiser. The relevant councillor or the petition organiser will be allowed 3 minutes to present the petition unless otherwise agreed by the Chairman.

- c. Petitions on Local issues will normally be presented to and dealt with by the LCN

A report will be written giving an officer response to the petition which will be considered by the LCN. (If there is a deadline to respond to the petition before the meeting the petition could be considered by the officer, Local councillor and Executive Lead Member). If the LCN does not agree with the officer response they can decide to refer the issue to the relevant Executive Lead Member for reconsideration with an explanation of their reasoning. If there is a petition relating to a local issue which is currently being consulted upon the Monitoring Officer may consider that the best route for this petition is via the Council or Consultation route as explained above to be taken into account by the decision taker rather than being submitted to the LCN

4. Citizens' Responsibilities and Obligations

- 4.1 Citizens must not be abusive, threatening or violent (verbally, physically or in writing) towards Councillors or Officers.
- 4.2 Citizens must not wilfully damage any property owned by the Council, its Councillors or Officers.
- 4.3 Citizens must not misuse any information (for example, for financial gain or commercial benefit) obtained during the course of their contact with the Council.
- 4.4 Citizens must disclose any confidential information obtained during the course of their contact with the Council (unless required to do so by law).
- 4.5 The Council will not tolerate abusive, threatening or violent conduct towards its Councillors or Officers or damage to their or the Council's property and will report such instances to the police.

- 4.6 The Council takes complaints submitted by citizens very seriously but has in place a procedure for dealing with habitual and / or vexatious complainants which it will use if necessary.

DRAFT

Part C – Council

[Section 1 Role of Council](#)

[Section 2 Budget and Policy Framework](#)

[Section 3 Council Procedure Rules](#)

[Section 4 Budget and Policy Framework Procedure Rules](#)

[Section 5 Honorary Alderman Scheme](#)

Full Council is the term given to a meeting which all Members attend. This Part deals with what full Council does and how these meetings are run. The Rules include how questions are put to Members, how votes are taken and how Members are appointed to serve on committees or sub committees.

These Rules are written in formal language. If you have specific questions our democratic services team will be happy to help you

1. Role of Council

Council Functions

1.1. The Council's functions are:

- adopting and amending the Council's Constitution;
- approving or adopting the Council's budget and policy framework;
- subject to the urgency procedure of the Council's Budget and Policy Framework Procedure Rules, making decisions which relate to an executive function which is covered by the Budget and Policy Framework, when the decision would be contrary to, or not wholly in accordance with the Budget, or would be contrary to the Policy Framework;
- appointing and removing the Leader of the Council;
- deciding the composition of a Council Committee; appointing Members to be members on a Committee, and agreeing and / or amending the terms of reference of a Committee;
- Receiving regular reports from the Leader and the Executive and the Scrutiny Committees regarding their decisions and/or outcomes;
- appointing Members to represent the Council on outside bodies (unless the appointment is or relates to an executive function, or it has been delegated by the Council to an individual or Council body);
- adopting, amending, revoking or replacing the Member Code of Conduct and the Council's Arrangements for Dealing with Standards Complaints;
- adopting, amending, revoking or replacing a Member Allowance Scheme;
- passing byelaws and local legislation;
- public health functions including promoting healthier lifestyles and scrutinising and challenging the NHS and other partners to promote better health and ensure threats to health are addressed;
- confirming and terminating the appointment of the Council's Head of Paid Service (Chief Executive) and Statutory Officers;
- the non-executive functions specified in this Constitution as being the responsibility of the Council;
- appointing Honorary Alderman in accordance with the Honorary Alderman Scheme;

- all other functions which by law must be reserved to the Council.

2. Budget and Policy Framework

2.1. **Policy Framework** means the following plans and strategies:

- a. Corporate Plan
- b. Local Plans including the Minerals and Waste plans
- c. Community Infrastructure Levy (CIL) Charging Schedule
- d. Treasury Management Strategy
- e. Capital and Investment Strategy
- f. Youth Justice Plan
- g. Housing Strategy
- h. Licensing Authority Statement of Licensing Policy
- i. Statement on Gambling Policy
- j. Policy on Pay

2.2. **Budget.** The Budget including:

- Allocating financial resources to different services and projects
- Setting Council Tax

3. Council Procedure Rules

Annual Meeting of the Council

Timing and Business

3.1. **In** a year where there is an ordinary election of Members, the annual meeting will take place within **21 days** of the retirement of the outgoing Members. In any other year, the annual meeting will take place in May.

3.2. The annual meeting will:

- elect a person to preside if the Chair of the Council is not present;
- elect the Chair of the Council;
- elect the Vice-Chair of the Council;
- approve the minutes of the last meeting;
- receive any announcements from the Chair and / or the Head of

Paid Service and/or Returning Officer;

- Subject to Part E , elect the Leader in the year of an ordinary election of Members;
- appoint the Scrutiny Committees and such other committees and sub-committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions. This will include appointing the Chairs, Vice-Chairs and membership of the committees and sub-committees;
- agree the Scheme of Delegation or such part of it as the Constitution determines it is for the Council to agree; and
- approve a programme of ordinary meetings of the Council for the year.

Scrutiny of Members on Committees and Outside Bodies

3.3. At the annual meeting, the Council will:

- decide which committees and sub-committees to establish for the municipal year;
- decide the size and terms of reference for those committees;
- decide the allocation of seats to political groups in accordance with the political balance rules;
- make appointments to outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable by the Executive or the Leader.
- Receive a report from the Leader about Executive Member appointments and the record of delegations

Ordinary Meetings

3.4. Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. The Chair of the Council and the Leader of the Council may jointly agree to vary the time or date of any ordinary meeting or to cancel any ordinary meeting. If they decide to do so, the decision must be agreed and notified to the Monitoring Officer no less than one month before the date that the meeting was due to take place, unless the variation or cancellation is due to exceptional and unforeseen circumstances (as determined by the Chief Executive in consultation with the Chair of the Council).

3.5. The order of business at ordinary meetings will be as set out below.

3.6. The Chair has discretion to vary the order of business or add items at any meeting. Such a variation may not displace business falling under items a, b,

c, d, e or f. The Chair has discretion to invite a speaker to address the Council meeting, or to permit an Officer of the Council to attend the meeting and present a briefing paper or report on any matter before the Council.

- a. elect a person to preside if the Chair and Vice-Chair are not present (this cannot be a Executive Member);
- b. approve the minutes of the last meeting;
- c. receive any apologies
- d. receive any declarations of interest from Members;
- e. receive any announcements from the Chair;
- f. receive a report from the Leader and receive questions and answers on the report;
- g. receive petitions in relation to matters which in the opinion of the Chair are relevant to the Council's functions;
- h. receive reports from Executive Members and receive questions and answers on the reports;
- i. receive reports from the Council's Committees and receive questions and answers on those reports;
- j. receive any reports from the Council's Scrutiny Committees and receive factual questions and answers on those reports;
- k. receive reports from statutory officers
- l. receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- m. consider any other business specified in the summons to the meeting, including consideration of proposals from the Executive in relation to the Council's Budget and Policy Framework
- n. consider motions; and
- o. deal with questions from Members in accordance with Rule 3.25.

Extraordinary Meetings

Calling Extraordinary Meetings

3.7. The Monitoring Officer may call Council meetings in addition to ordinary meetings and those listed below may request the Monitoring Officer to call additional Council meetings:

- the Council by resolution;

- the Chair of the Council;
- 5 Members if they have signed a requisition presented to the Chair of the Council and the Chair of the Council has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the request. Any requisition must state the business to be transacted, that it falls within the functions of the Council and the reasons why an Extraordinary Meeting is required.

Business

- 3.8. The business to be conducted at an extraordinary meeting shall be restricted to the item of business contained in the request for the extraordinary meeting except that the Chair may at their absolute discretion permit on the grounds of urgency other items of business to be conducted for the efficient discharge of the Council's business.

Time and Place of Meetings

- 3.9. The time and place of meetings will be determined by the Monitoring Officer and notified in the summons.

Notice of and Summons to Meetings

- 3.10. The Monitoring Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least **5 clear working days** before a meeting, the Monitoring Officer will send a summons signed by them to every councillor. The summons will give the date, time and place of each meeting and specify the business to be transacted and will be accompanied by such reports as are available.

Chair of Meeting

- 3.11. The person presiding at the meeting may exercise any power or duty of the Chair

Quorum

- 3.12. The quorum of a meeting will be 28 members. If a quorum is not present within 10 minutes of the scheduled start of the meeting or such longer time as allowed by the Chair, or if during any meeting if the Chair counts the number of Members present and declares there is not a quorum present, the meeting will be adjourned. Remaining business will be considered at a time and date fixed by the Chair. If the Chair does not fix a date, the remaining business will be considered at the next ordinary meeting.

Questions by Members

Questions Without Notice

3.13. Any councillor may ask

- an Executive Member or the Chair of a committee any question on an agenda item. Any questions directed to the Chair of the Audit and Governance Committee must be factual only.
- any Executive Member any question on any issue relevant to their portfolio.

3.14. Questions are normally limited to one (1) minute per councillor unless the Chair consents to a longer period.

3.15. Supplementary questions can only be asked with the consent of the Chair.

Questions on Notice

3.16. Subject to Rule 3.17, any councillor may ask:

- the Chair;
- a member of the Executive;
- or the Chair of any committee or sub-committee

a question on any matter in relation to which the Council has powers or duties or which affects the administrative area of the Council.

Notice of Questions

3.17. A councillor may ask a question under Rule 3.16 (questions on notice) if either:

- they have given notice of the question in writing or by e-mail no later than **noon 3 clear working days** before the day of the meeting to the Monitoring Officer; or
- the question relates to urgent matters, they have the consent of the Chair or councillor to whom the question is to be put and the content of the question is received by the Monitoring Officer in writing or by e-mail by **9.00 a.m. on the day of the meeting**.

Content of Questions

3.18. All questions must, in the opinion of the Chair:

- not be unreasonable;
- contain no expressions of opinion;

- relate to matters on which the Council has or may determine a policy;
- not relate to questions of fact;
- not require the disclosure of confidential or exempt information;
- not relate to a matter which is of purely personal concern to an individual/family member.

Time Allowed for Member Questions Without Notice at Council Meetings

- 3.19. The number of questions asked under Rule 3.13 (without notice) and the total time allowed for consideration of such questions shall be determined by the Chair;
- 3.20. At the conclusion of the response to the question under consideration or at the expiry of such time period as determined by the Chair from the time when the first questioner started to speak, the Chair shall conclude the meeting or proceed to the next item of business.
- 3.21. Any remaining questions shall be responded to in writing before the next ordinary meeting of the Council.

Generally

Record of Questions

- 3.22. The Monitoring Officer will send a copy of any question received under Rule 3.16 (on notice) to the Councillor to whom it is to be put. Copies of all questions under Rule 3.16 (on notice) will be available to all Members and the public attending the meeting.
- 3.23. Rejected questions under Rule 3.16 (on notice) will be returned to the questioner with the reasons for rejection.

Order of Questions

- 3.24. Questions from Members received in accordance with Rule 3.13 (without notice) will be asked in the order determined by the Chair except that if the opposition Group Leader has a question they will be invited to put it first.

Response

- 3.25. An answer to a question under Rule 3.13 (without notice) may take the form of:
- a direct verbal answer;
 - where the desired information is in a publication of the Council or other published work, a reference to that publication; or

- where the reply cannot conveniently be given verbally, a written response will be provided no later than 10 clear working days after the meeting.
- 3.26. The response to a question under Rule 3.16 (on notice) will be in writing which will be provided to the questioner within 10 clear working days of the meeting.
- copies of all questions and responses will be available on the Council's website with the minutes for the relevant meeting.

Reference of Question to the Executive or a Committee

- 3.27. Unless the Chair decides otherwise, no discussion will take place on any question, but any councillor may move that a matter raised by a question be referred to the Executive or the appropriate Committee or sub-Committee as necessary. Once seconded, such a motion will be voted on without discussion.

Motions on Notice

Application of Rules

- 3.28. Rules 3.29 to 3.36 do not apply to motions on notice under Rule 3.37.

Notice

- 3.29. Except for motions which can be moved without notice under Rule 3.38, written notice of every motion, must be delivered by hand or e-mail to the Monitoring Officer not later than 7 clear working days before the Council meeting at which it is to be considered.
- 3.30. Except for amendments which can be moved without notice under Rule 3.38 or are allowed under Rule 3.49, written notice of amendments to a motion must be delivered by hand or e-mail to the Monitoring Officer not less than 2 clear working days before the start of the Council meeting at which the motion to which it relates is to be considered.
- 3.31. Once approved by the Monitoring Officer copies of the amendment will be provided to Group Leaders.

Motion Set Out in Agenda

- 3.32. Motions for which notice has been given will be listed on the agenda in the order in which they were received.

Scope

- 3.33. Motions must be about matters for which the Council has a direct responsibility or duty.
- 3.34. The Chair after consultation with the Monitoring Officer will refuse to accept any motion or amendment to a motion which they deem to be illegal, improper, vexatious or out of order.

Order of and Time Allowed for Motions

- 3.35. Notwithstanding the order of Motions within the Agenda the Chair will decide the order that Motions will be considered and the time allowed for consideration of motions on the Agenda. At the conclusion of such period allowed, the Chair shall put to the vote, without further discussion, all the questions necessary to dispose of the motion then under debate provided that:
 - a. if any speech to be concluded is a speech proposing a motion, the Chair shall allow the motion to be formally seconded (without comment);
 - b. if any speech to be concluded is a speech moving an amendment, the Chair shall allow the amendment to be formally seconded (without comment) and the mover of the motion to exercise their right of reply; and
 - c. otherwise, the Chair shall allow the mover of the motion to exercise their right of reply.
- 3.36. Any remaining motions submitted under this Rule shall be deferred to the next ordinary meeting of the Council, Committee or Sub-Committee and shall be dealt with at that meeting in the same order and before any other motions of which notice is given for that meeting.

Motions to Amend Budget and Policy Framework

- 3.37. Written notice of a motion to move an amendment of the Executive's proposals for the Council's Budget and Policy Framework, subject to the Budget and Policy Framework Procedure Rules, must be delivered to the Monitoring Officer **not later than midday 2 working days before the Council meeting at which it is to be considered.** Motions received after that deadline will only be considered in exceptional circumstances and with the approval of the Chair, Section 151 Officer and Monitoring Officer. The Chair has discretion on how to deal with motions under this Rule.

Motions Without Notice

3.38. The following motions may be moved without notice:

- to appoint a Chair of the meeting at which the motion is moved;
- in relation to the accuracy of the minutes;
- to change the order of business in the agenda;
- to refer something to an appropriate body or individual;
- to appoint a committee or member arising from an item on the summons for the meeting;
- to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- to withdraw a motion;
- to proceed to the next business;
- that the question be now put;
- to adjourn a debate;
- to adjourn a meeting;
- to suspend a particular Council Procedure Rule;
- to exclude the public and press in accordance with the Access to Information Rules;
- to not hear further a councillor named under Rule 3.88 or to exclude them from the meeting under Rule 3.89; and
- to give the consent of the Council where its consent is required by this Constitution.

Rules of Debate

No Speeches Until Motion Seconded

3.39. No speeches may be made after the mover has moved a motion and explained the purpose of it until the motion has been seconded.

Right to Require Motion in Writing

3.40. Unless notice of the motion has already been given or the motion is one detailed under Rule 3.38, the Chair will require it to be written down in sufficient time to circulate to all members before it is discussed. The Chair will decide whether there is sufficient time to propose a motion without notice.

Secunder's Speech

- 3.41. When seconding a motion or amendment, a councillor may reserve their speech until later in the debate.

Content and Length of Speeches

- 3.42. Speeches must be directed to the motion under discussion or to a personal explanation or point of order.
- 3.43. Subject to Rule 3.46 below a speech by the mover of a motion may not exceed 5 minutes without the consent of the Chair.
- 3.44. Subject to Rules 3.45 and 3.46 below, speeches by other Members, including those Members seconding or speaking during their right to reply, may not exceed 2 minutes without the consent of the Chair.
- 3.45. When the Council's annual budget is under discussion, the Leader of each political group, apart from the Leader of the Council and the Leader of the largest opposition political group, on the Council may speak for up to 5 minutes or such longer period as the Chair shall allow.
- 3.46. Any speeches by the Leader of the Council or the Leader of the largest opposition political group can be up to 15 minutes or such longer period as the Chair shall allow.

When a Councillor May Speak Again

- 3.47. A councillor who has made a speech on a motion may not speak again whilst it is the subject of debate, except:
- to speak once on an amendment moved by another councillor;
 - to move a further amendment if the motion has been amended since they last spoke;
 - if their first speech was on an amendment moved by another councillor, to speak on the main issue (whether or not the amendment on which they spoke was carried);
 - in exercise of a right of reply;
 - on a point of order; or
 - by way of personal explanation.

Amendments to Motions

- 3.48. An amendment to a motion must be relevant to the motion and will either be:
- a. to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - b. to leave out words;
 - c. to leave out words and insert or add others; or
 - d. to insert or add words
- as long as the effect of b. to d. is not to negate the motion or to introduce a new motion.
- 3.49. Amendments must be in writing and on notice under Rule 3.30 unless the amendment arises during the debate and could not have been reasonably foreseen. The Chair's ruling on the validity of an amendment is final.
- 3.50. Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- 3.51. If an amendment is not carried, other amendments to the original motion may be moved.
- 3.52. If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- 3.53. After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

Alteration of Motion

- 3.54. A councillor may alter a motion of which they have given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- 3.55. A councillor may alter a motion which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- 3.56. Only alterations which could be made as an amendment may be made.

Withdrawal of Motion

3.57. A councillor may withdraw a motion which they have moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No councillor may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

Right of Reply

3.58. The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.

3.59. If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.

3.60. The mover of the amendment has no right of reply to the debate on their amendment. If their amendment is carried, they can have the penultimate speech on the amended motion.

Motions Which may be Moved During Debate

3.61. When a motion is under debate, no other motion may be moved except the following procedural motions:

- to withdraw a motion;
- to amend a motion;
- to proceed to the next business;
- that the question be now put;
- to adjourn a debate;
- to adjourn a meeting;
- to exclude the public and press in accordance with the Access to Information Rules; or
- to not hear further a councillor named under Rule 3.88 or to exclude them from the meeting under Rule 3.89.

Closure Motions

3.62. A councillor may move, without comment, the following motions at the end of a speech of another councillor:

- to proceed to the next business;

- that the question be now put;
 - to adjourn a debate; or
 - to adjourn a meeting.
- 3.63. If a motion to proceed to next business is seconded and the Chair considers the item has been sufficiently discussed, the Chair will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- 3.64. If a motion that the question be now put is seconded and the Chair considers the item has been sufficiently discussed, the Chair will put the procedural motion to the vote. If it is passed the Chair will give the mover of the original motion a right of reply before putting their motion to the vote.
- 3.65. If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair considers the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, the Chair will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

Point of Order

- 3.66. A councillor may raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of these Council Procedure Rules or the law. The councillor must indicate the Rule or law and the way in which they consider it has been breached. The ruling of the Chair on the matter will be final.

Personal Explanation

- 3.67. A councillor may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the councillor which may appear to have been misunderstood in the present debate. The ruling of the Chair on the admissibility of a personal explanation will be final.

Motion to rescind a previous decision

- 3.68. No motion or amendment to a motion to reverse a decision made at a meeting of the Council within the preceding six months shall be moved unless the notice of motion is signed by at least 15 Members (including the proposer).

Motion similar to one previously rejected

- 3.69. No motion or amendments to a motion to the same effect as one rejected

by the Council within the preceding six months shall be moved unless the notice of motion is signed by at least 15 Members (including the proposer). Once the Council has determined the extant motion or amendment, no one may propose a similar motion or amendment within a further period of six months.

- 3.70. The requirements in Rules 3.68 and 3.69 above shall not apply where the motion in question arises from the recommendation of the Executive or a committee.

Voting

Majority

- 3.71. Any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put unless the law provides otherwise.

Chair's Casting Vote

- 3.72. If there are equal numbers of votes for and against, the Chair will have a second/ casting vote. There will be no restriction on how the Chair chooses to exercise a second/casting vote.

Method of Voting

- 3.73. Unless a recorded vote is demanded under Rule 3.71 the Chair will take the vote by show of hands, or by use of the Council's electronic voting system, if any, or if there is no dissent, by the affirmation of the meeting.

Recorded Vote

- 3.74. If 15% of Members (rounded up) present at the meeting request it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and included in the minutes.

Right to Require Individual Vote to be Recorded

- 3.75. Where any councillor requests it immediately after the vote is taken, their vote will be recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

Nominations, Elections and Appointments

- 3.76. If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.
- 3.77. Where a vote is taken for the election of the Chair and the out-going Chair is present in the room and not seeking re-election, the out-going Chair will preside over the election of the new Chair.
- 3.78. The out-going Chair shall be deemed to have retired from that position immediately before the start of a meeting at which a Chair is to be elected.
- 3.79. Subject to Rule 3.74 and in accordance with Rule 3.6 b members of the Council shall appoint one of their number to preside over the election of Chair if the Vice-Chair is seeking election as Chair or is not present.
- 3.80. Officers shall not call for nominations for the election of the Chair.

Voting at a Budget Decision Meeting

- 3.81. Immediately after any vote is taken at a budget decision meeting of the Council there must be recorded in the minutes of the proceedings of that meeting the names of the Members who cast a vote for the decision or against the decision or who abstained from voting.

Note: Budget decision means calculation of the council tax requirement, calculation of the basic amount of council tax, additional calculations where special items relate to part only of the area administered by the Council, calculation of council tax for different variation bands, substitute calculations and calculation of the amount payable by billing authorities.

A councillor who has council tax arrears is not eligible to vote on budget decisions.

Minutes

- 3.82. Minutes will contain all motions and amendments in the form and order they were put.

Signing the Minutes

3.83. The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting

3.84. Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972 (an extraordinary meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes.

Record of Attendance

3.85. All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance where appropriate.

Exclusion of Public

3.86. Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part B of this Constitution or in accordance with the following Rules.

3.87. If a member of the public interrupts proceedings, the Chair will warn the person concerned. If they continue to interrupt, the Chair will order their removal from the meeting room.

3.88. If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

Members' Conduct

Speaking at Meetings

3.89. When a councillor speaks they must address the meeting through the Chair. If more than one councillor signifies their intention to speak, the Chair will ask one to speak. Other Members must remain silent whilst a councillor is speaking unless they wish to make a point of order or a point of personal explanation.

Chair Speaking

3.90. When the Chair speaks during a debate, any councillor speaking at the time must stop.

Councillor Not to be Heard Further

3.91. If a councillor persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may move that the councillor be not heard further. If seconded, the motion will be voted on without discussion.

Councillor to Leave the Meeting

3.92. If the councillor continues to behave improperly after such a motion is carried, the Chair may move that either the councillor leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

General Disturbance

3.93. If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as they consider necessary.

Suspension and Amendment of Council Procedure Rules

Suspension

3.94. Any of these Council Procedure Rules except Rules 3.72 (right to require individual vote to be recorded) and 3.80 (signing the minutes) may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can either be for an item or for the duration of the meeting.

Amendment

3.95. Any motion to add to, vary or revoke these Council Procedure Rules will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

Application of these Rules

3.96. None of the Council Procedure Rules apply to meetings of the Executive, Committees or Sub-Committees, Joint Committees or other Body of the Council.

4. Budget and Policy Framework Procedure Rules

The Framework for Executive Decisions

- 4.1. The Council is responsible for the adoption of its Budget and Policy Framework as set out in Section 2 above. Once a Budget and the Policy Framework are adopted by Council, it is the responsibility of the Executive to implement the executive functions within that Budget and Policy Framework.

Process for Developing the Budget and Policy Framework

- 4.2. After an appropriate consultation with the community and other stakeholders, the Executive will draft initial proposals in relation to any plan, strategy or budget which forms part of the Council's Budget and Policy Framework.
- 4.3. When the initial proposals have been drafted by the Executive, they will provide a copy to the Chair of the Scrutiny Committee with responsibility for the issue under consideration ("the relevant Scrutiny Committee") (unless it has already considered the initial proposals in accordance with the Scrutiny Committee Procedure Rules set out at Part G of this Constitution).
- 4.4. At the same time the Executive will notify the relevant Scrutiny Committee of the dates and/or proposed timetable within which the Executive intend to develop the proposal and submit them to full Council for approval. The timetable will allow as far as possible for both the Executive and relevant Scrutiny Committee to consider the proposals at ordinary planned meetings.
- 4.5. The relevant Scrutiny Committee will have three weeks to make its response unless the Executive or relevant Executive member has agreed a longer period with the Chair of the relevant Scrutiny Committee.
- 4.6. The Executive will finalise its proposals for consideration by full Council taking into account the recommendations (if any) of the relevant Scrutiny Committee. The report to full Council will include the recommendations (if any) of the relevant Scrutiny Committee, Executive's response to those recommendations (if any) and the extent to which they have been accepted by the Executive.
- 4.7. Full Council will consider the final proposals of the Executive and may:
 - adopt them without amendment;
 - amend them after a motion to amend is put by the Leader and seconded;
 - refer them back to the Executive for further consideration; or

- substitute its own proposals in their place.
- 4.8. If the Council accepts the Executive proposals with or without amendment the decision shall be effective immediately.
 - 4.9. If the Executive proposals are not accepted, the Democratic Services Manager will inform the Leader of the Council's objections and require him/her to reconsider the Executive proposals. The Leader will have 5 clear working days from receipt of the notification to submit a revised proposal or inform the Council of the Executive's disagreement with the objections. The Council's decision will become effective on the expiry of 5 clear working days after notification of the Council's objections unless the Leader submits revised proposals and/or formally objects in that period.
 - 4.10. If the Leader wishes to submit revised proposals and or disagree with the objections of the Council written notice will be given to the Democratic Services Manager to that effect prior to the date upon which the decision is to be effective. The written notice must state the reasons for the revised proposals and/or the disagreement. Where such notice is received the Democratic Services Manager shall convene a further meeting of the Council to reconsider its decision and the decision shall be effective pending that meeting.
 - 4.11. The Council meeting must take place within 10 working days of the receipt of the Leader's written notice unless the Chair of the Council and Leader agree that the matter can wait until the next programmed meeting of the Council. At that Council meeting the decision of the Council shall be reconsidered in the light of any revised proposals submitted and the reasons for those revisions and/or the Executive disagreement and reasons for that disagreement which shall be available in writing to the Council.
 - 4.12. The Council shall at that meeting make its final decision on the matter on the basis of a simple majority.

Decisions Outside the Budget or Policy Framework

- 4.13. Subject to the provisions of the Financial Procedure Rules, the Executive, individual Members of the Executive, delegated officers, committees or joint arrangements discharging executive functions may only take decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to the Budget approved by full Council, then that decision may only be taken by the Council, subject to Rule 4.15 below.
- 4.14. If the Executive, individual Members of the Executive, delegated officers, committees or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Section 151 Officer as to whether the decision they want to make

would be contrary to the Budget and/or Policy Framework. If the advice of either of those officers is that the decision would not be in line with the existing Budget and/or Policy Framework, then the decision must be referred by that body or person to full Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 4.15 (urgent decisions outside the Budget and Policy Framework) below shall apply.

Urgent Decisions Outside the Budget or Policy Framework

- 4.15. The Executive, an individual Executive member or officers, committees or joint arrangements discharging executive functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Budget approved by full Council only if the decision is a matter of urgency. However, the decision may only be taken:
- if it is not practical to convene a quorate meeting of the full Council; and
 - if the Chair of a relevant Scrutiny Committee agrees that the decision is a matter of urgency.
- 4.16. The reasons why it is not practical to convene a quorate meeting of full Council in time and the consent of the Chair of the relevant Scrutiny Committee to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of a relevant Scrutiny Committee the consent of the Chair of the Council or, in his/her absence, the consent of the Vice-Chair of the Council will be sufficient.
- 4.17. Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

Call-In of Decisions Outside the Budget or Policy Framework

- 4.18. Where a Scrutiny Committee is of the opinion that a decision is, or if made would be, contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, it shall seek advice from the Monitoring Officer and/or Section 151 Officer.
- 4.19. In respect of functions which are the responsibility of the Executive, the Monitoring Officer's report and/or Section 151 Officer's report shall be made to the Executive with a copy to every councillor. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the Monitoring Officer's report and/or the Section 151 Officer's report. It shall prepare a report to full Council in the event that the Monitoring Officer or the Section 151 Officer conclude that

the decision was a departure or prepare a report to the Scrutiny Committee if the Monitoring Officer or the Section 151 Officer conclude that the decision was not a departure.

- 4.20. If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Section 151 Officer is that the decision is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, the Scrutiny Committee may refer the matter to full Council. In such cases, no further action will be taken in respect of the decision or its implementation until full Council has met and considered the matter. The full Council shall meet within 21 working days of the request or referral by the Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Section 151 Officer. The Council may either:
- endorse a decision or proposal as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Members in the normal way; or
 - amend the Council's Budget or Policy concerned to encompass the decision or proposal and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Members in the normal way; or
 - where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget and does not amend the existing Framework or Budget to accommodate it, require the Executive or the decision-taker to reconsider the matter in accordance with the advice of the Monitoring Officer and/or Section 151 Officer.

5. Honorary Alderman / Alderwoman Scheme

Background

- 5.1 Section 249 of the Local Government Act 1972 gives principal councils the power to confer the title of 'Honorary Alderman' or 'Honorary Alderwoman' on persons who have, in the opinion of the Council, rendered eminent services to the Council as past members of that Council, but who are no longer members of the council. The Act does not specify how eminent services are defined, and this is left as a matter of local interpretation.
- 5.2 The Act also provides that in order to confer the title of Honorary Alderman or 'Honorary Alderwoman' on an ex-Councillor, a meeting of the whole Council needs to be convened specifically for this purpose and the resolution passed by not less than two thirds of the voting Members present at that meeting.
- 5.3 The Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008 provide for the continuation of the conferment of Honorary Aldermen or Honorary Alderwoman status from legacy Councils to a new Authority. Section 32 of these Regulations specifically set out this provision. To this end, Honorary Aldermen from the 5 legacy Somerset Authorities became Aldermen for Somerset with effect from 1 April 2020.

Process For Nomination

- 5.4 Nominations shall only be made in the year of the Council Elections.
- 5.5 Any nomination must be proposed and seconded by existing serving Members of the Council.
- 5.6 Nominations received will be submitted to the Monitoring Officer who will then liaise with Group Leaders and the Chair of the Council for consideration.
- 5.7 A report will then be presented to Full Council to consider conferring the Honorary Alderman or Honorary Alderwoman status.
- 5.8 Formal election to the Roll of Honorary Alderman shall be by resolution of the Council, passed by not less than two thirds of those Members present and voting thereon at a meeting of the Council specifically convened for that purpose.

Criteria

- 5.9 A person shall be deemed eligible to be enrolled as an Honorary Alderman or Honorary Alderwoman provided that the person has served as a Member of the Council (and any of the 5 legacy Somerset Local Authorities prior to the establishment of the Council on 1 April 2020) for at least 10 years in total.
- 5.10 Honorary Alderman or Honorary Alderwoman is an apolitical role so individuals should not hold political office
- 5.11 For the purposes of this Scheme, the term "eminent service" is left undefined to allow flexibility when determining nominations

Term of Office

- 5.12 All Honorary Aldermen and Honorary Alderwomen shall be lifetime appointments subject to the withdrawal of Title/Rights as set out below.

Rights & Priveleges

- 5.13 An Honorary Alderman and Honorary Alderwoman is entitled to the following rights & privileges:
- To be presented with an Honorary Aldermen badge.
 - To receive the link to the electronic version of the Full Council summons & Agenda
 - Parking free at each Council Offices when undertaking duties.
 - To receive invitations to all civic/ceremonial, and social events to which Members of the Council are invited.

(Given the capacity issues with Full Council meetings, and the current number of Honorary Alderman and Honorary Alderwoman, no guarantee of attendance at Council meetings can be provided)

Withdrawal of Title/Right

- 5.14 If an existing Honorary Alderman or Honorary Alderwoman stands for election and is not elected, he/she shall continue in the role. If he/she is elected to the Council as a Member, the title and rights shall be withdrawn from the individual for such time as he/she is a serving Member.
- 5.15 It shall be competent for the Council in any other particular case to withdraw the title of Honorary Alderman and the attached rights and privileges. Such

withdrawal of the title shall be by way of formal motion to a meeting of the full Council, (the summons to which contains special notice that such withdrawal is proposed and the reason therefor) and subsequent resolution of the Council passed by not less than two thirds of the Members present and voting thereon at the meeting of the Council. On the passing of such resolution, the Monitoring Officer shall delete the name of the person concerned from the Roll of Honorary Aldermen and advise that person accordingly.

Application of This Scheme

5.16 This Scheme shall apply to all Honorary Aldermen and Honorary Alderwomen of the Council – i.e. those Aldermen who have continued from the legacy Councils (paragraph 3 of this Scheme refers) and Aldermen or Alderwomen appointed by Somerset Council.

Part D – Committee Structure and Procedure Rules

Some matters are dealt with by specific committees. These are specific groups of councillors who meet regularly to make decisions about defined parts of the Council's work such as planning and standards. The Council as a whole decides how these committees are made up and who will serve on each committee.

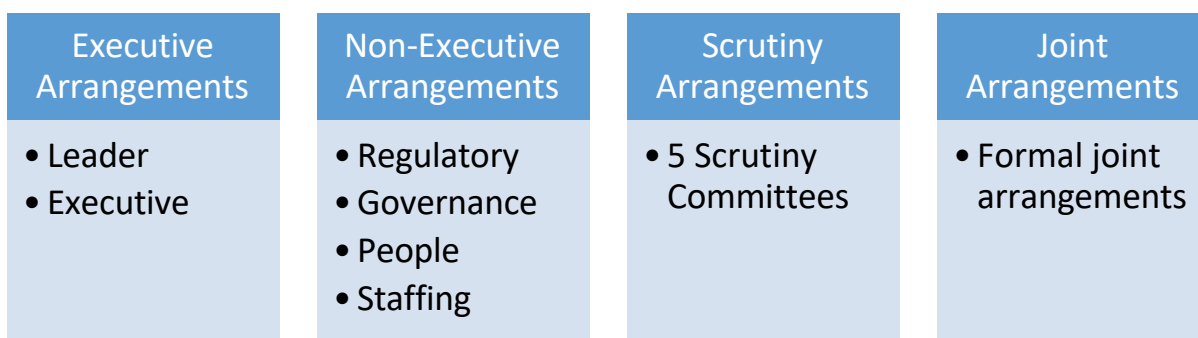
This section sets out the committees in Somerset Council, the scope of their delegated powers, their terms of reference as well as the rules about how committee meetings are run and decisions are made.

These rules are written in formal language. If you have specific questions our democratic services team will be happy to help you.

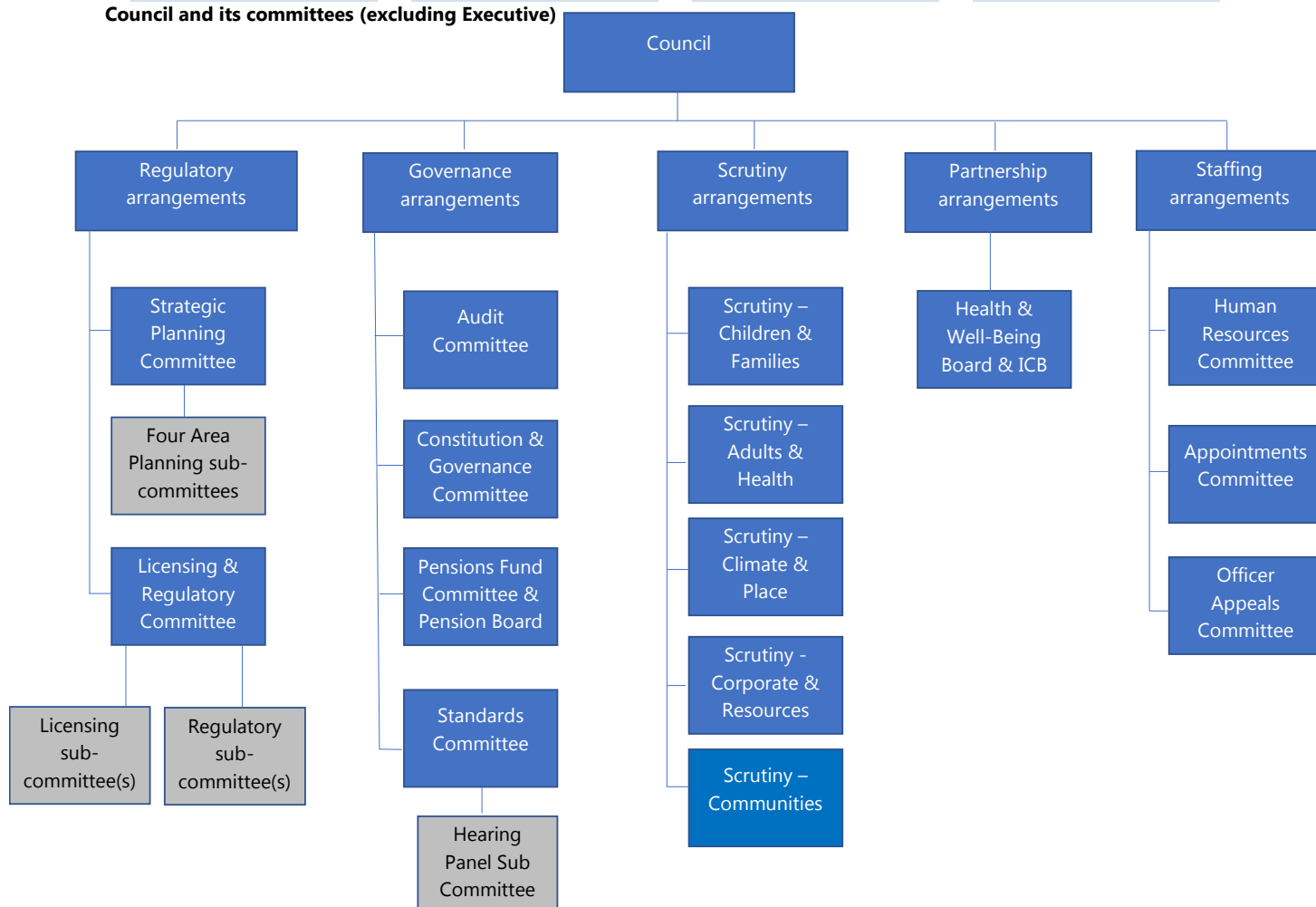
1. Committee Structure

1.1. The Council has decided that certain non-executive functions which are not reserved to the Council as a whole will be the responsibility of the Committees listed below and officers as further detailed in this Constitution by way of the Scheme of Delegation at Part I. Responsibility for some non-executive functions is also delegated to Directors and other senior Officers by way of the Scheme of Delegation in Part I Section 2. In addition to committees, some advisory and operational matters may also be carried out by panels, boards or forums.

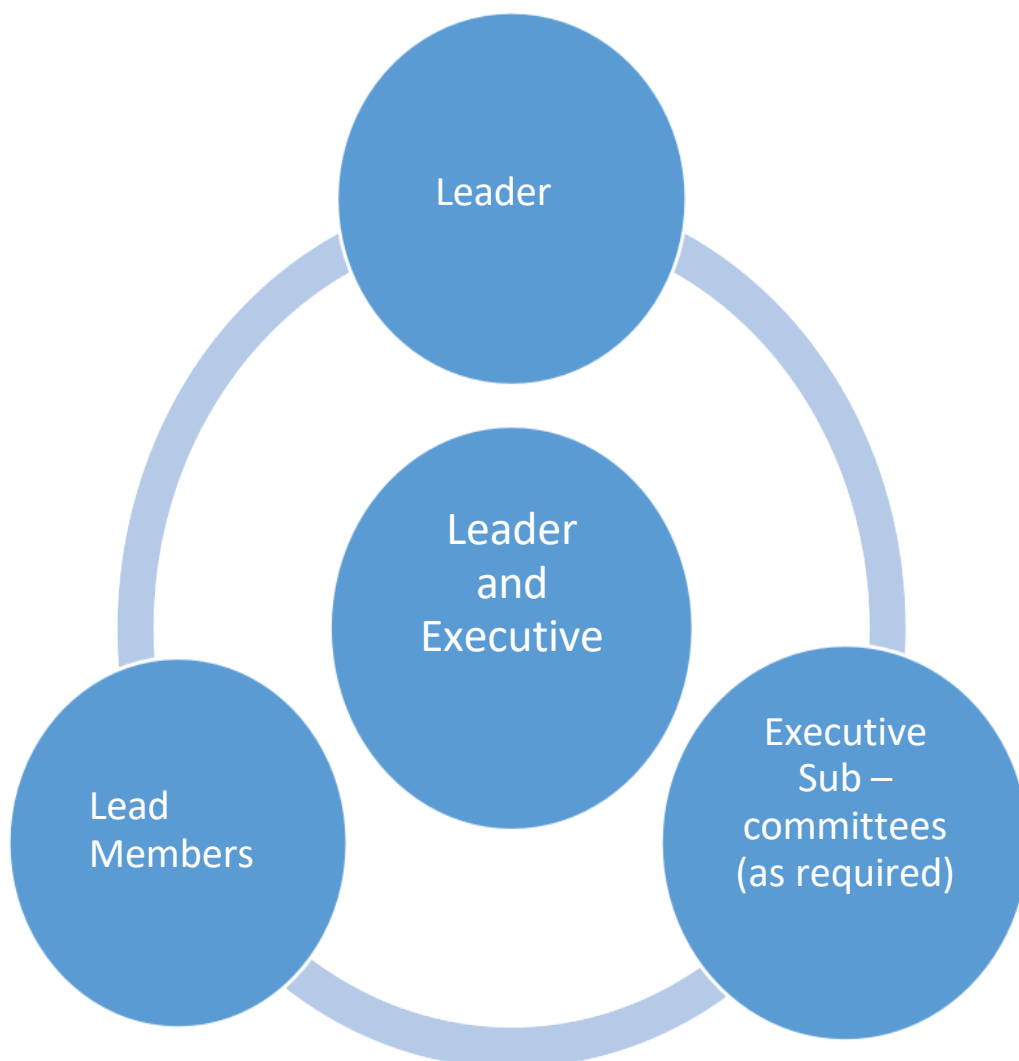
Decision Making



Council and its committees (excluding Executive)



Executive Arrangements



For text explanation of above diagrams please contact Democratic Services. Please see Part E for details of the Executive arrangements.

2. Committee Procedure Rules

Scope

- 2.1. The Council will from time to time appoint such committees as it considers appropriate for the discharge of its functions, in accordance with this Constitution. A duly constituted committee acting in the exercise of its delegated powers and in accordance with its terms of reference shall be entitled to take all necessary action to fulfil its duties.
- 2.2. These Committee Procedure Rules apply to meetings of all Committees and Sub- Committees, with the exception of Licensing Committees and its Sub-Committees and also the Planning Committee and its Sub-Committees.
- 2.3. In the case of the Licensing Committee and its Sub-Committees these Rules are subject to and applied as stated in the Licensing Act 2003 (Hearings) Regulations 2005 and any other relevant legislation and as set out at the end of these Committee Procedure Rules.
- 2.4. Joint Committees and their Sub-Committees will follow these Procedure Rules unless other Rules have been agreed within their terms of reference.

Summons and Agenda

- 2.5. At least **5 clear working days** before a meeting, the Monitoring Officer will send a summons signed by them to every Member of the Committee. The summons will give the date, time and place of the meeting and specify the business to be transacted and will be accompanied by such reports as are available.
- 2.6. Any additions or amendments to an agenda that has been sent to Councillors and/or any supplemental agenda must be approved by the Democratic Services Manager and the Chair of the Committee. Approval will only be given where there is a good reason for the addition or amendment and where the need for it could not reasonably have been foreseen at the time when the agenda was compiled.
- 2.7. The Monitoring Officer will give notice to the public of the time and place of any meeting as determined by them in accordance with the Access to Information Rules together with additions or amendments to the agenda that have been sent to Councillors.

Chair

- 2.8. The Council shall appoint the Chairs and Vice-Chairs of Committees at its annual meeting, all of whom shall hold office until the next annual meeting or until their successors are elected or appointed.

- 2.9. If both Chair and Vice-Chair are absent from a meeting a Chair for the meeting will be elected. The person presiding at the meeting may exercise any power or duty of the Chair. (see Voting below for nomination rules)
- 2.10. No person shall hold the office of Chair or Vice-Chair unless they are a member of the committee in question and are also a councillor of the Council unless otherwise allowed under the terms of reference of that committee.
- 2.11. A councillor can be voted to be a Chair of a committee in their absence, provided they remain a member of that committee.

Meetings

- 2.12. The quorum for a committee or sub-committee is one quarter of the total number of members of the committee or sub-committee unless otherwise detailed in the relevant terms of reference but shall not be less than three voting councillors.
- 2.13. If a quorum is not present within 10 minutes of the scheduled start of the meeting or such longer time as allowed by the Chair, the business of the meeting will be adjourned to the next meeting.
- 2.14. All councillors present during the whole or part of a meeting must make their attendance known to the proper officer.

Minutes

- 2.15. The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.
- 2.16. Minutes will contain all motions and amendments in the form and order the Chair put them.

Questions

- 2.17. A member of a committee or sub-committee may ask the Chair of it a question on any matter in relation to which the Council has powers or duties or which affects the Somerset Council administrative area and which falls within the terms of reference of that committee or sub-committee. A Chair may allow a councillor who is not a member of the relevant committee or sub-committee to speak on an item of business.

Content of Questions

2.18. Questions must, in the opinion of the Chair:

- a. not be unreasonable;
- b. contain no expressions of opinion;
- c. relate to matters on which the Council has or may determine a policy;
- d. not require the disclosure of confidential or exempt information;
- e. not relate to a matter which is of purely personal concern to an individual/family member.

Time Allowed for Councillor Questions at Committee and Sub-Committee Meetings

2.19. The number of questions and the total time allowed to ask and for consideration of such questions shall be determined by the Chair.

Order of Questions

2.20. Questions will be asked in the order determined by the Chair of the Committee or Sub-Committee.

Written Responses

2.21. Any question which cannot be dealt with during question time or to which a response cannot conveniently be given verbally to a question, will be dealt with by a written response provided within 5 clear working days of the meeting.

Motions

Motions on Notice

2.22. Any member of a committee or sub-committee may propose a motion by giving notice of it **not less than 7 clear working days before a meeting** to the Monitoring Officer. Motions must be framed in appropriate language and must, in the opinion of the Chair of the Committee or Sub-Committee in consultation with the Monitoring Officer be about matters for which the Committee or Sub-Committee has a direct responsibility or duty and motions which they deem to be illegal, improper, vexatious or out of order shall be rejected.

Motions Without Notice

2.23. The following motions may be moved without notice:

- a. to appoint a Chair of the meeting at which the motion is moved;
- b. in relation to the accuracy of the minutes;
- c. to approve the minutes as a correct record;
- d. to change the order of business in the agenda;
- e. to refer a sub-committee's report or any item in it, or any other item, back to a sub-committee;
- f. to appoint sub-committee members if this arises from an item in the agenda of the meeting;
- g. to adopt a report or recommendation of the Executive, another committee, a sub-committee or an officer;
- h. to take an action recommended in an Officer's report, or other report submitted to the Committee or Sub-Committee;
- i. to withdraw a motion or amendment;
- j. to proceed to the next business;
- k. that the question be now put;
- l. to adjourn a debate;
- m. to adjourn the meeting;
- n. to suspend a particular Committee Procedure Rule;
- o. to exclude the public and press in accordance with the Access to Information Rules;
- p. to not hear further a councillor or to exclude them from the meeting for disorderly conduct.

Motions Set Out in the Agenda

2.24. Motions for which notice has been given will be listed on the agenda in the order in which they were received.

Order and Time Allowed for Motions

2.25. Notwithstanding the order of Motions within the Agenda the Chair will decide the order that Motions will be considered and the time allowed for consideration of motions. At the conclusion of the speech being delivered or at the expiry of such time as decided by the Chair from the commencement of the consideration of the first such motion at the meeting, the Chair shall put to the vote, without further discussion, all the questions necessary to dispose of the motion then under debate provided that:

- a. if the speech to be concluded is a speech proposing a motion, the Chair shall allow the motion to be formally seconded (without comment);
- b. if the speech to be concluded is a speech moving an amendment, the Chair shall allow the amendment to be formally seconded (without comment) and the mover of the motion to exercise their right of reply; and
- c. otherwise, the Chair shall allow the mover of the motion to exercise their right of reply.

2.26. Any remaining motions shall be deferred to the next ordinary meeting of the Committee or Sub-Committee and shall be dealt with at that meeting in the same order and before any other motions of which notice is given for that meeting.

Rules of Debate

2.27. The following rules apply to a particular meeting to the extent that the Chair considers appropriate.

No Speeches Until Motion Seconded

2.28. No speeches may be made after the mover has moved a motion and explained the purpose of it until the motion has been seconded.

Right to Require Motion in Writing

- 2.29. Unless notice of the motion has already been given or the motion is one which can be given without notice, the Chair may require it to be written down in sufficient time to circulate to all members before it is discussed. The Chair will decide whether there is sufficient time to propose a motion without notice.

Secunder's Speech

- 2.30. When seconding a motion or amendment, a councillor may reserve their speech until later in the debate.

Content and Length of Speeches

- 2.31. Speeches must be directed to the motion under discussion or to a personal explanation or point of order.
- 2.32. A speech by the mover of a motion may not exceed **5 minutes without the consent of the Chair.**
- 2.33. Speeches by other Councillors, including those councillors seconding or speaking during their right to reply, may not exceed **3 minutes without the consent of the Chair.**

When a Councillor May Speak Again

- 2.34. A councillor who has made a speech on a motion may not speak again whilst it is the subject of debate, except:
- a. to speak once on an amendment moved by another councillor;
 - b. to move a further amendment if the motion has been amended since they last spoke;
 - c. if their first speech was on an amendment moved by another councillor, to speak on the main issue (whether or not the amendment on which they spoke was carried);
 - d. in exercise of a right of reply;
 - e. on a point of order; and
 - f. by way of personal explanation.

Amendments to Motions

- 2.35. An amendment to a motion must be relevant to the motion and will either be:
- a. to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - b. to leave out words;

- c. to leave out words and insert or add others; or
- d. to insert or add words.

As long as the effect of b. to d. is not to negate the motion or to introduce a new motion.

- 2.36. Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- 2.37. If an amendment is not carried, other amendments to the original motion may be moved.
- 2.38. If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- 2.39. After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

Alteration of Motion

- 2.40. A councillor may alter a motion of which they have given notice with the consent of the Committee. The Committee's consent will be signified without discussion.
- 2.41. A councillor may alter a motion which they have moved without notice with the consent of both the Committee and the seconder. The Committee's consent will be signified without discussion.
- 2.42. Only alterations which could be made as an amendment may be made.

Withdrawal of Motion

- 2.43. A councillor may withdraw a motion which they have moved with the consent of both the Committee and the seconder. The Committee's consent will be signified without discussion.
- 2.44. No councillor may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

Right of Reply

- 2.45. The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- 2.46. If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may

not otherwise speak on it.

2.47. The mover of the amendment has no right of reply to the debate on their amendment. If their amendment is carried, they can have the penultimate speech on the amended motion.

Motions Which May Be Moved During the Debate

2.48. When a motion is under debate, no other motion may be moved except the following procedural motions:

- a. to withdraw a motion;
- b. to amend a motion;
- c. to proceed to the next business;
- d. that the question be now put;
- e. to adjourn a debate;
- f. to adjourn a meeting;
- g. to exclude the public and press in accordance with the Access to Information Rules; and
- h. to not hear further a councillor or to exclude them from the meeting for disorderly conduct.

Closure Motions

2.49. A councillor may move, without comment, the following motions at the end of a speech of another councillor:

- a. to proceed to the next business;
- b. that the question be now put;
- c. to adjourn a debate; or
- d. to adjourn a meeting.

2.50. If a motion to proceed to next business is seconded and the Chair thinks the item has been sufficiently discussed, the Chair will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

2.51. If a motion that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, the Chair will put the procedural motion to the vote. If it is passed the Chair will give the mover of the original motion a right of reply before putting their motion to the vote.

2.52. If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair thinks the item has not been sufficiently

discussed and cannot reasonably be so discussed on that occasion, the Chair will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

Point of Order

2.53. A councillor may raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of these Committee Procedure Rules or the law. The councillor must indicate the rule or law and the way in which they consider it has been breached. The ruling of the Chair on the matter will be final.

Personal Explanation

2.54. A councillor may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the councillor which may appear to have been misunderstood in the present debate. The ruling of the Chair on the admissibility of a personal explanation will be final.

Voting

- 2.55. Any matter will be decided by a simple majority of those councillors voting and present in the room at the time the question was put unless the law provides otherwise.
- 2.56. If a councillor arrives before the casting of votes has been commenced they are entitled to vote, unless the Committee or Sub-Committee is sitting in a quasi- judicial capacity (eg Licensing and Regulatory Committee) when a Councillor may not vote unless they have been present to hear all the evidence presented on an agenda item.
- 2.57. If there are equal numbers of votes for and against, the Chair will have a second/ casting vote. There will be no restriction on how the Chair chooses to exercise a second/casting vote.
- 2.58. The Chair will take the vote by show of hands, or by use of the Council's electronic voting system if any, or if there is no dissent, by the affirmation of the meeting.
- 2.59. Where any councillor requests it immediately after the vote is taken, their vote will be recorded in the minutes to show whether they voted for or against the motion or abstained from voting.
- 2.60. If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one

person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

2.61. Where a vote is taken for the election of the Chair of the Committee or Sub-Committee and the out-going Chair is present in the room and not seeking re-election, the out-going Chair will preside over the election of the new Chair.

2.62. The Chair of a Committee or Sub-Committee shall be deemed to have retired from that position immediately before the start of a meeting at which a Chair is to be elected.

2.63. Subject to Rule 2.63 members of the Committee or Sub-Committee shall appoint one of their number to preside over the election of Chair.

2.64. Officers shall not call for nominations for the election of the Chair.

Rights of Access/Inspection of Documents

2.65. Rights of access to and inspection of documents will be as set out in the Access to Information Procedure Rules.

Councillors' Conduct

Speaking at Meetings

2.66. When a councillor speaks they must address the meeting through the Chair. If more than one councillor signifies their intention to speak, the Chair will ask one to speak. Other councillors must remain silent whilst a councillor is speaking unless they wish to make a point of order or a point of personal explanation.

Chair Speaking

2.67. When the Chair speaks during a debate, any councillor speaking at the time must stop.

Councillor Not to be Heard Further

2.68. If a councillor persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may move that the councillor be not heard further. If seconded, the motion will be voted on without discussion.

Councillor to Leave the Meeting

- 2.69. If the councillor continues to behave improperly after such a motion is carried, the Chair may move that either the councillor leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

General Disturbance

- 2.70. If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as they consider necessary.

Exclusion of the Public

- 2.71. Members of the public and press may only be excluded either in accordance with the Access to Information Rules or in accordance with the following Rules.
- 2.72. If a member of the public interrupts proceedings, the Chair will warn the person concerned. If they continue to interrupt, the Chair will order their removal from the meeting room.
- 2.73. If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

Appointment of Substitute Members on Committees and Sub-Committees

- 2.74. The substitution rules will not apply to meetings of the Executive, Executive Sub-Committees, the Pension Fund Committee, Pensions Board, Health and Well-Being Board or the Officer Appeals Committee.
- 2.75. Subject to any other restrictions elsewhere in the Constitution, any councillor will be permitted to act as a substitute on a Council Body provided that they have been so appointed by Council to so act. The Proper Officer may consider a request from a councillor of a Council Body or the Leader of the political group of which the councillor is a member to appoint a substitute councillor. The proposed substitute councillor must be from the same political group as the councillor for whom they are substituting.
- 2.76. In order to be eligible to sit as substitutes on regulatory or administrative committees or panels or staff appointments or disciplinary bodies established by the Council, councillors must have received formal training in relevant procedures and the law.

2.77. Substitute members will have all the powers and duties of any ordinary member of the committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

2.78. Substitute members may attend meetings in that capacity only:

- a. to take the place of the councillor for whom they are designated substitute;
and
- b. where the ordinary councillor will be absent for the whole of the meeting;
and
- c. where the ordinary councillor or their group leader has notified the Monitoring Officer or the Democratic Services Manager of the intended substitution by no later than 24 hours before the start of the relevant meeting, or in exceptional circumstances and with the consent of the Monitoring Officer, no later than one hour before the start of the relevant meeting.

Suspension of Committee Procedure Rules

2.79. All of these Rules of Procedure except Rules 2.15 (signing minutes) and 2.61 (individual councillor vote to be recorded) may be suspended by the Chair or by motion on notice or without notice if at least one half of the whole number of members of the Committee or Sub-Committee, are present. Suspension can either be for an item or for the duration of the meeting.

Audit Committee (to follow after consultation with Audit Committee)

Part D – Constitution & Governance Committee Terms of Reference

General

The purpose of the Constitution and Governance Committee is to:

- (a) Maintain an effective, up to date and legally compliant Constitution.
- (b) Consider proposals from Council committees for changes to the constitutional arrangements of the Council.
- (c) Submit an annual report to the Council recommending a revised Constitution for approval to the Council's Annual General Meeting. See notes below.
- (d) Receive assurance from the Returning Officer regarding the administration of any elections;
- (e) Oversee the Council's input and response to boundary or electoral reviews as required by the Boundary Commission.

Notes: The functions of the Committee exclude approval of:

- Any changes to the operational arrangements of the Council including the Committee structure – which will be referred to Council for approval as a recommendation
- The Scheme of Members' Allowances which is approved by the Council on the recommendation of the Independent Remuneration Panel;
- The Council's executive arrangements, which are the responsibility of the Leader of Council;
- Any change to the Council's model of democratic governance under the Localism Act 2011.

Membership, Chairmanship and Quorum

Number of Members	13
Substitute Members Permitted	Yes

Political Balance Rules apply	Yes
Appointments/Removals from Office	By resolution of full Council
Restrictions on Membership	None
Restrictions on Chairmanship/Vice-Chairmanship	None
Quorum	5 members
Number of ordinary meetings per Council Year	At least 3 per year

Terms of

Reference

- 1.1. Maintain an overview of all aspects of the Council's Constitution not otherwise reserved to the Standards Committee including but not limited to decision-making, Contract Procedure Rules and Financial Procedure Rules. Any proposed changes to the Council's Constitution are to be recommended to Council for approval.
- 1.2. Review any issue referred to it within these Terms of Reference by the Chief Executive, Monitoring Officer, Section 151 Officer or any Body of the Council.
- 1.3. Consider the Council's corporate governance arrangements and make recommendations to ensure compliance best practice.
- 1.4. Such other matters as required by law or guidance to be the proper remit of the Constitution and Governance Committee.

Somerset Health and Wellbeing Board - Constitution

Introduction

Under the Health and Social Care Act 2012 Somerset Council must establish a Health and Wellbeing Board.

This constitution will cover the operation of the Somerset Health and Wellbeing Board. It will be revised if necessary, in accordance with the legislative requirements.

1. Aim

- 1.1 The Somerset Health and Wellbeing Board (SHWBB) will provide strategic leadership to improve the health and wellbeing of the residents of Somerset through the development of improved and integrated health, public health and adults and children's social care services

2. Functions

- 2.1. The Board, on behalf of Somerset Council and NHS Somerset shall identify and agree health and wellbeing needs and priorities across Somerset through:
 - a) providing a structure for strategic local planning and challenge to the provision of health and wellbeing related services across a range of sectors and providers;
 - b) assessing the needs of the local population and lead the statutory Joint Strategic Needs Assessment ('JSNA') with an annual refresh and publication of the Joint Strategic Needs Assessment (JSNA) to support evidence-based prioritisation, commissioning and policy decisions;
 - c) ensuring that the JSNA drives the development of the Health and Wellbeing Strategy (Improving Lives) and influences other key plans and strategies across the county;
 - d) To undertake the Pharmaceutical Needs Assessment every 5 years or sooner if required;
 - e) The preparation, agreement and publication of the Somerset Health and Wellbeing Strategy (SHWBS). The SHWBS will set a high level joint strategic vision for health and wellbeing, taking into account the JSNA and the Annual Public Health Report, as well as national policy developments and legislation. Organisations represented on the Board have a duty to take heed of the strategy and will be held to account for their contribution to delivery of outcomes;
 - f) actively engaging with the other key partnerships to ensure achievement of outcomes in all agreed areas and to extend the reach of the Improving Lives Strategy by ensuring alignment with other strategies and plans;
 - g) discharging all functions relating to the Better Care Fund that are required or permitted by law to be exercised by the Board including: Agreeing the Better Care Fund; and overseeing the delivery of the Better Care Fund and Improved Better Care

- Fund. This includes providing a regular written progress report on each of the schemes under the fund to the Board;
- h) responsible for overseeing the implementation of the statutory requirement within the Children and Families Act 2014, for local services to work together providing care and support for children and young people with special educational needs and disabilities (SEND), ensuring that local services are fulfilling their role and that children are getting the care they need;
 - i) ensuring that the Local Integrated Care Partnerships, Local Authorities, Clinical Commissioning Groups and NHS England, Police demonstrate how the JSNA has driven decision-making;
 - j) In order to undertake the system leadership role, the Board will receive reports in conjunction with the delivery of the Improving Lives Strategy and outcomes from:
 - STP
 - Somerset Growth Board
 - Safer Somerset Partnership
 - Somerset Childrens Trust
 - Somerset Strategic Housing Group
 - Neighbourhoods Group
 - Children’s and Adults Safeguarding Boards
 - Information Governance Panel;
 - k) providing challenge and encouragement to put prevention central to everything we do in Somerset, with a relentless focus on issues that drive inequalities;
 - l) providing a forum for cross-system learning and support through the Health and Wellbeing Board development sessions and workshops.

2.2 The Board shall:

- a) Oversee, where appropriate, the use of resources across a wide spectrum of services and interventions, to ensure that the SHWBS and priority outcomes are achieved and to drive a genuinely collaborative approach to commissioning, including the co-ordination of agreed joint strategies.
- b) Support the inclusion of the public, patients and communities in the setting of strategic priorities, including (but not solely) through the involvement of local Healthwatch.
- c) Communicate and engage with local people in how they can achieve the best possible quality of life and be supported to exercise choice and control over their own health and wellbeing and that of the people living around them.

Each board member has a responsibility to report and act upon the group or organisation they represent in order to maximise the impact they can make in terms of improving lives (promoting and delivering the health and wellbeing strategy).

In line with the Health & Social Care Act 2012, the work of the Board will be scrutinised through appropriate SCC Scrutiny Committees.

3. Membership

- 3.1 Membership of the Board shall reflect the principle that at least 50% of its voting membership shall comprise elected local councillors. Representation on the Board reflects the statutory membership as required by the Health and Social Care Act.
- 3.2 The full members of the Board (i.e. with voting rights) shall comprise the following:
- Up to 5 members of Somerset Council including the relevant Executive Members for Public Health, Equalities and Diversity, Adult Social Care and Children and Families; 1 member of the Opposition; and 1 other Council member – all to be chosen by the Leader of the Council
 - 3 x NHS Somerset (Integrated Care Board) representatives
 - Director of Public Health
 - Director for Adult Social Services
 - Director for Children’s Services
 - NHS England representative
 - Healthwatch Somerset nominated volunteer representative
 - Avon and Somerset Police representative
 - Somerset NHS Foundation Trust representative
 - Primary Care representative
 - VCSE representative
 - Registered Care Provider representative

Total: 18

- 3.3 Other members may be co-opted by the Board as required but will not have full voting membership.

4. Chairing Arrangements

- 4.1 The Leader of Somerset Council shall appoint the Chair of the Board annually from within the Somerset Council’s representation on the Board. The Leader shall appoint up to 2 Vice-Chairs on an annual basis at least one of which shall come from within the health service representation on the Board.
- 4.2 In the event that the Chair is not present but the meeting is quorate the voting members present at the meeting shall choose which Vice-Chair is to chair that meeting.

5. Quorum

- 5.1 To ensure that sufficient members are present at all meetings for the effective conduct of business the quorum for the Board will comprise eight members (over 50%) and must include at least two voting Members from Somerset Council and one voting member of the SCCG. If a quorum is not present, matters may be discussed, and recommendations made but no decisions taken.

6. Substitutes

- 6.1 No substitutes shall be allowed for members of the Board.

7. Appointments

- 7.1 If the Council wishes to change the voting membership of the Board, then the Council must consult the Board on the proposal. Council nominations must be in accordance with the legislation.

8. Governance and Accountability

- 8.1 In accordance with section 194 of the Health and Social Care Act, the Board shall be a committee of the Council and is to be treated as if it were a committee appointed by the Council under section 102 of the Local Government Act 1972.
- 8.1 The regulations relating to the Board are published as Statutory Instrument 2013 No. 218 entitled, The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.
- 8.3 The Regulations modify and disapply certain legislative requirements as they apply to the Board. The provisions which are modified or disappplied are in the Local Government Act 1972 and the Local Government Housing Act 1989.
- 8.4 The Board shall produce an annual report, which will be presented to meetings of both Somerset Council and the SCCG. It shall also report as necessary to the Council's Executive, Full Council and the SCCG as the business dictates.

9. Decisions

- 9.1 The Board shall be accountable for its actions to its individual member organisations for decisions in respect of the JSNA and the SHWBS.
- 9.2 It is expected that Members of the Board will have delegated authority from their organisations to take a full part in the business of the Board.

- 9.3 It is expected that decisions or recommendations shall be reached by consensus. In exceptional circumstances where consensus cannot be achieved and a formal vote is required, the matter shall be decided by a simple majority of those members voting and present in the room at the time the proposal is considered. The vote shall be by a show of hands. If there are equal votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.
- 9.4 Decisions within the terms of reference will be taken at Board meetings and are not subject to ratification or a formal decision process by partner organisations. However, where decisions are not within the delegated authority of the Board, these will be subject to ratification by constituent bodies.

10. Procedural Rules to Apply to Board Meetings

- 10.1 Detailed procedural rules for Board meetings are attached as an appendix.

11. Establishment of Sub-Committees

- 11.1 The Board shall be responsible for the appointment of any sub-committees or working groups to assist with the fulfilment of its functions in accordance with any legislative requirements in relation to their establishment.
- 11.1 The Board shall also be responsible for accepting reports as necessary from partnerships whose business relates to the functions of the Board.

12. Board Members' Conduct

- 12.1 All voting members of the Board must comply with Somerset Council's Code of Conduct including the registration of disclosable pecuniary interests and personal interests.
- 12.2 The Monitoring Officer for Somerset Council will maintain and publish a register of interests of Board members.
- 12.3 The principles of these requirements are consistent with the requirement on SCCG's in relation to conflicts of interest.

13 Work Programme for the Board

- 13.1 The Board shall be responsible for establishing and maintaining its work programme.

14. Review of the Constitution

- 14.1 This constitution will be reviewed as and when required but at least annually by the Council in consultation with other constituent bodies and the Board.

15. Administration of Meetings

- 15.1 Meetings of the Board will be convened by Somerset Council, who will also arrange the clerking and recording of meetings (a member of the Council's Democratic Services Team will act as Clerk).

PROCEDURAL RULES FOR HEALTH & WELL-BEING BOARD MEETINGS

1. Introduction

- 1.1 These rules also detail the rights of the public to be notified of meetings of the Board, to attend and participate in those meetings, and access agendas and papers before and after meetings of the Board.
- 1.2 The term 'clear days' in these rules excludes any Saturday, Sunday, Bank Holiday, Christmas Day or Good Friday, the day that an agenda is sent to the Members of the Board and the day of the meeting.

2. Rights of the Public to Attend Board Meetings

- 2.1 Members of the public may attend Board meetings subject only to the exceptions in these rules.

3. Notice of Board Meetings

- 3.1 The Council shall give at least five clear days' notice of any public meeting of the Board via it's website, the public notice board at County Hall, Taunton and at the venue for the meeting if held elsewhere.

4 Access to Agendas and Reports Before Board Meetings

- 4.1 Copies of agendas and reports are made available for public inspection at County Hall (contact Democratic Services - 01823 355032 or email jjones@somerset.gov.uk for further details) at least five clear days before a meeting of Board. If an item is added to the agenda later, the revised agenda and any additional report (s) will be made available for public inspection as soon as they have been sent to members.
- 12.2 Board agendas and papers will also be available to access on the Council's website.

5. Exclusion of Access by the Public to Board Meetings

5.1 Confidential information - requirement to exclude public

- 5.1.1 The Board **must** by resolution, exclude press and public from meetings whenever it is likely that **confidential** information would be disclosed.
- 5.1.2 Confidential information means information given to the Council by a Government Department on terms forbidding its public disclosure or information which is prevented from being publicly disclosed by Court Order.

5.2 Exempt information - discretion to exclude public

- 5.2.1 The Board **may** by resolution exclude press and public from meetings whenever it is likely that exempt information would be disclosed.
- 5.2.2 Exempt information means information falling within the following categories

Category	Qualifications
<p>1. Information relating to any individual.</p> <p>2. Information which is likely to reveal the identity of an individual</p> <p>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).</p> <p>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the Authority or a Minister of the Crown and employees of, or office holders under, the Authority.</p> <p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p> <p>6. Information which reveals that the Authority proposes –</p> <p>(a) to give under any enactment notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make order or direction under any enactment.</p> <p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	<p>1. Information is not exempt information if it is required to be registered under the Companies Act, Charities Act etc.</p> <p>2. Information is not exempt information if it relates to proposed development for which the Council may grant itself planning permission.</p> <p>3. Subject to paragraphs 1 and 2 above, information which falls within paragraphs 1 to 7 opposite is exempt information if and so long as the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>

6. Exclusion of Access by the Public to Reports and Any Other Relevant Documents

- 6.1 Reports containing confidential information will not be made available to the public in any circumstances. Such reports will be marked "Not for publication – Confidential Information".
- 6.2 Reports and documents containing exempt information will not normally be made available to the public. They will be marked "Not for publication" and will include the description of the category of exempt information applicable.
- 6.3 The Board has the option, when the report or documents described at paragraph 6.2 above come to a meeting of the Board, to make them available to the press and public and/or consider the report with the public present, in which case the report can at that stage be made available to the public present and for public inspection beyond the meeting.

7. **Public Question Time**

7.1 The following rules relate to public question time at public meetings of the Board.

(a) "Public question" is defined as the asking of any question or making of a statement in relation to any item on an agenda.

(b) Petitions may be presented on any matter within the overall remit of the Board, whether or not there is a relevant item on the agenda.

(c) Each Board agenda shall include an item to allow public questions to be taken early in the meeting. However, the Chair has discretion to take public questions when the relevant item is reached on the agenda.

(d) A person wishing to raise a matter under public question time is asked to inform the meeting administrator by 5pm three clear working days before the meeting.

(e) The Chair will invite those who have given prior notice to introduce their question / or make their statement. The individual may speak for up to three minutes or longer with the Chair's discretion.

(f) There will be no debate on any question or statement made. They will be answered at the time or noted for consideration when the relevant agenda item is reached. The Chair has discretion to allow a supplementary question.

(g) The time allowed for public question time will not normally exceed twenty minutes unless the Chair directs otherwise.

(h) Where there are a large number of questioners on the same subject, the Chair may ask those concerned to nominate one or more of their number to pose the appropriate question(s).

(i) In exceptional circumstances the Chair may adjourn the meeting temporarily to allow views to be expressed more freely.

8. **Media Attendance and Reporting at Public Meetings**

8.1 Media are welcome to attend public meetings of the Board and report on proceedings. In addition, social media journalists are welcome to record and transmit business at these meetings. This permission is subject to the activity not disrupting the business of the meeting. In the event that the meeting considers confidential or exempt business, then all members of the public and press must leave the room as requested for the consideration of such business.

Human Resources Committee Terms of Reference

General

The purpose of the Human Resources Committee is to:

- determine, monitor, review and amend staffing policies and practices to secure the best use and development of the council's staff, including the power to deal with all matters relating to staff terms and conditions.
- acts as the Council's Remuneration Committee for Chief Officers pay.

Membership, Chairmanship and Quorum

Number of Members	11
Substitute Members Permitted	Yes
Political Balance Rules apply	Yes
Appointments/Removals from Office	By resolution of full Council
Restrictions on Membership	None
Restrictions on Chairmanship/Vice-Chairmanship	None
Quorum	5 members
Number of ordinary meetings per Council Year	At least 3 per year

Terms of Reference

1.1 The Committee:

- determines, monitors, reviews and amends staffing policies and practices to secure the best use and development of the council's staff, including the power to deal with all matters relating to staff terms and conditions.
- acts as the Council's Remuneration Committee for Chief Officers pay.

Note: The term 'Chief Officers' as used in this delegation reflects the legislative definition. It applies to all officers within the Council's Senior Leadership Team (SLT).

1.2 In exercising the functions outlined above, and in accordance with the Council's approved Pay Policy Statement, the Committee:

- decides whether national pay awards for SLT Officers are applied locally and where it is agreed that these awards will be paid these will be reflected in the next annual review of the Pay Policy Statement
- reviews on at least an annual basis the pay and grading structure of the Council (including SLT officers grades and salaries) and makes recommendations for any changes considered necessary to Council by way of a revised Pay Policy Statement .

1.3 The Committee also has responsibility for employee relations on behalf of the Council. Specifically it will meet as a forum for consultation 3 times a year with representatives of the trades unions and senior officers as set out below. The Committee will then formally consider recommendations arising from these consultative meetings and make decisions or recommendations to Council as necessary. Functions of this meeting:

- (a) To act as a forum for consultation to secure co-operation between the Council and its employees and between the different services of the Council.
- (b) To discuss the conditions of service, hours of employment, remuneration, training and health, safety and welfare at work of employees of the Council within the terms of overall Council HR Policies and Procedures and make recommendations as necessary.
- (c) To take or recommend such action as it may be deemed necessary or desirable to prevent differences and misunderstandings between the Council and its employees, provided that no question of individual discipline, remuneration, promotion or efficiency shall be within the purview of the joint meeting.
- (d) To consider any proposed legislation affecting employees of the Council.
- (e) To encourage, consider and recommend improvements to the organisation, and the study of methods of administration including recruitment and training with a view to improving the efficiency of the service.
- (f) To consider any matter which may be referred to it by a standing Committee of the Council, the Central Safety Committee or alternatively a matter which it may be requested to deal with jointly by the Joint Secretaries.

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Part D – AUDIT COMMITTEE TERMS OF REFERENCE

1. General

- 1.1 The Audit Committee is a key component of the Council’s governance framework. Its purpose is to provide an independent and high-level focus on the adequacy of governance, risk and control arrangements. The Committee’s role in ensuring that there is sufficient assurance over governance risk and control gives greater confidence to all those charged with governance that those arrangements are effective. The Audit Committee has oversight of both internal and external audit together with the financial and governance reports, helping to ensure that there are adequate arrangements in place for both internal challenge and public accountability.
- 1.2 The Audit Committee is directly accountable to Full Council. It is independent of both the executive and the scrutiny functions and is a key advisory committee providing independent oversight, recommendations, opinions and influence on the matters for which it is responsible. To assist the Audit Committee in fulfilling its role, it has a right of access to and is expected to engage constructively with other committees and functions, for example scrutiny and service committees, corporate risk management boards and other strategic groups. The Audit Committee also has the right to request reports and seek assurances from relevant officers.
- 1.3 The terms of reference will be formally approved by the Council.
- 1.4 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 relevant regulations and guidance. Any revisions will be agreed by the Council and by the Committee.

2. Membership, Chairmanship and Quorum

Number of Members	15 (includes up to 2 Independent members)
Substitute Members Permitted	Yes, provided they have met the training requirement set out in paragraph 7
Political Balance Rules apply	Yes
Appointments/Removals from Office	By resolution of full Council
Restrictions on Membership	Executive members and their deputies may not be a member of this Committee

Restrictions on Chairmanship/Vice-Chairmanship	None
Quorum	Five voting members
Number of ordinary meetings per Council Year	At least 4 per year

3. Responsibilities of the Chair

3.1 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.

4. Definitions

AGS means the Council's Annual Governance Statement

CIPFA Guidance means the following documents as amended or updated from time to time:

- CIPFA's Position Statement: Audit Committees in Local Authorities and Police 2022
- Audit Committees: practical guidance for local authorities and police (2022 edition – CIPFA) - The audit committee member in a local authority
- Audit Committees: practical guidance for local authorities and police (2022 edition – CIPFA) - Guiding the audit committee: Supplement to the audit committee member guidance

LGAN means the Local Government Application Note supporting the **PSIAS**

PSAA means Public Sector Audit Appointments Ltd

PSIAS means the Public Sector Internal Audit Standards

QAIP means the Internal Audit Quality Assurance and Improvement Programme

5. Terms of Reference

5.1 As set out in the CIPFA Guidance, the Audit Committee's principal duties are:

Governance, risk and control

- To review the council's corporate governance arrangements against the good governance framework, including the ethical framework, and consider the local code of governance.
- To monitor the effective development and operation of risk management in the council.
- To monitor progress in addressing risk-related issues reported to the committee.
- To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.
- To consider reports on the effectiveness of financial management arrangements, including compliance with CIPFA's **Financial Management Code**.
- To consider the council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
- To review the assessment of fraud risks and potential harm to the council from fraud and corruption.
- To monitor the counter fraud strategy, actions and resources.
- To review the governance and assurance arrangements for significant partnerships or collaborations.

Financial and governance reporting

Governance reporting

- To review the **AGS** prior to approval and consider whether it properly reflects the risk environment and supporting assurances, including the head of internal audit's annual opinion.
- To consider whether the annual evaluation for the **AGS** fairly concludes that governance arrangements are fit for purpose, supporting the achievement of the authority's objectives.

Financial reporting

- To monitor the arrangements and preparations for financial reporting to ensure that statutory requirements and professional standards can be met.
- To review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.
- To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

Arrangements for audit and assurance

To consider the council's framework of assurance and ensure that it adequately addresses the risks and priorities of the council.

External audit

- To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by **PSAA** or the authority's auditor panel as appropriate.
- To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.
- To consider specific reports as agreed with the external auditor.
- To comment on the scope and depth of external audit work and to ensure it gives value for money.
- To consider additional commissions of work from external audit.
- To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.
- To provide free and unfettered access to the audit committee chair for the auditors, including the opportunity for a private meeting with the committee.

Internal audit

- To approve the internal audit charter.
- To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations.
- To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
- To approve significant interim changes to the risk-based internal audit plan and resource requirements.
- To make appropriate enquiries of both management and the head of internal audit to determine if there are any inappropriate scope or resource limitations.
- To consider any impairments to the independence or objectivity of the head of internal audit arising from additional roles or responsibilities outside of internal auditing and to approve and periodically review safeguards to limit such impairments.
- To consider reports from the head of internal audit on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include:

- updates on the work of internal audit, including key findings, issues of concern and action in hand as a result of internal audit work
- regular reports on the results of the **QAIP**
- reports on instances where the internal audit function does not conform to **PSIAS** and **LGAN**, considering whether the non-conformance is significant enough that it must be included in the **AGS**.
- To consider the head of internal audit's annual report, including:
 - the statement of the level of conformance with **PSIAS** and **LGAN** and the results of the **QAIP** that support the statement (these will indicate the reliability of the conclusions of internal audit)
 - the opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control, together with the summary of the work supporting the opinion (these will assist the committee in reviewing the **AGS**).
- To consider summaries of specific internal audit reports as requested.
- To receive reports outlining the action taken where the head of internal audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.
- To contribute to the **QAIP** and in particular to the external quality assessment of internal audit that takes place at least once every five years.
- To consider a report on the effectiveness of internal audit to support the **AGS** where required to do so by the accounts and audit regulations.
- To provide free and unfettered access to the audit committee chair for the head of internal audit, including the opportunity for a private meeting with the committee.

Accountability arrangements

- To report to those charged with governance on the committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements and internal and external audit functions.
- To report to full council on a regular basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.
- To publish an annual report on the work of the committee, including a conclusion on the compliance with the **CIPFA Position Statement**.

5.2 In addition to the principal duties set out in 5.1 above, the Audit Committee will:

Annual Approvals

- approve the annual accounts of the Council and the Annual Governance Statement.

Treasury Management

- provide an overview role in Treasury Management matters including regular monitoring of treasury activity and practices.
- review and recommend the Non-Treasury Management Investment Strategy, the Capital Strategy, the Flexible Capital Receipts Strategy, the MRP Strategy, and any appropriate Prudential Indicators to Council.

5.3 In addition to the principal duties set out in 5.1 and 5.2 above, the Audit Committee may be requested to consider a review of a service, a proposed policy or other similar matters by another committee in the organisation or by one of the statutory officers, provided the matter relates to governance, risk or control and the committee does not take on a scrutiny or policy role.

Examples of where it may be helpful for the audit committee to assist include:

- reviewing whether adequate governance, risk management or audit processes are in place in relation to a specific service or new policy area
- providing advice to the executive on possible risks or implications for good governance arising from a proposed course of action or decision.

In each case, the aim of the committee should be to make recommendations in line with its role as set out in paragraph 1 above to help ensure that there are appropriate governance, risk, control and assurance arrangements in place. Audit committee recommendations under this paragraph may support the advice or recommendations of the statutory officers but cannot override that advice.

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 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 may lead to removal from the Committee.

8. Independent Members

- 8.1 Up to two Independent members may be appointed by Somerset Council as non-voting members of the Committee.
- 8.2 Independent members of the Committee shall be appointed and co-opted for a three year term by the Somerset Council following an open and transparent appointments process which considers aptitude, relevant knowledge, skills and experience.
- 8.3 Independent members of the Committee may only be removed during their term of office for good cause by the Somerset Council at a Full Council meeting. It is for the Council, acting reasonably, to determine whether or not it has good cause to terminate before the normal expiry of the term of the Independent Member.

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

9.3 As a committee of the Council, the **Committee Structure and Procedure Rules** set out in Part D 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.

9.4 The following individuals may ask the Chair of the Committee to include items on the Committee's agenda:

- the Chair of the Committee
- any member of the Committee, including co-opted members
- the Chair of Council or any other Committee
- any statutory officer or their deputy
- the Council's external auditor
- the Council's internal auditor

10. Code of Conduct

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

Part D - 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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Part D – Licensing Sub-Committee Hearing Procedure

Licensing Sub-Committee and Regulatory Sub-Committee Hearings

Whilst written for the Licensing Sub-Committee, these Procedure Rules can be easily adapted for any Regulatory Sub-Committee hearing.

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 Authority 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 Authority 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 Authority 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.
2. If the Hearing is held in a Party's absence, the Sub-Committee will consider the application, representation or notice made by that Party.
3. Under the Licensing Act 2003 (Hearings) Regulations 2005 (Hearing Regulations) an Authority may dispense with a hearing if all persons required by the Act to agree that such a hearing is unnecessary, other than the Authority itself, have done so by giving notice to the Authority that they consider a hearing to be unnecessary.

Where all the persons required by the Licensing Act 2003 to agree that a hearing is unnecessary have done so in accordance with the Hearing Regulations, the Authority, if it agrees that the hearing is unnecessary, must give notice to the Parties that the hearing has been dispensed with.

4. If it is the case that the Authority does not agree that the hearing should be dispensed with, 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 their report and answering any queries the Sub-Committee may have before it makes its' determination.
5. Representations can be withdrawn by prior notice up to 1 day before the Hearing or orally at the Hearing.
6. Hearings shall take place in public, except where, the Authority 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 Authority 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 Authority'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.
7. At the Hearing any Party can be assisted or represented by any person whether or not that person is legally qualified.
8. The Hearing will be before a Sub-Committee which will be made up of three Members of the Authority'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 will be 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.
9. The Chair will address any issues relating to registerable interests under the Authority's Member Code of Conduct at the Hearing after the introductions of persons in attendance have been made.
10. Members of the 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.

11. Members of the Sub-Committee will have received advance notice of the Hearing (in accordance with the relevant legislation) in relation to each application/notice to be considered, which will include the Licensing Officer's Report and associated papers and Members will be expected to have read those papers ahead of the Hearing.
12. Account can be taken of documentary or other information produced by a Party in support of their application, representation or notice either 1 working day before the Hearing or, with the consent of all other Parties including the Sub-Committee at the Hearing. In both cases the Party seeking to introduce the information should provide sufficient copies of the same for all relevant Parties including the Sub-Committee Members.
13. Any Party wishing to call another person (other than the person representing them) to make oral representations, must provide details of this to the Authority within the time stated in the Notice of Hearing which the Authority 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.
14. The Sub-Committee may disregard any information which is not considered relevant to the application/representation/notice.
15. The purpose of the Hearing is to enable those with a right to appear, to amplify their written application or representation. 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.
16. 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.
17. The decision of the 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.

18. The date of formal notification for the purpose of any appeal against the Sub-Committee's decision will be the date of the letter or electronic communication from the Authority enclosing the Decision Notice.
19. 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

19. The Chair will open the Hearing and introduce the Sub-Committee and Officers. They will then ask each Party to introduce themselves.
20. The Chair will confirm that if a Party is not present their representation/application will be read and taken in to account in reaching the decision.
21. The Chair will address any registerable interest arising under the Code of Conduct.
22. 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.
23. 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 this 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.
24. 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 amplify their written application or representation. It is also to assist the Sub-Committee to gather evidence and understand the relevant issues.
25. The Chair will confirm what advance papers have been received and that these have been read.
26. The Chair will make clear that all Parties should only address the Sub-Committee in relation to matters they have raised in their application/representation. Any Party

wishing to submit late evidence at the Hearing will only be able to do so with the consent of all Parties present and with the consent of the Sub-Committee.

27. The Chair will confirm whether all Parties have seen and understood the procedure to be followed and are ready to proceed with the Hearing.
28. 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 representations.
29. Order of Oral Presentation
 - (a) The Licensing Officer will present their report outlining the details of the application/notice/representations received.
 - (b) Any Party may question the Licensing Officer.
 - (c) The Members may question the Licensing Officer.
 - (d) Responsible Authorities will present their case and call any witnesses.
 - (e) Any Party may question the Responsible Authorities and any witnesses.
 - (f) Members may question the Responsible Authorities and any witnesses.
 - (g) Other Person(s) will present their case in turn and call any witnesses.
 - (h) Any Party may question the Other Person(s).
 - (i) Members may question the Other Person(s).
 - (j) The Applicant/Licence Holder will present their case and call any witnesses.
 - (k) Any Party may question the Applicant/Licence Holder and any witnesses.
 - (l) Members may question the Applicant/Licence Holder and any witnesses.

The Chair at their discretion, may change the order of oral presentation at any stage, if it is considered to be beneficial to the flow of the hearing.

30. 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.

31. The Licensing Officer may present any further information such as proposed non-mandatory Conditions deriving from the Operating Schedule or suggested by any Party. However, it will remain for the Sub-Committee to determine what conditions will apply, if any, should the application be successful.
32. Each Party will be invited to make closing submissions in the following order –
 - a. Responsible Authorities
 - b. Other Persons
 - c. The Applicant
 - d. Licensing Officer
32. The Chair will then close the Hearing and the Sub-Committee will retire to determine the matter. The Legal Advisor will retire with the Sub-Committee to answer any points of law.
33. The Sub-Committee will come to a decision which will be sent to the Applicant and all other relevant Parties together with the details of the right to appeal.

NOTE:

In producing this procedure the following has been considered: -

The relevant legislation and statutory guidance together with local policies and procedures.

**Part D – PENSION FUND COMMITTEE (SOMERSET COUNCIL PENSION FUND)
TERMS OF REFERENCE**

1. General

- 1.1 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. Membership, Chairmanship and Quorum

Number of Members	10 (see details below)
Substitute Members Permitted	No
Political Balance Rules apply	Yes
Appointments/Removals from Office	By resolution of full Council
Restrictions on Membership	None
Restrictions on Chairmanship/Vice-Chairmanship	None
Quorum	3 members (to include either the Chair or Vice-Chair)
Number of ordinary meetings per Council Year	At least 4 per year

- 2.1 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.

2.2 The Chair and Vice Chair will be appointed annually by the Council as Administering Authority.

2.3 Due to the specialist knowledge requirements of Committee members, substitutes to the appointed members of the Committee are not permitted.

2.4 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.

3. Responsibilities of the Chair

3.1 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.

4. 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

5. Terms of Reference

5.1 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.

5.2 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.

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 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. 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.

11. 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

12. 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.

13. 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 Democratic Services will provide the secretariat services to the Committee, the cost of which will be met by the Fund.

14. 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 Council on its work.

15. 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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PART D - PENSION FUND BOARD (SOMERSET COUNCIL PENSION FUND)
TERMS OF REFERENCE

1. Introduction

- 1.1 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. Membership, Chairmanship and Quorum

Number of Members	6 (see details below)
Substitute Members Permitted	No
Political Balance Rules apply	Yes
Appointments/Removals from Office	By resolution of full Council
Restrictions on Membership	None
Restrictions on Chairmanship/Vice-Chairmanship	None
Quorum	3 members (must include one employer representative and one member representative)
Number of ordinary meetings per Council Year	At least 2 per year

- 2.1 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 Pensions Fund 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.
- 2.2 Due to the specialist knowledge requirements of Board members, substitutes to the appointed members of the Board are not permitted.

- 2.3 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.

3. Responsibilities of the Chair

3.1 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.

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

4. 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

5. Purpose and functions of the Board

5.1 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.
- 5.2 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.
- 5.3 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.
- 5.4 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.

5.5 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.

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

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. 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.

11. 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.

12. 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.

13. 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 Democratic Services 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.

14. 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.
- 14.4 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.

15. 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.

PART D - Standards Committee Terms of Reference

1. General

- 1.1 The Standards Committee is responsible for promoting and enforcing high standards of conduct by Members and co-opted Members and assisting Members and co-opted Members to observe the Council's code of conduct. The committee will have the roles and responsibilities set out in the Terms of Reference below.
- 1.2 The terms of reference will be formally approved by the Council.
- 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 relevant regulations and guidance. Any revisions will be agreed by the Council and by the Committee.

2. Membership, Chairmanship and Quorum

Number of Members	10 (including 5 co-opted community representatives without voting rights)
Substitute Members Permitted	Yes
Political Balance Rules apply	No
Appointments/Removals from Office	By resolution of the Council
Restrictions on Membership	May not include members of the Executive
Restrictions on Chairmanship/Vice-Chairmanship	The Committee must be chaired by a Member of the Council
Quorum	3 members who are Members of the Council
Number of ordinary meetings per Council Year	At least 2 per year
Standing Sub-Committees	Hearings Panel

3. Definitions

- 3.1 The following terms:

4. Terms of Reference

- 3.1 The Standards Committee will have the following functions:
- (i) to promote and maintain high standards of conduct by Members, co-opted Members and Officers;

- (ii) to supervise the Council's compliance with legislative requirements in relation to the maintenance of standards of Member conduct;
- (iii) to assist Members and co-opted Members to observe the Members' Code of Conduct;
- (iv) to support the Monitoring Officer in discharging their role in respect of standards of conduct and behaviour;
- (v) to receive reports and advice as required from the Monitoring Officer and any Independent Persons appointed by the Council under section 28 of the Localism Act 2011;
- (vi) to review the operation and effectiveness of the Members' Code of Conduct and recommend any changes considered necessary to the Council for approval;
- (vii) to appoint, as required, from among its membership, a Hearing Sub-Committee to determine allegations of misconduct referred to the Committee by the Monitoring Officer;
- (viii) to keep under review the operation and effectiveness of the Standards Hearing Sub Committee arrangements and to recommend any changes considered necessary to the Council for approval;
- (ix) to review the Monitoring Officer's arrangements for the investigation of allegations of breaches of the Council's Code of Conduct by Members and co-opted Members and to make recommendations for appropriate changes to the Monitoring Officer;
- (x) to make recommendations to Council with regard to the appointment of Independent Persons;
- (xi) to advise (including advising parish councils in Somerset in respect of members of their councils) on the induction and training of Members and co-opted Members on standards of conduct;

- (xii) to review the operation and effectiveness of the Council's Officer Code of Conduct and make recommendations on proposed changes to the Council;
- (xiii) to determine, subject to the applicable law, the requirements for the registration of Members' and co-opted Members' interests;
- (xiv) to review the Monitoring Officer's maintenance of the Members' and officers' registers of interests and gifts / hospitality;
- (xv) to grant dispensations to Members and co-opted Members from requirements relating to interests as set out in the Member Code of Conduct, and where appropriate, the Planning Protocol. This function has also been delegated to the Monitoring Officer in relation to all grounds of dispensation with a power to refer back to the Standards Committee;
- (xvi) In accordance with the Council's Arrangements for Dealing with Standards Complaints, to assess and / or refer for investigation allegations of misconduct on the part of councillors and co-opted members of the Council, or parish councillors if requested by the Monitoring Officer;
- (xvii) to make an annual report to the Council on the performance of the Committee's functions.

4. Membership

4.1 The Committee comprises 10 Members as follows:

- (i) 5 Members Somerset Council; and
- (ii) up to 5 co-opted community representatives appointed by Somerset Council as non-voting members of which at least 3 should be members of parish councils in Somerset.

5. Committee Business

5.4 The following may put items on the Committee's agenda:

- (i) the Committee itself;
- (ii) the Council;
- (iii) the Leader;
- (iv) the Chair of any Council Committee;
- (v) a member of the Committee, including a co-opted member
- (vi) the Chief Executive;
- (vii) the Monitoring Officer;
- (viii) the Chief Finance Officer / Section 151 Officer.

PART D - Standards Committee Terms of Reference

1. General

- 1.1 The Standards Committee is responsible for promoting and enforcing high standards of conduct by Members and co-opted Members and assisting Members and co-opted Members to observe the Council's code of conduct. The committee will have the roles and responsibilities set out in the Terms of Reference below.
- 1.2 The terms of reference will be formally approved by the Council.
- 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 relevant regulations and guidance. Any revisions will be agreed by the Council and by the Committee.

2. Membership, Chairmanship and Quorum

Number of Members	10 (including 5 co-opted community representatives without voting rights)
Substitute Members Permitted	Yes
Political Balance Rules apply	No
Appointments/Removals from Office	By resolution of the Council
Restrictions on Membership	May not include members of the Executive
Restrictions on Chairmanship/Vice-Chairmanship	The Committee must be chaired by a Member of the Council
Quorum	3 members who are Members of the Council
Number of ordinary meetings per Council Year	At least 2 per year
Standing Sub-Committees	Hearings Panel

3. Definitions

- 3.1 The following terms:

4. Terms of Reference

- 3.1 The Standards Committee will have the following functions:
- (i) to promote and maintain high standards of conduct by Members, co-opted Members and Officers;

- (ii) to supervise the Council's compliance with legislative requirements in relation to the maintenance of standards of Member conduct;
- (iii) to assist Members and co-opted Members to observe the Members' Code of Conduct;
- (iv) to support the Monitoring Officer in discharging their role in respect of standards of conduct and behaviour;
- (v) to receive reports and advice as required from the Monitoring Officer and any Independent Persons appointed by the Council under section 28 of the Localism Act 2011;
- (vi) to review the operation and effectiveness of the Members' Code of Conduct and recommend any changes considered necessary to the Council for approval;
- (vii) to appoint, as required, from among its membership, a Hearing Sub-Committee to determine allegations of misconduct referred to the Committee by the Monitoring Officer;
- (viii) to keep under review the operation and effectiveness of the Standards Hearing Sub Committee arrangements and to recommend any changes considered necessary to the Council for approval;
- (ix) to review the Monitoring Officer's arrangements for the investigation of allegations of breaches of the Council's Code of Conduct by Members and co-opted Members and to make recommendations for appropriate changes to the Monitoring Officer;
- (x) to make recommendations to Council with regard to the appointment of Independent Persons;
- (xi) to advise (including advising parish councils in Somerset in respect of members of their councils) on the induction and training of Members and co-opted Members on standards of conduct;

- (xii) to review the operation and effectiveness of the Council's Officer Code of Conduct and make recommendations on proposed changes to the Council;
- (xiii) to determine, subject to the applicable law, the requirements for the registration of Members' and co-opted Members' interests;
- (xiv) to review the Monitoring Officer's maintenance of the Members' and officers' registers of interests and gifts / hospitality;
- (xv) to grant dispensations to Members and co-opted Members from requirements relating to interests as set out in the Member Code of Conduct, and where appropriate, the Planning Protocol. This function has also been delegated to the Monitoring Officer in relation to all grounds of dispensation with a power to refer back to the Standards Committee;
- (xvi) In accordance with the Council's Arrangements for Dealing with Standards Complaints, to assess and / or refer for investigation allegations of misconduct on the part of councillors and co-opted members of the Council, or parish councillors if requested by the Monitoring Officer;
- (xvii) to make an annual report to the Council on the performance of the Committee's functions.

4. Membership

4.1 The Committee comprises 10 Members as follows:

- (i) 5 Members Somerset Council; and
- (ii) up to 5 co-opted community representatives appointed by Somerset Council as non-voting members of which at least 3 should be members of parish councils in Somerset.

5. Committee Business

5.4 The following may put items on the Committee's agenda:

- (i) the Committee itself;
- (ii) the Council;
- (iii) the Leader;
- (iv) the Chair of any Council Committee;
- (v) a member of the Committee, including a co-opted member
- (vi) the Chief Executive;
- (vii) the Monitoring Officer;
- (viii) the Chief Finance Officer / Section 151 Officer.

PART D – Standards Hearings Sub-Committee Arrangements

1. General

- 1.1 The Standards Hearing Sub-Committee deals with the assessment and determination of complaints under the Members' Code of Conduct against Members and Co-opted Members where referred by the Monitoring Officer following consultation with the Council's Independent Person. Where an investigation finds evidence of a failure to comply with the Code of Conduct and a local resolution is not appropriate or not possible, a Standards Hearing Sub-Committee shall be convened by the Chair of the Standards Committee (or, where they are the subject of the complaint, the deputy Chair) on the request and advice of the Monitoring Officer to consider and determine the complaint.
- 1.2 The Standards Hearing Sub-Committee will have authority to determine the complaint referred to it and apply sanctions under the Council's procedure.
- 1.3 Given the wider provisions in place for determining complaints against members, it is expected that these arrangements will only be required to be used in exceptional circumstances where the alleged breach of the Code of Conduct is particularly serious and a satisfactory outcome has not been achieved through the other stages of the process.
- 1.4 The terms of reference will be formally approved by the Council.
- 1.5 These terms of reference shall be reviewed by the Standards Committee at least annually to ensure that they remain fit for purpose and in accordance with the law and any regulations. Any revisions will be agreed by the Council.

2. Membership, Chairmanship and Quorum

Number of Members	3
Substitute Members Permitted	No
Political Balance Rules apply	No
Appointments/Removals from Office	As set out in para 4 below
Restrictions on Membership	As set out in para 4 below

Restrictions on Chairmanship/Vice-Chairmanship	Only the Chair or (in their absence) the Vice Chair of the Standards Committee may chair the Hearing Panel
Quorum	3
Number of ordinary meetings per Council Year	None – the Standards Hearing Sub-Committee only meets when convened to hear specific complaints by the Monitoring Officer or appeals by a Member

3. Terms of Reference

3.1 The Standards Hearing Sub-Committee will:

- (i) hear and determine complaints in relation to serious allegations of breaches of the Council’s Code of Conduct by Members and co-opted Members as referred to it by the Monitoring Officer;
- (ii) ~~hear appeals from Members in relation to determinations of complaints made by the Monitoring Officer;~~
- (iii) where it has determined in a case referred to it by the Monitoring Officer that a Member has breached the Council’s Code of Conduct for Members decide on an appropriate sanction from among those detailed in paragraph 5 below;
- (iv) on the advice of the Monitoring Officer, adopt a procedure for hearings which:
 - complies with the rules on access to information set out in the Local Government (Access to Information) Act 1985 (as amended, updated or replaced);
 - upholds the principles of natural justice and the right to a fair trial;
 - has regard to any advice and guidance on the conduct of hearings into member conduct issued by the Local Government Association from time to time;
 - is appropriate and proportionate taking into account the nature and complexity of the allegations concerned.

4. Membership

- 4.1 The Standards Hearing Sub-Committee comprises 3 Members.
- 4.2 Subject to paragraph 4.3, the Members of the Standards Hearing Sub-Committee will be:
- (i) The Chair or (in their absence or disqualification under paragraph 4.3) the Vice Chair of the Standards Committee; and
 - (ii) 2 other Members of the Standards Committee nominated by the Chair (or in their absence or disqualification under paragraph 4.3) the Vice Chair of the Standards Committee.
- 4.3 No Member who is the subject of a complaint to be determined by the Standards Hearing Sub-Committee may:
- (i) act as a member of the Standards Hearing Sub-Committee for the hearing; or
 - (ii) nominate a representative to be a member of the Standards Hearing Sub-Committee.

5. Sanctions

- 5.4 Where the Standards Hearing Sub-Committee has determined in a case referred to it by the Monitoring Officer that a Member has breached the Council's Code of Conduct for Members (or that a member of a parish council has breached their parish council's code of conduct for members) it may make a report to the Council (or, where appropriate, the parish council) for information and may further impose, or recommend that the Council (or the parish council where appropriate) imposes, any of the following sanctions which the Standards Hearing Sub-Committee determines to be appropriate having regard to its findings:

- (i) a recommendation to the Council (or, where appropriate, the parish council) that it should make a motion of censure in relation to the Member's conduct;
- (ii) a recommendation;
 - in the case of the Council, to the leader of the Member's political group (where the Member is a member of a political group, and otherwise to the Council) that the Member is removed; or
 - in the case of a member of a parish council, to the parish council, that the member is removed;

from any or all Committees or Sub-Committees of the Council of which they are a member;
- (iii) a recommendation:
 - in the case of an Executive Member, to the Leader of the Council that the Member is removed from the Executive, or removed from particular Executive responsibilities;
 - in the case of the Leader of the Council, to the Council that the Member be removed from their role as Leader of the Council;
- (iv) an instruction to the Monitoring Officer to arrange training for the Member which is appropriate to the Member's conduct (or where appropriate, a recommendation to the parish council that such training should be arranged);
- (v) the removal of the Member from all outside appointments to which he/she has been appointed or nominated by the Council (or where appropriate, a recommendation to the parish council that such action should be taken);
- (vi) the withdrawal for a specified period of facilities provided to the Member by the Council, such as a computer, website and/or email and internet access (or where appropriate, a recommendation to the parish council that such action should be taken);

- (vii) the exclusion for a specified period of the Member from the Council's offices or other premises , with the exception of meeting rooms as necessary for attending Council, Executive, Committee and Sub-Committee meetings (or where appropriate, a recommendation to the parish council that such action should be taken);
- (viii) if relevant, a recommendation to the secretary or appropriate official of a political group that the Member be removed as group leader or other position of responsibility;
- (ix) A recommendation to the Council (or where a appropriate, to the parish council) that contact between the Member and officers of the Council should be restricted to specified officers only.

5.5 ~~Where the Standards Hearing Sub-Committee has heard an appeal by a Member of a decision by the Monitoring Officer it may on a complaint against them:~~

- ~~(i) uphold the Monitoring Officer's decision and recommended sanction;~~
- ~~or~~
- ~~(ii) allow the appeal.~~

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Part E – Executive Arrangements

Section 1 The Role of Executive

Section 2 Executive Arrangements

Section 3 Executive Procedure Rules

Section 4 Executive sub-committees (to be considered by the Executive in March 2023)

Section 5 Local Community Networks

Introduction

The Executive is a group of Councillors made up of the Leader of the Council, who is chosen by the full Council, and up to 9 other Councillors, called Lead Members, who are appointed by the Leader.

Apart from specific functions listed as Council functions in legislation all other responsibilities rest with the Leader and the Executive. These are called “executive functions”.

A specific area of responsibility is called a Portfolio and where a Councillor is assigned that area of responsibility that Councillor is also called a Lead Member.

The dates of Executive meetings are set out on the Council’s website. Members of the public can attend or watch all Executive meetings in accordance with the Access to Information Procedure Rules at Part B of the Constitution.

This Part E of the Constitution sets out in detail which functions are executive functions, the rules which govern how the Executive makes decisions, and how meetings of the Executive are run.

These rules are written in formal language. If you have specific questions our Democratic Services Team will be happy to help you.

1. The Role of Executive

Functions

1.1 The Local Government Act 2000 provides that the functions of a local authority are the responsibility of its Executive (referred to in the Act as the "Executive") except for those which the law requires to be performed by the Council; always provided that such a decision is within the Council's Budget and Policy Framework.

1.2 The Local Authorities (Functions and Responsibilities) (England) (Regulations) 2000 is the main piece of legislation governing the functions of a local authority and it lists the different functions which are detailed in the Schedules to the Regulations and can be categorised as:

Schedule 1 Functions which must not be the responsibility of the Executive;

Schedule 2 Functions which may be the responsibility of the Executive or of the Council - these are known as "local choice" functions:

Schedule 3 Functions which may not be the sole responsibility of the Executive;

Schedule 4 Circumstances in which functions which would normally be the responsibility of the Executive, are not to be the responsibility of the Executive.

1.3 As such, the Council has the discretion to decide which of the functions that fall into Schedule 2 will be the responsibility of the Council (Council Functions) and which will be the responsibility of the Executive (Executive Functions). The Council decides which of the local choice functions will be Council Functions and which of the local choice functions will be Executive Functions.

1.4 There are some other pieces of legislation which provide that certain matters must be dealt with by the full Council. These include:

(a) setting the Annual Budget and Council Precept;

(b) agreeing the Council Plan;

- (c) approving the Council's Pay Policy Statement;
- (d) approving the Council's Investment Strategy.

Executive Functions

1.5 Except those Council functions listed at in Schedule 1 of the Regulations referred to in paragraph 1.2 above, the Council has decided that all other functions, including local choice functions, are to be executive functions.

1.6 Responsibility for executive functions rests with the Leader who will decide which functions he/she will perform personally, and which will be delegated to the Executive as a whole; to an Executive Sub-Committee; individual Lead Members or to Officers.

The Leader has retained the following responsibilities:-

- (a) To refer to Council for approval any proposed executive decision which is outside of the Council's Policy Framework or Budget, or the virement limits set by the Council.
- (b) To exercise any delegated executive decision-making responsibility including where a Lead Member wants to take a decision against officer advice, or where there is uncertainty as to who may take a decision.
- (c) In addition to any specific delegations to Lead Members and Senior Leadership Team Officers, to acquire land by agreement or, failing agreement, by compulsory purchase and to dispose of County Council land – see property purchase provisions 1 to 3 below.
- (d) To appoint any individual to an outside body or partnership or joint committee of two or more authorities where the appointments relate to executive functions.
- (e) *The determination of an appeal against any decision made by or on behalf of the authority in respect of Early Years Providers. (Local choice function)*

(f) *The appointment of any individual :*

(i) *to any office other than an office in which he/she is employed by the authority;*

(ii) *to any body other than:*

- *the authority*
- *a Joint Committee of two or more authorities; or*
- *any Committee or Sub-Committee of such a body, and the revocation of any such appointment*

(‘Local choice’ function for appointments falling under the responsibility of the Leader)

Property Purchase Provision 1 - The Leader can only acquire land after having first considered the Chief Finance Officer’s advice and recommendations on the value and for a sum no greater than the maximum (if any) recommended by the Chief Finance Officer.

Property Purchase Provision 2 - When acquiring land or disposing of land, the Leader will comply with the relevant general procedures laid down by the Council including for dealing with capital payments or capital receipts.

Property Purchase Provision 3 - The Leader shall not re-delegate his / her power to acquire land, except:-

- (a) where statute permits;
- (b) where the powers concern the compulsory acquisition of land or the acceptance of gifts of land for the creation or improvement of an existing County road - these powers can be delegated to a Sub-Committee comprising the Leader, Deputy Leader and one other Member of the Executive.

The Executive:

- (a) Makes recommendations to Council on the Policy Framework, except where the statutory responsibility for the submission of such recommendations rests with another body;
- (b) Recommends the Annual Budget and Precept to Full Council for approval;
- (c) Advises the Council on the economy, efficiency and effectiveness of its

activities and the need for new services and the necessity of existing ones;

- (d) Advises the Council on the overall organisation, co-ordination and management of the Council;
- (e) Advises the Council on its policy and response to international, national and regional initiatives;
- (f) Has responsibility for the overall allocation and control of the financial, staff and land resources of the Council and acts as the 'corporate client';
- (g) Receives the annual outturn reports;
- (h) Approves the Council's risk management strategy and policy statement;
- (i) Recommends the treasury management policy statement to Full Council for approval, on an annual basis;
- (j) Reviews policy and develops and agrees new policy (aside from policies within the Council's Policy Framework) as required, seeking where appropriate to involve scrutiny in the development of proposals;
- (k) Considers recommendations from Scrutiny Committees.

Functions for Lead Members and Officers are set out below and in the Officer Scheme of Delegation.

1.7 A decision on any delegated executive function may be referred to the whole Executive when: -

1.7.1 The Leader, an Executive Sub-Committee, Lead Member or Officer believes that due to the contentious or 'political' nature of the matter it should be considered and decided by the whole Executive;

1.7.2 The Lead Member takes a different view of the proposal in question and feels unable to be associated with it; or

1.7.3 The Lead Member or Officer believes that they are conflicted or may be accused of bias.

1.8 Under the provisions of the Localism Act 2011 a Lead Member cannot deal with any matter in which they have a "Disclosable Pecuniary Interest" and must take no action other than referring the matter on; usually via the Council's Monitoring Officer and Leader.

Executive Arrangements

1.9 The following parts of this Constitution should be read in conjunction with the Council's:-

- Executive Procedure Rules
- Access to Information Procedure Rules
- Joint Arrangements
- Scrutiny Arrangements

2. Executive Arrangements

The Role of Executive

2.1 The Executive will carry out all of the executive functions

Form and Composition

2.2 The Executive will consist of the Leader of the Council together with such number of elected Councillors of the Council not exceeding [9] as he/she may appoint to the Executive.

Leader of the Council

2.3 The Leader will be a Councillor elected by Council for such term, not exceeding the date of the next elections to the Council. The Leader will hold office until:

2.3.1 he/she resigns from the office; or

2.3.2 he/she dies;

- 2.3.3 he/ she is removed from office by resolution of the Council on receipt of a Notice of Motion in accordance with the requirements for Motions as set out in the Council Procedure Rules; or
- 2.3.4 he/she is removed from office by simple resolution of the Council at the meeting of Council following a change in political control of the Council, as signalled to the Monitoring Officer. A change in political control is a change in the composition of the various political groups such that a different group or combination of groups now comprise a majority of the membership of the Council;
- 2.3.5 he/she is disqualified from being a Councillor;
- 2.3.6 should a situation arise where the Leader no longer holds office as mentioned above, the Deputy Leader will carry out the role and duties of Leader until such time as the Council elects a councillor to the position of Leader;

Deputy Leader of the Council

- 2.5 The Leader following his or her election will appoint one of the Members of the Executive as his/her Deputy.
- 2.6 The Deputy Leader may not vary the arrangements made by the Leader or alter any arrangements made by the Leader under this Constitution for the exercise of executive functions, except for:
 - 2.6.1 changes consequent upon the dismissal of a Leader during the period until the new Leader is elected;
- 2.7 The Deputy Leader shall be appointed by the Leader and shall hold office until:
 - 2.7.1 he/she resigns from office; or
 - 2.7.2 until the end of the Leader's term of office and the new Leader has been elected; or

- 2.7.3 he/she is no longer a Councillor; or
- 2.7.4 he/she is removed from office by the Leader who must give written notice of any removal to the Chief Executive. The removal will take effect two working days after receipt of the notice by the Chief Executive
- 2.7.5 he/she is disqualified from being a Councillor;

Other Executive Members

Lead Members

- 2.8 Following his/her election, the Leader will appoint up to [9] further members of the Executive; one of whom will be the Deputy Leader.
- 2.9. Only councillors of Somerset Council may be appointed to the Executive. There may be no co-optees or substitutes for Lead Members. Neither the Chair nor Vice Chair of the Council may be appointed to the Executive, and Lead Members may not be members of the Scrutiny Committees.
- 2.10 Lead Members shall be appointed annually by the Leader and shall hold office until:
 - 2.10.1 the next annual meeting of the Council; or
 - 2.20.2 they resign from office; or
 - 2.20.3 they are no longer councillors; or
 - 2.20.4 they are removed from office by the Leader who must give written notice of any removal to the Chief Executive. The removal will take effect two working days after receipt of the notice by the Chief Executive.

Proceedings of the Executive

- 2.11 Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out below in this Constitution.

Responsibility for Functions

2.12 The Leader will determine which executive functions he/she will discharge personally, which shall be retained for decision by the Executive, which shall be allocated to individual Lead Members, and (subject to any statutory requirements and in accordance with the Councils Scheme of Delegation of Officers) which executive functions shall not be retained for decision by the Executive and, therefore, shall be discharged by Officers.

A Lead Member can convene, on an ad hoc basis, a small representative group of Members of the Council (i.e. cross-party) to assist in the consideration of particular issues or matters. These are not formal meetings as defined in the Code of Conduct and the Lead Member is responsible for all of the arrangements.

2.13 These responsibilities may be amended by the Leader on written notice to the Monitoring Officer.

Children's Services - Lead Member arrangements

2.14 In respect of Children's Services, the Leader shall designate a Lead Member as "Lead Member for Children's Services", in accordance with section 19(1), Children Act 2004. The Lead Member for Children's Services shall be responsible for the strategic direction of the Council's Children's Services and their effective overview and shall carry overall political responsibility for those services.

Associate Lead Members

2.15 The Leader may appoint non-Executive Members as Associate Lead Members (provided that the total number of Associate Lead Members does not exceed the number of Lead Members) to advise and assist Lead Members in the discharge of their duties within their portfolio(s).

An Associate Lead Member is not authorised to make any decision normally made by a Lead Member or to deputise for a Lead member at Executive. Associate Lead Members will:

- (a) Support Lead Members to provide clear political leadership both within and outside of the Council in order to help advance and deliver the Council's priorities and key outcomes
- (b) Focus on information gathering and understanding key policy / service delivery in their areas of responsibility
- (c) Assist with the development of options and policies for consideration by the Executive and relevant Lead Member taking into account national policies and local circumstances
- (d) Brief and make recommendations to Executive and their relevant Lead Members and others on relevant issues in relation to policy and strategy development, service improvement or changes and decision making.
- (e) Represent or deputise for their relevant Lead Member at meetings or events as necessary. NB (The term 'deputise' does not include authority to take formal decisions.)
- (f) Promote and support good governance of the Council and its business.
- (g) Keep other Members of Council informed about their activities,
- (h) Maintain effective working relationships with Senior Leadership Team officers and other Officers.
- (i) Create and maintain effective relationships with partners and organisations to deliver the Council's priorities
- (j) Be accountable to their relevant Lead Member, and ultimately the Leader of the Council, for the development and delivery of policies and strategies to meet the outcomes required by the Council and the Executive.
- (k) Be accountable to their relevant Lead Member for supporting the commissioning and delivery of services to meet the outcomes required by the Council and the Executive. This includes supporting the delivery of Council Plan priorities and Medium Term Financial Plan savings
- (l) Play a key role in supporting transformational programmes within their areas of responsibility
- (m) Play a key role in the delivery of specific projects within their areas of responsibility.

Where an Associate Lead Member is temporarily unable to perform their role e.g. due to illness, then the Leader is able to appoint a temporary Associate Lead Member, ensuring the Monitoring Officer is informed.

Scheme of Delegation to Executive Lead Members

- 2.16 Where executive functions are not reserved to the Council, to Executive or delegated to Officers, they are Lead Member matters in accordance with this scheme and according to their portfolios.
- 2.17 The Monitoring Officer, in consultation with the Leader, shall determine the appropriate Lead Member to deal with a matter in cases of uncertainty.
- 2.18 The following areas of responsibility are included in the matters which may be determined by the appropriate Lead Member:
- 2.18.1 to consider reports prepared by officers and to make any decisions in accordance with the requirements of this Constitution;
 - 2.18.2 to consider draft reports to the Executive with the relevant Director and/or other relevant senior Officer;
 - 2.18.3 to determine how expenditure on services should be undertaken within approved budgets;
 - 2.18.4 to agree annual reports;
 - 2.18.5 to develop and approve service plans of services, including future budget requirements;
 - 2.18.6 to monitor the budget and performance for particular services;
 - 2.18.7 to determine policies for particular services, which are consistent with the Policy Framework;
 - 2.18.8 to agree responses to consultation papers;
 - 2.18.9 to make payment of grants to outside bodies within the list approved by the Executive, except those which fall to the Executive itself to decide;

2.18.10 to approve decisions affecting a particular locality (i.e. which are not service-wide, Council-wide or otherwise corporate).

3. Executive Procedure Rules

Executive Decision Making

- 3.1 The Leader may decide how the Executive performs its executive functions which may include decisions being made by:
- 3.1.1 the Executive as a whole;
 - 3.1.2 an Executive Sub-Committee;
 - 3.1.3 one or more Lead Members individually or jointly
 - 3.1.4 an Officer (subject to the Scheme of Delegation to Officers);
 - 3.1.5 joint arrangements;
 - 3.1.6 another local authority.

The Leader's Delegation of Executive Functions

- 3.2 Each year the Leader will prepare a written record of the delegations of executive functions. The record of delegations will detail the executive functions which the Leader has delegated to the Executive, Executive Committees, specific Lead Members or Officers. The record of delegations will be presented to the Council at the Council's annual meeting and will be included into the Council's Scheme of Delegation which can be found at Part I of this Constitution. The record of executive functions delegations will include:-
- The names, contact details and electoral area of those councillors appointed to the Executive by the Leader;
- 3.2.1 the executive functions to be performed by the Executive;

- 3.2.2 the executive functions to be performed by a specific Lead Member (including any limitations on his / her authority);
- 3.2.3 the terms of reference and constitution of any Executive Committee the Leader has appointed, and the names of the Lead Members appointed by the Leader to serve on any Executive Committee;
- 3.2.4 the nature and extent of any executive function delegated to any joint committee or body or any other local authority along with the names of the Lead Members appointed to any Joint Committee for the coming year;
- 3.2.5 any changes to any of the delegations of Officers, the title of the Officer(s) to whom the delegation is made and any limits on their authority.

Sub-Delegations of Executive Functions

- 3.3 Unless the Council says otherwise, where the Executive or an individual Lead Member is responsible for performing an executive function, they may subdelegate its performance to an Officer.
- 3.4 Where an executive function has been sub-delegated to an Officer it may still be performed by the person or body who made the sub-delegation.

The Council's Scheme of Delegation of Executive Functions

- 3.5 The record of delegation of executive functions to Lead Members may be amended by the Leader at any time during the year, but written notice must be provided to the Monitoring Officer and the Lead Member, body or Executive Committee concerned. The notice must set out the extent of the amendment and whether it involves the withdrawal of a delegation from the Lead Member, body or Executive Committee concerned, or the Executive as a whole. Where the amendment concerns a change to the delegation to a joint Committee or

other joint working arrangement, the Monitoring Officer will present to the Council at its next meeting the amendments made by the Leader.

- 3.6 Where the Leader seeks to withdraw a delegation from an Executive Committee, notice to do so will be considered as having been given to the Committee concerned when the Leader has given the notice to the Chair of the Committee.

Conflicts of Interest

- 3.7 Where the Leader has a conflict of interest he/she must ensure that he/she does not influence the decision to be taken and that the decision is taken by a Lead Member who does not have such a conflict of interest.
- 3.8 If every Lead Member has a conflict of interest, consideration must be given to delegating the decision to the Chief Executive, appropriate Director or senior Officer, or to seeking a dispensation to taking the decision but dispensations are not available in respect of single Lead Member decision making.
- 3.9 Where a decision is being taken regarding a service which is commissioned by a Lead Member from an external service provider, Lead Members must be mindful of potential conflicts of interest arising if they also sit on the board of directors or trustees, or are otherwise involved in the governance of the external provider. In such circumstances Lead Members should seek advice from the Monitoring Officer before agreeing to sit on such a board or governance structure.
- 3.10 If the performance of an executive function has been delegated to an individual Lead Member or Officer and a conflict of interest arises, in the first instance the executive function will be performed by the person or body by whom the delegation was made.

Executive Meetings

3.11 Executive Meetings are convened and conducted in accordance with the Access to Information Procedure Rules which can be found at Part B of this Constitution

Time and Place of Executive Meetings

3.12 The Executive will usually meet at least 10 times a year. The Monitoring Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules at Part B. At least 5 working days before a meeting, the Monitoring Officer will send a summons signed by him/her to every Member of the Council. The summons will give the date, time and place of each meeting; specify the business to be transacted and will be accompanied by such reports as are available.

Quorum for Executive Meetings

3.13 The quorum for any Executive meeting is 50% of the Executive Members. If a quorum is not present within 10 minutes of the scheduled start of the meeting or such longer time as allowed by the Chair, the business of the meeting will be adjourned to the next Executive meeting.

How the Executive Makes Decisions

3.14 Decisions as to the executive functions which have been delegated to the Executive will be decided by the Executive as a whole, and where a Key Decision is involved in accordance with the rules on Key Decision Making by the Executive and Individual Lead Members.

Chair of Executive Meetings

3.15 The Leader, or in his/ her absence the Deputy Leader, will chair Executive meetings. In the absence of both the Leader and the Deputy Leader, the Lead Members present at the meeting will choose from amongst themselves

someone to preside at the meeting. The person presiding may exercise any power or duty of the Chair.

Attendance at Executive Meetings

3.16 Members of the public and the press may attend all Executive Meetings in accordance with Council's Access to Information Procedure Rules, except:-

3.16.1 where, in accordance with Access to Information Procedure Rules, the Executive has decided that the public and the press should be excluded for all or part of the meeting because a matter to be considered is likely to result in the disclosure of exempt or confidential information.

3.16.2 where, in accordance with the Access to Information Procedure Rules, the person attending the meeting has been removed on the order of the Chair so as to prevent the disruption of the meeting.

3.17 Any non-Executive Member may attend an Executive Meeting as a member of the public in accordance with the Council's Access to Information Procedure Rules, except where excluded.

3.18 A non-Executive Member may only speak at an Executive Meeting if invited to do so by the Chair.

3.19 Officers are expected to attend Executive Meetings as follows:-

3.19.1 the Chief Executive and Executive Directors will attend Executive Meetings. Other Directors and Officers may attend Executive Meetings at the invitation of the Chief Executive and Executive Directors;

3.19.2 the Statutory Officers of the Council or their nominees may attend Executive Meetings and speak on issues affecting their statutory responsibilities as of right, or otherwise when requested to do so by the Chair.

3.20 Lead Members may not appoint substitutes to attend Executive Meetings in their place. The absence of a Lead Member will not prevent the consideration

or making of decisions in respect of a matter. If a matter has been delegated to an absent Lead Member, it may be referred to the Executive as a whole for consideration and decisions to be made. An absent Lead Member may ask an Associate Lead Member to speak on his/her behalf, if permitted by the Chair but Associate Lead Members are not able to vote at Executive Meetings.

Order of Business of Executive Meetings

- 3.21 The following business will be conducted at each Executive Meeting:-
- 3.21.1 elect a person to preside if the Leader and Deputy Leaders are not present;
 - 3.21.2 approve the minutes of the last meeting;
 - 3.21.3 receive any apologies for absence;
 - 3.21.4 receive any declarations of interest;
 - 3.21.5 receive any statements from the Leader;
 - 3.21.6 at the Chair's discretion, the allocation of time for non-Executive Members to question Lead Members;
 - 3.21.7 consider petitions referred by full Council which relate to executive functions;
 - 3.21.8 consider other matters set out in the meeting agenda. The agenda will indicate any matters which are key decisions or matters which are exempt or confidential and require the exclusion of the public and / or press.

The Agenda for Executive Meetings

- 3.22 Except in the case of an urgent Executive meeting, the Monitoring Officer will deliver to Lead Members and make available to the public, the agenda for a Executive Meeting along with the summons setting out the date, time and place of the meeting at least 5 working days before the meeting takes place.

Urgent Executive Meetings

3.23 In accordance with the Access to Information Procedure Rules, an urgent Executive Meeting may be held without 5 working days' notice if an urgent matter requires consideration.

Consultation

3.24 All reports to the Executive from any Lead Member or an Officer which concern the Budget and Policy Framework or proposals which otherwise require a consultation, must include details as to the extent of the consultation and its outcome. The extent of a statutory consultation will be as required by the law; the extent of non-statutory consultations will be as appropriate.

Minutes of Executive Meetings

Signing the Minutes

3.25 The Chair will sign the minutes of the proceedings of meetings of the Executive at the next Executive meeting. The Chair will move that the minutes of the previous Executive meeting be signed as a correct record. The only part of the minutes which can be discussed is their accuracy.

No Requirement to Sign Minutes of Previous Meeting at an Urgent Executive Meeting

3.26 Where an urgent Executive meeting is called in accordance with Rule 3.23, there is no requirement for the minutes of the previous Executive Meeting to be signed at the urgent meeting.

Form of Minutes

3.27 Minutes will contain all motions and amendments in the form and order the Chair put them.

Appointment of Substitute Members at Executive Meetings

3.28 The substitution rules do not apply to Executive meetings.

Generally

Disturbance by the Public

3.29 In accordance with the Access to Information Procedure Rules, if a member of the public interrupts the proceedings of a Executive meeting, the Chair will warn the person concerned. If they continue to interrupt, the Chair will order their removal from the meeting room, or if there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

Exclusion of the Public

3.30 Members of the public and press may only be excluded from a Executive Meeting in accordance with the Access to Information Procedure Rules in Part B of this Constitution.

Questions

3.31 Any Councillor may ask the Executive a question on any matter in relation to which the Council has powers or duties, or which affects the administrative area of the Council.

Content of Questions

3.32 In the opinion of the Chair all questions must:

3.32.1 not be unreasonable;

3.32.2 contain no expressions of opinion;

3.32.3 relate to matters on which the Council has or may determine a policy;

3.32.4 not relate to questions of fact;

3.32.5 not require the disclosure of confidential or exempt information;

3.32.6 not relate to a matter which is of purely personal concern to an individual/family member.

Time Allowed for Councillor Questions

- 3.33 The number of questions asked and the total time allowed for consideration of such questions shall be determined by the Chair.
- 3.34 At the conclusion of the response to the question under consideration or at the expiry of such time period as determined by the Chair from the time when the first questioner started to speak, the Chair shall conclude the meeting or proceed to the next item of business.
- 3.35 Any remaining questions shall be responded to in writing before the next ordinary meeting of the Executive.

Order of Questions

- 3.36 Questions from Councillors will be asked in the order determined by the Chair.

Response

- 3.37 An answer to a question may take the form of:
- 3.37.1 a direct verbal answer;
 - 3.37.2 where the desired information is in a publication of the Council or other published work, a reference to that publication; or
 - 3.37.3 where the reply cannot conveniently be given verbally, a written response will be provided no later than 5 working days after the meeting.
 - 3.37.4 copies of all questions and responses will be available on the Council's website with the minutes for the relevant meeting.

Suspension and Amendment of Executive Procedure Rules

Suspension

- 3.38 Where allowed by law all of these Executive Procedure Rules may be suspended by motion on notice or without notice if at least one half of the whole number of Lead Members are present. Suspension can only be for a single item or the duration of the Executive Meeting.

Amendment

3.39 Any motion to add to, vary or revoke these Executive Procedure Rules will, when proposed and seconded, stand adjourned without discussion to the next Executive Meeting.

Application of Executive Procedure Rules

3.40 All of the Executive Procedure Rules apply to Executive meetings and Executive sub-committees.

3.41 None of the Executive Procedure Rules apply to meetings of full Council, Committees or Sub-Committees.

Application of Access to Information Procedure Rules to Executive

3.42 The Access to Information Procedure Rules apply to the Executive. If the Executive meets to take a Key Decision, then it must comply with Access to Information Procedure Rules unless General Exception, Special Urgency or Major Emergencies rules apply. A Key Decision is defined in the glossary at Part A of this Constitution and as follows:

Key decisions are executive decisions (not those made by committee) and are defined in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) (Regulations) 2012 and are decisions which:-

- (a) Result in the Council incurring expenditure ** which is, or making savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
- (b) Are deemed significant in terms of their effect on communities living or working within the area of the Council.

**There is no definition in the legislation of the word 'significant' in (a) above. Therefore the Council has decided that the financial threshold at or above which a financial decision is significant (and a Key Decision) will be a total value of £500,000 for capital / revenue expenditure or savings. Money delegated to schools as part of the Scheme of Financial Management of Schools exercise is exempt from these thresholds once it is delegated to the school.

'Key Decisions' can be taken by the Leader, the Executive collectively, jointly by two Lead Members, individual Lead Members, Senior Leadership Team Officers,

Executive sub-Committees and Joint Committees with delegated powers from the Executive.

In the event of any doubt, the Monitoring Officer will determine whether a proposed decision is a Key Decision under the definitions set out above.

Non-Key Decisions: These are all 'executive' decisions which fall beneath the 'Key Decision' financial or geographical thresholds. 'Non-Key Decisions' can be taken by the Leader, the Executive collectively, jointly by two Lead Members, individual Lead Members, Executive Sub-Committees and Officers.

LEAD MEMBER AND OFFICER KEY AND LEAD MEMBER NON-KEY DECISIONS – CONSULTATION REQUIREMENTS

Before a Key Decision can be taken, the following must be consulted:

- (a) The relevant Lead Member(s), Associate Lead Member (where appropriate) and Senior Leadership Team Officer(s).
- (b) Any local Member whose electoral division is significantly affected. They must also be informed of any subsequent action / outcome.
- (c) The Chief Finance Officer and the Monitoring Officer and due regard given to their advice where there are likely to be financial, legal or standards implications.
- (d) The relevant Opposition Spokesperson / Leader
- (e) The Chair (or in their absence the Vice-Chair) of the relevant Scrutiny Committee.

Before a Lead Member Non-Key decision is taken, the consultation requirements at (a), (b) and (c) above must be met.

In addition, the relevant Opposition Spokesperson / Leader and the Chair (or Vice-Chair in their absence) of the relevant Scrutiny Committee must be informed of the decision.

Procedure Before Taking Key Decisions

3.43 Subject to General Exception (3.49 below), Special Urgency (3.50 below) or Major Emergencies (see 3.51 below) rules below, a Key Decision may not be taken unless:

3.43.1 at least 28 clear days' notice has been published in connection with the matter in question this Notice will be given by means of the Forward Plan;

3.43.2 at least five clear days have elapsed since the publication of the notice of the decision, unless the decision taker has resolved that implementation of the decision is urgent in which case the decision can be implemented without delay;

3.43.3 where the decision is to be taken at a meeting of the Executive or a Sub-Committee, notice of the meeting has been given in accordance with Access to Information Procedure Rule (notice of meetings).

The Forward Plan

3.44 The Leader will ensure that notice of all Key Decisions (by the Executive and by individual Lead Members) is given at least 28 clear days before they are due to be taken.

3.45 For ease the Council will list all Key Decisions once a month in a [Forward Plan] indicating which decisions the Executive anticipate that they will take during the next 4 months, together with any particularly significant Key Decisions which the Executive anticipates taking within the next 4 to 12 months. The Monitoring Officer may also include in the Forward Plan reference to such other decisions which are to be taken by the Council or any of its Committees or Sub-Committee or Officers as is considered appropriate.

3.46 The Forward Plan shall include the following information in respect of each key decision:

3.46.1 the matter in respect of which the decision is to be taken;

3.46.2 the person or body by whom the decision is to be taken;

3.46.3 the date on which, or the period within which, the decision is to be taken;

3.46.4 notice, if appropriate, that the Council intends to take a decision in private because the decision contains confidential or exempt information.

3.47 Where the Executive anticipate taking a Key Decision on a matter, and inclusion of the matter within the Forward Plan would disclose confidential or exempt information and so prejudice the conduct of the Council's business, the Executive may limit the entry in the Forward Plan to such information as may be disclosed without prejudice provided that notice under rules above has been given.

3.48 The Executive shall normally review and update the Forward Plan at least once in every calendar month and shall make arrangements for the revised Forward Plan to be made available on its website.

General Exception

3.49 Subject to Special Urgency or Major Emergencies rules below, if a matter which is likely to be a key decision has not been advertised for a minimum of 28 clear days on the Council's website, then the decision may still be taken if:

- a the decision must be taken by such a date that it is impracticable to defer the decision until it has been possible for 28 clear days' notice to be given;
- b the Monitoring Officer has informed the relevant Scrutiny Committee Chair in advance in writing and made copies of that notice available to the public at the offices of the Council; and on the Council's website; and
- c at least five days have elapsed since the Proper Officer complied with (a) and (b) above.

Special Urgency

3.50 If the Major Emergencies rule (3.51 below) does not apply and, by virtue of the date by which a decision must be taken Procedure Rule 3.49 (general exception) cannot be followed and the five days' notice of the decision cannot be given then the decision can only be taken if the decision taker (if an individual) or the Chair of the body making the decision, obtains the agreement of the Leader and the Chair of the relevant Scrutiny Committee that the taking of the decision cannot be reasonably deferred. Notice in writing of the application to the Chair of the appropriate Scrutiny Committee must be published on the Council's website and copies made available to the public at the offices of the Council. If there is no Chair of a relevant Scrutiny Committee, or if the Chair of the relevant Scrutiny Committee is unable to act, then the agreement of the Chair of the Council, or in their absence the Vice Chair will suffice.

Major Emergencies

3.51 In a major emergency listed below, the Leader or Deputy Leader or in their absence the relevant Lead Member or, if appropriate, the Chief Executive or Director may take any immediate urgent decision required without consultation.

3.52 For the purposes of Rule 3.51, a major emergency is any event or circumstance (happening with or without warning) that causes or threatens death or injury, disruption to the community, or damage to property or to the environment on such a scale that the effects cannot be dealt with by the emergency services, local authorities and other organisations as part of their normal, day-to-day activities.

Report to Council

When a Scrutiny Committee Can Require a Report

- 3.53 If a Scrutiny Committee believes that a decision has been taken which:
- 3.53.1 was not publicised to ensure that appropriate notice was given of the decision; or
 - 3.53.2 was the subject of the general exception procedure; or
 - 3.53.3 was the subject of an agreement with a relevant Scrutiny Committee Chair, or the Chair/Vice Chair of the Council under Rule 3.50 (special urgency); or
 - 3.53.4 was taken during a major emergency in accordance with Rule 3.51;
- the Scrutiny Committee may require the Executive to submit a report to the Council within such reasonable time as the Committee specifies setting out the reasons for such urgency. The power to require a report rests with the Scrutiny Committee, but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the Scrutiny Committee when so requested by at least 50% of the members of the Scrutiny Committee. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Scrutiny Committee.

Quarterly Reports on Special Urgency Decisions

- 3.54 In any event the Leader will submit quarterly reports to the Council on the Key Decisions taken in the circumstances set out in Rule 3.50 (special urgency) and/or Rule 3.51 (major emergencies) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken and the reasons for urgency.

Record of Decisions

- 3.55 After any meeting of the Executive, the Monitoring Officer will produce a record of every decision taken at that meeting as soon as practicable. The record will include the date such a decision was made, a statement of the reasons for each

decision and, where appropriate, any alternative options considered and rejected at that meeting. The notice will also advise whether the Monitoring Officer has agreed to make a dispensation where a conflict of interest was declared before the decision was taken.

- 3.56 Where an Officer under delegated powers takes an executive decision, a written statement will be produced and published on the Council's website recording the reasons for this decision.

Executive Meetings Relating to Matters Which Are Not Key Decisions

- 3.57 The Executive have decided that meetings of Executive shall be held in public even when not relating to matters which are Key Decisions.

- 3.58 Where a Lead Member or Officer takes a decision other than a Key Decision he/she shall keep such notes and records of the decision as he/she considers appropriate in the circumstances and taking into account any requirements to produce such information to a Scrutiny Committee, if requested to do so.

Decisions by individual Lead Members or by Directors (or Relevant Senior Officers)

Reports Intended to be Taken into Account

- 3.59 Except as referred to in Rule 3.51 (major emergencies) where a Lead Member receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least five days after the receipt of that report.

Provision of Copies of Reports to Scrutiny Committees

- 3.60 On giving of such a report as detailed in Rule 3.59 to an individual decision maker, the person who prepared the report will give a copy of it to the Chair of the relevant Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time, provided that such reports do not contain confidential or exempt information.

Record of Individual Decision

3.61 As soon as reasonably practicable after any decision has been taken by a Lead Member or in the case of a Director or relevant senior Officer taking a delegated executive decision which would have been taken by a Lead Member or the Executive, the Proper Officer shall prepare, and publish, a record of the decision; and, as appropriate, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Access to Information Procedure Rules 2.10 to 2.14 (inspection of documents after meetings) will also apply to the making of decisions by Lead Members, or to a decision taken by an Officer. This does not require the disclosure of exempt or confidential information.

Scrutiny Committees' Access to Documents

Rights to Copies

3.62 Subject to Rule 3.63 below, a relevant Scrutiny Committee (including any Sub-Committees) will be entitled to copies of any document which is in the possession or control of the Executive or its Committees and which contains material relating to:

3.65.1 any business transacted at a meeting of the Executive or its Committees;

or

3.65.2 any decision taken by an individual Member of the Executive.

Limit on Rights

3.63 A Scrutiny Committee will not be entitled to scrutinise:

- a any document that is in draft form and not yet formally available for consideration by the Executive or an individual Lead Member except when this has been agreed by Executive or the Lead Member;
- b any part of a document that contains exempt or confidential information, unless the Monitoring Officer has determined that the information is relevant to an action or decision they are reviewing or scrutinising or is

relevant to a decision which they have given notice of their intention to scrutinise.

Additional Rights of Access for Councillors

Material Relating to Previous Business

3.64 Subject to the Access to Information Procedure Rules all Councillors will be entitled to inspect any document which is in the possession or under the control of the Executive and contains material relating to any business previously transacted, except to the extent that it contains any exempt information as described in Access to Information Procedure Rules in Part B of the Constitution.

Material Relating to Key Decisions

3.65 Subject to the Access to Information Procedure Rules five days before a meeting of the Council's Executive, all councillors will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive or its Committees which relates to any key decision unless Rule 3.66 a. or b above applies.

Nature of Rights

3.66 These rights of a Councillor are additional to any other right he/she may have.

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Part E - Local Community Networks

Terms of Reference

The Council will establish 18 Local Community Networks to promote the development of stronger and more resilient communities across Somerset.

For the purposes of the Constitution, the Local Community Networks will be classed as Area Boards.

1.0 Purpose, Role and Function of the Local Community Networks

1.1 The purpose of the Local Community Networks are to be the focus for community development, engagement and partnership working at a local level; improving outcomes for residents and establishing strong connections between the Council, our communities and our partners.

1.2 The Local Community Networks will have the following roles and functions:

- Establishing effective local community engagement and influence;
- Promote enhanced participation in democracy, active community decision making and scrutiny;
- Enhance collaboration by bringing together at a local level representatives from partner organisations, town, City and parish councils, community groups and others
- Ensure local influence over the Council and wider public service activity;
- Share information, ideas and solutions to enable services to be delivered to help meet local need;
- To inspire more responsibility for local place shaping;
- To identify evidence-based community priorities; across Economic, Social and Environmental issues;
- To create plans to reflect how the priorities will be addressed; and
- To identify and secure resource opportunities for local projects

2.0 Local Community Networks Approach

2.1 The Local Community Networks will:

- a) Agree priorities and areas of focus for the local area on an annual basis
- b) Agree a tailored communication and engagement plan for actively involving residents and other local stakeholders
- c) Allocate any funding obtained by the Local Community Network as appropriate, and in accordance with rules and guidance set out by the Council's Contract Procedure Rules and Standing Orders
- d) Provide opportunities to ensure that the local community is able to respond to consultations in a timely manner.
- e) Provide opportunities to ensure good communications and information from Somerset Council, and partners, on local issues.
- f) Make recommendations to Somerset Council and/or other partners on funding local projects.

- g) Make recommendations to Somerset Council, and partners, on key local issues.
- h) Produce an annual report with a self-assessment of success in relation to delivery against the agreed priorities and areas of focus for the local area for the past 12 months.
- i) Hold an annual meeting to enable residents and local stakeholders to input into setting area priorities for the next 12 months and highlight local issues.

3.0 Composition

- 3.1 The Local Community Networks will be constituted as Area Boards. The minutes of the meetings of all Local Community Networks, along with any recommendations, will be considered by the Executive.
- 3.2 In the event of a Somerset Council Councillor being elected following a by-election, the Monitoring Officer has delegated authority to appoint the Councillor to the relevant Local Community Network and Council will be asked to ratify the appointment at its next available ordinary meeting.
- 3.3 Local Community Networks are established for 18 areas covering the county. Any changes to the names of the LCNs or their boundaries will need to be recommended to the Executive Lead Member for Local Government Reorganisation and Prosperity for approval.

4.0 Policy and Constitution

- 4.1 Local Community Networks must operate within the Council's Budget and Policy Framework and in accordance with the requirements of the Constitution.
- 4.2 Each Local Community Network may receive funding as determined from time to time by the Council, partners or through successful funding bids. Local Community Networks will allocate any funds in accordance with the Council's Procedure Rules.
- 4.3 Local Community Networks will be consulted on the development of strategic policies to make sure that local priorities and concerns are taken into account. The Local Community Networks will also be consulted where significant changes, reductions or closures of a service are planned in their local area.
- 4.4 Any key decision or policy proposal of the Council that has, or is likely to have, a significant impact in the local area will be discussed with the Local Community Network.
- 4.5 Where appropriate, Local Community Networks are able to set up Working Groups to cover particular topics. The results and outcomes from the Working Group will need to be fed back to the main meeting of the Local Community Network.

- 4.6 In the event of the topic spanning more than one Local Community Network area, the Working Group will be set up to include representatives from all appropriate Local Area Networks.
- 5.0 Membership & Representation
- 5.1 Each Local Community Network will comprise of the following core membership:
- 1) The elected Somerset Council Councillors representing the electoral divisions covered by the Local Community Network;
 - 2) A member from each City, Town or Parish Council within the area covered by the Local Community Network;
 - 3) Representatives from the following groups or organisations:
 - a) Local Neighbourhood policing team;
 - b) Somerset National Health Service
 - c) Devon and Somerset Fire and Rescue Service;
 - d) Education
 - e) Representatives from Voluntary, Community, Faith and Social Enterprise Organisations
 - f) Representatives from Businesses or Trade Groups
- 5.2 The Executive Lead Member for Local Government Reorganisation & Prosperity will approve the core membership of each LCN. Each LCN will review their core membership at least annually and make any recommendations for changes to the Executive Lead Member for Local Government Reorganisation & Prosperity. The core membership list will be classed as the voting members of the Local Community Network.
- 5.3 Each Local Community Network will support and encourage wider participation and engagement from additional attendees. This could include, for example:
- Local Community and Voluntary Sector Organisations
 - Local Businesses or Trade Groups
 - Housing Associations or Housing Officers
 - Any other relevant local groups which could include youth groups, cultural organisations, environmental groups, older people's groups, disability groups, etc.
- 6.0 Other representation
- 6.1 Local Community Networks can invite any Executive Member to attend their meeting to discuss matters relating to their remit, if appropriate.
- 6.2 Invited Executive Members attending the Local Community Network as a guest will not have voting rights.
- 6.3 For the avoidance of doubt an Executive Member is entitled to vote as a standing Member of the Local Community Network in which their electoral division is located.

7.0 Officer Support

- 7.1 Each Local Community Network will be supported by a dedicated Officer from the Unitary Council and Democratic Services Officer(s).
- 7.2 Local Community Networks can ask other officers (including external partners officers) to attend their meetings to discuss items of business on their agenda.
- 7.3 Somerset Council Directors will provide an oversight role for the Local Community Networks, ensuring that officers in their directorates attend and engage with the LCNs as and when appropriate.

8.0 Order of business for the Annual Meeting of the Local Community Networks

- 8.1 The date and meeting arrangements for the first Annual Meeting for each Local Community Network shall be agreed by the Monitoring Officer in consultation with the Lead Member for Local Government Reorganisation & Prosperity. The Annual Meeting of the Local Community Networks will take place annually based on the commencement date of the Local Community Network.
- 8.2 Items of business for the Local Community Network Annual Meeting will be:
 - a) To elect the Chair of the Local Community Network
 - b) To appoint the Vice-Chair of the Local Community Network
 - c) To receive any apologies for absence
 - d) Declarations of Interest
 - e) Public Question Time
 - f) Approve the minutes from the previous meeting
 - g) To consider the Annual Report on the Local Community Network's work in the last 12 months
 - h) To determine the priorities and areas of focus for the Local Community Network for the next 12 months
 - i) To consider any other business set out in the agenda
 - j) To agree the frequency of meetings
 - k) To agree the schedule of meetings for the next 12 months

9.0 Order of business for Ordinary meetings of the Local Community Networks

- 9.1 Items of business for the ordinary meetings of the Local Community Networks will be:
 - a) To receive any apologies for absence
 - b) Declarations of Interest
 - c) Public Question Time
 - d) To approve the minutes from the previous meeting
 - e) To receive updates on any action points from previous meeting(s)
 - f) To consider any other business set out in the agenda

10.0 Process for electing the Chair of the Local Community Networks

- 10.1 Either the Chair / or Vice-Chair of the Local Community Network shall be a Somerset Council Councillor. The other position is to be filled by a suitably trained and experienced chair nominated from the core membership (section 5.1).
- 10.2 Election will take place annually at the Annual Meeting of the Local Community Network.
- 10.3 The Democratic Services Officer will call for nominations for the position of Chair of the Local Community Network.
- 10.4 Only voting members can make nominations. The nomination must be seconded to be valid.
- 10.5 An individual shall not be nominated in his/her absence without their written consent.
- 10.6 In the event of only one valid nomination being received, the person presiding will declare the nominated member elected.
- 10.7 In the event of two valid nominations, the Democratic Services Officer will ask for a show of hands for those members in favour of each nominated candidate and declare the candidate receiving the majority of votes (of the core membership present and voting) to be the winner.
- 10.8 In the case of an equal number of votes for the two candidates, a random electronic generator will be used by the Democratic Services Officer to determine the winner of the election and then declare the result.
- 10.9 In the case of three or more valid nominations being made, the Democratic Services Officer will call for a show of hands for each of the candidates. The Democratic Services Officer will then announce the candidate with the least number of votes and that candidate will be eliminated (in the event of a tie for the least number of votes, the Democratic Services Officer will use a random electronic generator to determine which candidate will be eliminated). A further vote shall be taken for the remaining candidates and after each vote the candidate with the least number of votes shall be eliminated until only two candidates remain and a final vote can be taken (following section 10.7 and 10.8 above).
- 10.10 The Chair and Vice Chair will hold office until the next Annual Meeting unless they resign from the position. In the event of a resignation, an election for the Chair and/or Vice-Chair will take place at the next available meeting.
- 11.0 Chairing arrangements

- 11.1 The Vice-Chair will preside in the absence of the Chair and if neither is present, the Local Community Network will appoint a Chair from among its core membership (section 5.1) for that respective meeting.
- 11.2 The role of the Chair will include:
- a) Providing leadership to ensure that the objectives of the Local Community Networks are met.
 - b) Ensuring that the voices of the local community are at the heart of the work of the Local Community Networks.
 - c) Working with Officers to set the agendas and to ensure that any action points are picked up and dealt with
 - d) Chair the meetings effectively to ensure that its business can be carried out efficiently and that all parties have an opportunity to input
 - e) Ensure that the meeting is a forum for debate of matters of interest and/or concern to the local community
 - f) Represent the Local Community Network at the quarterly meetings with the Executive Member and Scrutiny Chair(s)
 - g) Produce an annual report on behalf of the Local Community Network which will be considered by the Executive

12.0 Local Community Network links to the democratic process

This section will set out how the Local Community Networks will link to the democratic process within Somerset Council.

Council

- 12.1 Somerset Council will review the Terms of Reference for the Local Community Networks at its Annual Meeting each year.

Executive

- 12.3 Local Community Networks can escalate issues of concern to the Executive and/or the relevant Executive Member.
- 12.4 There will be a standing item on Executive agendas to consider and note any minutes from Local Community Network meetings that have taken place. This will include any recommendations that the Local Community Network wish the Executive to consider.
- 12.5 The Executive will also consider the Local Community Network annual report.
- 12.6 The Executive Member with remit for Local Community Networks will meet on a quarterly basis with the Local Community Network Chairs so that common themes and issues can be discussed. The Scrutiny Committee(s) Chairs are also included in this meeting.

Scrutiny Committee(s)

- 12.7 Wherever possible the Scrutiny Committee(s) will avoid duplicating the work of the Local Community Networks.
- 12.8 However, issues of local concern may be identified and added to the Scrutiny workplan via the quarterly meetings with the Executive Member and Local Community Network Chairs.

Planning

- 12.9 Planning matters that fall under the remit of the Planning Committee or Planning Sub-Committees will be out of scope of the Local Community Networks to avoid duplication.

Licensing and Regulatory

- 12.10 Licensing and Regulatory matters that fall under the remit of the Licensing and Regulatory Committee, Licensing Sub-Committee and Regulatory Sub-Committee will be out of scope of the Local Community Networks to avoid duplication.

13.0 Voting

- 13.1 Local Community Networks will seek to reach decisions by consensus where possible, involving the core membership (listed in section 5.1). Prior to such a vote, the Chair may upon his/her discretion take an indicative vote of the representatives set out in section 5.3.
- 13.2 However, on the occasions where a formal decision needs to be made this will be recommended to the Somerset Council Executive for consideration.
- 13.3 Where a vote is required then this will be by a show of hands of the voting membership present.
- 13.4 Where the vote is tied, the Chair of the Local Community Network shall have a second or casting vote.

14.0 Quorum

- 14.1 Quorum will be 50% of the core membership (section 5.1) in attendance at the Local Community Network.

15.0 Meeting frequency and location

- 15.1 Local Community Networks will meet 6-8 times a year, however this is at the discretion of each individual LCN.
- 15.2 Local Community Network meetings will be held in accessible venues and will be held in various locations within the local area (dependent on the numbers likely to attend the meeting).

16.0 Access to Information

16.1 Local Community Networks are subject to the Access to Information Rules set out in section X of this Constitution.

16.2 For example:

- a) Agendas will be published on the Council website 5 clear days before the meeting
- b) Meetings will be open to members of the public and press
- c) Draft minutes will be published on the Council website within 5 working days following the meeting

17.0 Standards of Behaviour and Conduct

17.1 Somerset Council Councillors are subject to the Members Code of Conduct set out in section Y of this Constitution.

17.2 City, Town and Parish Councillors are reminded that they have been elected to the Local Community Network as a representative of their Council, and therefore should follow their Code of Conduct.

17.3 Local Community Network meeting attendees will at all times follow the Protocol on meeting etiquette.

18.0 Review of the Terms of Reference

18.1 The Terms of Reference for the Local Community Networks will be reviewed on an annual basis and agreed at the Somerset Council Annual Meeting. This is to ensure that the Terms of Reference appropriately reflect the role of the Local Community Networks as they evolve over time.

Joint Arrangements

Arrangements to promote wellbeing

The Council, in order to promote the economic, social or environmental well-being of its area, may

- (a) enter into arrangements or agreements with any person or body
- (b) co-operate with or facilitate or co-ordinate the activities of, any person or body and
- (c) exercise on behalf of that person or body any functions of that person or body

Joint arrangements

- (a) The Full Council may establish joint arrangements with one or more local authorities and / or their executives to exercise functions that are not executive functions in any of the participating authorities or advise the Full Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Executive may establish joint arrangements with one or more local authorities to exercise functions that are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.

Delegation to and from other local authorities

- (a) The Council may delegate some functions to another local authority or, in certain circumstances, the executive of another local authority.
- (b) the decision whether or not to accept such service delegations from another local authority is reserved to the Council meeting.

Contracting out

The Council may contract out to another body or organisation functions which may be exercised by an officer, and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles.

The Council has established joint arrangements in respect of the following:

Joint Committees

Avon and Somerset Police and Crime Panel

The Police and Crime Panel is a statutory joint partnership and scrutiny body that supports and scrutinises the decisions and activities of the Avon and Somerset

Police and Crime Commissioner and promotes openness in the transaction of Police business in the Avon and Somerset force area.

The Terms of Reference and Operating Arrangements can be found here <http://www.avonandsomersetpoliceandcrimepanel.org.uk/wp-content/uploads/2022/07/Panel-Operating-Arrangements-31.03.21.docx> and the Rules of Procedure here <http://www.avonandsomersetpoliceandcrimepanel.org.uk/wp-content/uploads/2022/07/Rules-of-Procedure-31.03.21.docx>

Five Councils Partnership Corporate Services Joint Committee

Somerset Council shares some services with South Oxfordshire District Council, Vale of White Horse District Council, Hart District Council and Havant Borough Council. The Councils have formed a Joint Committee to carry out the strategic, financial and operational functions delegated to it by the Five Councils Partnership authorities. The Terms of Reference can be found here

Heart of the South West Joint Committee

The Heart of the South West ('HotSW') Joint Committee is a Joint Committee of local authorities that comprise the HotSW area. The key purpose of the Joint Committee is to be the vehicle through which the HotSW partners will ensure that the desired increase in productivity across the area is achieved. The Terms of Reference can be found here <http://www.hotswjointcommittee.org.uk/panels-key-roles-and-responsibilities/>

Heart of the South West LEP Joint Scrutiny Committee

The Joint Scrutiny Committee provides strategic overview and Scrutiny of the activities of the Heart of the South West (HotSW) Local Enterprise Partnership (LEP) The Terms of Reference can be found here <https://democracy.devon.gov.uk/mgCommitteeDetails.aspx?ID=456>

Integrated Care Partnership

Integrated Care Boards and all upper-tier local authorities that fall within the area of the Integrated Care Boards must establish an Integrated Care Partnership. For Somerset, the Integrated Care Partnership is established jointly by the Integrated Care Board and Somerset Council. The Terms of Reference of the Integrated Care Partnership can be found here: <https://somersetcc.sharepoint.com/sites/SCCPublic/Council%20Democracy/Forms/AllItems.aspx?id=%2Fsites%2FSCCPublic%2FCouncil%20Democracy%2FIntegrated%20Care%20Partnership%20%2D%20Terms%20of%20Reference%2Epdf&parent=%2Fsites%2FSCCPublic%2FCouncil%20Democracy&p=true&ga=1>

Yeovil Crematorium and Cemetery Joint Committee

The Yeovil Crematorium and Cemetery Committee has been appointed to consider the operations of the Yeovil Crematorium and Yeovil Cemetery and make recommendations to the appropriate member authorities. The Terms of Reference can be found here. <https://www.yeovil.gov.uk/userfiles/files/Agenda130722.pdf>

Other Joint Arrangements

Somerset Rivers Authority

The Somerset Rivers Authority is a partnership between Somerset Council, the Parrett and the Axe Brue Internal Drainage Boards, the Environment Agency, Natural England and Wessex Regional Flood & Coastal Committee. The SRA (Somerset Rivers Authority) oversees the Flood Action Plan for the whole of Somerset and funds works that meet Flood Action Plan objectives. The Terms of Reference and Constitution can be found here

<https://www.somsetriversauthority.org.uk/wp-content/uploads/2022/02/ITEM-5-2022-23-SRA-Local-Memorandum-of-Understanding-and-Constitution-4-March-2022.pdf>

Joint Scrutiny Panel – Somerset Rivers Authority

The Joint Scrutiny Panel's purpose is to examine the activities of Somerset Rivers Authority and provide assurance to the SRA's constituent councils and partners that it is operating effectively. The Terms of Reference can be found here [SRA Joint Scrutiny Panel meetings and papers - Somerset Rivers Authority](#)

Standing Advisory Council for Religious Education (SACRE)

The Somerset Standing Advisory Council on Religious Education is a statutory body set up and supported by Somerset Council to help monitor the standards, quality of teaching and provision for RE in local schools; the effectiveness of the locally Agreed Syllabus for RE; and the provision and quality of collective worship in local schools. Its Terms of Reference can be found here <http://www.amvsomerset.org.uk/wp-content/uploads/2021/11/SACRE-Constitution-2011.doc>

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Part G – Overview and Scrutiny arrangements (Scrutiny Committees)

Every council with an executive management structure has to have an overview and scrutiny function. Somerset Council has appointed five scrutiny committees to perform this function:

- Adults and Health
- Children and Families
- Climate and Place
- Communities
- Corporate and Resources

All of the Scrutiny Committees will operate in accordance with the Committee procedure rules in Part D.

Membership, Chairmanship and Quorum of each Committee

Number of Members	13
Substitute Members Permitted	Yes
Political Balance Rules apply	Yes
Appointments/Removals from Office	By resolution of full Council
Restrictions on Membership	Executive Members cannot be members of a committee
Restrictions on Chairmanship/Vice-Chairmanship	None
Quorum	5 members
Number of ordinary meetings per Council Year	At least 6 per year

The scrutiny committees each fulfil a check and challenge function for decisions and policies made by the Executive.

This section gives more details about these committees and the rules which govern how they work.

These rules are written in formal language. If you have specific questions our Democratic Services Team will be happy to help you.

Functions and terms of reference

- 1.1 The Council has appointed several Scrutiny Committees to fulfil the statutory “overview and scrutiny” functions of the Council, to influence the decision makers and drive improvement in public services in Somerset.
- 1.2 The Committees have no decision-making powers but have responsibilities delegated by Council. Each Committee can appoint a Task and Finish Group to undertake specific scrutiny review and recommendations back to it. A Task and Finish Group will operate in accordance with the Task and Finish Group Protocol.
- 1.3 At the annual meeting of the full Council, the Monitoring Officer in consultation with the Chief Executive will propose for the agreement of the Council, the number of Scrutiny Committees, the Terms of Reference and the number of scrutiny seats required to perform the scrutiny function for the forthcoming year. The Scrutiny Committees and their functional areas of responsibility are as follows:

Corporate and Resources

Functional areas that are the responsibility of the Committee are as follows:

- Finance and Procurement
- Strategic Asset Management
- ICT
- Partnerships and Localities

- Strategy and Performance
- Legal, Democratic and Governance
- Budget Monitoring and Financial Scrutiny
- Workforce
- Business Change and Transformation

Climate and Place

Functional areas that are the responsibility of the Committee are as follows:

Climate, Environment and Sustainability:

- Carbon Neutrality
- Climate Resilience and Adaptation
- Renewable Energy
- Country Parks, Local Nature Recovery Strategy, Local Nature Reserves, AONB Partnerships (Countryside Services)
- Biodiversity (and net gain) and Ecology
- Sustainability
- Waste Service
- Emergency Planning and Business Continuity
- Water Management
- Flooding Response
- Coastal Protection Authority
- Somerset Rivers Authority

Infrastructure & Transport:

- Highways Authority
- Public Rights of Way
- Parking
- Active Travel
- Traffic Management
- Transport
- Public Transport
- Fleet Management
- Contracted Transport
- Strategic Transport Planning
- Road Safety
- Infrastructure Commissioning

Economy, Employment & Planning:

- Economic Development
- Planning (conservation, enforcement, DM, local plan, waste and minerals, s106 allocations/CIL, Phosphates)
- Affordable Housing and Enabling
- City/Town Centre Management
- Trading Standards (Devon partnership)
- Skills
- Education Business Partnership
- Economic infrastructure , services and Innovation Centres
- Regeneration (non-housing)
- Major Projects
- Nuclear Power
- Scientific Services

Children and Families

Functional areas that are the responsibility of the Committee are as follows:

- Investing in and improving school facilities
- Improving the health of children & young people
- Supporting educational achievement and improved outcomes for children & young people
- Improving young people's prospects and skills
- Delivery of Personalisation Agenda and Personal Budgets
- Protect and care for the most vulnerable
- Support and recruit more adopters and fosterers of children
- Improve prospects of disadvantaged children and young people and their families, and those at risk of being disadvantaged
- Specialist services for children with disabilities
- Special Educational Needs
- Safeguarding children
- School admissions
- Academy conversions.
- Youth offending and targeted youth work
- Early years and children's centres
- Appointment of school governors

Scrutiny for Policies, Adults and Health Committee

Functional areas that are the responsibility of the Committee cover personal services to individuals as follows:

- Health & Wellbeing (including Public Health Services)
- Education, Training & Skills
- Learning and Physical Disabilities
- Adult Care & Support Services
- Community Safety
- Somerset Armed Forces Community Covenant
- In addition the Committee considers any referrals made by Healthwatch.

Scrutiny for Policies and Communities

Functional areas that are the responsibility of the Committee cover personal services to individuals as follows:

Housing:

- Strategy and HRA Business Plan
- Arms Length Management Organisation
- Homelessness - Rough Sleepers pathway
- Housing Options & Allocations – Homefinder Somerset
- Housing and Leaseholder Management
- Housing Maintenance - Responsive and Planned (capital programme), compliance, void management
- Housing Development & Regeneration
- Tenant Services –Worklessness & Tenancy Management (new tenancies, income, debt and benefit support, rent setting, service charges tenancy compliance)
- Sheltered and Extra Care
- Housing Property Service
- Registered Providers and Partnerships
- Gypsy, Traveller and Van Dweller Services
- People Displacement Schemes and Services

Customer Services:

- Customer Service Strategy and Standards
- Corporate Customer Services
- Compliments & Complaints, Ombudsman cases
- Local Service Centres
- Customer Engagement and Access

Cultural Services:

- Libraries, Museums, Theatres
- Leisure Centres, Facilities and Services (contract and direct)
- Sports Development Partnership
- Heritage Assets
- Arts Centres, Facilities, Services and Development
- Culture Facilities, Services and Development
- Tourism Facilities, Services and Development
- Community Facilities

Regulatory and Operational Services:

- Environmental Health and Licensing
- Registrars
- Coroners
- Environmental Protection and Enviro-crime
- Building Control
- Port Health Authority
- CCTV and anti-social behaviour
- Safety Advisory Group
- Private Sector Housing
- Street Cleansing
- Grounds Maintenance
- Unauthorised encampments
- Parks and Play Areas
- Public Toilets
- Dog Wardens
- Bereavement Services
- Fairs and Markets

- 1.4 The Scrutiny Committees are committed to the developing of a respectful relationship between themselves, the Executive and external partners. The work of the Scrutiny Committees is underpinned by the following six principles:-
- a. To contribute to sound decision-making in a timely way by holding councillors and key partners to account as a 'critical friend'.
 - b. Contribute to and reflect the vision and priorities of the Council.
 - c. Enable the voice and concerns of the public to be heard and reflected in the Council's decision-making process.
 - d. Engage in policy development at an appropriate time to be able to influence the development of policy.
 - e. To be agile and able to respond to changing and emerging priorities at the right time with flexible working methods.
 - f. For scrutiny to be a councillor led and owned function which seeks to continuously improve through self-reflection and development.
- 1.5 In addition to the principles set out at 1.2 above, in conducting its proceedings a Scrutiny Committee will have regard to the following principles:-
- a. At all times, while conducting its business in a tenacious matter, to do so with respect, equity, fairness, dignity and with regard to the principles of natural justice.
 - b. To ensure that all Members are given the opportunity to contribute to and speak at Scrutiny Committee meetings and to ask questions of those attending.
 - c. To conduct its business in a consensual, open, responsible and transparent manner across political divides and to avoid expressing views based purely on political considerations.
 - d. To conduct its business so as to maximise its efficiency.

- e. Not to seek to hold Officers and non-Lead Members to account for decisions taken by the Leader, Executive or Lead Members.
 - f. To recognise that any question of officer discipline which may arise is to be dealt with through the appropriate employment procedures.
- 1.6 In respect of their functions, each committee will:
- (i) Advise the Executive, on the formative stages of key service developments and reviews;
 - (ii) Influence planned key decisions before they are taken and make recommendations to the decision maker;
 - (iii) Hold Executive decision-makers (including Officers) to account for Key decisions;
 - (iv) Question members of the Executive and/or committees and senior officers about their decisions and performance standards;
 - (v) Ensure that all the Council's performance management and assessment systems continually improve the Council's service delivery;
 - (vi) Assist the Executive / Council in budget and policy development;
 - (vii) Review delivery of key action plans (including external inspection action plans) and Council objectives through the achievement of outcomes;
 - (viii) Consider any matter affecting the County of Somerset or its inhabitants (specifically children in the case of Scrutiny Children and Families);
 - (ix) Ensure active engagement of Members, the public, media, stakeholders, partners and Officers in the work of the Council and the Committee and to enable the voice of the wider community to be heard within the Council;
 - (x) Make reports and/or recommendations to the Full Council and/or the Executive, Council, other Committees and/or partner bodies;
 - (xi) Scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to discuss their activities and performance.

1.7 **FORM AND COMPOSITION:** Each Committee comprises 13 elected Members reflecting the political composition of the Council. In addition, the membership of the Scrutiny for Policies, Children and Families Committee includes 2 co-opted church representatives, 2 co-opted parent governor representatives, 2 school governor representatives and 1 representative from the Schools Forum, all with voting rights (which are full voting rights) on educational matters only. Members of the Executive cannot be members of these committees.

1.8 **JOINT HEALTH SCRUTINY:** For significant proposals, eg, regional matters and ambulance NHS Trust matters or County wide Broadband, a Joint Overview and Scrutiny Committee of the relevant councils is appointed to provide a collective response. The Chief Executive approves the terms of reference, constitution and arrangements for such a Joint Committee on behalf of the Council.

1.9 **QUORUM:** A minimum of 5 elected members are required to be present for a valid meeting to take place.

1.10 **CHAIR:** The appointment of a Chair for each of the 5 Scrutiny Committees will be a member of an opposition party.

1.10 **COMMITTEE BUSINESS:** The following can include items on scrutiny agendas:

- (a) The Committee itself;
- (b) Full Council;
- (c) The Leader;
- (d) The Executive collectively;
- (e) Any Member of the Committee. The non-elected Members of the Scrutiny for Policies, Children and Families Committee may include items on the Committee's agendas in relation to education;
- (f) Any other Member, for an issue affecting their division and where all other methods of resolution have been exhausted;
- (g) The Monitoring Officer;
- (h) The County Solicitor;
- (i) Any Officer from the Senior Leadership Team;
- (j) The Scrutiny Officer.

In conducting its business a Scrutiny Committee may:

- a. Undertake in depth analysis of a policy issue;
- b. Receive briefings and presentations on issues under consideration;
- c. Undertake research, community and other public engagement, particularly in the analysis of policy issues and possible options;
- d. Consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- e. Hold inquiries, workshops, public meetings and conduct public surveys;
- f. Invite advisors and assessors to assist them;
- g. Question Lead Members, Associate Lead Members and seek their views on issues and proposals affecting the Council's area;
- h. Question senior officers, and where appropriate suppliers and seek their professional views on issues, and / or their decisions and performance either in relation to service plans or in relation to particular decisions, initiatives or project;
- i. Liaise with national, regional or local external organisations operating in the Council's area so as to ensure that the interests of local people are enhanced by collaborative working;
- j. As part of any investigation, review and scrutinise the decisions made by, and performance of, the Executive, Lead Members and senior officers as regards both individual decisions and over time;
- k. Question and collect evidence from any other person (with their consent) and invite witnesses to attend Scrutiny Committee meetings, proceedings or events.

CALL-IN OF KEY DECISIONS

1.11 "Call-in" is a facility which Members can use to challenge Key Decisions where a scrutiny committee has not been involved prior to the decision being taken or where a Member believes a decision has been taken without the proper process having been followed.

1.12 Call-in of Key Decisions is subject to the following rules:

- (a) General provisions:
 - (i) Call-in should be used on an exception basis and not to unnecessarily delay Council business;
 - (ii) An individual Key Decision should normally only be subject to scrutiny once, whether pre or post decision;
 - (iii) Key Decisions cannot be called in where the decision requires urgent implementation. Urgent implementation requires the approval of the Leader of the Council and the Chair of the relevant Scrutiny Committee;
 - (iv) Call-in only applies to decisions. Recommendations (for example, made by the Executive to Council) cannot be called-in.
- (b) Scrutiny of Key Decisions before they are taken: This should focus on ensuring that the decision-maker has all the necessary information to take a fully informed decision and that any procedures have been properly followed. Any scrutiny review at this stage should not pre-empt the decision. The decision-maker must take the views of the relevant Scrutiny Committee into account before taking the decision.
- (c) Scrutiny of Key Decisions after they are taken but before they are implemented:
 - (i) Key Decisions are published to all Members and the public (via the website) within 2 working days of the decision date;
 - (ii) Key Decisions (unless urgency is agreed) must be called-in within 5 working days of publication or the decision will be implemented automatically.
 - (iii) Any Member may request a call-in but the call-in must be supported by a Member of the relevant Scrutiny Committee and agreed by the Chair (or Vice Chair in their absence) of that

Committee in order to be formally considered. The call-in must be submitted in writing or by email to the Chair of the relevant Committee;

- (iv) The Chair of the relevant Scrutiny Committee will consider call-in requests against the principles of good decision-making and will either agree the request or detail their reasons for rejecting the request for report to the next available meeting of the relevant Committee;
 - (v) A call-in must specify the subject matter, the reason(s) for it, information required to enable full consideration and the preferred outcome;
 - (vi) Each call-in will be considered at the next meeting of the relevant Scrutiny Committee unless an alternative is agreed with the decision-maker;
 - (vii) The Scrutiny Committee having considered a call-in will report to the decision-maker. The Committee also has the option of reporting direct to the Council as well as or instead of the decision-maker;
 - (viii) Where an item has been subject to pre-decision scrutiny of the process, post decision call-in should normally only relate to the decision itself;
 - (ix) If there is no pre-decision scrutiny of an item then the process and/or the decision may be the subject of call-in.
- (d) Scrutiny of Key Decisions after implementation: This should only occur where the decision-maker was required to make a decision that was time critical or at a later stage to gauge the effect of the decision. Scrutiny in these circumstances is not part of the call-in process.

1.13 REFERRAL OF NON-KEY MEMBER DECISIONS: Non-key member decisions can be referred back to the decision-maker by Members prior to implementation as follows:

- (a) Non-Key Member Decisions are published to all Members and the public on the Council's website within 2 working days of the date of decision;

- (b) Any Member with the support of their Group Leader (or in their absence, the Deputy Group Leader) and the agreement of the Chair of the relevant Scrutiny Committee may refer a proposed decision back to the decision-maker within 3 working days of it having been published. The decision-maker will consider the referral prior to confirming the decision and its implementation.
- (c) If there is no referral the decision will be implemented automatically at the expiry of the 3 day notification period.
- (d) The only exception to this rule shall be 'urgent' decisions requiring immediate implementation. A decision will be urgent if any delay would, or would be likely to, significantly prejudice the Council's or the public interests. Urgent implementation requires the approval of the Leader of the Council and the Chair of the relevant Scrutiny Committee.

1.14 MEMBERS AND OFFICERS ATTENDING SCRUTINY COMMITTEES: A Scrutiny Committee can **require** a Member of the Executive, the Chief Executive and/or an appropriate Senior Officer or Officers (as agreed the Chief Executive) to attend a meeting in order to explain matters within their remit including any particular decision or series of decisions. Officers identified must attend.

1.15 ATTENDANCE BY OTHERS AT SCRUTINY MEETINGS: A Scrutiny Committee can **invite** others to address their meetings, discuss issues of local concern and/or answer questions. Attendance is optional.

1.16 REPORTING: A Scrutiny Committee can report and make recommendations to the Leader, the Executive or the Council, as appropriate, and to partner public bodies involved with Community Safety or the NHS. Each Committee presents a summary of its work to each Full Council meeting and reports annually to Full Council on its work, its future work programme and recommendations for improving the way it carries out its functions, if appropriate.

1.17 FORWARD WORK PLANS OF BUSINESS: The chairs and vice-chairs of each committee meet as and when required to organise and co-ordinate the forward work programmes of business.

1.18 **Call for Action**

- 1.19. Any councillor shall be entitled to ask the Proper Officer for Scrutiny in writing to include any issue of concern to that councillor on the agenda of the next meeting of the appropriate Scrutiny Committee. In normal circumstances such a request must be made at least 10 clear working days before the meeting of the appropriate Scrutiny Committee.
- 1.20. At the meeting the councillor who has put the matter on the agenda may address the Committee on the matter. Members of the Committee should consider whether the issue raised is best addressed under the Councillor Call for Action (CCfA) procedure or another procedure (for example Call-In). In normal circumstances, the same issue will only be considered under one of these procedures. The Proper Officer for Scrutiny can advise Members of the Committee on this matter if requested.
- 1.21. Once determined as a CCfA matter, the following, in the order they appear on this list, (and if present) shall then respond:
- a. The relevant Lead Member and/or the Associate Lead Members;
 - b. Another Lead Member;
 - c. A senior officer with functional responsibility for the matter.
- All speakers may address the Committee for up to five minutes as determined by the Chair unless otherwise agreed by the Chair. The Chair shall then invite Members of the Committee to discuss the matter to question and to consider any recommendation which has been submitted by the councillor as part of the agenda item.**
- 1.22. The Committee may then:
- a. Resolve not to consider the matter further;
 - b. Resolve to take no further action as the issue is one where an individual or body has a statutory right to a review or appeal (including matters relating to a planning decision);
 - c. Resolve to take no further action but at the meeting advise

the councillor raising the matter what further action, if any, the councillor should take to resolve the matter;

- d. Refer the matter to the Lead Member or officer with responsibility for the matter to ask what can be done to resolve the matter;
- e. Place the item on its agenda for consideration by the Committee at a later meeting;
- f. Consider whether to commission a scrutiny task & finish group to consider the matter further;
- g. Make a report or recommendation to the Executive or Full Council, or to the appropriate executive body of any partner organisation.

Referrals from the Council or the Executive

1.23. The Scrutiny Committees will consider any matter referred to them by the Council or the Executive and recommend any appropriate action. The Executive may request a Scrutiny Committee to look at topics to assist and inform Executive decision-making.

1.24. In reviewing draft policies, plans strategies and the draft budget, a Scrutiny Committee will in particular consider:-

- a. Whether any appropriate criteria has been used;
- b. Whether consultation (if any) responses and engagement conclusions have been taken into account;
- c. Whether the decision is in accordance with the Council's policy framework;
- d. Whether the decision is within the powers of the Council;
- e. Whether the decision is lawful;
- f. Whether the decision contributes to the efficient, effective and economic performance of the function in question.

Scrutiny Task and Finish Group Protocol

What is a Scrutiny Task & Finish Group?

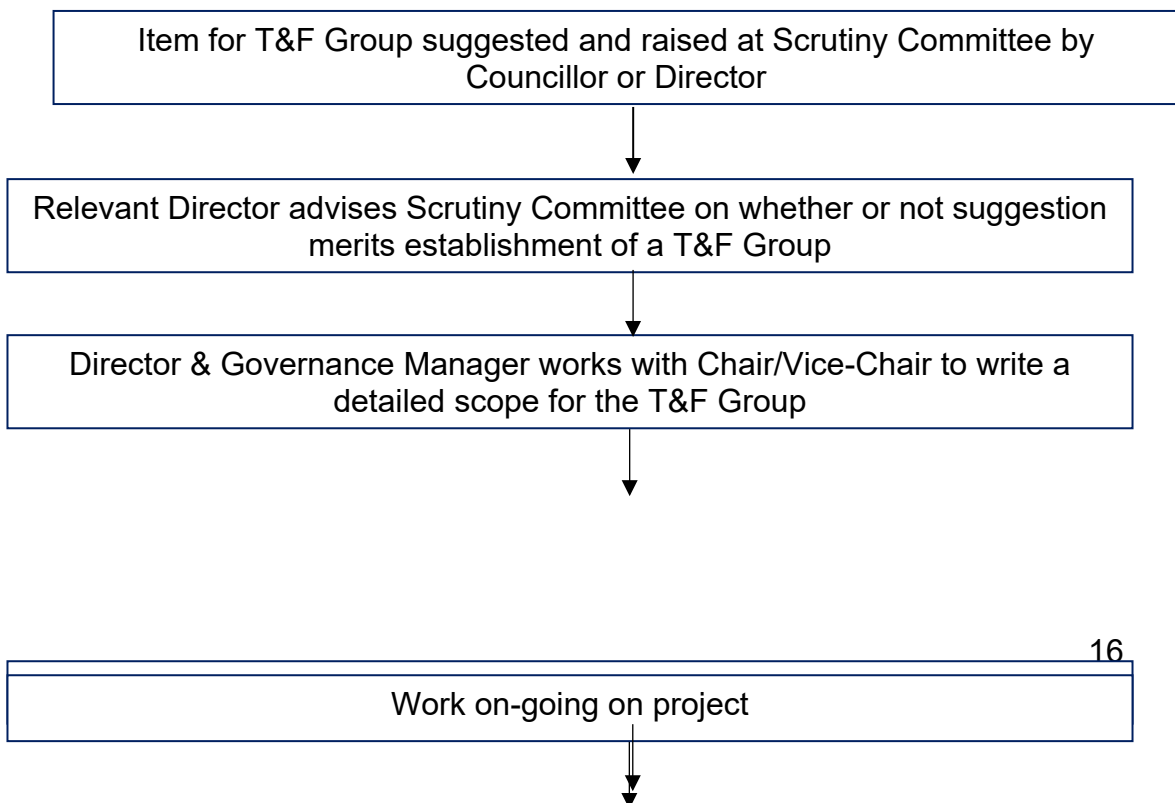
A Scrutiny Task & Finish Group is a small group of Councillors commissioned by a scrutiny committee to undertake a time limited review of a particular issue. As its title suggests the Group is set up for a specific purpose to undertake a review and report back within a defined timescale.

Background

All Scrutiny Committees can establish Councillor Task and Finish (T&F) Groups. These Groups are especially useful in allowing Councillors to look at an issue in which they have a particular interest, in more detail. They can take a variety of forms, from a detailed review to a short, sharp concentrated focus on a high profile issue. They offer the opportunity to use a variety of more diverse working methods (working flexibly to adapt to the needs of different reviews), including making visits, and use of interviews and publicity events to encourage community participation and public engagement in scrutiny.

This protocol provides information relating to the commencement and completion of work by T&F Groups. In doing so, it defines the key role that Directors and Strategic Managers have in helping to manage the process.

Diagram 1 – Overview of Process



With support from Director & Governance Manager, T&F Group writes report and presents it to the committee

Diagram 1 illustrates the process from inception to completion for T&F Groups.

Guidelines on Process:

- Ideas for establishing T&F Groups will be raised at the appropriate Scrutiny Committee via the Chair.
- Consideration should be given to:
 - **external or national priorities;**
 - **priorities identified within the SCC County Vision & Business Plan and in key Somerset policies** such as the Joint Strategic Needs Assessment (JSNA), Children & Young People’s Plan (CYPP) and Improving Lives Strategy (consideration should be given to which priorities may benefit from the intervention of scrutiny, for example, overview of progress against milestones or specific policy development in a priority area);
 - **key decisions** to be taken and the Cabinet and Scrutiny Committee’s **Forward Plan;**
 - evidence from recent public consultation or a trend emerging from Councillors’ case work which may be the subject of scrutiny.

- The Councillor or Director proposing the item for scrutiny should outline the proposed scope of the project and the desired outcomes. This discussion will be led by the relevant Director who will advise on the suitability/unsuitability of the project. For example, if the proposal is too operational then the Director may recommend the project should not progress.

- If the Director and Members of the Committee agree there is merit within the item, a T&F Group can be created. The final decision of whether to form a T&F Group rests with Members of the Committee following careful consideration of the advice of the relevant Director.

- The Committee Chair & Vice-Chair (who may or may not chair the group) will work with the relevant Director & the Governance Manager to discuss the detailed scoping of the Group (see scoping document Appendix 1). This will then be agreed at the next meeting of the Scrutiny Committee as well as Group membership. The relevant Director should attend this meeting to answer any other questions members of the Group may have.

- As a guideline, T&F Groups will normally consist of three to five members depending on the nature and complexity of the review. Political balance of membership is not required. The Group should be chaired by a member of the scrutiny committee but this does not have to be its Chair or Vice-Chair. Substitute members should be discouraged, on the basis that members have built up a knowledge and expertise on the review subjects and it may be difficult for a new member to join the Group part way through a review or to attend single meetings and participate effectively.

- The Committee will decide if they wish to open up membership of the T&F Group to Councillors who are not on the Committee – it is good practice to make use of Councillor interest, experience or specialist knowledge.

- The Committee may also wish to make the T&F Group joint with the Council's other Scrutiny Committees or with partner organisations.
 - It is recommended that Councillors sit on no more than two Task and Finish Groups at any point in time.
 - Other Councillors and Non-Councillors may be co-opted to be members of a Task and Finish Group if they have specific knowledge or expertise.
 - Executive Lead Members and other members may be invited to the Group to give evidence.

- Meetings will take place as often as needed until the task is complete. Following the planning meeting, the Group should aim to hold the necessary meetings within as short a timeframe as possible so that findings are timely.

- Directors need not attend all meetings but they will be kept informed of progress from Democratic Services Officers. Notes of each meeting will be produced by Democratic Services Officers and comprise a record of the main facts gathered and points of discussion.

- As the T&F Group is completing its work, the relevant Director will review the Group's draft report and attend their final meeting to provide feedback.
- When the T&F Group has finished and agreed their report, the members of that Group will present their work to their relevant Scrutiny Committee. As part of this process, the Group will explain the work carried out and ask the Committee to support their recommendations. The Committee could also comment on the report or ask for further work to be done.
- Scrutiny Committee will then refer the report and recommendations to the Cabinet or relevant Cabinet Member for consideration.
- The Executive/Lead Member should then provide a formal response to the Scrutiny Committee within as short a timeframe as possible. A review of the Task & Finish Group outcomes by the Committee should be agreed accordingly by the Committee and the Executive/Lead Member.

Member Interests

- Meetings of Scrutiny Task and Finish Groups require members to declare any personal interest in any matter being considered at a meeting of the T&F Group in accordance with the Code of Conduct and if the matter is also prejudicial, the member should withdraw from consideration of that issue. A member should not join a T&F Group if they have a prejudicial interest which is likely to arise so frequently at meetings that they will be unable to make a worthwhile contribution. It should be noted that Parent Governor and Church Representatives on the scrutiny committee which has responsibility for education matters are also required to observe the Councillor Code of Conduct.

Role of Members

- Scrutiny Task and Finish Groups are member-led and members should control the direction of the review, but always in compliance with the defined terms of reference. All variations must be approved by the commissioning scrutiny committee.

- Members of the Group are responsible for setting the agenda within the above parameters.
- Members of the Group may question Cabinet Members, senior officers, and other contributors on issues related to the specific review subject.
- Members of the Group are responsible for making the recommendations in the final report (Officers are not part of the decision making process) and in so doing must observe the equality and diversity policies of the Council.

SCRUTINY COMMITTEE - TASK AND FINISH GROUP SCOPING DOCUMENT

Task and Finish Group Title:	
Membership of Working Group:	
Service Area:	
Key Officer Contacts: [Lead and support]	
Scoping form completed by:	
T&F Group requested by:	
Criteria for inclusion in work programme:	(If yes please provide details)
External or National Priorities:	
Priorities identified in Council Vision, Business Plan or other Key Policies/Plans:	
Planned Key Decisions or Forward Plans:	

Evidence from Public Consultation or trend from Councillor Case Work:	
<p>Summary of anticipated benefits and outcomes:</p> <p>[Give a brief description of what we hope undertaking the review will achieve e.g. improved performance, amended policy, efficiencies or increased footfall]</p>	
<p>Indicators of success:</p> <p>[Include details of desired indicators of success and how these can be measured]</p>	
Scope:	
<p>In Scope:</p> <p>[Define what the scope of review is]</p>	
<p>Excluded from Scope:</p> <p>[Define the exclusions from the scope of the review]</p>	
Council and Partner Involvement:	
Who would need to be involved from the Council?	

Which of our partners, stakeholders and Members of the community should we discuss this with?	
Review of Resources:	
Evidence: [Background Information and documents to look at]	
Witnesses: [Who to see and when]	
Site visits: [Details of site visits and when they will be held if appropriate]	
Democratic Services & Other Service Resource:	
Consultation: [Is there any consultation which needs to be undertaken to feed into the review?]	
Expert Advice: [Do the Group require expert	

advice support due to the nature of the review? Note: if a cost is involved the senior officer will need to agree payment]	
Risks:	
What are the risks to the review?	
Timescales:	
Anticipated Review Start Date:	
Anticipated Reporting Date:	
Frequency of Meetings:	
<i>Date to evaluate impact:</i> [A review of the outcomes by the Committee should be agreed accordingly by the Committee and the Executive/Lead Member]	

Part H - MEMBER ROLE DESCRIPTIONS

All Members of Council

Representative democracy elements	Participative democracy elements
<p>Political Representative</p> <ul style="list-style-type: none"> • Uses political and democratic processes to deliver group manifesto • Provides peer support to other Members / spreads best practice <p>Community Leader</p> <ul style="list-style-type: none"> • Sets direction, make choices and delivers community needs and aspirations at both strategic and local levels • Balances Officer recommendations against community aspirations when making decisions <p>Transformer of Services</p> <ul style="list-style-type: none"> • Leads, supports, co-ordinates partners and partnerships at the local level • Proactively works and supports outcomes across the tiers of government and key partners • Works effectively and in partnership with officers • Influences spending / decision-making in the locality through devolution of resources / decision making – through making representations <u>before</u> decisions are made • Challenges decision-makers / service providers • Varies / enhances / monitors service standards • Measures impact of outcomes on communities <p>Knowledge Champion</p>	<p>Voice of the Local Community</p> <ul style="list-style-type: none"> • For all sectors of the community - challenges the Council / partners • Ensures that the community's voice is heard within the Council <p>Community Leader</p> <ul style="list-style-type: none"> • Makes community led developments happen – supports local projects • Educates local people about the Council and why they should get involved • Promotes the Council and the services it provides • Contributes to and inspires community participation at a local level, including through consultation / mediation • Community champion promoting leadership, direction and vision in local groups and building support for that vision • Freedom to act on local (public realm) issues and resolve / assist through Community Budgets • Be proactive in enabling local people and groups to access services and in responding to enquiries / complaints from constituents <p>Transformer of Services</p> <ul style="list-style-type: none"> • Enable communities to take action to meet local problems /needs

<ul style="list-style-type: none"> • Real source of local knowledge – to the public and to the Council • Uses local information to challenge performance / maximise community benefit • Develops / maintains a working knowledge of other local organisations and services 	
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Somerset Council Member role description

Summary

Somerset Councillors represent their local communities, championing the needs and interests of residents and working to make a difference to the people, place and prosperity of their local area and Somerset as a whole. It is a position of critical importance and great responsibility, and Councillors are held to account by the full Council and by the residents they serve.

Main purpose and responsibilities

Community Leader

- To represent and provide visible leadership to local constituents, and the community of Somerset as a whole, and to balance those roles as necessary and appropriate.
- To signpost constituents, and to facilitate them in achieving appropriate support within the Council and with partners, and support constituents with day-to-day service issues.
- To engage the community of Somerset in the work we do, seeking feedback on our services and understanding the needs of residents (including young people) to enable us to deliver better services and make better decisions and also to ensure our residents know how they can influence our decisions.
- To support the development of diverse and sustainable communities who have the skills and are empowered to better help themselves.
- To proactively identify opportunities for us to improve the services we offer our residents and the people and prosperity of Somerset, balancing and respecting the needs of both urban and rural, as well as constantly striving to make the best use of public money in delivering our services in the most efficient way.

- Local Community Networks will be fundamental to how Somerset Council Members will fulfil their community leadership role, influence service delivery and advocate for local communities. LCNs will have real influence as committees of the new Council. Each Somerset Council member will have a seat on the LCN(s) for the area that their division comes within. LCNs will create across Somerset a new type of community engagement and partnership, while enabling tailored innovative services locally designed to meet the needs of present and future communities.
- Through their role on LCNs, Members will be well placed to listen to communities and work with them to harness their strengths and align the support that the council can bring to address local priorities. Members will be able to speak on behalf of and be accountable for the full range of local government services in Somerset and to argue the case for their area. They will have a key role in supporting, establishing and developing close links with other local public services, including the NHS, schools, the voluntary sector and other key partners.

Influencing and Shaping Services

- To identify opportunities for different groups to work together or partner for the benefit of our communities, including other public sector services, the private sector, the voluntary sector and community representatives.
- To work with other Members, irrespective of political allegiance, in the best interests of Somerset.
- To influence the work of the Council through positive engagement in the wide the range of avenues available to them (e.g. motions to Council, scrutiny).
- To scrutinise and challenge decision makers, acting as a critical friend, holding them to account and providing constructive feedback – maximising opportunities to reflect the voices of your community.
- To carry out the range of corporate responsibilities required of the role e.g. being a corporate parent; upholding safeguarding responsibilities; promoting equality, diversity and fairness; taking an active part in setting the Council's budget and policy framework; considering the impacts of climate change in decision making and their everyday role; explaining decisions made by the Council; attending learning and development events to support in the delivery of their role and acting as a Member of the fire authority.

- Working across Somerset to raise awareness and understanding of how public services are changing, and how that relates to Somerset's communities.

Representative, advocate and knowledge champion

- To attend and participate in meetings of the Council and its committees as appointed by the Council, the Leader or the Group Leader or relevant democratic process and to contribute constructively using their local insight and experience.
- To represent the Council, as appropriate, at Town and Parish Councils, including agreeing with them the best way to achieve positive and meaningful engagement, and identifying opportunities to support greater devolution from Somerset Council to the local councils.
- As appropriate, to represent and be an advocate of the Council on national or outside bodies and at national events.
- Foster professional and positive working relationships with officers
- Commit to continuing to develop and enhance their personal skills and knowledge throughout their term of office and encourage others to develop;
- ensure the highest standards of conduct and ethics and to comply at all times with the Council's Code of Conduct
- identify and embrace the development of new and innovative ways of doing things including new technologies, processes and working practices; and
- oversee trends and developments, both at county and national level, and ensure that these are taken into account through the Council's decision-making process.

VALUES

To be committed to and promote high standards of conduct and ethics through upholding the Principles of Public Life and complying with the Council's Code of Conduct:-

- Selflessness – to serve only the public interest and never improperly confer an advantage or disadvantage on any person.
- Honesty and Integrity – to not place themselves in situations where their honesty and integrity may be questioned, to not behave improperly and avoid the appearance of such behaviour.

- Objectivity – to make decisions on merit, including when making appointments, awarding contracts or recommending individuals for rewards or benefits.
- Accountability – to be accountable to the public for their actions and the manner in which they carry out their responsibilities and to cooperate fully and honestly with any scrutiny appropriate to their particular office.
- Openness – to be as open as possible about their actions and those of their authority, and to be prepared to give reasons for those actions.
- Leadership – to promote and support these principles by leadership, and by example, and act in a way that secures or preserves public confidence.

To further observe the following principles:-

1. Duty to uphold the law – to uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.
2. Personal judgement – to take account of the views of others, including their political groups, but to reach their own conclusions on the issues before them and act in accordance with those conclusions.
3. Respect for others – to promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. To respect the impartiality and integrity of the authority's statutory officers and its other employees. To help encourage respect between the Council and other organisations.
4. Stewardship – to do whatever they are able to do to ensure that their authorities use their resources prudently, and in accordance with the law.

Rights and Duties

- a. Members will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- b. Members will not make public information which is confidential or exempt without the consent of the Council, or divulge information given in confidence to anyone other than a Member or Officer entitled to know it. For these purposes the terms "confidential" and "exempt" shall have the meanings given to them in Local Government Act 1972.

SKILLS

No specific or formal qualifications are required to be a Councillor. The most important qualification is a clear passion for improving the way we support the residents, community, businesses and local organisations of Somerset but knowledge and experience picked up through personal and professional life are important to the role. Such knowledge may include, but is not limited to, housing, regeneration, the needs of specific groups, financial and business planning, legal and regulatory procedures. All Councillors will receive support, as appropriate, to support them in delivering their role.

Equally, having, or being able to develop the following skills, knowledge and attributes will help in the delivery of the role:-

- Communication –the ability to communicate clearly both orally and in writing; to demonstrate active listening and responding; public speaking; negotiation; mediation; peaceful resolution of conflict; knowledge of common communications methods including skype, social media and creativity in delivering messages to different groups.
- Relationship building and teamwork – the ability to create and maintain positive, trusting and constructive relationships across the community including interaction with constituents, the police, health service, charities and voluntary bodies, Town and Parish Councils and Council officers.
- Problem solving and analytical skills –acting as a facilitator to enable issues to be resolved; thinking of innovative ways to resolve challenges and differences, being able to bring together different approaches or people to bring varying perspectives on issues, highlighting advantages and disadvantages of different options and acknowledging the potential friction between local and strategic priorities.
- Organisational skills – this includes workload and time management, planning activities, keeping up to date with Committee responsibilities and lines of working, making and keeping appointments and meeting deadlines.
- Information technology skills – including the ability to use email (outlook) and other software such as Microsoft Teams to receive and respond to correspondence from a range of sources and to access information on the internet.

Anticipated hours required to perform the role

National figures show that unitary Members spend on average 27 hours a week on the role. There are formal meetings you will be expected to attend, but much of the work will be in your division when constituents contact you with a problem. The work includes:

- Resolving problems raised by your constituents;
- Attending council and policy making meetings;
- Attending Town and Parish council and LCN meetings in your division;
- Representing the council on outside bodies.

Members who have additional regulatory, licensing, scrutiny or executive

responsibilities or other special responsibilities will be expected to work additional hours.

The time unitary Members will need to carry out the role will depend on many things:

- If you have lots of meetings to attend, you are likely to spend more time travelling;
- If you are a new Member you will have to spend a lot of time being trained to enable you to carry out the role;
- If you have a particular interest you may choose to become more involved in committees associated with these matters;
- If there are important or controversial issues in your division, they may occupy a lot of your time.

Chair of Council

Election of / Purpose

The Chair of Council is elected annually by the Council.

The Chair's role is to:

- preside at formal meetings of the Council and other Council events
- conduct the affairs of Council and any other duties with no political or personal bias
- represent the Council in ceremonial and similar events
- advance the interests of the Council and of Somerset.

Key responsibilities

1. To chair all meetings of Full Council and provide effective management of the business to achieve good governance and clear decision making;
2. To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members of Council are able to hold the Leader, Executive, Lead Members and Officers (where Officers have taken Key Decisions) to account.
3. To uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
4. To promote public involvement in the Council's activities.
5. To be the conscience of the Council;
6. To preside at other meetings in connection with the Council's activities, as required.
7. To delegate functions to the Vide-Chair of Council as the Chair sees fit.
8. To help ensure that all Members of Council are able to discharge their responsibilities to the best of their ability.
9. To maintain regular contact with Political Group leaders and any Members who do not belong to a Political Group.
10. To represent the Council and, when appropriate, the County of Somerset, at civic and similar functions, and to host such functions on behalf of the Council as necessary.
11. To act as host to royalty, civic dignitaries and similar visitors to the County or the Council.

Vice-Chair of Council

Appointment / Purpose

The Vice-Chair of Council is appointed annually by full Council.

The Vice-Chair of Council provides the Chair of Council with a dedicated source of support.

Key Responsibilities

1. In the absence of the Chair, to chair meetings of Full Council.
2. At the Chair's request, to preside at other meetings in connection with the full Council's activities.
3. As appropriate, to assist the Chair in the management of Council meetings.
4. To maintain regular contact with Political Group leaders and any Members who do not belong to a Political Group.
5. At the Chair's request, to represent the Council and, when appropriate, the County of Somerset, at civic and similar functions, and to host such functions on behalf of the Council.
6. At the Chair's request, to act as host to royalty, civic dignitaries and similar visitors to the County or the Council.

Leader of Council

Appointment/Purpose

The Leader is appointed by Full Council for a term of four years. The Council, has however, retained the ability to replace the Leader during that period if it so wishes.

In accordance with statute and the Council's Constitution, the key purpose of the Leader's post in summary is to provide the political focus and leadership within and outside of the Council.

Key responsibilities

1. To provide the political leadership to the Council including leading the Executive in the development and delivery of the Council's Policy Framework and Budget.
2. To be the Council's key contact for outside organisations (including Central Government, Local Authority Associations and Council partners), and the media.
3. To provide political direction and leadership to his / her group of Members.
4. In respect of the Executive:
 - To have ultimate responsibility and accountability for the executive decision making arrangements of the Council and for any such decisions that he / she takes under these arrangements
 - To appoint and lead the Executive and ensure that its work and that of the individual Lead Members is planned and conducted in accordance with relevant legislation and the Council's Constitution
 - To ensure the effective integration of roles, responsibilities and functions within the Executive Membership and with Officers via the Executive Scheme of Delegation
5. To communicate the Administration's policies and priorities to the Senior Leadership Team and, in particular to work closely with the Chief Executive to secure co-ordination of the Council's leadership and management.
6. To communicate the Administration's policies, priorities and actions to all Members of the Council and to promote effective working relationships across the Council's Party Groups.
7. Working with the Chief Executive, the Leader has ultimate responsibility for ensuring that overall partnership working is effective.

8. To ensure that arrangements are in place to enable the views of Members of Council and of other key influencers to be heard and taken into account when Council policy is being formed and decisions taken.
9. To develop effective working relationships with the Scrutiny Committees and other Committees of the Council.
10. To promote and support good governance of the Council and its business.

Deputy Leader of Council

Appointment / Purpose

The Deputy Leader is appointed by the Leader for a four year term of office, although the Leader may remove the Deputy Leader from office at any time. In the event of the removal of a Deputy Leader from office, the Leader must appoint another Deputy Leader for the remainder of the four year term of office.

The primary purpose of the Deputy Leader is to assist and work with the Leader and to deputise for him / her accordingly.

Key responsibilities

1. To deputise for the Leader, as necessary, unless statutory requirements prevent this or the Leader provides otherwise.
2. To discharge other roles and functions, including decision-making responsibilities, as agreed by the Leader.
3. To establish effective working relationships with other Members, particularly Lead Members and including the Chairs of Committees.
4. To establish effective working relationships with the Chief Executive, Senior Leadership Team officers and other staff.

Lead Member

Appointment / Purpose

Lead Members are appointed by the Leader of the Council. Their titles and areas of responsibility are also agreed by the Leader. In addition, the Lead Member with responsibility for children's services has specific statutory responsibilities beyond the roles described below.

Key Responsibilities

Lead Members have a range of corporate (as a Member of the Executive) and individual service responsibilities.

In respect of the corporate role and as a member of the Executive:

1. To promote the Council and its interests inside and outside of the Council on partnerships and outside bodies.
2. To assist in the shaping and development of the Council's strategic priorities and vision.
3. To participate effectively as a member of the Executive, taking joint responsibility for actions and being accountable collectively with other Lead Members.
4. To balance his / her specific service responsibilities with the wider interests of the Council.
5. To promote and support good governance of the Council and its business.

For his / her service responsibilities:

1. To develop expertise, knowledge and take responsibility for a specific service area or areas.
2. To take decisions as delegated by the Leader within the Executive Scheme of Delegation and to be accountable for those decisions.
3. To provide political focus and leadership for the Political Group as the lead spokesperson and 'first' political contact for Opposition Group Spokespersons, other Members of Council, the public, press and Officers.
4. To represent the Council on external bodies as necessary.

5. To bring forward policy proposals and operational issues for decision, utilising support from scrutiny as necessary, present them for approval as necessary and ensure implementation.
6. To be aware of developments at national, regional and local level and participate as necessary in relevant networks.
7. To maintain an overview of the performance, efficiency and effectiveness of the service(s) and promote excellence in service development and provision.
8. To provide leadership to sub-regional and local partnerships as necessary – in the pursuit of common aims and priorities
9. To assist the activities of the Scrutiny Committees and other Committees of the Council.
10. To keep other Members of Council informed about their activities,
11. To maintain effective working relationships with Senior Leadership Team officers and other Officers.

Associate Lead Member

Purpose and Key Responsibilities

Associate Lead Members are appointed by the Leader of the Council. Their titles and functions are also agreed by the Leader. Their primary role is to provide advice, policy development and support to their Lead Member.

Associate Lead Members will be allocated specific service areas to lead and advise the Executive and relevant Lead Member. They are not able to take decisions. They will:

1. Support their relevant Lead Member to provide clear political leadership both within and outside of the Council in order to help advance and deliver the Council's priorities and key outcomes
2. Focus on information gathering and understanding key policy / service delivery in their areas of responsibility
3. Assist with the development of options and policies for consideration by the Executive and relevant Lead Member taking into account national policies and local circumstances
4. Brief and make recommendations to Executive and their relevant Lead Members and others on relevant issues in relation to policy and strategy development, service improvement or changes and decision making.

5. Represent or deputise for their relevant Lead Member at meetings or events as necessary.
6. Promote and support good governance of the Council and its business.
7. Keep other Members of Council informed about their activities
8. Maintain effective working relationships with Senior Leadership Team officers and other Officers.
9. Create and maintain effective relationships with partners and organisations to deliver the Council's priorities
10. Be accountable to their relevant Lead Member, and ultimately the Leader of the Council, for the development and delivery of policies and strategies to meet the outcomes required by the Council and the Executive.
11. Be accountable to their relevant Lead Member for supporting the commissioning and delivery of services to meet the outcomes required by the Council and the Executive. This includes supporting the delivery of Council Plan priorities and Medium Term Financial Plan savings
12. Play a key role in supporting transformational programmes within their areas of responsibility
13. Play a key role in the delivery of specific projects within their areas of responsibility

Chair of a Scrutiny Committee

Role Purpose

Each of the Scrutiny Committees have a Chair that is elected by Full Council.

The Committee Chairs primary role is to provide leadership for the Council's scrutiny function and in particular for the Scrutiny Committees' activities and meetings.

Key responsibilities

1. To promote the role of scrutiny (as the Council's lead spokesperson) within and outside of the Council and ensure that the Committee's role is understood by all Members of Council, other agencies and the public.
2. To ensure the effectiveness of the scrutiny process and encourage the participation of all Members of the Council in that process.
3. To publicise the Committees' activities to other Members.
4. To lead on the generation and organisation of business for the Committees' work programme and the scrutiny function generally.
5. To ensure that there are effective arrangements in place and applied to hold decision makers to account (Members and Officers – in relation to Key Decisions) through the scrutiny process.
6. To chair the meetings and provide effective management of the business to achieve good governance and clear decision making.
7. To ensure that the Vice-Chair of the relevant Scrutiny Committee is adequately briefed on key issues.
8. To ensure implementation of the Committees' actions through effective monitoring.
9. To establish effective working relationships with the Leader, Executive, Lead Members and the Chair and Vice-Chair of Full Council and Committees of the Council.
10. To establish effective working relationships with the Senior Leadership Team officers and other Officers.

Vice-Chair of a Scrutiny Committee

Appointment / Purpose

Each Scrutiny Committees' Vice-Chair is appointed by Full Council.

The primary purpose of the Vice-Chair is to provide a source of support to the Chairs of the Scrutiny Committees.

Key responsibilities

1. To assist the Chair with the operation and management of the scrutiny function and the management of the relevant Committee's meetings.
2. To chair meetings of the Committee or undertake other responsibilities of the Chair where the Chair is unable to act.
3. To assist the Chair with any aspects of the Council's scrutiny function and / or the relevant Committee's activities including the implementation and monitoring of the Committee's actions and planning / developing scrutiny activity.
4. To establish effective working relationships with the Leader, Executive, Lead Members and the Chair and Vice-Chair of Full Council and Committees of the Council.
5. To establish effective working relationships with Senior Leadership Team officers and other Officers.
6. This is in addition to the responsibilities undertaken as a Scrutiny Committee spokesperson (if appropriate).

Scrutiny Committee Spokesperson

Appointment / Purpose

Each of the political groups who do not hold the chairmanship of a Scrutiny Committee may appoint a formal spokesman for their group from amongst their members on the Committee, to lead for the Group in respect of scrutiny activities.

Key Responsibilities

1. To act as the Political Group's lead spokesman at meetings of a Scrutiny Committee and in respect of other scrutiny business.
2. In co-ordination with the Group Leader, to act as the Political Group's spokesman to the public and press about matters coming to scrutiny and the relevant Scrutiny Committee.
3. To act as the primary point of contact for Council Officers in respect of the Political Group's input to the work of the Scrutiny Committee.
4. To contribute to the generation and planning of business for the Committee's meetings and to attend the Chair's pre-meeting briefing.
5. To maintain an awareness of the contents of the Forward Plan of Key Decisions and of Key Decisions subsequently taken and implemented.
6. To ensure that there are effective arrangements in place and applied to hold decision makers to account [Members and Officers (in relation to Key Decisions)] through the scrutiny process.
7. To establish an effective working relationship with the Chair of a relevant Scrutiny Committee.
8. To establish effective working relationships with Senior Leadership Team officers and other Officers.
9. To liaise with and report back to other Members of their Group about the activities of the Scrutiny Committees and to arrange substitutes as necessary for Group Members.

Chair of Regulation Committee

Appointment / Purpose

The Regulation Committee Chair is elected by the Full Council.

The Chair's primary role is to chair meetings and manage the business of the Committee.

Key responsibilities

1. To chair meetings of the Regulation Committee and provide effective management of the business to achieve good governance and clear decision making.
2. To ensure that applicants and other interested parties are satisfied as to the transparency of the regulatory process.
3. To be the Council's lead spokesperson for the Committee within the Council and externally with partners and individuals.
4. To ensure that the Vice-Chair of the Committee is adequately briefed on relevant issues.
5. To develop and maintain a working knowledge of the Committee's functions and the procedures and practices that govern its operation.
6. To give guidance to Officers as necessary about the Committee's business.
7. To respond to Officers' requests for advice on issues they propose to deal with under delegated powers.
8. To help ensure that all the Committee's Members are adequately trained to discharge the Committee's functions.
9. To establish effective working relationships with Senior Leadership Team officers and other Officers involved in the functions exercised by the Committee.

Vice-Chair of Regulation Committee

Appointment / Purpose

The Regulation Committee's Vice-Chair is appointed annually by the Full Council.

The Vice-Chair's primary role is to support the role of the Chair.

Key responsibilities

1. As appropriate to assist the Chair in managing the Committee's meetings.
2. In co-ordination with the Committee Chair, to act as a Council spokesperson in respect of the Committee's activities.
3. As and when necessary, to chair meetings of the Regulation Committee.
4. Where the Chair is unable to act, to respond to Officers' requests for advice on issues they propose to deal with under delegated powers.
5. To develop and maintain a working knowledge of the Committee's functions and the procedures and practices that govern its operation.
6. To establish effective working relationships with Senior Leadership Team officers and other members of staff involved in the Committee's functions.

Chair of the Pensions Committee

Appointment / Purpose

The Chair of the Pensions Committee is elected by the Full Council.

The Chair's primary role is to chair meetings and manage the business of the Committee.

Key responsibilities

1. To chair meetings of the Committee and provide effective management of the business to achieve good governance and clear decision making.
2. To acquire and maintain sufficient knowledge of the background to the Committee's responsibilities to ensure that the Committee discharges its functions effectively.
3. In chairing Committee meetings, to have regard to the requirements of relevant Regulations which regulate the Committee's activities.
4. To build effective relationships with other Committee members, the Section 151 Officer, Senior Leadership Team and other relevant staff, and any bodies which help the Committee discharge its functions.
5. On behalf of the Committee, to prepare an annual report for inclusion in the Somerset Council Pension Fund Annual Report and Accounts.
6. To keep all Members of Council informed about the work of the Committee.

Chair of the Audit Committee

Appointment / Purpose

The Audit Committee's Chair is elected annually by the Full Council.

The Chair's primary role is to chair meetings and manage the business of the Committee.

Key responsibilities

1. To promote the role of the Audit Committee within the Council and ensure that the Committee's role is understood by all Members of Council, relevant external agencies and the public.
2. To publicise the Committee's activities to other Members, including presenting an annual report to the Annual Meeting of Full Council.
3. To lead on the generation and organisation of business for the Committee.
4. To chair the Committee's meetings and provide effective management of the business to achieve good governance and clear decision making.
5. To ensure that the Vice-Chair of the Committee is adequately briefed on relevant issues.
6. To ensure Committee Members have appropriate training to undertake their role and to arrange for such training to be provided as necessary.
7. To ensure implementation of the Committee's actions through effective monitoring.
8. To establish effective working relationships with external and internal audit, inspection agencies and other relevant bodies.
9. To establish effective working relationships with the Leader, Executive, Lead Members and the Chair of the Scrutiny Committee.
10. To establish effective working relationships with the Senior Leadership Team officers and other Officers.

Vice-Chair of the Audit Committee

Appointment / Purpose

The Audit Committee's Vice-Chair is appointed annually by the Full Council.

The Vice-Chair's primary role is to support the role of the Chair of the Committee.

Key responsibilities

1. As appropriate to assist the Chair in managing the Committee's meetings.
2. In co-ordination with the Committee Chair, to act as a Council spokesperson in respect of the Committee's activities.
3. As and when necessary, to chair meetings of the Committee and in doing so provide effective management of the business to achieve good governance and clear decision making.
4. To develop and maintain a working knowledge of the Committee's functions and the procedures and practices that govern its operation.
5. To establish effective working relationships with external and internal audit, inspection agencies and other relevant bodies.
6. To establish effective working relationships with the Leader, Executive, Lead Members and the Chair of the Scrutiny Committee.
7. To establish effective working relationships with Senior Leadership Team officers and other members of staff involved in the Committee's functions.

Chair of the Constitution & Governance Committee

Role Purpose

The Chair of the Constitution & Governance Committee is appointed annually by the Council.

The Chair's primary role is to chair meetings and manage the business of the Committee.

Key responsibilities

1. To promote the role of the Committee within the Council and ensure that the Committee's role is understood by all Members of Council and the public.
2. To publicise the Committee's activities to elected Members, including presenting an annual report to the Annual Meeting of Full Council.
3. To lead on the generation and organisation of business for the Committee.
4. To chair the Committee's meetings and provide effective management of the business to achieve good governance and clear decision making.
5. To ensure that the Vice-Chair of the Committee is adequately briefed on relevant issues.
6. To ensure implementation of the Committee's actions through effective monitoring.
7. To establish effective working relationships with the Chair of the Council, the Leader of the Council and other key members of the Council including the Leader of the Opposition and the Chairs of the Committees.
8. To establish effective working relationships with the Monitoring Officer and other Officers as necessary.

Chair of the Standards Committee

Role Purpose

The Chair of the Standards Committee is appointed annually by the Council.

The Chair's primary role is to chair meetings and manage the business of the Committee.

Key responsibilities

1. To promote the role of the Standards Committee within the Council and ensure that the Committee's role is understood by all Members of Council and the public.
2. To publicise the Committee's activities to elected Members, including presenting an annual report to the Annual Meeting of Full Council.
3. To lead on the generation and organisation of business for the Committee.
4. To chair the Committee's meetings and provide effective management of the business to achieve good governance and clear decision making.
5. To ensure that the Vice-Chair of the Committee is adequately briefed on relevant issues.
6. To ensure implementation of the Committee's actions through effective monitoring.
7. To establish effective working relationships with the Chair of the Council, the Leader of the Council and other key members of the Council including the Leader of the Opposition and other political group leaders.
8. To establish effective working relationships with the Monitoring Officer and other Officers as necessary.

Leader of the Opposition

Role Purpose

The leader of the largest Opposition Group on the Council is formally designated 'Leader of the Opposition' by the Council.

This designation acknowledges that the Council's largest political group forms the Council's 'Administration' and that the other political groups are not part of that activity. It identifies the Member responsible for providing the focus for those groups' role in opposition.

Key responsibilities

1. To support the democratic process by ensuring that the activities and decisions of the Administration are examined and, where appropriate, challenged.
2. To bring forward alternatives to policies or operational decisions proposed by the Administration, as appropriate.
3. To ensure that the political group sets their expectations of the Group Leader and that those expectations are delivered.
4. To provide political direction and leadership to his/her group of Members, setting standards and expectations and encouraging Members to play a full part in the running of the Council and being effective community leaders.
5. To provide guidance and support to Opposition Group Spokespersons and Committee Chairs / Vice-Chairs as appropriate.
6. To liaise with the Leader of any other political group in Opposition on the Council as appropriate.
7. To be aware of the views of Opposition Members of Council and of other key influencers and use those views in delivering the key responsibilities of the post.
8. To establish effective working relationships with the Leader of Council and the Chair of the Council and its Committees.
9. To establish effective working relationships with Senior Leadership Team officers and, as appropriate, other staff.

Deputy Leader of the main Opposition Group

Purpose of the Post

As the Leader of the largest Opposition Group on the Council is also formally designated Leader of the Opposition, the purpose of the Deputy Leader of the main Opposition Group is to support the Group Leader and to aid the Group's organisation and activities.

Key responsibilities

1. As required by the Leader, to support the role and activities of the Leader and the Group.
2. To undertake the role of and assume the responsibilities of the Leader in the absence of the Leader or where the Leader is unable to act.
3. To establish effective working relationships with Senior Leadership Team officers and, as appropriate, other staff.

Leader of an Opposition Political Group

Purpose of the Post

The purpose of the statutory requirement to designate a Group Leader is to identify and publicise a member of the Group to act as a focal point for the Group and its activities.

Key responsibilities

1. To ensure that the political group sets their expectations of the Group Leader and that those expectations are delivered.
2. To provide political direction and leadership to their group of Members, setting standards and expectations and encouraging Members to play a full part in the running of the Council and being effective community leaders.
3. Together with other opposition group leaders, to support the democratic process by ensuring that the activities of the administration are examined and, where considered necessary, challenged.
4. To provide support and advice to any members of the Group who are Chairs or Vice-Chairs of Committees.
5. When appropriate, to bring forward alternatives to policies or operational decisions proposed by the Administration.
6. To liaise with the Leader of any other political group in opposition on the Council.
7. To establish effective working relationships with the Leader of Council and the Chair of the Council and its Committees.
8. To establish effective working relationships with Senior Leadership Team officers and, as appropriate, other staff.

Opposition Group Spokespersons

Purpose

These posts are held by members of the largest Opposition Political Group on the Council. The sphere of interest of each corresponds with that of a Lead Member. The primary role of the post is to provide an effective political counter-balance to the role of the Lead Member.

Key responsibilities

In respect of the service area(s) for which the post-holder has an interest:

1. To develop expertise and knowledge.
2. To provide political focus and leadership within the Group's membership.
3. To be the Group's lead spokesperson and 'first' political contact for other Members of Council, the public, press and Officers.
4. To lead the development of approaches to policy and operational approaches on behalf of the Group and to present them at member-level meetings, as appropriate.
5. To be aware of policies being developed and decisions being taken by the Administration, including those taken by individual Lead Members, and to challenge/contribute to them as necessary via mechanisms provided for in the Constitution.
6. To keep members of the Group informed.
7. To establish and maintain effective working relationships with Senior Leadership Team officers and other Officers.
8. To establish appropriate contacts with other bodies and with individuals to exchange views and information.

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Somerset Council

Members Code of Conduct

Introduction

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

Definitions

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring

Officer.

Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect

As a councillor:

1.1 I treat other councillors and members of the public with respect.

1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

2. Bullying, harassment and discrimination

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and do not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and

contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the council

As a councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
 - i. I have received the consent of a person authorised to give it;**
 - ii. I am required by law to do so;**
 - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
 - iv. the disclosure is:**
 - 1. reasonable and in the public interest; and**
 - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
 - 3. I have consulted the Monitoring Officer prior to its release.**

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a councillor:

5.1 I do not bring my role or local authority into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in you or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of position

As a councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

6.2 I will not take part in the scrutiny of any decision I have been involved in making. However, I may provide evidence or opinion to those undertaking any scrutiny process.

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local authority or authorising their use by others:

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support

- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

7B Consideration of advice

As a councillor:

7B.1 I will, when reaching decisions on any matter, consider and pay due regard to any relevant advice provided to me by:-

- a) the Council's Chief Finance Officer (S151) and/or**
- b) the Council's Monitoring Officer or the Council's Monitoring Officer and legal advisor (if separate individuals);**

in accordance with their legal requirements.

7B2 I will give reasons for departing from the advice of the Chief Finance Officer (S151) or Monitoring Officer/legal advisor

It is extremely important for you as a councillor to have regard to advice from your Chief Finance Officer or Monitoring Officer where they give that advice under their statutory duties. As a councillor you must give reasons for all decisions in accordance with any legal requirements and any reasonable requirements imposed by your local authority.

8. Complying with the Code of Conduct

As a Councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I do not make trivial or malicious complaints against other councillors.

8.3 I cooperate with any Code of Conduct investigation and/or determination.

8.4 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings including the complainant and any witnesses.

8.5 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Protecting your reputation and the reputation of the local authority

8 Interests

As a councillor:

8.4 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

9 Gifts and hospitality

As a councillor:

- 9.4 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 9.5 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 9.6 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 that I have been offered but have refused to accept within 28 days of the offer.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

Appendices

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office or within 28 days of your interests changing you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

"Disclosable Pecuniary Interest" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

8. Where a matter arises at a meeting which **affects** –
 - a. your own financial interest or well-being;
 - b. a financial interest or well-being of a relative or close associate; or
 - c. a financial interest or wellbeing of a body included under Other Registerable Interests as set out in **Table 2**you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
 - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
 - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

In the event that your non-registerable interest relates to -

- (1) an unpaid directorship on a company owned by your authority or
- (2) another local authority of which you are a member,

subject to your declaring that interest, you are able to take part in any discussion and vote on the matter.

10. Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the

	<p>councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land and Property	<p>Any beneficial interest in land which is within the area of the council.</p> <p>‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
Licenses	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
Corporate tenancies	<p>Any tenancy where (to the councillor’s knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
Securities	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor’s knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were</p>

	spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.
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* 'director' includes a member of the committee of management of an industrial and provident society.

* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2: Other Registrable Interests

<p>You must register as an Other Registerable Interest :</p> <ul style="list-style-type: none">a) any unpaid directorshipsb) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authorityc) any body<ul style="list-style-type: none">(i) exercising functions of a public nature(ii) directed to charitable purposes or(iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) <p>of which you are a member or in a position of general control or management</p>

Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Best practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Best practice 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to

review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Best practice 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

Best practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.

Appendix D

Guidance on Bias and Predetermination –This does not form part of the Code of Conduct

- Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life, you may participate in a decision on the issue in your political role as a councillor. However, you must not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
- The courts have sought to distinguish between situations which involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a 'closed mind' approach and likely to leave a decision susceptible to challenge by Judicial Review. Whereas being predisposed on a matter is acceptable provided you remain open to listening to all the arguments and changing your mind in light of all the information presented at the meeting.
- Section 25 of the Localism Act 2011 provides that a councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter.
- In the circumstances, when making a decision, consider the matter with an open mind and on the facts made available to the meeting at which the decision is to be taken.
- As a councillor you will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that you were biased. If you have predetermined your position, you should withdraw from being a member of the decision-making body for that particular matter.

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G - PROTOCOL FOR MEMBER / OFFICER RELATIONS

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1. Introduction

- 1.1 The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another. The Protocol's intention is to build and maintain good working relationships between Members and Officers as they work together.
- 1.2 A strong, constructive, and trusting relationship between Members and Officers is essential to the effective and efficient working of the Council.
- 1.3 This Protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared object of these Codes is to enhance and maintain the integrity of Local Government and they therefore demand very high standards of personal conduct.
- 1.4 The following extract from the Local Government Association ("LGA") guidance on the 2020 Local Government Association Model Councillor Code of Conduct states that:

"Both Councillors and officers are servants of the public and are indispensable to one another. Together, they bring the critical skills, experience and knowledge required to manage an effective local authority."

At the heart of this relationship, is the importance of mutual respect. Councillor-officer relationships should be conducted in a positive and constructive way. Therefore, it is important that any dealings between Councillors and officers should observe reasonable standards of courtesy, should show mutual appreciation of the importance of their respective roles and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.

Councillors provide a democratic mandate to the local authority and are responsible to the electorate whom they represent. They set their local authority's policy framework, ensure that services and policies are delivered and scrutinise local authority services.

Councillors of the executive, chairs and vice chairs of committees have additional responsibilities. These responsibilities will result in increased expectations and relationships with officers that are more complex. Such Councillors must still respect the impartiality of officers and must not ask them to undertake work of a party-political nature or compromise their position with other Councillors or other officers.

Officers provide the professional advice and managerial expertise and information needed for decision making by Councillors and to deliver the policy framework agreed by Councillors. They are responsible for implementing decisions of Councillors and the day-to-day administration of the local authority.

The roles are very different but need to work in a complementary way.

It is important for both sides to respect these differences and ensure that they work in harmony. Getting that relationship right is an important skill. That is why the code requires Councillors to respect an officer's impartiality and

professional expertise. In turn officers should respect a Councillor's democratic mandate as the people accountable to the public for the work of the local authority.

1.5 The provisions of this Protocol are designed to complement the LGA Guidance and LGA Model Code of Conduct and will be interpreted having regard to the requirements of the Members' Code of Conduct, the Officers' Code of Conduct, the Council's Whistleblowing Policy and the Council's policies, procedures and processes. This Protocol sets out how the relationship works and what both Members and Officers can expect in terms of mutual respect and good working relationships.

1.6 Definitions in this document:

- Members: refers to elected or co-opted Members
- Senior Officer: refers to members of the Council's senior leadership team
- Officers: refers to officers employed by the Council
- Administration: refers to the largest ruling political group on the Council.
- Opposition Group: refers to the largest political group in opposition on the Council.

2. Members

2.1 Mutual respect between Members and Officers is essential to good Local Government. Overly close personal familiarity between individual Members and Officers can damage this relationship and can be perceived as inappropriate or favouritism by the public or other Members and Officers.

2.2 It is important that any dealings between Members and Officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position.

2.3 In line with the Members' Code of Conduct, a Member must treat others with respect, must not bully or harass people and must not do anything which compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, the Council.

2.4 Officers can expect Members:

- to give political leadership and direction and to seek to further their agreed policies and objectives with the understanding that Members have the right to take the final decision on issues based on advice
- to act within the policies, practices, processes and procedures established by the Council
- to work constructively in partnership with Officers acknowledging their separate and distinct roles and responsibilities
- to understand and support the respective roles and responsibilities of Officers and their associated workloads, pressures and reporting lines

- to treat them fairly and with respect, dignity and courtesy
- to act with integrity, to give support and to respect appropriate confidentiality
- to recognise that Officers work to the instructions of their Senior Officers and not to individual Members or political groups
- not to subject them to intimidation, harassment, or put them under undue pressure. Members will have regard to the seniority of Officers in determining what are reasonable requests, having regard to the relationship between the Member and Officer, and the potential vulnerability of Officers, particularly at junior levels
- not to request them to exercise discretion which involves acting outside the Council's policies and procedures
- not to authorise, initiate, or certify any financial transactions or to enter into any contract, agreement or undertaking on behalf of the Council or in their role as a Member without proper and lawful authority
- not to use their position or relationship with Officers to advance their personal interest or those of others or to influence decisions improperly
- to comply at all times with the Members' Code of Conduct, the law, the Constitution and such other policies, procedures, protocols and procedures agreed by the Council.

2.5 It is important that Members of the Council:

- respect the impartiality of Officers and do not undermine their role in carrying out their duties
- do not ask Officers to undertake work, or act in a way, which seeks to support or benefit a particular political party or gives rise to an Officer being criticised for operating in a party-political manner
- do not ask Officers to exceed their authority where that authority is given to them in law, by the Council or by their Senior Managers

2.6 The Head of Paid Service, the Monitoring Officer and the Chief Finance (section 151) Officer and other Statutory Officers including the Director of Adult Services, Director of Children Services, Public Health Director, the County Solicitor and the Scrutiny Officer have specific responsibilities placed on them by law. These responsibilities go beyond their obligations as employees of the Council. Where an Officer is discharging their responsibilities under any statutory office Members shall not:

- improperly interfere with or obstruct the Officer in exercising those responsibilities
- victimise any Officer who is discharging or has discharged their responsibilities of Statutory Office
- compromise or attempt to compromise their impartiality and must allow them to carry out their duties in a neutral, non-biased and non-partisan way

3. Officers

- 3.1 The primary role of Officers is to advise, inform and support all Members and to implement the lawfully agreed policies of the Council.
- 3.2 Officers are responsible for day-to-day managerial and operational decisions within the Council. Members should avoid inappropriate involvement in such matters.
- 3.3 In performing their role Officers will act professionally, impartially and with political neutrality. Whilst Officers will respect a Member's view on an issue, the Officer should not be influenced or pressured to make comments, or recommendations which are contrary to their professional judgement or views.
- 3.4 Officers must:
 - implement decisions of the Council and its Committees which are lawful, which have been properly approved in accordance with the requirements of the law and the Council's Constitution and are duly recorded.
 - work in partnership with Members in an impartial and professional manner
 - treat Members fairly and with respect, dignity and courtesy
 - assist and advise all parts of the Council. Officers must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.
 - respond to enquiries and complaints in accordance with the Council's procedures.
 - be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public.
 - act with honesty, respect, dignity and courtesy at all times.
 - provide support and learning and development opportunities for Members to help them in performing their various roles.
 - not seek to use their relationship with Members to advance their personal interests or to influence decisions improperly.
 - comply, at all times, with the Officer Code of Conduct, and such other Policies or procedures approved by the Council.
 - Officers have the right not to support Members in any role other than that of Member, and not to engage in actions incompatible with this Protocol. In particular, there is a statutory limitation on Officers' involvement in political activities.

4. The Relationship: General

- 4.1 Members and Officers are indispensable to one another. However, their responsibilities are distinct. Members are accountable to the public, whereas Officers are accountable to the Council as a whole.
- 4.2 At the heart of the Codes, and this Protocol, is the importance of mutual confidence and trust and also of civility. Member/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position nor seek to exert undue influence on the other party. It is also important that such dealings take place only when Members and Officers are acting in their official capacity. It is important that both parties respect the other's free time.
- 4.3 Members should not raise matters relating to the conduct or capability of an Officer, or of Officers collectively, in a manner that is incompatible with this Protocol at meetings held in public, on social media or in the press. Officers do not necessarily have the same right of reply to such comments as Members do and Members should take care not to abuse or exploit this imbalance.
- 4.4 A Member who is unhappy about the actions taken by, or conduct of, an officer should:
- avoid personal attacks on, or abuse of, the officer at all times
 - ensure that any criticism is well founded and constructive
 - ensure that any criticism is made in private
 - take up the concern with the appropriate Senior Manager
 - If the matter is of a particularly serious nature inform the Chief Executive Officer.
- 4.5 Neither should an officer raise with a Member matters relating to the conduct or capability of another Officer or to the internal management of the service in a manner that is incompatible with the objectives of this Protocol.
- 4.6 Potential breaches of this Protocol are considered at paragraph 15 below.

5. Family relationships and friendships on Social Media

- 5.1 Any family relationships between Members and Officers (e.g. parent/child, spouse/partner) must be disclosed as soon as reasonably practicable to the Chief Executive Officer who will then decide how far this needs to be disclosed to others.
- 5.2 A Member should not take up a decision-making role where it would give them decision-making responsibility for any Officer to whom they are closely related so as to avoid any perceptions or accusations of preferential treatment or a lack

of objectivity.

- 5.3 If a Member or Officer is in any doubt about what is appropriate or not in relation to 5.1 or 5.2 above, then they should seek the advice of the Monitoring Officer or County Solicitor.
- 5.4 Members and Officers should carefully consider the appropriateness of forming friendships on social media and whether this will infer a friendship between the Officer and Member that could create a perception of lack of objectivity.

6. Officer Advice to Party Groups

- 6.1 There is statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to such considerations by party groups.
- 6.2 The support provided by Officers can take many forms, ranging from a briefing meeting with a member of the Cabinet or shadow Cabinet or Chair prior to a Committee meeting, to a presentation to a full party group meeting. Whilst in practice such Officer support is likely to be in most demand from the Administration, such support is available to all party groups.
- 6.3 Any requests for advice or attendance are to be directed through the Group Leaders, Cabinet Members (or their shadows) or Chairs for the relevant Committee. The request shall be made to the relevant Senior Officer or, in their absence, to their deputy or the next appropriate lower tier Officer. An Officer accepting an invitation to one political group or individual will not decline an invitation to advise another political group or individual on the same subject. However, the Officer is not obliged to offer to advise another political group on the same subject.
- 6.4 Certain points must however be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:
 - (i) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not expected to be present at meetings, or parts of meetings, when matters of *party* business are to be discussed;
 - (ii) Party Group Meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such, particularly having regard to the risk of challenge on the grounds of pre-determination;

- (iii) The presence of an Officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so;
- (iv) Similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Council meeting, Committee or Sub-Committee when the matter in question is considered.

6.5 In relation to budget proposals;

- (a) The Administration shall be entitled to confidential discussions with Officers regarding options and proposals. These will remain confidential until determined by the Administration or until published in advance of the Cabinet /Council meetings, whichever is the earlier;
- (b) The opposition groups shall be entitled to confidential discussions with officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Cabinet/Council meetings, whichever is the earlier.

6.6 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons will not be bound by the Council's Codes of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons, Officers will only attend in these circumstances where the request has been made to, and agreed by, a Senior Officer. It must then be understood that Officers may not be able to provide the same level of information and advice as they would to a 'Members only' meeting.

6.7 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group, unless agreed otherwise.

6.8 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive Officer who will discuss them with the relevant group leader(s).

7 Provision of Support Services to Members and Party Groups

7.1 Officers provide support services and resources to Members as agreed by the Council to enable them to undertake their various roles. This includes the provision of direct Personal Assistant support to the Leader, Cabinet and Chair of Council which is provided on a part-time basis.

7.2 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport, etc.) to Members is to assist them in discharging their role as Members of the Council. Such support services should therefore only be used on Council

business. They should never be used in connection with party political or campaigning activity or for private (including business) purposes.

8 Members' Access to Information and to Council Documents

- 8.1 Members are free to approach any service area of the Council to provide them with such information, explanation and advice (about the service area's functions) as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a service areas activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Senior Manager for the service area concerned.
- 8.2 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law. Further details on this and the use of Council information that is provided to a Member are set out in the Protocol on Members' Access to Information and other Confidentiality Issues.
- 8.3 Members are expected to give reasonable notice of requests for information and to have regard to the cost of producing detailed information.

9 Officer – Cabinet Member/Chair Relationships

- 9.1 It is clearly important that there should be a close working relationship between the relevant Cabinet Member or Chair of a Committee and the Senior Officers who support that Portfolio or Committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers' ability to deal impartially with other Members and other party groups.
- 9.2 Under the Constitution, individual Members of the Cabinet may, in some situations, take decisions. The Council has put in place mechanisms to ensure that the individual Cabinet Member seeks advice from relevant Members and Officers before making a decision within their delegated authority. This includes taking legal advice, financial advice and professional officer advice.
- 9.3 The Council's delegation scheme and resolutions passed at Cabinet or Committee meetings may authorise a named Officer to take action, sometimes in consultation with one or more Members such as the Cabinet Member or Chair and Vice-Chair of a Committee. In these circumstances it is the Officer, rather than the Member, who takes the decision or action and it is the Officer who is accountable for it.
- 9.4 Finally, it must be remembered that Officers within a service are accountable to their Senior Officer and that, whilst Officers should always seek to assist a Cabinet Member or Chair (or indeed any Member) they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Senior Officer.

10. Specific Member Roles / Officer Relationships

10.1 Leader & Chief Executive Officer / Senior Officers

The Leader gives political direction and leadership to the Council. The role encompasses:

- Setting standards of conduct and expectations for his / her group of Members and resolving any instances of misconduct by a member of that group that has been referred to him/her from the Standards Committee / Hearing Panel.
- Appointing his/her Cabinet and allocating responsibilities to Cabinet Members and Officers under the Cabinet Scheme of Delegation
- Encouraging all Members to play a full part in the running of the Council and being effective community leaders.
- Working closely with the Chief Executive Officer to ensure proper coordination of the Council's leadership and management. The Leader and Chief Executive Officer have ultimate responsibility for the corporate working of the Council. They also have responsibility for ensuring that overall partnership working is effective.
- The Chief Executive Officer is responsible to the Leader for the corporate, strategic and operational management of the Council.
- The Council will provide sufficient support and resources to enable the Leader to perform his / her role effectively.

10.2 Cabinet Members and Officers

- Cabinet Members will develop the expertise, knowledge of and responsibility for the service(s) allocated to them by the Leader. This includes taking decisions delegated to them by the Leader within the Cabinet Scheme of Delegation. The nature of this role means that Cabinet Members will work closely with their relevant Senior Officer(s) particularly on policy development, decision-making, service delivery and performance issues.
- For their area of responsibility, the Cabinet Member provides political focus and leadership for their political group and is the lead spokesperson and 'first' political contact for opposition group spokespersons, other Members of Council, the public, press and Officers.
- The Council will provide sufficient support and resources to enable the Cabinet Member to perform their role effectively.

10.3 Leader of the Opposition and Officers

The Leader of the largest political group in opposition on the Council has several key

roles including:

- supporting the democratic process by ensuring that the activities of the Administration are appropriately examined, contributed to and, where considered necessary, challenged through mechanisms provided for in law and within the Constitution;
 - bringing forward alternatives to policies or operational decisions proposed by the Administration, as appropriate;
 - giving political direction and leadership to their group of Members, setting standards of conduct and expectations and resolving any instances of misconduct by a member of that group referred to him/her by the Standards Committee / Hearing Panel
 - liaising with the leaders of other minority political groups on the Council.
-
- The office-holder should establish effective working relationships with particularly the Chief Executive Officer and Senior Leadership Team officers and other Officers, as appropriate.
 - The Council will provide appropriate support, resources and advice to enable the office-holder to perform their role effectively.
 - In addition, other minority Group Leaders will play a similar role as set out above in respect of the members of their own groups.

10.4 Scrutiny Members and Officers

Members of the Council's Scrutiny Committees shall:

- obtain the advice of the Monitoring Officer or County Solicitor where they consider there is doubt about the vires for a decision or they consider a decision of the Leader, Cabinet, Cabinet Member or an Officer might be outside the policy and / or budget framework.
- when considering calling Officers to give evidence, consult the relevant Senior Officer to identify as to the most appropriate Officer to attend.
- when asking Officers to give evidence, confine questions, so far as possible, to questions of fact and explanation relating to policies and decisions. Officers may be asked to give a professional opinion, but Officers must not be asked questions relating to political views.
- where they consider it appropriate, ask Officers to explain and justify advice given to Members prior to decisions being taken and justify decisions they themselves have taken under the Council's Constitution.
- not question Officers in such a way as to be in breach of the Members' Code of Conduct nor deal with matters which are of a personal or disciplinary nature.

It is not the role of scrutiny to act as a disciplinary tribunal in relation to the actions of Members or Officers. Neither is it the role of Officers to become involved in what would amount to disciplinary investigations on a Scrutiny Committee's behalf. This means:

- (a) Overview & Scrutiny's questioning about the conduct of individuals should be in the sense of establishing the facts about what occurred in the making of decisions or implementing of Council policies, not to imply criticism or blame;
- (b) In these circumstances, it is for the Chief Executive Officer to institute a formal enquiry, and Overview & Scrutiny may ask (but not require) him/her to do so.

Overview & Scrutiny should not act as a "Court of Appeal" against decisions or to pursue complaints by individuals, as other procedures exist for this. These are internal, for example, the Council's corporate complaints procedure, and external/statutory, for example the Local Government Ombudsman or appeal to the Courts. However:

- (a) Overview & Scrutiny may investigate the manner in which decisions are made but should not pass judgement on the merits or otherwise of a decision in individual cases;
- (b) They can comment on the merits of a particular policy affecting individuals.

Wherever possible Overview & Scrutiny should provide written questions or details of indicative topics to someone invited to appear before the Committee to ensure they have adequate time to prepare for the meeting. In addition, invitees ought to be told the general line that further questioning is likely to take. Questioning should not stray outside the subject area that the Committee has previously indicated.

Officers shall:

- maintain political impartiality at all times when commenting on the Cabinet's / Council's policies and actions.
- be prepared to explain and justify advice given to Members of the Cabinet and the Council prior to decisions being taken and justify decisions they themselves have taken under the Council's Constitution.
- ensure that appropriate Officers appear before the relevant Council body.

11. Conduct at meetings of the Council

- 11.1 Officers should respect Members in the way they respond to Member' questions. Members should not question Officers in a way which could be interpreted as harassment.
- 11.2 Proceedings must not be used to question the capability or competence of Officers, or to criticise them in public. Chairs and Members need to make a distinction between reviewing the policies and performance of the Council and its services, and appraising the personal performance of Officers (particularly at scrutiny meetings.) The latter is not an appropriate role for Members.
- 11.3 Senior Officers have the right to present reports and give advice to Committees and sub-committees of the Council. All reports to Council meetings include the

name of a contact officer, and Members are encouraged to approach that Officer for any query or issue they wish to raise prior to the meeting.

- 11.4 Members on a Committee or sub-committee shall take decisions within the remit of that body, and will not instruct Officers to act otherwise.
- 11.5 At meetings of the Council, a resolution may be passed which authorises a named Officer to take action between meetings in consultation with the Chair, other Member(s) of that body or other Officers. In these circumstances it is the Officer, not the Chair, who takes the action and is responsible for it. Neither the Chair nor any other Member, or group of Members, (other than Cabinet Members) has any legal power to take decisions on behalf of the Council; neither should they apply inappropriate pressure on the officer.

12. Press and Media

- 12.1 Local Authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Council, explaining its objectives and policies to the electors and customers. Local Authorities use publicity to keep the public informed and to encourage public participation. The Council needs to tell the public about the services it provides. Good effective publicity should aim to improve public awareness of the Council's activities. Publicity is a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant.
- 12.2. The Council must comply with the provisions of the Local Government Act 1986 ("the Act") regarding publicity. All media relations work will comply with the national Code of Practice for Local Government Publicity. The Code is statutory guidance and the Council must have regard to it and follow its provisions when making any decision on publicity.
- 12.3 All Council press releases should be in accordance with the Council's agreed Media Guidelines and must be issued through the Council's Communications Team.
- 12.4 Members or political groups have the right to issue political press releases but these shall not be prepared or issued using the Council's resources of any kind. If a Member is contacted by, or contacts, the media on an issue, they should:
 - indicate in what capacity they are speaking (e.g. as a local County Councillor, in a personal capacity, as a Cabinet Member, on behalf of the Council, or on behalf of a party group);
 - if necessary, and always when they would like a press release to be issued on a non-party political nature seek assistance from the Council's Communications and Marketing Team;
 - consider the likely consequences for the Council of their statement (e.g. commitment to a particular course of action, image, allegations of predetermination);
 - never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter;
 - consider whether to consult other relevant Members; and
 - take particular care in what they say in the run-up to local or national elections to avoid giving the impression of electioneering, unless they been

contacted as an election candidate or political party activist.

It is important for Members to comply with their general obligations in the Code of Conduct when dealing with the press and media and recognise that as a representative of the Council their actions impact on how the Council as a whole is viewed by the public.

- 12.5 Lead Members with special responsibilities will receive training in handling the media and shall receive additional support as required and as appropriate for their roles from the Communications and Marketing Team.
- 12.6 Any press release that may be necessary to clarify the Council's position in relation to disputes, major planning developments, court issues or individuals' complaints should be approved by the appropriate Senior Manager and/or the Monitoring Officer.
- 12.7 Members should have regard to their obligations under 4.3 above when making any statements to the press or media.

13 Correspondence

13.1 Use of Paper

- 13.1.1 The paper containing the Council's corporate identity image must be used for all correspondence written on behalf of the Council. When Members are writing in their capacity as a Member they must make it clear whether they are writing on behalf of the Council or as the divisional member. Members must never use paper or electronic communications containing the Council's corporate identity image for personal, party political or business matters.

13.2 Correspondence between Members and Officers

- 13.2.1 Correspondence from an individual Member to an Officer will not normally be copied by the Officer to any other Member unless it is the intention of the Member that it should be so (e.g. representations made in relation to a planning application). Where, exceptionally, and having sought the advice of a Senior Officer, it is considered appropriate to copy the correspondence to another Member, then the original Member should be given prior notification and be told to whom it is proposed to be copied and the reasons for this proposed course of action. The decision of whether another Member should be sent the correspondence is ultimately for the Chief Executive Officer to take.
- 13.2.2 Particular care needs to be taken with email correspondence where the Council's use of email policy should be followed. For example, when dealing with constituency email correspondence be careful when copying emails when using 'cc' or 'bcc' or 'reply to all'. Only copy your email to those people that really need to see it, don't inadvertently forward confidential information and don't forward a constituent's email to others even within the Council without having first obtained their consent.

14. Involvement of Local County Councillors

14.1 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the division or divisions affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the relevant local County Councillors should be notified at the outset of the exercise.

15. Elections

15.1 Particular rules apply around elections and by-elections. These are contained in the Somerset Election Protocol.

16. Breaches of the Protocol

16.1 This paragraph of the Protocol should be read in conjunction with the Council's Whistleblowing Policy.

16.2 Where the relationship between Members and Officers breaks down or becomes strained, every effort will be made to resolve matters informally, through conciliation by an appropriate Senior Officer or Members.

16.3 Where a **Member** is dissatisfied with the conduct, behaviour or performance of an Officer, the matter should be raised with the relevant Senior Leadership Team Officer. Where the Officer concerned is a Director, the matter should be raised with the Chief Executive Officer. Where the employee concerned is the Chief Executive Officer, the matter should be raised with the Monitoring Officer.

16.4 The Senior Officer will acknowledge the complaint and advise on next steps. The timescale for dealing with such a complaint will be in accordance with the Council's normal complaints procedure.

16.5 Members have a right to know if action has been taken to address a matter, but they must not, either:

- influence, or seek to influence, the level of disciplinary action to be taken against an Officer, nor
- insist (nor be seen to insist) that an Officer is disciplined.

16.6 Members have a right to be told the outcome of any disciplinary case, but have no entitlement to detailed information about the hearing or its conduct aside from those Members of the Officer Appeals Committee where specific cases are considered by the Committee.

16.7 Where an **Officer** feels that they have not been properly treated with respect and courtesy, and wishes to make a complaint under the Members' Code of Conduct this should be made to the Monitoring Officer or the County Solicitor. In the event of the concerns being raised informally, the Monitoring Officer may refer the matter to the leader of the relevant party group or to the Member concerned. In the event of a formal complaint, the Monitoring Officer will consider whether the complaint should be referred for investigation, other action or whether no further action should be taken and the Council's procedures for dealing with Members' Code of Conduct complaints will be

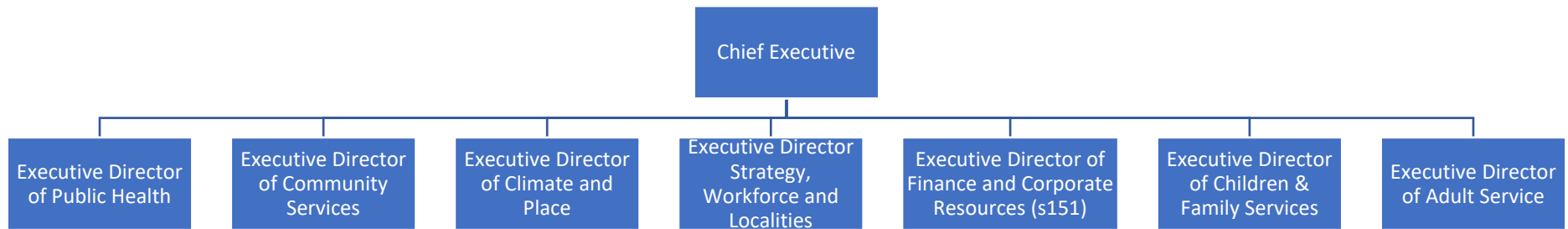
followed as set out in the Constitution.

- 16.8 Breaches of this Protocol by a Member may constitute a breach of the Members' Code of Conduct.
- 16.9 Breaches of this Protocol by an Officer may be referred for disciplinary action.

17 Monitoring, Review and further Advice

- 17.1 The application and implementation of this Protocol will be monitored and reviewed by the Council's Standards Committee in consultation with the Council's Monitoring Officer or County Solicitor.
- 17.2 Further advice on the interpretation of this Protocol is available from the Chief Executive Officer, Monitoring Officer or County Solicitor.

Part I – Senior Management Structure



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New Somerset Council

Part I – Officer Code of Conduct

Introduction

Somerset Council's reputation, trust, and confidence in its integrity is of vital importance. It must discharge its day-to-day responsibilities with openness and honesty, this philosophy is captured in this code. These principles are presented to assist staff in carrying out their day-to-day responsibilities in accordance with legal requirements placed upon them and any policies adopted by the Council. The Council has a responsibility to take appropriate action where employees feel that they are subject to inappropriate action by a third party.

Provisions relating to the conduct expected of local government employees are also embodied in national agreements such as the 'Green Book' for Local Government Services Employees. These are further supported by the codes of ethical behaviour of various professional bodies.

This document may be supplemented by departmental or sectional practice notes, which will give more detailed guidance on particular areas. If further guidance is needed on any aspect of these Standards, it can be obtained initially by approaching a manager.

This policy does not form part of the Somerset Council Terms and Conditions and may be subject to change.

Status of these Standards of Conduct "Code of Conduct"

These Standards are based on a document drawn up by the Local Government Management Board on behalf of the local authority associations. They were adopted in 1993 after consultations with Chief Officers and employee representatives. Whilst not themselves amounting to a disciplinary code, any failure to follow the standards set in this document may, depending upon circumstances, give rise to disciplinary action.

Who are the Standards aimed at?

The Standards apply to all employees of Somerset Council, except for those employed under Teachers Terms and Conditions to which separate standards apply.

Employees must provide services or advice to the best of their ability, within the rules of their relevant professional conduct of any relevant professional or trade body. Employees should consistently offer objective professional and technical advice and always carry out their responsibilities in an impartial manner. Employees are entitled to expect that no Officer or Member of the Council will seek to pressure or persuade them to do otherwise. Where it is alleged that such action has taken place, the Council will investigate the allegation if requested to do so under the appropriate procedures.

There may be occasions when employees, carrying out their duties for the Council, find themselves at odds with national government advice or guidance. In such circumstances it is particularly important that they are seen to behave with complete objectivity and impartiality obtaining managerial and professional advice and guidance where appropriate. Employees are entitled to expect to receive the unequivocal support of senior managers in so doing.

Guiding Principles

In conducting Council business employees should act in accordance with three key guiding principles:

- Ensure that their conduct complies with this Protocol, the spirit of this Protocol, the Council's policies, and the law
- Ensure that their conduct is never influenced by personal gain
- Ensure that their conduct could not give anyone reason to question their motive

Confidentiality and Openness

In general, employees should act on the presumption that open government serves the public better than secrecy.

Wherever it might be relevant to their job, employees should be aware of and implement relevant statute and common law that provides for either confidentiality or rights of access to information for Councillors, auditors, and citizens (and in some cases regulatory bodies and government departments).

Any express or implied responsibility to keep information confidential should be respected by employees and there should be awareness that such responsibility might arise from the nature of the information itself, for example, its commercial or

personal sensitivity. It will be extremely rare that employees will be entitled to accept confidences in the course of their duties that cannot be shared with their manager.

Employees should not use information obtained in the course of their employment for personal gain or benefit nor should they pass it on to others who might use it in such a way. When employees obtain confidential information belonging to the Council then they must not disclose that information to any person not authorised to receive it. When employees receive from Councillors information not belonging to the Council or information belonging to the Council, which is confidential, then they must not disclose that information without the appropriate consent of a **Senior Leadership Team Manager** or **Strategic Manager**.

In their dealings with employees, Councillors and **Chief Officers** should ensure that communication is as open and informative as possible within the constraints imposed by the law, by their terms and conditions of employment, by the Council's Constitution, policies, procedures, protocols, commercial considerations, and personal sensitivity.

Protection of Public Funds

Employees must use public funds entrusted to them to the best advantage of the Council and the community they serve, always trying to ensure value for money for the local taxpayer.

Political Neutrality

It is important for the proper functioning of the Council that all Members have trust and confidence in the political impartiality of employees **(except in the case of political assistants/political support officers if the Council decides to have such post holder(s))**.

All employees of the Council are required to be politically neutral in the completion of their duties and certain posts are politically restricted or politically sensitive. This means that employees in politically restricted or politically sensitive roles may not participate in any formal political activity. The controlling political group may change, and it is important that employees show no bias or personal preference, whatever their personal political beliefs may be.

Employees need to know whether their post is subject to the political restrictions placed on certain post holders by the Local Government and Housing Act, 1989 this can be found in the Recruitment Policy **(add link)**. Relevant employees should be aware of the nature of those restrictions and ensure that they abide by them.

Relationships

All employees must comply with the Member/Officer Protocol and, in this context, particularly the section relating to Personal and Family relationships. Similarly, all employees must comply with the Officer Code of Conduct. For further information or clarification in relation to this issue, please contact the **Monitoring Officer or the Deputy Monitoring Officer.**

Elected Councillors

Employees are responsible to the Council. For many, their job is to give advice to Councillors and the Council and all are there to carry out the Council's work. Mutual respect between Councillors and staff is essential to good local government. Close personal familiarity between individual Councillors and employees should be avoided as it can damage the relationship and prove embarrassing to other Councillors and employees (National Code of Local Government Conduct paragraphs 23 to 25).

The Local Community and Service Users

Employees should remember their responsibilities to the community they serve and ensure courteous, high quality, efficient, and impartial service delivery to all groups and individuals within that community. Such courtesy and efficiency should be shown to all persons with whom employees deal remembering that all opportunities need to be taken to enhance the reputation of the Council whether locally, nationally, or internationally.

Appointments and Employee Relationships

Employees should ensure that appointments are made based on merit and in accordance with the Council's policies and procedures. Merit is determined by matching the chosen candidate with the job specification and ignoring all other extraneous considerations. Employees in the course of their duties should not be involved in the appointment, pay adjustment, approval of expenses, promotion, or discipline of partners, relatives, or close friends.

Close personal relationships between employees should not be permitted to influence the way services are provided if that is or could be detrimental to services.

Employees should not be put under pressure by work colleagues, particularly those in a position of seniority, or Councillors to act or not to act so as to breach these standards or any other national, local, or departmental rules of conduct. If such pressure is exerted, it should be reported to the relevant **Chief Officer.**

Contractors

Relationships with contractors or potential contractors should be made known in accordance with the legal requirements to declare financial interests (Section 117

Local Government Act 1972). Advice on this can be obtained from the [Monitoring Officer](#).

Contracts must be awarded on merit in fair competition against other tenders and no favouritism should be shown to businesses run by friends, partners, or relatives, nor should there be improper discrimination against individuals, groups, or sections of the community. Employees who monitor the performance of contractors should behave in a fair and equitable fashion towards all contractors, including in-house contractor organisations, and should not show favouritism to, or improperly discriminate against, any contractor or breach any duty of confidentiality.

Employees who engage or supervise contractors for the Council and who wish to engage a contractor with whom they previously had or currently have a relationship in a private or a domestic capacity should declare that relationship. Employees should not use, in a private or domestic capacity, a contractor with whom they have had official dealings as employees of the Council, without declaring it to his/her Corporate Manager. Similarly, Contractors should be required to disclose private or domestic relationships with any officer or Member. The Council will seek to ensure that the attention of contractors is drawn to the requirements of the Local Government Act 1972 and these Standards.

Other Employments

Any employee considering additional employment should discuss this with their line manager to determine whether there may be a conflict of interests, consider whether the additional role is manageable, and whether this may negatively affect the employee's wellbeing. If a potential conflict of interest, working times regulations issue or wellbeing concern is found, please contact HR Advisory to discuss this further. Employees will be required to complete the Register of Officer Interests ([add link](#)).

Equal Opportunities

All employees must comply with both the spirit and letter of the Equality Act 2010 and the Council's Equal Opportunities policy ([add link](#)), treating all members of the public and colleagues with respect and fairness.

Health and Safety

The Council has a legal obligation to protect the health and safety at work of all its employees and others in the workplace. Equally, employees should always be aware of, and fulfil, their legal responsibility to protect their own and others health and safety at work ([add link](#)).

Post-Employment Duties

The duty of fidelity which each employee owes to the Council, and which requires an employee to act in an honest fashion and not in a manner which will harm the Council, may in certain respects, continue following the end of that employee's employment. For example, even though the Council no longer employs them, a former employee must not disclose trade secrets or confidential information that belongs to the Council.

Certain employees may have access to intellectual property (such as copyrighted materials), which belong to the Council. An employee might even have contributed to the creation of that intellectual property during the period of employment. However, where part or whole of that property belongs to the Council it cannot be used by a former employee for any purpose without the Council's written agreement. Such intellectual property rights may sometimes be difficult to define but Council or departmental guidance will be issued to cover specific categories.

Personal Interests

An employee must declare as soon as reasonably practicable, to their line manager and **Chief Officer** any personal interest (whether financial or otherwise) which they have which may conflict, or may be perceived reasonably as conflicting with, the interests of the Council. The Registration of Officers Interests Form ([add link](#)) must be completed by the employee, this will then be sent to the line manager and **Chief Officer** to confirm the interest has been officially registered.

Personal interests may be financial, relate to property or concern any other matter; they may concern the employee themselves, family members, or close associates or they may relate to any body including, external organisations, individual persons, or the Council itself.

The obligation to disclose a personal interest only applies when the employee is aware of it or ought reasonably to have been aware of, it may, in some cases, be unreasonable to expect an employee to be aware of or to research the employment, business interests and other activities of family members and close associates. However, employees must not ignore the existence of interests, which, from the point of view of the reasonable person, they should have been aware. Employees are therefore under an obligation to make such inquiries as a reasonable person would think prudent in the circumstances.

Disclosable Interests

Employees must, in accordance with any Council arrangements, register membership of any organisation not open to the public which requires of members any form of commitment or allegiance, and which has secrecy about rules, membership or conduct.

Gifts and Hospitality

There is a separate policy for Registering Gifts and Hospitality ([add link](#)).

Interpretation

Several parts of this protocol refer to a reasonableness test. **The Chair of the Council's Standards Committee** shall be the ultimate arbiter of what is reasonable in relation to the operation of this protocol.

The "proper business and/or interests of the Council" may include but are not limited to: carrying out the proper functions of the Council and doing anything which is incidental or conducive to carrying out the proper functions of the Council.

The following meanings have been adopted which are consistent with national guidance on the Members' Code of Conduct:

- A "family member" should be given a very wide meaning. It includes a spouse, civil partner or an individual an employee lives with in a similar capacity, parents, parents-in-law, children or stepchildren, grandparents, grandchildren, nephews and nieces and the spouses or partners of these people.
- A person with whom you have a "close association", as defined above, is someone that you are in contact with, regularly or irregularly, and who is more than just an acquaintance. It is someone a reasonable member of the public might think you would be prepared to favour or disfavour. It may be a friend, colleague, business associate, or someone you know through general social contacts.

Version	1
Date	
Relevant Legislation	Local Government Act 1972 Equality Act 2010 Working Time Regulation 1998 National Code of Local Government Conduct

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Part I - Officer Employment Procedures / Arrangements

This section incorporates the Mandatory Standing Order requirements in the Local Authorities (Standing Orders) (England) Regulations 1993 and 2001

1 APPOINTMENT OF OFFICERS:

1.1 The function of appointment, dismissal and taking disciplinary action against, an officer of the council must be discharged, on behalf of the council, by Chief Executive Officer (the head of paid service) or their nominee.

1.2 This does not however apply to the following posts:

- (a) The Chief Executive (Head of paid service)*
 - (b) Executive Director – Resources and Corporate Services (Section 151 officer)*
 - (c) Service Director – Governance, Democratic and legal Services (monitoring officer)*
 - (d) Executive Director of Children and Family Services*
 - (e) Executive Director of Adult Services*
 - (f) Executive Director of Public Health**
 - (g) Executive Director – Strategy, Workforce and Localities
 - (h) Executive Director – Community Services
 - (i) Executive Director – Climate and Place
- And additionally;
- (j) any officer who reports or is directly accountable to the officers listed in (a) to (i) above

Note

*indicates posts that carry posts statutory responsibilities and authority. Statutory designations and these posts have been agreed by the Council to cover these statutory requirements are set out below. The posts of Head of Paid Service, Chief Finance Officer (also known as Section 151 Officer) and Monitoring Officer have a range of key constitutional responsibilities as set out in relevant legislation.

** This post carries statutory responsibility and authority. Any appointment or dismissal process is undertaken jointly with the Secretary of State for Health in accordance with National Health Service Act 2006.

3 The Chief Executive has authority to approve changes to the terms and conditions of all post specified in (b)-(j) in 1.2 above on the recommendation of the Appointments Panel or the Appointments Committee or on his / her own initiative and having obtained the agreement of the Leader of the Council . All decisions taken

by the Chief Executive on such matters will be the subject of a formal Officer Decision which will be published on the Council's website as soon as it is confirmed

1.4 The Chief Executive has authority after having sought the agreement of the Leader, and after appropriate consultations, to agree:

- (i) acting up arrangements into the positions specified in (b)-(j) in 1.2 above to cover periods of temporary absence either planned or unplanned
- (ii) (ii) emergency cover arrangements for the post specified in (b)-(j) in 1.2 above where these positions become vacant between Full Council meetings. Any such agreement will be subject to review and confirmation at the next available Full Council meeting

1.5 The Council's Pay Policy Statement, senior management structure and pay details and a description of the roles of the statutory officers of the Council is available to view on the Council's website via the following link:

<http://www.somerset.gov.uk/organisation/senior-salaries-and-pay-policy>

2 Recruitment

All appointments will be made on merit and in accordance with HR procedure for recruitment which includes :

1. a requirement that any candidate for an appointment as an officer must state in writing whether they have any relationship with any councillor or officer of the Council
2. No candidate so related to a councillor or a senior officer will be appointed without the authority of the relevant Executive Director or an officer nominated by the Executive Director
3. The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
4. No councillor will seek support for any person for any appointment with the Council.

2.1 Appointment of Officers to post specified in Para 1.2

Appointments to these posts will involve elected Members.

Where a vacancy occurs in these appointments, the recruitment process requires the appointment of an Appointments Panel and then an Appointments Committee.

2.2 Appointments Panel

2.2.1 The Panel comprises 3 members, the Leader of the Council, the Leader of the largest Opposition Group, and the Deputy Leader of the Council (or their nominated representatives) with any relevant Lead Members as consultees

2.2.2 The Panel reviews the terms and conditions of employment relating to the post and where appropriate makes recommendations to the Chief Executive for any changes; decides the appointments process or other course of action; and appoints the Appointments Committee to undertake the appointments process. This review includes reviewing the job and person specifications, the means of advertisement and short-listing arrangements. The Panel will then appoint an Appointments Committee. The Panel can convene virtually or meet as required.

2.2.3 If a Panel decides that no changes to terms and conditions are necessary when it reviews a vacant post then the Panel has authority to progress the recruitment without the need to seek further approvals. If a Panel wishes to make changes to the terms and conditions of a vacant post (other than the post of Chief Executive) then these are subject to the approval of the Chief Executive having obtained the agreement of the Leader of the Council. This includes where a Panel wishes to advertise a salary for a post (other than the post of Chief Executive) above the 'spot' at the bottom of the range. This must be the subject of a Panel recommendation to the Chief Executive for decision. If the Panel's recommendations for changes to terms and conditions relate to the post of Chief Executive then Full Council must agree these changes. In all cases the Panel will appoint the Appointments Committee.

2.3 Appointments Committee

The Committee comprises a maximum of 5 Members including:

- (a) The Leader of the Council (or his/her nominated representative)
- (b) The Leader of the largest Opposition Group (or his/her nominated representative)
- (c) Up to 3 other Members of the Council selected in accordance with the rules of political proportionality and including the relevant Lead Member.

Notes:

- (a) It is a statutory requirement that at least 1 member of an Appointments Committee must be a Member of the Executive.
- (b) The Committee appoints its own Chair.
- (c) All Members of the Committee must have up-to-date knowledge of and have received training in the areas of Recruitment and Equalities.

(d) The selection process must be conducted in accordance with the Council's agreed Code of Practice

2.4 The Committee will:

- (a) Interview all short-listed candidates and either
- (b) Appoint a suitable candidate to the post; or

©In the case of the Chief Executive make a recommendation to the Full Council who must approve the proposed appointment before an offer of appointment is made; or
(d) Follow any other course of action decided upon by the Appointments Panel.

2.5 An offer of employment to these posts shall only be made where no justifiable objection has been made by the Lead Member/Executive.

2.6 If the Committee during the course of an appointment process wishes to vary the terms and conditions or the salary already agreed for a specific post, then such a proposal is subject to the approval of the Chief Executive having obtained the agreement of the Leader of the Council. The exception to this is where the Committee's recommendations relate to the appointment of the Chief Executive where only Full Council may amend the terms and conditions to be applied to the post.

2.7 Voting on appointment

Where two or more candidates are interviewed for an appointment to a senior post, and there is not a majority of votes cast in favour of one candidate the candidate receiving the least number of votes will be disregarded and a fresh vote taken, and so on until one candidate receives a majority of the votes.

2.8 Other Officers

Appointment of all other Officers is the responsibility of the Chief Executive as the Head of the Paid Service, or the relevant Officer specified in 1.2 or such officer authorised by one of them. Members cannot be formally involved in these appointments but leading members may be involved on an informal basis. Guidance on this involvement is available from the Service Director-Workforce

3 DISCIPLINARY ACTION (INCLUDING DISMISSAL) IN RELATION TO OFFICERS

3.1 DEFINITION: 'Disciplinary action' means any action confirmed in relation to alleged misconduct and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body.

It only includes failure to renew a contract of employment for a fixed term where the Council has undertaken to renew such a contract.

3.2 GENERAL: The rules set out below are subject to:

- (a) Conditions of service approved by national negotiating bodies recognised by the County Council;
- (b) Special conditions of service prescribed by the Articles of Government and Voluntary Aided schools in relation to non-teaching staff in such establishments;
- (c) Where any disciplinary action is taken, regard having been had to the Council's Disciplinary and Appeals Procedure.

3.3 Disciplinary action in relations to post specified in 1.2

3.3.1 Any proposal for a dismissal of the Chief Executive, the Section 151 Officer or the Monitoring Officer will be determined by the Council on the recommendation of the Independent Persons' (IPs) Panel comprising a minimum of 3 IPs selected to participate by the Chief Executive in accordance with the Local Authority (Standing Orders) (England) (Amendment) Regulations 2015. The IPs will be selected from a joint Somerset Councils' Panel of IPs. The Panel will be appointed by the Chief Executive (or the Head of HR where the Chief Executive is the subject of the proposed dismissal). The Panel shall be appointed a minimum of 20 days before the Council is due to meet to consider the dismissal.

3.3.2 A proposal for a dismissal of an officer specified in 1.2(d)-(j) will be determined by the Council on the recommendation of a special Panel of 6 Members appointed by the Leader of the Council (or his/her nominated representative) and comprising:-

- (a) The Leader of the Council (or his/her nominated representative)
- (b) The Leader of the largest opposition group (or his/her nominated representative)
- (c) 4 other Members of the Council selected by the Leader of the Council in consultation with the other Group Leaders and in accordance with the rules of political proportionality.

3.3.3 Any question of dismissal on the grounds of redundancy (including voluntary), permanent ill-health or infirmity of mind or body in relation to a Chief Officer shall be determined by the Special Members' Panel appointed as specified above with the exception detailed in below

3.3.4 The exception is where a proposed financial settlement for an officer leaving the Council exceeds £100,000. In these circumstances only Full Council can agree the financial settlement.

3.3.5 Any question of disciplinary action in relation to a Chief Officer or the Monitoring Officer shall be determined by the Special Members' Panel appointed in accordance with 3.3.4 above.

3.3.5 The Special Members' Panel referred to in 3.3.4 above, when a proposal is made to dismiss one of these statutory post-holders, shall decide whether there is any justification to the proposal and therefore whether it needs to be investigated. If the decision is that an investigation is necessary the Panel will appoint an investigator. If the investigation confirms a potential dismissal, the Panel will refer the matter to the IPs' Panel for consideration and report to Council. If the investigation recommends disciplinary action then the Special Members' Panel shall consider and decide whether disciplinary action is justified and if so agree any action to be taken.

3.3.6 An Officer who is subject to possible dismissal or other disciplinary action has the right to be informed as to the basis of any action which may be taken and to appear before the relevant Panel prior to a decision being made or before a recommendation is made to Council

3.3.7 The Officer concerned also has the right to appear before and address the Council before a dismissal is confirmed. The Panels and the Council will be advised by the Monitoring Officer and the Service Director-Workforce. If either of these officers is the subject of the Panel's report, the Chief Executive will make alternative arrangements for the provision of advice to the Council in place of that Officer.

3.3.8 Council can only give notice of dismissal to an Officer named in this section (other than the Monitoring Officer) where no justifiable objection has been made by any Member of the Executive.

3.3.9 An Officer specified in 1.2 can be suspended for the purpose of investigating potential gross negligence or gross misconduct where such suspension is considered:

- (a) necessary to allow an investigation to take place
- (b) otherwise desirable in the interests of the Council or the employee

3.3.10 Any such suspension shall be on full pay and terminate no later than 2 months beginning on the day on which the suspension takes effect. The power to suspend a SLT Officer rests with the Chief Executive, in consultation with the Leader. If the Chief Executive is the subject of the proposed suspension, then the Leader shall have the power to suspend the Chief Executive following consultation with the other group leaders and on the advice of the Service Director-Workforce.

3.4 OTHER OFFICERS

3.4.1 As authorised by the Chief Executive as Head of the Paid Service, any Officer specified in (a)-(j) or a Senior Officer nominated by them, can suspend any employee suspected of potential gross negligence or gross misconduct where such suspension is considered:

- (a) Necessary to allow an investigation to take place, or
- (b) Otherwise desirable in the interests of the Council or the employee.

3.4.2 When suspended the employee is entitled to full salary or wages, subject to any agreement to the contrary that they may reach with the Council.

3.3.3 As authorised by the Chief Executive, any Officer specified in 1.2 or their nominated Senior Officer, can dismiss an employee:-

- (a) Employed under a fixed-term or temporary contract of employment which is ending;
- (b) Whose post is or is about to become redundant;
- (c) For unsatisfactory performance at the end of an agreed probationary period;
- (d) Medically certified to be incapable of discharging their duties by reason of ill-health;
- (e) Who has reached compulsory retirement age; or
- (f) For some other substantive reason.

3.3.4 An Officer specified in 1.2 or their nominated Senior Officer, can:-

- (a) Dismiss with due notice any employee who has previously been the subject of formal disciplinary action but whose standards of conduct or capability have remained unsatisfactory;
- (b) Dismiss any employee without notice where satisfied on reasonable enquiry that the employee has been guilty of gross misconduct; subject to prior consultation with the Monitoring Officer and the Service Director-Workforce.

Any appeal against dismissal or disciplinary action will follow the Council's Disciplinary and Appeals Procedure.

Any employee selected for compulsory redundancy has a right of appeal to the Redundancy Review Panel.

GRIEVANCES

Any grievance by a member of staff will be dealt with in accordance with the Council's agreed procedures

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Contract Procedure Rules

For the Supply of Goods, Provision of
Services and Execution of Works

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Contract Procedure Rules and Standing Orders for the Supply of Goods, Provision of Service and Execution of Works

SECTION A: **PRELIMINARY**

1. **Definitions**

1.1. In these Contract Procedure Rules and Standing Orders the following words and expressions will have the following meanings assigned to them:

Defined term	Definition
Award Criteria	Shall mean the criteria by which the Contract is to be awarded to the successful Supplier
Award Decision	Shall mean the procedure by which the Officer is able to decide to award the Contract to a particular Supplier/s
Best Value	Means the optimum balance of cost, efficiency and effectiveness in the delivery of a council function
Executive Member	Shall mean any Councillor appointed to the Executive by the Leader of Council for the time being, or such Officer as they may duly authorise to act on their behalf or may be authorised to act on their behalf under the Council and Executive Scheme of Delegation
Call-off Contract	Shall mean a Contract awarded under a Framework Agreement or Dynamic Purchasing System

Candidate	Shall mean any and all suppliers participating or expressing an interest in participating in the Council's Quick Quotes, Quotations, Selection Questionnaire and ITT activity
Competitive Dialogue	Shall mean as referred to in regulation 30 of the Procurement Regulations
Competitive Procedure with Negotiation	Shall mean as referred to in regulation 29 of the Procurement Regulations
Constitution	<p>Shall mean the constitutional document approved by the Council which:</p> <ul style="list-style-type: none"> • allocates decision making powers and responsibilities within the Council and with partners • delegates authority to act through the Council and Executive Scheme of Delegation and • regulates the behaviour of individuals and groups through rules of procedure, codes and protocols
Contract	Shall mean a legally binding agreement concluded in writing for consideration (whatever the nature of the consideration, whether by payment or some other form of reward) under which the Council engages a Supplier to provide Goods, Works or Services and where the context requires a Contract shall refer to an order made/call-off contract entered into under a Framework Agreement. All Contracts are let on behalf of the Council as a whole and no service, team, unit or other part of the Council has the legal capacity to enter independently into any Contract
Contracting Authority	Shall mean Somerset Council or any entity over which Somerset Council has control

Contracts Register	Shall mean the Council's repository of Contracts as held on the Council's Electronic Tendering System
Council	Shall mean Somerset Council
Dynamic Purchasing System	Shall mean as referred to in regulation 34 of the Procurement Regulations
Electronic Tendering System	Shall mean the system approved by the Commercial and Procurement team for the purposes of conducting procurement activities electronically
Electronic Signing Software	Shall mean software for the electronic completion of Contracts which complies with the requirements in the Electronic Communications Act 2000
Financial Instructions	Shall mean the Financial Regulations and Financial Procedures, and any subsequent guidance, outlining the Officer's responsibilities for financial matters as issued by the Section 151 Officer in accordance with the Constitution
Find a Tender Service	Shall mean the web-based portal provided for the purpose of 6organization high value contract opportunities as per the Procurement Regulations www.gov.uk/find-tender
Framework Agreement	Shall mean an agreement or other arrangement between one or more contracting authorities and one or more economic operators which establishes the terms (in particular the terms as to price and, where appropriate, quantity) under which the economic operator will enter into one or more contracts with a contracting authority in the period during which the framework agreement applies
Goods	Shall mean physical products purchased or manufactured on request

Governance Board	Shall mean a Council Officer meeting which oversees the annual governance statement and keeps the Constitution and democratic arrangements fit for purpose. It must be noted that this is an advisory and not a decision-making meeting
Grant Agreement	<p>Means an arrangement for the provision of funding to cover, in whole or in part, the running costs of an organization whose work complements the Council's policy objectives and where the arrangement has the following characteristics:</p> <ul style="list-style-type: none"> • the funding is provided in order to achieve agreed outcomes • the recipient has no obligation to spend the funding made available under the arrangement • the recipient will have discretion over the spending of that funding within limits agreed between the Council and the recipient of the funding • the recipient will be liable to repay any funding spent outside the agreed limits • the recipient will be required to pay back any unspent funds either at agreed points during or at the end of the arrangement.
Innovation Partnership	Shall mean as referred to in Regulation 31 of the Procurement Regulations
Invitation to Tender (ITT)	Shall mean the document in the form required by these Rules to seek Tenders from candidates
Key Decision	Shall mean a decision to be taken by the Council with an associated cost or savings value at or above £500,000

Leader of the Council	Shall mean the Councillor appointed by the Council to the position of Leader for the time being or any such Officer as they may duly authorise or may be authorised to act on their behalf under the Council and Executive Scheme of Delegation
Legal Services	Shall mean the Council's internal legal advisory department
Light Touch Regime	Shall mean the rules set out in regulations 74 to 76 of the Procurement Regulations regulating the award of Contracts for social and other services
Member	Shall mean any Councillor appointed to the Council for the time being
Most Economically Advantageous Tender (MEAT)	Shall mean evaluation criteria that reflect the qualitative, technical and sustainable aspects of a Tender submission as well as price, which can be used when reaching a Contract award decision
Negotiated Procedure without Prior Publication	Shall mean as referred to in regulation 32 of the Procurement Regulations
Non-commercial Considerations	Shall mean factors that must not be taken into account at the Award Decision stage, such as the introduction of Selection and Award Criteria that have not been disclosed out the outset of the procurement or that do not meet the principle of MEAT
Non-key Decision	Shall mean a decision to be taken by the Council with an associated cost or savings value of less than £500,000
Officer	Shall mean a person employed by the Council whose responsibility it is to commission or procure Goods, Services or Works or ensure that Officers that they have line or matrix management responsibility for commissions or procures Goods, Services or Works in accordance with these Rules

Open Procedure	Shall mean as referred to in Regulation 37 of the Procurement Regulations
Passport to Procure	Shall mean the procurement training available via The Learning Centre
Procurement Documents	Shall mean the documents provided to candidates at the outset or during the procurement process, the purpose of which is to explain the procurement opportunity, the Selection and Award Criteria, the means of making an Award Decision, the submission requirements and the terms and conditions of contract
Procurement Officer	Shall mean an Officer that has completed the Passport to Procure training and which is employed to Commercial and Procurement
Procurement Regulations	The Public Contracts Regulations (SI: 2015/102) as amended, updated or replaced
Procurement Regulations Threshold	The values specified in regulation 5 of the Procurement Regulations
Quick Quote	Shall mean the procurement process to be followed within the Council's Electronic Tendering System that allows the Officer to seek Quotations from a minimum of three candidates
Quotation	Shall mean the document in the form required by these Rules to seek Quotations from candidates

Relevant Contract	<p>Shall mean a Contract to which these Rules applies, which includes:</p> <ul style="list-style-type: none"> • the supply or disposal of Goods • the hire, rental or lease of Goods or equipment • the provision of Works and the supply of works materials • the provision of Services including consultancy services • the granting of Works Concessions or Services Concessions Contracts. <p>But does not include:</p> <ul style="list-style-type: none"> • dealings in the money market or obtaining finance.
Relevant Legislation	<p>Means:</p> <ul style="list-style-type: none"> • the Procurement Regulations; • the Subsidy Control Act 2022; • the Data Protection Act 1998; • the Freedom of Information Act 2000; • the Environmental Information Regulations 2004; • the Fraud Act 2006; • the Equalities Act 2010; • the Bribery Act 2010; • the Modern Slavery Act 2015; • the Public Services (Social Value) Act 2012; • any legislation pertaining to money laundering; <p>as amended, updated or replaced.</p>
Relevant Policy	<p>Shall mean the policy referred to in <i>Section 16. Relevant Policy</i> and any documents superseding that referred to</p>
Restricted Procedure	<p>Shall mean as referred to in Regulation 28 of the Regulations</p>

Scheme of Delegation	<p>(The Council and Executive Scheme of Delegation) shall mean the high level overarching scheme contained within the Constitution which set outs delegations to directors.</p> <p>(The Officer Scheme of Delegation) shall mean the scheme which sits underneath the Council and Executive Scheme of Delegation, but which is not contained within the Constitution, which sets out the level of delegations below the main scheme and covers Officer delegations</p>
Section 151 Officer	<p>Shall mean the Officer employed in the position of chief finance officer or such Officer as they may duly authorised to act on their behalf</p>
Selection Criteria	<p>Shall mean the Authority's minimum requirements by which the Tenderer is to be assessed as being suitable to deliver the requirements of the contract</p>
Selection Questionnaire	<p>Shall mean the questions to be asked of candidates to assess their suitability as issued by the Crown Commercial Services, an executive agency of the Cabinet Officer; and/or the first stage document of a two-stage procurement process used to assess applications for inclusion in the shortlist of candidates who will be invited to submit a final proposal in every Restricted procedure</p>
Services	<p>Shall mean the supply of time, effort, and/or expertise instead of a tangible product</p>
Services Concession Contract	<p>Shall mean a Contract concluded in writing where the payment is simply that the concessionaire has the right to profit from the Works/Services that are the subject of the Contract</p>

Social Value	Shall mean additional benefit to the community from a commissioning / procurement process over and above the direct purchasing of Goods, Services and outcomes
Standstill Period	Shall mean the minimum ten (10) day period between the notification date of unsuccessful candidates and the date of contract award
Subsidy	Means a subsidy as defined by section 5 of the Subsidy Control Act 2022
Supplier	Shall mean the successful Candidate
Sustainable Procurement	Shall mean the act of adopting social, economic and environmental factors alongside the typical price and quality considerations into the organisation's handling of procurement processes and procedures
Tender	Shall mean the document response from a Candidate in the form required the Invitation to Tender issued by the Council
The Learning Centre	Shall mean the Council's electronic training system
Total Contract Value	The whole of the value or estimated value (in money or equivalent value) for a single purchase or Contract
Transfer of Undertaking (Protection of Employment) ("TUPE")	Shall mean the legislation that applies where either a business transfer or a service provision change takes place. The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) apply to protect UK employees when one of these 'relevant transfers' takes place and the business changes to a new owner
Transparency Code	The Local Government Transparency Code 2015

Works	Shall mean the construction of structures of all kinds, such as buildings, highways, bridges, as well as structural renovations, extensions, and repairs
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SECTION B: **GENERAL INFORMATION**

2. Introduction

- 2.1. The Local Government Act 1972 section 135 requires the Council to have standing orders for how it enters into contracts. These Contract Procedure Rules (the "Rules") are the standing orders required by the 1972 Act. They form part of the Council's Constitution and are, in effect, the instructions of the Council, to officers and elected members, for entering into contracts on behalf of the Council.
- 2.2. These Rules are the Contracting Authority's (the "Council") rules for the buying, renting and leasing of Goods, Services and Works and apply to all procedures for procuring and entering into Relevant Contracts made by the Council unless otherwise specified herein.
- 2.3. The aim of these Rules is to assist Officers in achieving best practice and lawful procurement, to ensure that the Council fulfils its duty of delivering Best Value for its council taxpayers and excellent outcomes for its service users.
- 2.4. The Rules also provide a basis for fair competition by providing transparent and auditable procedures to protect the Council's reputation from any suggestion of dishonesty or corruption.
- 2.5. These Rules apply to all Officers of the Council and all companies or organisations within the Council's control. They are part of the Council's Constitution and therefore Officers have a duty to ensure they have fully understood them and have sufficient authority prior to commencing any procurement or contracting activity (see *Section 12. Pre-Procurement Authorisations*).
- 2.6. Officers must also ensure that any persons or organisations acting on behalf of the Council fully comply with these Rules.
- 2.7. These Rules are mandatory and shall govern and regulate the Council's procurement and contract award procedures. Officers must also refer to the Commercial and Procurement Team ("Commercial and Procurement") for more detailed guidance throughout the procurement process.

- 2.8. The expectation is of compliance to these Rules and in any cases of doubt advice must be sought from Commercial and Procurement. Failure to follow these Rules may be dealt with as a breach of the Council's standards of conduct and in certain instances may be treated as gross misconduct and give rise to action under the Council's disciplinary policy and procedure (see *Section 46. Non-compliance to the Rules*).
- 2.9. If upon reading the Rules the Officer discovers a lack of clarity or wishes to ensure their comprehension and compliance, they must consult with Commercial and Procurement for advice and guidance. The Officer shall not be excused from these Rules on grounds of a lack of understanding.
- 2.10. The administration, monitoring and governance of these Rules shall be the responsibility of Commercial and Procurement.

3. The Procurement Sourcing Strategy

- 3.1. For procurement processes with a Total Contract Value in excess of the Procurement Regulations Threshold the Officer must consult with Commercial and Procurement to develop the procurement sourcing strategy.
- 3.2. The procurement sourcing strategy must, as a minimum, appraise a proposed procurement in a manner commensurate with its complexity, risk and value, by:
 - a. taking into account the requirements from any relevant Best Value review
 - b. considering the Social Value sought
 - c. taking in to account any lessons learned from any market engagement activities and/or audit findings
 - d. defining the key commercial principles, objectives of the procurement, taking into account user requirements and all Relevant Policy and Relevant Legislation
 - e. considering any related risks and impacts
 - f. considering the need to obtain specific assurances regarding any incumbent contractors' business continuity plans and arrangements
 - g. appraising the need for the expenditure and its priority
 - h. considering all of the associated costs, to include initial purchase costs, operating and maintenance costs, costs of associated

consumables, any associated training costs, the cost of disposal and the costs of exiting the contract

- i. taking in to account any tax or VAT issues that may arise
- j. when the purchase of new Goods is proposed, assessing the alternative options for repair, re-use or recycling
- k. considering all lawful means of achieving the anticipated outcomes.

3.3. The procurement sourcing strategy shall result in clear recommendations, as follows:

- a. the proposed scope, key commercial principles and the procurement route to be followed
- b. the relevant evaluation criteria, including the MEAT ratios
- c. the relevant timescales
- d. the means by which the Contract shall be monitored and managed
- e. the resources required.

3.4. The procurement sourcing strategy shall be signed off by the Officer and Commercial and Procurement. Where a change is required to a procurement sourcing strategy that has already been signed off, such changes shall be incorporated in as a variation to the original, agreed between the parties and signed off by the Officer and Commercial and Procurement.

3.5. A template procurement sourcing strategy can be obtained from Commercial and Procurement.

3.6. For those procurements falling within the Light Touch Regime, the Officer must consult with Commercial and Procurement to agree the most appropriate procurement approach, and if a procurement strategy is required.

4. Basic principles

4.1. All procurement and contracting activity and contract and

supplier management must:

- a. comply with these Rules and Financial Instructions
- b. achieve Best Value for public money spent
- c. be consistent with the highest standards of integrity
- d. comply with the Relevant Legislation (including the Council's statutory duties and powers)
- e. comply with any relevant Council policies
- f. support the Council's corporate and departmental aims
- g. ensure that Non-Commercial Considerations do not influence the Award Decision.

4.2. All procurements must comply with the following principles of the Procurement Regulations and UK procurement law and policy:

- a. mutual recognition
- b. non-discrimination
- c. openness and transparency
- d. equal treatment
- e. proportionality.

5. Officer responsibilities

5.1. The Officer is responsible for the commissioning, procurement, mobilisation/transition, contracting activity, Contract, supplier management and must:

- a. comply with and ensure that their Officers comply with these Rules and Financial Instructions
- b. comply with the Relevant Legislation
- c. ensure that any persons or organisations acting on behalf of the Council also fully comply
- d. take account of all necessary legal, financial, procurement, technical and any other professional advice
- e. complete mandatory, role specific training, as directed by the

Commercial and Procurement team.

- 5.2. Prior to commencing a procurement or contracting activity the Officer must:
- a. consider options for delivery of the required Goods, Services or Works
 - b. ensure that there is appropriate Council authority to procure and sufficient budgetary provision approved and in place
 - c. identify the size, scope, commercial principles, term and specification of the Goods, Services and Works required
 - d. check whether the Council already has an available and appropriate Contract in place in the Contracts Register, or an appropriate national, regional or other collaborative contract, Framework Agreement or Dynamic Purchasing System is available for use, by reference to the Commercial and Procurement team
 - e. check whether any employee, either of the Council or of a service provider, may be affected by any transfer arrangement and ensure that any Transfer of Undertaking (Protection of Employment) ("TUPE") issues are considered and obtain legal and HR advice
 - f. for procurement processes with a Total Contract Value above £50,000 the Officer must conduct the procurement activity in conjunction with a certified Procurement Officer of Commercial and Procurement
 - g. for procurement processes with a Total Contract Value at and above Procurement Regulations Threshold there must be an accompanying procurement sourcing strategy in line with *Section 3. The procurement sourcing strategy*.
- 5.3. Officers must ensure that the appropriate Governance process for spending approval is followed. Please refer to the Officer Decision Making guidance on the Council's intranet for the latest advice.
- 5.4. Officers must ensure that all commitments to suppliers are made in the form of a valid Purchase Order, prior to delivery of goods and services, consulting Commercial and Procurement to determine the most effective means of ordering and monitoring of spend against contracts. Any exceptions to this must be agreed with Finance and Procurement of be

covered by the PO exemption policy.

6. Procurement Officer responsibilities

- 6.1. All Officers employed within the Procurement team will complete the Passport to Procure training, which is available through the Learning Centre. Additional and specialist training may also be required in more specialist procurement roles. Once the appropriate training has been completed those Officers will be certified as a Procurement Officer and approved to complete specific procurement activities.
- 6.2. Any Council officer proposing to engage in a procurement process for goods or services above £50,000 shall also complete the Passport to Procure training, before being permitted to participate in any procurement activity.
- 6.3. Officers who have not undertaken the relevant training are not permitted to undertake procurement activity on behalf of the Council without prior consultation with the Commercial and Procurement team.

7. Member responsibilities

- 7.1. The Member must:
 - a. comply with and ensure that Officers comply with these Rules and Financial Instructions
 - b. comply with the Relevant Legislation
 - c. ensure that any persons or organisations acting on behalf of the Council also fully comply
 - d. take account of all necessary legal, financial, procurement, technical and any other professional advice
 - e. comply with the Members' Code of Conduct.

8. Prevention of corruption and collusion

- 8.1. All Officers have a duty in law to avoid any form of behaviour that might distort or restrict competition or call in to question the award of a Contract.
- 8.2. Officers must always comply with the Council's standards of conduct and must not offer, promise, give or receive any gift or reward in respect of

the award or performance of any Contract.

- 8.3. Officers are advised that any behaviour that is deemed to be in contravention of the provisions of the Bribery Act 2010, the Fraud Act 2006 and any amending legislation, and all legislation relating to money laundering may be dealt with as a breach of the Council's standards of conduct. In certain instances this may be treated as gross misconduct and give rise to action under the Council's disciplinary policy and procedure, such as dismissal. Such activity may also be reported to the Police.
- 8.4. Officers are advised to take practical steps to reduce the risk of anti-competitive behaviour, as highlighted by the Office of Fair Trading:
 - a. include non-collusion clauses in Contracts
 - b. ensure sufficient credible candidates, where practicable
 - c. identify and investigate for suspicious bidding patterns
 - d. keep notes of all discussions with candidates.

9. Conflicts of interest

- 9.1. All Officers, Members and key stakeholders involved in a procurement exercise must immediately declare in writing to the Head of Commercial and Procurement any conflicts of interests relating to the procurement activity where they, or their spouse or civil partner, or person with whom they are living as husband and wife or civil partner, have a vested interest that could conflict with the best interests of the Council.
- 9.2. Where a conflict of interest exists the Head of Commercial and Procurement, in consultation with Legal Services, shall consider any appropriate mitigation(s) to be put in place to ensure that such conflicts do not compromise the outcome of the procurement exercise, or whether such Officer, Member or key stakeholder must excuse themselves from the procurement.
- 9.3. Commercial and Procurement officers shall maintain a record of all declarations of interest and mitigations in a procurement exercise as notified by Officers, Members and key stakeholders and shall share the declarations of interest record with Legal Services and Democratic Services. Further advice and guidance can be obtained from the Commercial and

Procurement team.

10. Localism Act 2011

- 10.1. Under the Localism Act 2011 and any amending legislation, community organisations can submit to local authorities an expression of interest to run local services, commonly known as the Community Right to Challenge.
- 10.2. If such an expression of interest is accepted by the Council this will trigger procurement or contracting activity, which is subject to these Rules.

SECTION C: PRE-PROCUREMENT

11. Market engagement

- 11.1. The Officer may, prior to commencing the procurement process, consult potential candidates in general terms about the nature, level and standard of the supply and Contract and seek market views and intelligence that can be used in the planning and conduct of the procurement process provided that this does not result in the violation of the Procurement Regulations principles, prejudice any other interested supplier/s not consulted and/or have the effect of distorting competition, which might manifest itself as:
 - a. a conflict of interest
 - b. evidence of collusion
 - c. a situation which is incapable of being resolved as a result of providing information to other potential candidates.
- 11.2. The Officer shall take advice from Commercial and Procurement to ensure that the proposed method of engaging the market or particular potential candidates does not preclude them from participating in any subsequent procurement activity so as to ensure that the approach does not undermine Best Value, lead to the award of a dissatisfactory Contract or increase the risk of a procurement legal challenge. The proposed method of engaging the market or particular potential candidates must also not prevent the Council from choosing a supplier that offers the best balance between the whole life cost (from acquisition to disposal) of goods and services against predefined requirements.
- 11.3. Suppliers consulted during market engagement activities shall only be excluded from the procurement process where there are no other means to

ensure compliance with this section in its entirety. Potential candidates must be given the opportunity to prove that their involvement in market engagement activities is not capable of distorting competition.

- 11.4. All potential candidates must be informed in advance by the Officer that any information shared as part of such an engagement may be declared as commercially confidential where this applies but that the Council reserves the right to share all information in order to comply with principles of Section 4.2 above. Further advice can be obtained from Commercial and Procurement.

12. Pre-procurement authorisations

- 12.1. Officers must ensure, before entering into any process that will or may result in the incurring of any expenditure for the supply of Goods, Services or Works, be it capital or revenue, that:
 - a. the Strategic Commissioning Group is consulted as part of compliance with the Commissioning Gateway activity for all procurement and contracting activity above £50,000 total contract value
 - b. adequate financial provision is included in the Council's approved revenue budget or capital programme and that such expenditure continues to be available in accordance with the Financial Regulations
 - c. the Council does not already have an available and appropriate existing Corporate Contract, Framework Agreement or Dynamic Purchasing System
 - d. there is no other available and appropriate Contract, Framework Agreement or Dynamic Purchasing Systems that has been procured on the Council's behalf
 - (i) through collaboration with other public bodies, where a competitive process has been followed that complies with the rules of the lead organisation and any Relevant Legislation, but which does not necessarily comply with these Rules or
 - (ii) by a regional or national contracting authority or buying consortia where the process has been conducted in compliance with any Relevant Legislation;
 - e. the Council is not already undertaking a procurement process that

is within the scope of the proposed procurement; and

- f. all proposed expenditure is reported as a Non Key Decision Report.

12.2. Procurement processes may only be carried out once the Non Key Decision Reports has been countersigned by the appropriately empowered officer as set out in the Council's Scheme of Delegation.

12.3. The Officer must consult with Commercial and Procurement prior to preparing the Non Key Decision Report.

13. Total Contract Value

13.1. The Total Contract Value is calculated as the whole of the value or estimated value of the Contract as follows:

- a. the total amount payable as estimated by the Council and including any additional options, lots, renewals and/or extensions
- b. where the Contract period is indefinite or uncertain, the value shall be calculated on the basis that the Contract will be for a period of four years and be based on the value of contracts of the same or similar type awarded during the preceding period
- c. the estimated value of a Framework Agreement or Dynamic Purchasing System shall be the total value of all of the Contracts that may be awarded against that Framework Agreement or Dynamic Purchasing System
- d. the value of a Concession Contract shall be the best estimate of the financial value to the Contractor that shall be made over the life of the arrangement
- e. the estimated value of an Innovation Partnership shall be the total estimated value, inclusive of the research and development activities to take place during all stages of the envisaged partnership, as well as the Goods, Services or Works to be developed and procured at the end of the envisaged partnership.

13.2. The general rules when calculating the Total Contract Value are as

follows:

- a. purchases of the same or similar type must be aggregated wherever practicable. The value of the Contract shall not be calculated with the intention of excluding it from the scope of the Rules
- b. where there is a common requirement across the Council, the Total Contract Value shall be the aggregate of all purchases across the Council
- c. a Contract shall not be sub-divided with the effect of preventing it from falling within the scope of the Rules
- d. the estimated value shall be calculated as at the moment at which the advertisement is sent or when the Council commences the procurement procedure, whichever is the latter; unless
- e. the estimated value at the point that a Concession Contract to which the Relevant Legislation applies is awarded is more than 20% higher than the previous estimate, in which case the higher value applies.

13.3. When calculating the estimated value of the contract to determine whether the regulations apply, the contract value estimation should be inclusive of VAT irrespective of any VAT exemptions or recovery rates.

14. Procurement Thresholds

14.1. The table below sets out the Council's competition requirements.

Contract type	Total Contract Value	Specification Requirements	Procurement process
Goods, Services and Works	Up to £25,000	Purchasing requisition, specification	Recommended three written quotes, minimum 1 written quote ensuring Best Value <i>See section 20</i>
Goods, Services and Works	Over £25,000 up to £50,000	Purchasing requisition, specification	Minimum of three written quotes <i>See Section 20</i>
Goods and Services	Over £50,000 up to £100,000	Specification, evaluation criteria, terms and conditions	Quick Quote via the Council's Electronic Tendering System
Works	Over £50,000 up to £250,000		<i>See Section 21</i>

Contract type	Total Contract Value	Specification Requirements	Procurement process
Goods and Services	Over £100,000 and less than the Procurement Regulations Thresholds	Tender docs, specification, evaluation criteria, terms and conditions	Invitation to Tender via the Council's Electronic Tendering System <i>See Section 22</i>
Works	Over £250,000 and less than the Procurement Regulations Threshold		
Goods, Services and Works	At and above the Procurement Regulations Threshold	Tender docs, specification, evaluation criteria, terms and conditions	Invitation to Tender as per the Relevant Legislation and via the Council's Electronic Tendering System <i>See Section 23</i>

15. Relevant Legislation

- 15.1. When planning and preparing all procurement and contracting activities the Officer shall have regard to the Relevant Legislation, relevant to the Service being procured as well as procurement activities.
- 15.2. The aims and objectives outlined in the Relevant Legislation shall, where appropriate, be incorporated into the procurement sourcing strategy, award methodology and terms and conditions of contract.

16. Relevant Policy

- 16.1. When planning and preparing all procurement and contracting activities the Officer shall have regard to the Council's Relevant Policy and duties including, but not limited to, the following:

- a. the County Plan
- b. Value for Money Strategy
- c. Sustainable Procurement
- d. Social Value Policy
- e. Fairness and Equality for All
- f. Medium Term Financial Plan
- g. the Climate Emergency
- h. the relevant Service Plan(s)
- i. Managing Contractors policy
- j. Relevant Service commissioning strategy.

16.2. The aims and objectives outlined in the Relevant Policy shall, where appropriate, be incorporated into the procurement sourcing strategy, award methodology and terms and conditions of contract.

16.3. The Local Government Transparency Code 2015 sets out the minimum data that local authorities should be publishing, the frequency it should be published and how it should be published. Procurement will ensure that all contract awards are published in accordance with the Transparency Code.

16.4. Purchase Orders of £5,000 and above will only be approved once Procurement and Finance have checked them. Procurement will examine all off-contract spend and target reductions in discretionary areas of spend and challenge those that should be using existing contracts.

17. Collaborative procurement

17.1. Where the Council takes the lead procurement role in a collaborative procurement these Rules shall apply, as a minimum. Where another public body takes the lead procurement role the Rules of the lead organisation and any Relevant Legislation shall apply.

17.2. Where the Council enters into any formal collaborative procurement arrangements any related collaboration agreement must protect the Council to a level proportionate to the complexity, risk and value involved, whilst at the same time providing the basis for the collaborative approach and delivery of Best Value. As a minimum the collaboration agreement should clearly state:

- a. the nature and extent of the arrangement
- b. legal roles and responsibilities
- c. arrangements for governance, accountability, and dispute resolution
- d. the exit strategy
- e. the auditing arrangements
- f. the cost sharing mechanisms
- g. the process for the induction of new partners.

17.3. Where the Council takes the lead procurement role in a collaborative procurement the Officer shall prepare such a collaboration agreement and ensure that it is countersigned by all partner organisations.

17.4. Where no such formal collaboration agreement exists the Officer must consider how the arrangements meet the requirements of these Rules, which must be documented and approved by the appropriately empowered Officer as set out in the Council's Scheme of Delegation.

18. Use of Framework Agreements and Dynamic Purchasing Systems

18.1. Where an appropriate Council Framework Agreement or Dynamic Purchasing System exists, the Officer must use it for the making of the proposed Purchase.

18.2. Where the Council seeks to establish a Framework Agreement or Dynamic Purchasing System it shall be let and used in full accordance with the Relevant Legislation and terms of the Framework Agreement or Dynamic Purchasing System.

18.3. The use of another relevant organisation's Framework Agreement or Dynamic Purchasing System may be used, subject to consultation with Commercial and Procurement.

18.4. The use of a Framework Agreement or Dynamic Purchasing System may be appropriate where:

- a. Quotations or Tenders are regularly obtained for the same or similar types of Goods, Services or Works and
- b. it is not practical or appropriate that the Goods, Services or Works

in question be aggregated into a single requirement and/or competed under one procurement and

- c. the Total Contract Value of the Goods, Services or Works, if aggregated, would exceed the Procurement Regulations Threshold.

19. Standard Procurement Documents

- 19.1. The Officer must use standard Procurement Documents or relevant Framework Agreement or Dynamic Purchasing System documents to conduct any procurement or contracting activity that will or may result in the incurring of any expenditure for the supply of Goods, Services or Works.
- 19.2. Standard Procurement Documents are stored and maintained by Commercial and Procurement and can be obtained in consultation with a certified Procurement Officer.
- 19.3. Where it is necessary to vary the standard Procurement Documents or relevant Framework Agreement or Dynamic Purchasing System documents the Officer must consult with Commercial and Procurement.
- 19.4. Where it is necessary to vary the standard terms and conditions of contract or relevant Framework Agreement or Dynamic Purchasing System documents the Officer must consult and agree any variations with Legal Services.

20. Procurement process for lower value purchases

- 20.1. For Contracts up to the Total Contract Value of £50,000, where there is a suitable corporate Contract, Framework or Dynamic Purchasing System that corporate Contract, Framework Agreement or Dynamic Purchasing System shall be used, provided that such a course of action achieves the principles of Best Value.
- 20.2. Where no suitable Framework Agreement, Dynamic Purchasing System or corporate Contract is available then achieving Best Value is the primary objective and the Officer is required by these Rules to achieve the following to demonstrate compliance:
 - up to £25,000 - recommend three written quotes, minimum one written quote

- ensuring Best Value
 - over £25,000 up to £50,000 - minimum of three written quotes.
- 20.3. Where the Officer is unable to select a potential candidate and/or demonstrate Best Value as outlined above, the Officer must consult with Commercial and Procurement on the most appropriate way forward.
- 20.4. Acceptance will be notified to the successful supplier by issue of a Purchase Order. The Purchase Order must refer to the Council's standard terms and conditions of contract, except for where the complexity of the Contract requires more bespoke terms, for example a specific stand-alone contract in which case the Purchase Order shall make separate reference to these.
- 20.5. Unsuccessful candidates shall be notified and, at their request, shall be given the reason why they were unsuccessful without breaching the commercial confidentiality of other candidates.
- 20.6. The Officer must inform Commercial and Procurement in a timely manner of the Contract details for any Contract made in excess of £5,000, such that a record can be made on the Council's Contracts Register, in line with the Transparency Code.

21. Quick Quote

- 21.1. For Contracts with a Total Contract Value over £50,000 up to £100,000 for Goods and Services up to £250,000 for Works where there is a suitable corporate Contract, Framework or Dynamic Purchasing System that corporate Contract, Framework Agreement or Dynamic Purchasing System shall be used.
- 21.2. Where no suitable Framework Agreement, Dynamic Purchasing System or corporate Contract is available then achieving Best Value remains the primary objective and the Officer is required by these Rules to achieve a minimum of three Quotations via the Quick Quote process on the Council's Electronic Tendering System, unless a suitable external Framework Agreement or Dynamic Purchasing System is identified and agreed with Commercial and Procurement.
- 21.3. The Officer must not include two stages within a procurement of this

nature (Selection Questionnaire and ITT).

- 21.4. In the event that no suitable candidates can be found on the Council's Electronic Tendering System the Officer may choose to place an advertisement via the system and in Find a Tender so as to attract appropriate candidates to bid.
- 21.5. The Procurement Documents must include:
- a. the Council's standard terms and conditions of contract, the standard form of contract and/or bespoke terms;
 - b. the specification
 - c. the pricing schedule
 - d. the ordering procedures
 - e. commercially confidential information schedules
 - f. completion requirements
 - g. the Selection Questionnaire
 - h. the Award Criteria
 - i. the submission requirements
 - j. a named contract manager.
- 21.6. Acceptance will be notified to the successful supplier by issue of a Purchase Order. The Purchase Order must refer to the Council's standard terms and conditions of contract, except for where the complexity of the Contract requires more bespoke terms, for example a specific stand-alone contract in which case the Purchase Order shall make separate reference to these.
- 21.7. Unsuccessful candidates shall be notified and, at their request, shall be given the reason why they were unsuccessful without breaching the commercial confidentiality of other candidates.
- 21.8. A Contract award record must be made on the Council's Contracts Register and Find a Tender.

22. Procurement processes requiring Invitations to Tender

- 22.1. For Contracts at and above the Total Contract Value over £100,000 for Goods and Services and over £250,000 for Works but less than the

Procurement Regulations Thresholds where there is a suitable corporate Contract, Framework or Dynamic Purchasing System that corporate Contract, Framework Agreement or Dynamic Purchasing System shall be used.

- 22.2. Where no suitable corporate Framework Agreement or Dynamic Purchasing System is available the Officer is required by these Rules to invite Tenders from any and all qualified candidates by advertising the opportunity via the Council's Electronic Tendering System and in Find a Tender, unless a suitable external Framework Agreement or Dynamic Purchasing System is identified and agreed with Commercial and Procurement.
- 22.3. The Officer must not include two stages within a procurement of this nature (Selection Questionnaire and ITT).
- 22.4. The advertisement must include:
 - a. the time period within which interested parties may express an interest in Tendering; and
 - b. the method by which such interest shall be expressed.
- 22.5. An Invitation to Tender shall be sent to all parties who have expressed an interest, specifying a reasonable period for Tenders to be returned.
- 22.6. The Procurement Documents must include:
 - a. instructions to candidates
 - b. the Council's standard terms and conditions of contract, the standard form of contract and/or bespoke terms
 - c. form of tender
 - d. certificate of non-collusion
 - e. the specification
 - f. the pricing schedule
 - g. commercially confidential information schedules
 - h. completion requirements
 - i. the Selection Questionnaire
 - j. the Award Criteria

- k. the submission requirements.
- 22.7. The successful supplier and unsuccessful candidates shall be notified of the outcome by issue of a letter sent electronically via the Council's Electronic Tendering System. Unsuccessful candidates shall at their request be given the reason why they were unsuccessful without breaching the commercial confidentiality of other candidates.
- 22.8. A Purchase Order must be raised.
- 22.9. A Contract award record must be made on the Council's Contracts Register and Find a Tender.

23. Procurement processes over the Procurement Regulations Threshold

- 23.1. For Contracts at and above the Procurement Regulations Threshold where there is a suitable Framework Agreement or Dynamic Purchasing System approved by Commercial and Procurement, that Framework Agreement or Dynamic Purchasing System shall be used.
- 23.2. Where no suitable Framework Agreement or Dynamic Purchasing System is available the Officer is required by these Rules to invite Tenders from any and all qualified candidates as required in accordance with the agreed procurement process being followed (open, negotiated etc.) by advertising the opportunity via the Council's Electronic Tendering System, in Find a Tender (the UK e-notification service).
- 23.3. Advice on the most appropriate procedure to the specific case must be obtained from Commercial and Procurement, in conjunction with Legal Services where required.
- 23.4. In all cases the Relevant Legislation shall be followed to conduct the procurement and contracting activity.
- 23.5. The Procurement Documents must include:
- a. instructions to candidates
 - b. the Council's standard terms and conditions of contract, the standard form of contract and/or bespoke terms
 - c. form of tender

- d. certificate of non-collusion
 - e. the specification
 - f. the pricing schedule
 - g. commercially confidential information schedules
 - h. completion requirements
 - i. the Selection Questionnaire
 - j. the Award Criteria
 - k. the submission requirements
 - l. any other requirements as mandated by the Relevant Legislation.
- 23.6. The successful supplier and unsuccessful candidates shall be notified in accordance with the Relevant Legislation and a Standstill Period shall be observed.
- 23.7. A Purchase Order must be raised by the Officer.
- 23.8. A Contract award record must be made on the Council's Contracts Register, in Find a Tender (the UK e-notification service).

24. Light Touch Regime

- 24.1. Certain Services Contracts, as defined in the Relevant Legislation, are not subject to its full rigour. However, the Council will remain bound by the requirement to ensure such procurements do not result in the violation of the Procurement Regulation principles and therefore Officers must ensure that the procedure used is compliant in all respects.
- 24.2. As a minimum the Officer must invite Tenders from any and all qualified candidates by advertising the opportunity via the Council's Electronic Tendering System and in Find a Tender (the UK e-notification service).
- 24.3. Where the Officer believes that their Contract falls within the Light Touch Regime they must consult with Commercial and Procurement prior to commencing any procurement or contracting activity.

25. Selection Criteria

- 25.1. The Selection Questionnaire shall be used to assess a candidate's ability to meet the Council's requirements or minimum standards of suitability, capability, legal status or financial standing and will be

included within the procurement documentation for all contracts over £100,000.

- 25.2. For Contracts with a Total Contract Value of up to £50,000 the Officer may choose to include the Selection Questionnaire within Quotations and may take advice from Commercial and Procurement where necessary.
- 25.3. In any case where the Selection Questionnaire is used its use must be relevant and proportionate to the subject matter of the Contract (going no further than is needed to achieve the Council's objective). In particular, where the Total Contract Value is less than the Procurement Regulations Threshold, the Officer must make an assessment of the requirements of the Contract and decide how far it would be appropriate to use any or all of the questions in the Selection Questionnaire.
- 25.4. Where the Total Contract Value is at or above the Procurement Regulations Threshold the questions in Part 3 of the Selection Questionnaire are optional and should be used only if each such question is:
 - a. relevant to the subject-matter of the procurement
 - b. proportionate.
- 25.5. Selection Criteria must not include:
 - a. award criteria
 - b. non-commercial considerations
 - c. criteria that are not related and proportionate to the subject matter of the Contract.
- 25.6. The Officer shall consult with Commercial and Procurement for advice and guidance on the appropriate use of the Selection Questionnaire and Selection Criteria prior to issuing the Procurement Documents.
- 25.7. The selection of candidates shall only be on the basis of the Selection Questionnaire and only where the Selection requirements are made available to potential candidates within the Procurement Documents.
- 25.8. The Officer may reject candidates that fail against the mandatory and discretionary criteria as detailed within the Selection Questionnaire only in conjunction with Commercial and Procurement and Legal Services, where

relevant.

26. Award Criteria

- 26.1. The Officer shall include the Award Criteria within the Procurement Documents, using these to assess a candidate's ability to deliver the Council's requirements under the Contract, achieving Best Value.
- 26.2. The Contract shall be awarded to the candidate whose Tender best meets the Award Criteria. on the basis of Most Economically Advantageous Tender (MEAT), taking criteria that are proportionate to and linked to the subject matter of the Contract.
- 26.3. The Officer shall consult with Commercial and Procurement for advice and guidance on the appropriate use of the Award Criteria prior to issuing the Procurement Documents.
- 26.4. The award of the Contract shall only be on the basis of the Award Criteria and only where the Award requirements are made available to potential candidates within the Procurement Documents.

27. Most Economically Advantageous Tender

- 27.1. In selecting a preferred supplier, the Council must comply with the general principles of proportionality, mutual recognition, transparency, non-discrimination and equal treatment. In doing so all contract awards must be based on the Most Economically Advantageous Tender (the "MEAT").
- 27.2. The MEAT may be identified by using a price-quality ratio and the default position for such evaluations is a ratio of 60:30:10, 60% price, 30% quality and 10% social value.
- 27.3. However, in discussion with Commercial and Procurement, Officers must ensure the approach used to achieve MEAT is by the best means, using a methodology which is relevant and proportionate to the particular procurement being undertaken.
- 27.4. It is essential to ensure that the methodology used is;
 - a. relevant and proportionate for what is being purchased
 - b. one that will work within that particular market

- c. modelled before publication to ensure it meets the above requirements and does not result in any reporting anomalies.

27.5. Where the Officer fails to gain agreement with their counterpart in Commercial and Procurement on the methodology to be applied, the first point of review is a Strategic Manager in Commercial and Procurement. If agreement still is not achieved, the Officer must develop a business case justifying their approach detailing how it does comply with the requirements as per 27.1 and 27.4 above and obtain the approval of the Executive Director of Resources & Corporate Services of the approach before proceeding with the procurement.

28. Performance bonds and parent company guarantees

28.1. The Officer must consult the Section 151 Officer concerning whether a performance bond is needed where:

- a. the Total Contract Value is at or above £1,000,000 or
- b. where it is proposed to make stage or other payments in advance of receiving the whole of the Contract and there is a concern about the stability of the candidate.

28.2. The Officer must consult the Section 151 Officer concerning whether a parent company guarantee is needed where:

- a. the Total Contract Value exceeds the Procurement Regulations Threshold or
- b. the award of the Contract is based on the evaluation of the parent company or there is some concern about the stability of the candidate.

29. Terms and Conditions of Contracts

29.1. All Contracts, regardless of value, shall be accompanied either by the Council's:

- a. standard terms and conditions of contract or
- b. the standard form of contract or
- c. bespoke terms.

29.2. Whilst some of the terms of the Contract are able to be amended or deleted, the following clauses are mandatory and must be included:

- a. no assignment of the Contract without the written consent of the Council
- b. no sub-contracting of the Contract without the written consent of the Council
- c. cancellation in the event that gratuities, inducements or any other type of consideration in relation to the Contract are offered to an employee, member or any persons or organisations acting on behalf of the Council
- d. compliance with all Relevant Legislation
- e. a statement of the Council's obligations towards its transparency requirements under the Freedom of Information Act 2000
- f. compliance to health and safety regulations
- g. contract exit on expiry (including transfer of the Council's data to the any new contractor and protection against risks to the council arising from the application of TUPE)
- h. termination:
 - (i) in the event of bribery or corruption, the Contract must include a clause empowering the Council to terminate the Contract and to recover from the Supplier the amount of any loss resulting from such termination, and
 - (ii) for all Contracts in excess of the Procurement Regulations Threshold the Contract must include the termination provisions set out in the Relevant Legislation
 - (iii) to include on termination, the repatriation of personal data to the Council as the data controller
- i. indemnity and insurance which adequately protects the Council against risk
- j. protection of personal data including measures required to ensure lawful processing of data in other jurisdictions
- k. confidentiality of sensitive commercial information
- l. dispute procedure
- m. authorised users
- n. governing law

- o. prompt payment and the obligation for Suppliers to pay their sub-contractors promptly, in accordance with the Small Business, Enterprise and Employment Act 2015
 - p. employee vetting, where appropriate and
 - q. where the Contract is for the employment of persons or organisations acting on our behalf, a statement that obliges them to fully comply with these Rules.
- 29.3. Where the Contract provides for the appointment of a nominated sub-contractor the Officer will ensure that the terms and conditions of contract are passed to the main contractor in a way that ensure that they are responsible for ensuring that the nominated sub-contractor is subject to and meets the same requirements as the main contractor, including, but not limited to, the following:
- a. the mandatory clauses identified in these Contract Procedure Rules and Standing Orders
 - b. supporting the local economy and promotion of local employment
 - c. vetting to Enhanced Disclosure level where required.

30. Protection of personal data

- 30.1. Officers must take all reasonable steps, including incorporation of clauses into Contracts with Suppliers, to ensure that the personal data of individuals is protected in accordance with the General Data Protection Regulation (GDPR), Data Protection Act 2018, allied legislation and Codes of Practice from the Information Commissioner's Office (ICO). Officers must ensure the Councils' obligations and risks, in respect of personal data, are considered and indemnities are sought where appropriate. Where under the Contract Personal Data is to be processed outside the UK or EU specific advice must be obtained from legal services before the Contract is entered into.

31. Confidentiality of sensitive commercial information

- 31.1. Officers must take all reasonable steps, including incorporation of clauses into Procurement Documents and Contracts with Suppliers, to ensure that the confidentiality of sensitive business information such as details of pricing and trade secrets are protected in accordance with the Relevant Legislation and guidance. Officers must ensure the Councils' obligations

and risks, in respect of the business information of both the Council and Suppliers, are considered and indemnities are sought where appropriate. More information and guidance can be obtained from Legal Services and the Information Governance Team.

32. Submission, receipt and opening of Tenders

- 32.1. All Contracts above the Total Contract Value of £50,000 shall be submitted electronically through the Council's Electronic Tendering System.
- 32.2. Tenders received after the stated date and time shall not be accepted under any circumstances. For the purposes of these Rules the time will be deemed to be at the first stroke, e.g. noon shall be 12:00:00.
- 32.3. Submissions shall be verified and opened on the Council's Electronic Tendering System by an appropriately empowered Procurement Officer as set out in the Council's Officer Scheme of Delegation.

33. Evaluation of Quotations and Tenders

- 33.1. All submissions received for Contracts above the Total Contract Value of £50,000 shall be evaluated in accordance with the pre-determined Selection and Award criteria, as set out in the Procurement Documents.
- 33.2. The Officer shall ensure that subject-matter experts or appropriately experienced Officers evaluate all submissions in accordance with the pre-determined Selection and Award criteria.
- 33.3. The Officer is obliged to check the arithmetic in compliant submissions. Where arithmetical errors are found they must be notified to the candidate, who must be requested to confirm or withdraw their submission.
- 33.4. The Officer must notify all candidates in writing simultaneously and as soon as possible of the intention to award the Contract. Where the Total Value of the Contract is in excess of the Procurement Regulations Threshold, then the Relevant legislation shall be adhered to in respect of the content of the letter and the Standstill Period.
- 33.5. Apart from the debriefing required or permitted by these Rules the confidentiality of submissions and the identity of candidates must be preserved at all times and information about one candidate's submission must not be supplied to another.

33.6. The results of the Tender evaluation must be recorded and retained on the Tender file in accordance with the Council's records management, retention and disposal requirements.

34. Abnormally low bids

- 34.1. The Officer may reject a Tender as being abnormally low, but only after they have first:
- a. been presented with the candidate's commercial information from Commercial and Procurement and consulted with a Procurement Officer
 - b. requested in writing an explanation from the candidate for those parts of the Tender considered abnormally low
 - c. taken account of the evidence provided in response to such a request
 - d. verified to the candidate those parts of the Tender considered abnormally low
 - e. and only where the explanation provided by the candidate does not satisfactorily account for the low price or costs proposed.
- 34.2. Where the Officer establishes that the Tender is abnormally low because the candidate has obtained a Subsidy, the Tender will be rejected on that basis, but only after the Officer has first:
- a. consulted with the candidate
 - b. consulted with Legal Services
 - c. where the candidate is unable to prove that the aid in question is compatible with the regulations governing Subsidies.
- 34.3. Where the Officer rejects a Tender on the basis of its incompatibility with the rules on Subsidies they will inform the Legal Services and Commercial and Procurement to agree the next steps.

35. Clarification

35.1. Seeking clarification of a Tender to candidates is only permitted by a member of Commercial and Procurement and should in the first instance take place in writing via the Council's Electronic Tendering System. If sufficient clarification cannot be obtained in this manner further means can be

- a. at a meeting, provided that a written record is made of the meeting and
 - b. in a way that is fair, transparent, and equal to all candidates.
- 35.2. There must be no significant variation of the Procurement Documents or standard terms and conditions of contract following such clarification.
- 35.3. Where a clarification would result in a fundamental change to the specification or terms and conditions of contract the Contract must not be awarded but re- tendered.

36. Electronic auctions

- 36.1. Electronic auctions may be used as part of the procurement process as a means of driving additional commercial benefits and as part of the Award Criteria.
- 36.2. The use of electronic auctions must be specified within the Procurement Documents and the Award Criteria associated with the auction must be clearly defined. The auction will be undertaken by Commercial and Procurement using the Council's e-tender system.
- 36.3. Where the Council uses an electronic auction to enable candidates to adjust their Tender price in the light of information from the Tender prices submitted by competing candidates then all such alterations to candidates' pricing will be accepted as permitted by the auction process.

SECTION E: CONTRACTAWARD

37. Intention to award a Contract

- 37.1. For Contracts over the Procurement Regulations Threshold, Officers must allow candidates a mandatory minimum Standstill Period of ten (10) calendar days for electronic Tenders from notification to all candidates before entering into a contractually binding agreement with the successful Supplier(s). It is most important that any communication with the preferred candidate(s) does not constitute a Contract award, conditional or otherwise.
- 37.2. Following any Standstill Period, if appropriate, an award notice must be placed by Commercial and Procurement.

- 37.3. All candidates must be simultaneously notified in writing of the award and all letters informing them of the outcome of the Tender must comply with the Relevant Legislation.
- 37.4. Additional written or verbal debriefing must not be offered to candidates. Where debriefing is requested by candidates the Officer must obtain advice from Commercial and Procurement before responding to the request.
- 37.5. Any complaints, correspondence threatening challenge or formal court proceedings challenging the decision, received from unsuccessful candidates or other third parties must be immediately submitted to Commercial and Procurement and Legal Services for review and response.
- 37.6. A Standstill Period is not necessary for Tenders below the Procurement Regulations Threshold or where they have been subjected to the Light Touch Regime. However, the Officer may use their discretion and include such a period as is required. Such discretion shall only be granted where the Officer has consulted with Commercial and Procurement. Where Commercial and Procurement advises that a Standstill Period is necessary to minimise the risk of a legal challenge, the Officer will include the period in the procurement process. In any case, all candidates must be simultaneously notified in writing of the outcome of the Tender.
- 37.7. Where an unsuccessful candidates requests debrief information the Officer may use their discretion in deciding whether or not to comply with the request; there is no legal obligation imperative on the Officer to do so for under Procurement Regulations Threshold Tenders.

38. Approval to award

- 38.1. Approval to award a Contract, Framework Agreement or Dynamic Purchasing System can only be given as follows:

Total Contract Value	Approval to award
Over £250,000	Only the Chief Executive and/or Executive Directors and Service Directors (Grades 1-3)

Up to £250,000	All Strategic Managers and officers at Grade 6 or above
Up to £50,000	All Service Managers and Officers at Grade 8 or above
Up to £10,000	Officer scale 11 or above
Up to £500	All Council officers

38.2. Where approval is sought to award a Framework Agreement or Dynamic Purchasing System, approval may also be sought to award the subsequent Call-off Contracts as part of the same decision report. Where this is not observed, Officers must seek the appropriate approval to award Call-Off Contracts in accordance with the contract value.

39. Signing of Contract

39.1. Officers must ensure that all the necessary permissions are in place (e.g. funding commitments, licences, and leases) before the Contract is entered into.

39.2. All Contracts made on behalf of the Council must be in writing. Officers must ensure that:

- a. for Contracts up to and including the Total Contract Value of £25,000 a Purchase Order referring to the Council's standard terms and conditions of contract is in place before any Goods, Services or Works are requested or allowed to begin; or
- b. for Contracts over the Total Contract Value of £25,000 a Purchase Order and a signed Contract is in place before any Goods, Services or Works are requested or allowed to begin.

39.3. For Contracts with a Total Contract Value of £100,000 or below for Goods and Services and £250,000 for Works they must always be signed by an Officer with the authority to do so under the Council's Scheme of Delegation (except where the Contract is in the form of a deed in which case paragraph 42.4 applies). If the Officer with responsibility for the decision to enter the Contract is not available to sign the Contract then another Officer with the equivalent level of authority may sign the Contract or it can be signed by any Officer who has been duly authorised.

- 39.4. For Contracts in the form of a deed or with a Total Contract Value over £100,000 for Goods and Services and £250,000 for Works (except where Section 39.7 of these Contract Procedure Rules and Standing Orders requires that the Contract must be sealed with the common seal of the Council) they must always be signed by two (2) Officers, one of which must have the authority to do so under the Council's Scheme of Delegation. If the Officer with responsibility for the decision to enter the Contract is not available to sign the Contract then another Officer with the equivalent level of authority may sign the Contract. The second signatory must be a Procurement Officer with the authority to do so under the Council's Scheme of Delegation or any Officer acting with appropriate delegated authority.
- 39.5. Contracts which these Rules require to be signed may be:
- a. signed electronically and exchanged by email. Where a Contract is signed and exchanged in this way the Officer responsible for securing signatures must follow guidance on electronic signatures issued by Legal Services and must retain a copy of the email from the contractor containing the signed Contract and must provide a copy to the Commercial and Procurement team; or
 - b. signed using Electronic Signing Software. Where Electronic Signing Software other than the Council's designated software is used the Officer authorised to sign the Contract is responsible for checking the compliance of the software to be used.
- 39.6. The Officer responsible for securing signatures must ensure that the person signing on behalf of the Supplier has the authority to bind it.
- 39.7. A Contract must be sealed with the common seal of the Council where:
- a. the price paid or received under the Contract is a nominal price and does not reflect the value of the goods, services or works; or
 - b. there is any doubt about the authority of the person signing for the other party; or
 - c. the contract is required to be sealed by law.
- 39.8. Where Contracts are completed by each side adding their formal seal, the fixing of the Council's seal must be witnessed by or on behalf of the Monitoring Officer. Every Council sealing will be consecutively numbered,

recorded and signed by the person witnessing the seal and a final completed original copy must be returned to Legal Services for storage. The seal must not be affixed without the appropriate authority in accordance with the Council's Constitution.

40. Letters of intent

40.1. Letters of Intent shall only be used in exceptional circumstances and may only be signed by Officers with delegated authority to do so under the Council's Scheme of Delegation. Such exceptional circumstances shall only be determined by Commercial and Procurement in conjunction with Legal Services and as such the Officer must obtain advice on their acceptable use.

41. Early Termination of Contract

41.1. The date on which the Contract will terminate, and the terms on which the Contract may be terminated early (e.g. for breach of Contract) must be clearly described within the Contract.

42. Variation, extension, assignment and novation

42.1. Variation

- a. A variation to a Contract may involve:
 - (i) a change to the specification
 - (ii) a one-off item of work or particular service or
 - (iii) change in terms affecting the Contract.
- b. Variations must not exceed the scope, financial value or duration of the advertised Contract.
- c. Where the Officer considers that a proposed variation may materially change or exceed the specification, price or duration of a Contract, advice must be obtained from Commercial and Procurement and Legal Services.
- d. Variations to Contracts must be approved and signed by the relevant officers in accordance with the Council's Officer Scheme of Delegation.

42.2. Extension

- a. Extensions of Contracts may only be made where:
 - (i) there is budgetary provision
 - (ii) Best Value can be clearly demonstrated and
 - (iii) for Contracts below the Procurement Regulations Threshold:
 - the extension is within the scope (description of Goods, Services or Works, duration and Total Contract Value) and
 - there is a provision stipulated in the original Contract for an extension
 - the extension does not cause the Total Contract Value to exceed the relevant Procurement Regulations Threshold or
 - a waiver request form is completed where no specific provision exists in the Contract
 - (iv) for Contracts at or over the Procurement Regulations Threshold:
 - the extension is within the scope (description of Goods, Services or Works, duration and Total Value) of the original Contract and
 - the original Contract Notice advertised and the Contract permits the extension.
- b. Where the Officer considers that a proposed extension may materially change or exceed the specification, price or duration of a Contract, advice must be obtained from Commercial and Procurement and Legal Services. Extensions to Contracts must be approved and signed by the relevant officers in accordance with the Council's Officer Scheme of Delegation.

42.3. Assignment and Novation

- a. In the event of the Officer becoming aware that a Supplier is entering into a change of control, insolvency, bankruptcy, receivership or liquidation the Officer must inform Commercial and

Procurement and Legal Services immediately. The Supplier shall only be permitted to assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof with the prior written consent of the Council. The Council reserves the right to decline a Supplier that is deemed to be not suitable. If a suitable alternative is not identified the Contract must be re-Tendered.

42.4. General

- a. Any approved variation or extension must be by deed or Contract variation, which will be contractually binding on both parties.
- b. Variations, extensions, assignments and novations must only be signed by officers with the delegated authority to do so by reference to the Council's Officer Scheme of Delegation.

43. Supplier Resilience

- 43.1. Contract Managers are required to undertake regular supplier resilience checks. For Tier 1 and Tier 2 contracts, this should be undertaken as a minimum on an annual basis and include checks on the supplier's operational, financial and reputational resilience including business continuity, insurance provision, financial credit rating, identification and management of key risks and emergency planning arrangements such as disaster recovery.
- 43.2. Evidence of review and testing of supplier Business Continuity Plans should be received regularly, for all Tier 1 and Tier 2 contracts at least annually and consideration given to how supplier failure may impact a Service's own business continuity arrangements, whether directly or indirectly.
- 43.3. Further information and guidance on contract management can be found in the Contract Management Framework and in the Managing Contractors policy.

44. Waivers

- 44.1. Whilst the requirements of these Rules must be followed in respect of all Relevant Contracts the requirement to undertake a competitive

tendering exercise may be waived by Commercial and Procurement or the Executive Director of Resources & Corporate Services in highly exceptional circumstances.

- 44.2. The Officer must consult with Legal Services and Commercial and Procurement before submitting a waiver request.
- 44.3. It must be noted that not allowing sufficient time to Tender shall not be considered an emergency.
- 44.4. For Contracts of £100,000 or below for Goods and Services and £250,000 for Works where a waiver is necessary the Officer must complete the relevant waiver request form and obtain the approval of an appropriately empowered officer under the Council's Scheme of Delegation and the Head of Commercial and Procurement.
- 44.5. For Contracts over £100,000 or Goods and Services and £250,000 for Works where a waiver is necessary the Officer must complete the relevant waiver request form and obtain the approval of an appropriately empowered officer under the Council's Officer Scheme of Delegation and Section 151 Officer.
- 44.6. The Officer is responsible for ensuring that the waiver request forms are duly completed, reported to Strategic Commissioning Group (in line with thresholds) and signed prior to the award of a Contract. All waiver requests shall be reported regularly to the Governance Board by the Head of Commercial and Procurement.
- 44.7. No waiver shall be granted for Contracts over the Procurement Regulations Threshold unless expressly permitted by Commercial and Procurement and Legal Services. The officer shall contact Commercial and Procurement for advice under these circumstances. Any request for a waiver deemed by the Head of Service to be a potential breach of the Rules, will be considered within the Council's governance procedures.

45. Exemptions

- 45.1. In addition to the waiver categories above there may be certain, very limited, exemptions from the application of the Rules that apply under the Legislation. These can only be executed with the prior written approval of Legal Services and Commercial and Procurement.

45.2. Pension Fund administration and governance arrangements are separate from main Council affairs and consequently not all of the requirements of these Rules apply to the Pension Fund. Exclusions will in the main only apply to approvals and reporting whilst all other principals surrounding the Rules and statutory requirements will remain. Where exemptions apply, these will be stated in the Pension Fund Scheme of Delegation and updated and approved periodically.

46. Non-compliance to the Rules

- 46.1. Officers are required to comply with the Rules at all times.
- 46.2. The Head of Commercial and Procurement shall report any non-compliance to the Rules to the next available meeting of the Governance Board.
- 46.3. Governance Board shall be responsible for determining the course of action to be taken in the event of non-compliance.
- 46.4. Where, in consultation with Commercial and Procurement and Legal Services, it is determined that the breach can be remedied by taking appropriate steps or measures the Officer shall comply with the proposed course of action.
- 46.5. Where the breach has given rise to, or is likely to give rise to, illegality or maladministration the Governance Board shall notify the Monitoring Officer.
- 46.6. In the event of illegality or maladministration the Governance Board will determine that the Officer is also in breach of the Council's standards of conduct, which under certain circumstances may be treated as gross misconduct and give rise to action under the Council's disciplinary policy and procedure.
- 46.7. Where the breach gives rise to disciplinary action the Governance Board shall notify the Executive Director of Strategy, Workforce & Localities
- 46.8. In the event that these Rules are not complied with, this will not invalidate any Contract entered into by or on behalf of the Council, except where the Relevant Legislation provides to the contrary.

SECTION G: **OTHER RELEVANT CONSIDERATIONS**

47. Subsidy control

47.1. In all cases where there is a possibility of the Council providing a Subsidy the Officer must obtain the advice of Commercial and Procurement and Legal Services.

48. Development agreements

48.1. In all cases where there is a possibility of the Council entering a development agreement the Officer must obtain the advice of Commercial and Procurement and Legal Services.

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Part J – Decision making arrangements

1.1 PRINCIPLES OF DECISION-MAKING:

All decisions will comply with the following principles:

- (a) Proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) After consultation and in the light of professional advice from officers;
- (c) Lawfulness, including respect for human rights (see below for further details);
- (d) Efficiency of decision-making;
- (e) A presumption in favour of openness;
- (f) Explanation of the options considered and recording of the reasons for the decision including an evaluation of risk; and
- (g) Clarity of aims and desired outcomes.

1.2 TYPES OF DECISION:

1.2.1 Decisions taken under the authority of Full Council at meetings of the Council, Committees of the Council as detailed in Parts C and D or under the Scheme of Delegation in Part I.

1.2.2 'Executive' decisions under the authority of the Leader at member level as detailed in Part E and the Scheme of Delegation to Officers (Part I). There are two categories of executive decisions – Key Decisions and Non-Key Decisions and different rules apply to each.

Key Decisions - defined in legislation as:

- (a) Resulting in the local authority incurring expenditure** which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; and / or
- (b) Significant in terms of their effect on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

**There is no definition in the legislation of the word 'significant' in (a) above. Therefore the Council has decided that the financial threshold at or above which a financial decision is significant (and a Key Decision) will be a total value of £500,000 for capital / revenue expenditure or savings. Money delegated to schools as part of the Scheme of Financial Management of Schools exercise is exempt from these thresholds once it is delegated to the school.

In the event of any doubt, the Monitoring Officer will determine whether a

proposed decision is a Key Decision under the definitions set out above.

Non-Key Decisions: These are all 'executive' decisions which fall beneath the 'Key Decision' financial or geographical thresholds.

1.2 **HUMAN RIGHTS ISSUES:**

The Council, the Leader, the Executive collectively, a Lead Member, a Committee of the Council, or an Officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

Appendix X – Somerset Council Whistleblowing Policy

Introduction

The term whistleblowing is generally used only with reference to workers and has a specific legal definition under the Public Interest Disclosure Act 1998, i.e., a disclosure of information which, in the reasonable belief of the worker, is made in the public interest and tends to show serious misconduct. In a non-legal context, the term might also be used to describe a similar disclosure of information, by anyone who is not a worker. The Council recognises that as a public body, it might receive a disclosure of information, not just from its workers, but from members of the public as well.

The term 'worker' includes an employee of the Council, agency staff, contractor or consultant doing work for the Council, collectively referred to in this policy as "employees". A member of the public will be anybody not falling within the definition of 'employees', which could include, the parent of a child at a school, or any person who uses Council services.

This policy applies to disclosures from employees, but also sets out the Council's commitment to deal with disclosures from members of the public in the same way. To this end, where this policy refers to a "whistleblower", it refers to both employees and members of the public who make a disclosure. In this policy, receipt of any such information will simply be referred to as a "concern" or a "disclosure".

Somerset Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment, we wish to encourage employees and members of the public, who have serious concerns about any aspect of the Council's work to come forward and voice those concerns.

Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

This policy is intended to encourage and enable individuals to raise concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside. The policy makes it clear that individuals can do so without fear of victimisation, subsequent discrimination or disadvantage. The Council is committed to listening to concerns, taking them seriously and ensuring that they are dealt with promptly and fairly.

The policy will be published to ensure that it is available and accessible to employees and members of the public.

The policy can also be used to raise concerns about suppliers and those providing services under a contract with the Council in their own premises, for example, care homes or schools.

The policy is in addition to the Council's Complaints Procedure and other statutory reporting procedures applying to some service areas. A decision on which route each concern takes will be made upon receipt.

There is a Grievance Procedure in place for employees to raise a concern relating to their own employment. The policy is based on the Department for Business Innovation & Skills: Guidance for Employers and Code of Practice and has been discussed with the relevant trade unions and professional organisations and has their support.

In addition to the Council's commitment to protect employees who raise concerns, the Public Interest Disclosure Act 1998 provides a worker with potential protection from detriment and dismissal for making a 'qualifying disclosure'. The Act has rules for making a protected disclosure:

- You must reasonably believe the disclosure is in the public interest.
- You must believe it to be substantially true.
- You must not act maliciously or make false allegations.
- You must not seek any personal gain.

An employee who raises a concern under this policy and reasonably believes the disclosure is in the public interest, will be protected from any claim of defamation by the Council's insurance policy.

Aims and Scope of the Policy

This policy aims to:

- Encourage employees and members of the public to feel confident in raising serious concerns and to question and act upon concerns about practice;
- Provide avenues for employees and members of the public to raise concerns and receive feedback on any action taken;
- Ensure that employees and members of the public receive a response to concerns and that they are aware of how to pursue them if they are not satisfied;
- Reassure employees and members of the public that they will be protected from possible reprisals or victimisation if they have a reasonable belief that the disclosure made is in the public interest.
- Assist with deterrent and detection of wrongdoings.

This policy is intended to cover major concerns reasonably believed to be in the public interest in one or more of the following categories:

- Criminal offences, for example, fraud, theft, physical or sexual abuse.
- Failure to comply with an obligation set out in law.
- Miscarriages of justice.
- Abuse or bullying of clients including children and vulnerable people, Evasion of statutory responsibilities.
- Unauthorised use of public funds or other assets.
- Abuse of power for financial or other gain.
- Endangering of someone's health and safety (employee or member of the public).
- Damage to the environment.
- Other causes of malpractice, negligent, unprofessional or unethical behaviour.
- Covering up wrongdoing in the above categories.

Thus, serious concerns which you have about any aspect of service provision or the conduct of employees or members of the Council or others acting on behalf of the Council can be reported under the Whistleblowing Policy. This may be something that:

- makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to; or
- is against the Council's Standing Orders, Financial Regulations and policies; or
- falls below established professional standards of practice; or
- amounts to improper conduct.

The whistleblowing procedure cannot be used as an alternative to the council's grievance or safeguarding policy and procedures. Whistleblowing usually has an element of public interest attached to it. Typically, the matter involved presents a risk to others, such as customers, taxpayers, or the environment. A concern about your own employment situation is more properly addressed by means of the council's grievance procedure.

How to Raise a Concern

If you are an employee who has a concern, we hope you will feel able to raise it first with your line manager or Director in writing. To assist you, the concern should be copied to the whistleblowing generic email address: confidential@swapaudit.co.uk (the confidential phone number is 020 8142 8462).

If you feel unable to raise the matter with your Line Manager or Director, for whatever reason, please raise the matter through the confidential phone number on 020 8142 8462 or email to confidential@swapaudit.co.uk. This line is monitored by our Internal Audit provider, South West Audit Partnership (SWAP). SWAP is independent of the Council.

If you are a member of the public, please raise your matter directly with SWAP on the contact details above.

A member of staff will take your call, which will be in complete confidence. It is always helpful if you can give a little background information, but if you are not comfortable doing so, please just leave your contact details. You can leave a home or mobile number if you don't want to be contacted at work, but please let the call recipient know when it would be convenient for you to be called back.

After you make your initial contact, the hotline staff will pass a message on to a member of the SWAP Counter Fraud and Investigations Team who endeavour to respond to all initial calls within 48 hours (excluding weekends). They will then consider what action should be taken.

It is sometimes necessary to undertake an investigation. Investigations are undertaken by staff who have the technical and professional skills relevant to each particular case.

If the above channels have been followed but you continue to have concerns or believe that those listed above are implicated then you should approach one of the following:

- The Chief Executive.
- The Head of Governance and Democratic Services (who is also the Council's Monitoring Officer).

Please consider that:

- When raising a concern, you must declare any personal interest you have in the matter.
- The earlier you express the concern, the easier it is to act.

Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate that there are reasonable grounds for a concern. However, you must not attempt to investigate a concern or accuse individuals directly.

Advice and guidance on how to pursue matters of concern may also be obtained from:

- HR Advisory Service
- The Council's Legal Team
- Your trade union/ a professional association representative.

Employees may wish to consider discussing concerns with a colleague first and may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.

Employees may invite a trade union /professional association representative or work colleague to be present during any meetings or interviews in connection with the concerns raised. Meetings can be arranged off-site if necessary.

If there is an immediate risk call 999 for emergency services or 101 for local Police.

If you have concerns regarding abuse to adults or children you may also contact Safeguarding on 0300 123 2224 or out of hours on 0300 123 23 27.

How Will We Respond

The Council (or SWAP) will respond to your concerns as quickly as possible. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.

The action taken by the Council will depend on the nature of the concern. Where appropriate, the matters raised may:

- be investigated by management or SWAP Internal Audit Services;
- be referred to the Police;
- be referred to an external auditor;
- form the subject of an independent inquiry;
- be dealt with under a more appropriate Council procedure.

In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, child protection or discrimination issues or financial irregularities) will normally be referred for consideration under those procedures.

Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.

Within ten working days, the Council (or SWAP) will write to you:

- acknowledging that the concern has been received;
- indicating how they propose to deal with the matter giving an estimate of how long it will take to provide a final response;
- telling you whether any initial enquiries have been made;
- supplying you with information on staff support mechanisms, and
- telling you whether further investigations will take place, and if not, why not.

The amount of contact will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from you.

The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For example, if you are required to give evidence as an employee, the Council will arrange for you to receive advice about the procedure from a nominated officer, usually someone from HR or legal.

The Council accepts that you need to be assured that the matter has been properly addressed and you will be informed of the final outcome of the investigation. In some circumstances, however, it may not be possible to reveal the full details where this relates to personal issues involving a third party or legal constraints.

If you make an allegation that you reasonably believe is in the public interest but it is not confirmed by the investigation, no action will be taken against you.

Support

If you are unsure whether to use this policy or want independent advice or support at any stage, you may contact The independent charity Protect (formerly Public Concern at Work) on 020 3117 2520. Their advisers can give you free confidential advice on how to raise a concerns appropriately.

How the Matter can be taken Further

This policy is intended to help you raise concerns you may have. Hopefully, you will be satisfied with any action taken. If you are not, there are other people you can contact and these are:

- the External Auditor;
- your Trade Union/professional association;
- relevant professional bodies or regulatory organisations (for example Health and Safety Executive)
- Public Concern at Work
- an elected Member of the Council
- the Police;
- the ombudsman;
- your own solicitor.

If you do take the matter outside the Council, you should ensure that you do not misuse confidential information. The person you contact should be able to advise you on this.

The policy, in line with the legislation, provides protection for employees who raise concerns internally. It is inconsistent with the satisfactory operation of the policy to pursue such concerns with the media (newspapers, TV, radio, etc) and employees who do so are unlikely to be protected by the provisions of the Public Interest Disclosure Act and may be subject to disciplinary action.

Anonymous Allegations

This policy encourages you to put your name to your allegation whenever possible.

Concerns expressed anonymously or through a third party are much less powerful and may not be possible to investigate. SWAP will discuss these with the Council's Monitoring Officer, and it will be at their joint discretion as to whether the concern will be considered further.

In exercising this discretion, the factors to be taken into account would include:

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

Harassment or Victimisation

The Council recognises that the decision to report a concern can be a difficult one to make. The Council will not tolerate any harassment or victimisation (including informal pressures) and will take action to protect you when you raise a concern where you reasonably believe the disclosure is in the public interest.

Disciplinary action will be taken against an employee if they try to stop you from raising a concern or if an employee is responsible for any act of recrimination against you for raising a concern.

Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

Confidentiality

All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. It must be appreciated, however, that the investigation process may reveal the source of the information, and that a statement may be required as part of the evidence and/or you may be asked to come forward as a witness at the appropriate time. We will keep your identity confidential, if that is what you

want, unless required to disclose it by law (for example, by the police or if it is required to be disclosed for the purposes of subsequent disciplinary action).

False Allegations

If an allegation is knowingly made frivolously, maliciously or for personal gain, disciplinary action may be taken. The Whistleblower does not need evidence but instead need to have reasonable belief that the concerns raised are true.

The Responsible Officers

SWAP will retain a record of all whistleblowing concerns and these will be shared at regular intervals with the Monitoring Officer who has overall responsibility for monitoring the policy and will report annually to the Council's Standards Committee on the operation of the policy.

Links to other Policies

The Council has agreed a Constitution, which sets out how the Council operates, how decisions are made, and the procedures to follow to ensure that these are efficient, transparent and accountable to local people. While some of these processes are required by law, others are a matter for the Council to choose. The Constitution also has a number of rules and regulations to make sure that financial, working and organisational procedures are properly controlled.

Review

The policy will be kept under review and as a result may be subject to amendment by the Whistleblowing Policy Contact Officer:

Monitoring Officer
Somerset Council

SOMERSET COUNCIL PROTOCOL: COUNCIL AND THIRD-PARTY RECORDING AND WEBCASTING OF COMMITTEE MEETINGS:

1. Introduction

Somerset Council is committed to being open and transparent in the way it conducts its business. The press and members of the public are therefore welcome to film, photograph or record at any meeting that is open to the public and to use social media platforms such as Twitter, Facebook and Instagram. This is in line with the Government's 'Openness of Local Bodies Regulations' (the 2014 Regulations) which afford members of the public such rights to report

The Council has also put in place arrangements so that the majority of their public meetings including Executive and Full Council should be the subject of live web transmission ('webcasting'), or recorded for subsequent transmission. However, the minutes of a council meeting remain the statutory and legally binding formal record of council decisions.

This Protocol aims to assist the conduct of meetings that are being recorded and/or broadcast and to ensure that in doing so the Council is compliant with its obligations under the Data Protection Act 2018 and the Human Rights Act 1998. It also provides practical information to assist anyone considering recording meetings and anyone speaking at meetings which may be recorded.

In accordance with the Openness of Local Government Bodies Regulations 2014 recording is allowed at all formal meetings of the authority to enable those not present to see or hear the proceedings either as they take place (or later) and to enable the reporting of those proceedings.

In this Protocol references to:

- 'Recording' covers any means used to record the proceedings including filming, audio-recording and the use of photography.
- 'Reporting' covers the reporting of the business of the meeting via any social media.
- 'Council meetings' covers all formal Full Council, Executive and Committee meetings which are open to the press and public to attend and other meetings as agreed at the time by the Council.

2. General

A notice will be included on the agenda and also be displayed on the door and inside the meeting room advising everyone who attends that the meeting may be webcast or recorded and that by attending the meeting they are consenting to the broadcast of their image.

Those wishing to record proceedings (including elected members) should, as a courtesy, inform the chair (or clerk) of the committee of their intentions prior to the beginning of the meeting.

The Chair will make an announcement to attendees at the start of the meeting informing them that the meeting may be webcast or recorded and that the Chair may terminate or suspend the webcast or recording should they consider this desirable to maintain the proper running of the meeting. If objections are raised by members of the public regarding their inclusion in any recording, then the person responsible for the recording must take all reasonable steps to ensure that an individual request not to be recorded is complied with. If, however, a member of the public is actively participating in the meeting e.g. under a public speaking agenda item then this is unlikely to be possible.

Elected members and officers attending a formal public meeting and in an official capacity cannot object to being recorded or filmed. Anyone who has not objected and remains at the meeting after the Chair's announcement will be deemed to have consented to the broadcast of their image.

Recording must be non-intrusive and the Chair may order the removal of a member of the public from a meeting should that person, having been warned, continue to interrupt proceedings as a result of their recording activity. The Chair may also call for any part of the meeting room to be cleared in the event of a general disturbance.

PLEASE NOTE: Any person or organisation choosing to record or broadcast any meeting is responsible for any claims or other liability from them so doing and by choosing to record or broadcast proceedings they accept that they are required to indemnify the Council, its members and officers in relation to any such claims or liabilities.

3. Before the meeting

Anyone intending to record or webcast a meeting should contact the Democratic Services Team on **01823 357628** for advice and guidance. Reasonable advance notice will enable practical arrangements to be made and any special requirements to be discussed.

Flash photography, additional lighting or large equipment will not be permitted, unless agreed in advance and it can be accommodated without causing disruption to the proceedings. Requests to use equipment of this nature will be subject to consideration of the constraints of the meeting venue.

4. During the meeting

Recordings taken by press representatives, members of the public and elected members may only be taken from the area designated for the press/public, and:

- Recording devices must be in silent mode
- No flash or additional lighting is permitted

Recordings must be taken from one fixed position and must not obstruct others from observing proceedings. Other than in accordance with this provision, members must not record, photograph or film other elected members, staff or members of the public during a meeting.

Any person can provide a written commentary during the course of a meeting that falls under this Protocol, however oral commentaries are not permitted within the meeting room.

Recording of meetings should:

- Not interfere with the effective conduct of the meeting, nor should it be disruptive or distracting. The Chair has discretion to suspend or stop recording at any time if and to take appropriate action if anyone is, in their opinion, doing so in a disruptive manner.
- Not seek to 'overview' sensitive information such as close ups of confidential papers or private notes
- Not obstruct others from observing and participating in the proceedings.
- Cease immediately if and when the meeting resolves to formally exclude the Press and public due to business of an Exempt or Confidential nature.
- Not be edited in a way that could lead to misinterpretation of the proceedings or the comments made, or that ridicules those being recorded.

- When published or broadcast, be accompanied by information including when and where the recording was made and the context in which the discussion took place.
- Be overt (i.e. clearly visible to anyone at the meeting).
- Cease, unless continued recording has been explicitly agreed by the Chair, when the meeting is formally concluded.

The Chair can require recording to be stopped where:

- The requirements of section 4 above are not met by the person doing the recording.
- The press and public are excluded from the meeting due to the nature of (exempt or confidential) business being discussed.
- There is public disturbance or a suspension/adjournment of a meeting.
- The recording has become disruptive or distracting to the good order and conduct of the meeting.
- Where it is considered that continuing the recording might infringe the rights of an individual or intimidate them.

5. Exempt or confidential business

No part of any meeting will be webcast or recorded by the third party after members have passed a resolution excluding the press and public because there is likely to be disclosure of exempt or confidential information. The Democratic Services officer will ensure that the third party recording and broadcasting of the meeting has ceased and will confirm this to the Chair before any discussion of exempt or confidential matters is commenced. If the person doing the recording is not present then the clerk shall remove the equipment from the meeting room for the consideration of confidential or exempt business.

6. Practical advice

1. Speaking at a meeting

Firstly and most importantly remember to speak into the microphone each time to ensure that your words can be clearly heard.

Try to avoid moving unduly whilst speaking and using expansive hand gestures; because the video stream is highly compressed all movement causes temporary pixilation and leads to a diminution of picture quality. In addition the camera operator will struggle to keep a moving person in shot. For the same reason if giving a presentation please try to stand in the same area rather than walking around the room.

When other people near you are speaking please bear in mind that you may still be on camera. Remember that even when there is no audience in the room members of the public can still be watching the meeting or a recording.

2. Microphone noise

Meeting attendees should avoid taping pencils and rings against microphones or touching the cable. When speaking, do not place objects inbetween yourself and the microphone or covering the microphone with papers as this may distort what you are saying.

3. Clothing

It is advisable to avoid bright colours which tend to cause exposure problems when webcast.

Stripes and checked clothes are best avoided as they can cause a strobe effect, especially when the subject is moving.

7. Rules for use of Recordings by Third Parties

- A. The law applies to any information recorded and transmitted including the laws on defamation, public order, Human Rights and Data Protection and intellectual property rights. Freedom of speech within the law should also be exercised with personal and social responsibility.
- B. Any published recording should be accompanied by a statement of when and where the recording was made, the context of the discussion, and a clear identification of the main speakers and their role or title.
- C. Those making recordings must not edit the recording in a way that appears to have a clear aim to distort the truth or could lead to misinterpretation or misrepresentation of the proceedings or comments made by attendees. In particular there should be no internal editing of published extracts.
- D. Those making recordings will be responsible for any breaches of the law resulting from their use of recorded material. The Council takes no responsibility for any recording carried out by a third party or its subsequent use.

Appendix – Terms of reference for Independent Remuneration Panel for Somerset Council

1. Function

Under the Local Authorities (Members' Allowances) (England) Regulations 2003, Local Authorities must establish and maintain an Independent Remuneration Panel. The purpose of the Panel is to make recommendations to the Local Authority about the allowances to be paid to Members.

2. Role and Responsibilities

2.1 The Independent Remuneration Panel ("IRP") shall advise and make its recommendations to Somerset County Council until 31/3/23 and then subsequently to the new Somerset Council (a new unitary council established by the Somerset Structural Changes Order 2022 involving the reorganisation of the existing County Council and four district councils in Somerset).

2.2 The Independent Remuneration Panel ("IRP") shall through the form of a report to Somerset County Council :

(i) recommend to Council a Members' Allowances Scheme for implementation from 1st April 2023 for the new Somerset Council, which sets out recommendations for :-

- the amount of basic allowance that should be payable to elected members;
- the roles, responsibilities and duties for which special responsibility allowances should be paid and the amounts for such allowances;
- whether travelling and subsistence allowances should be paid and if so, the duties to which they should apply and the amount;
- whether childcare and dependent carers' allowances should be paid and if so, the duties to which they should apply and the amount of these allowances and the means by which they are determined;
- whether a basic allowance should be paid to co-opted members and if so, the amount;
- whether, in the event that the scheme is amended at any time so as to affect an allowance payable for the year in which the amendment is made, payment of allowances may be backdated as permitted in law;
- whether any annual adjustments of allowance levels may be made by reference to an index, and, if so, for how long such a measure should apply.

(ii) on a four yearly basis, or if otherwise requested, propose recommendations as to any required amendments to the Members' Allowances Scheme in relation to the following matters:

- the amount of basic allowance that should be payable to elected

members;

- the roles, responsibilities and duties for which special responsibility allowances should be paid and the amounts for such allowances;
- whether travelling and subsistence allowances should be paid and if so, the duties to which they should apply and the amount;
- whether childcare and dependent carers' allowances should be paid and if so, the duties to which they should apply and the amount of these allowances and the means by which they are determined;
- whether a basic allowance should be paid to co-opted members and if so, the amount;
- whether, in the event that the scheme is amended at any time so as to affect an allowance payable for the year in which the amendment is made, payment of allowances may be backdated as permitted in law;
- whether any annual adjustments of allowance levels may be made by reference to an index, and, if so, for how long such a measure should apply.

2.2 In making its recommendations at paragraphs 2.1 (i) and (ii) above, the IRP shall undertake a full review of the Members' Allowance Scheme as well as obtaining the views of officers and members of the Council to which it relates and having regard to the following general principles:

- that members undertake their council work for the sake of public service and not private gain;
- the varying demands placed upon members, dependent upon their roles and responsibilities;
- the need to fairly and equitably compensate members, so far as the panel thinks appropriate, for the time and effort they can reasonably be expected to devote to their work as a member of the council;
- the need for the scheme to be economic, efficient to administer and effective;
- the requirement for their report and recommended changes to the scheme of allowances to be easy to understand and adequately justifiable to the electorate;
- That recommendations should confirm with existing legislation and anticipate likely future legislation so far as possible

The Panel will also have regards to comparative data on the allowances paid by other similar local authorities.

2.3 The IRP shall be required in reporting its recommendations to include guidance on what is to be encompassed by each relevant allowance so as to ensure that the Members' Allowance Scheme is consistently applied.

3. Panel Membership and Appointment

3.1 The ("IRP") shall be comprised of 5 members of the public ("IRP Members").

- 3.2** IRP Members will be sought via advert in accordance with the Council's standard recruitment arrangements. Recruitment should be by public advertisement and direct approach to appropriate business and community/voluntary sector organisations who command local respect and public confidence and would be able to nominate persons who should have the necessary skills, integrity, independence and who are recognisable members of the local business and voluntary/community sectors within their respective areas.
- 3.3** As part of this a person specification shall be drawn up to ensure that candidates who are appointed:
- are able to demonstrate a high degree of personal integrity;
 - are not members of any local authority and are not disqualified from being or becoming a member of a local authority;
 - have, if possible the appropriate level of skill, knowledge and understanding of setting remunerations;
 - have the necessary time and commitment for the role;
 - Are not affiliated to any political party – candidates must disclose the extent of their connections to a political party and whether these are such as to risk the effective discharge of the IRP's functions were the candidate to be appointed;
 - A knowledge of local government is preferable however a lack of familiarity will not be a bar to appointment.
- 3.4** IRP Members will be shortlisted, interviewed and appointed by the Monitoring Officer, in consultation with political group leaders.
- 3.5** The term of office of IRP Members will be three years in the first instance and a Panel Member may be reappointed for a further consecutive 3 year term. A Panel member shall not serve more than two terms – 6 years in total. The Council or its Constitution & Governance Committee may remove an IRP Member in circumstances where:
- the IRP Member is disqualified from being a member of an authority or is found guilty of any conduct which brings the office into disrepute e.g. being found guilty of a criminal offence, an act of dishonesty or other serious misconduct; or
 - the IRP Member is considered to have demonstrated a serious lack of diligence or incompetence; or
 - the IRP Member becomes an elected or co-opted member (or an employee) of the authority.
- 3.6** The IRP shall:
- appoint its own Chair at the first meeting of each municipal year;
 - require a quorum of 3 at all meetings;
 - meet a minimum of once per municipal year with additional meetings convened as necessary;

- Otherwise devise its own rules for the conduct of meetings in consultation with the Council's Monitoring Officer providing that they are consistent with legislative requirements and general good governance requirements.

4. Panel allowances

In order to avoid any perception of personal gain involved with membership of the IRP, only travel and subsistence allowances will be paid to IRP Members, at the rate approved by the Council annually within the limits determined by the Secretary of State. No other allowances will be paid to IRP Members.

5. Lead officer and support arrangements for the Panel

The Council's Monitoring Officer will be the lead officer and principal contact officer for the IRP. Democratic Services will provide support to the Panel.

Local Councillor

Protocol on a page

We have a responsibility to tell Councillors (“Members”) what the Council is doing or plans to do in their area. Councillors also have detailed knowledge of their electoral division and this can help us do our jobs better.

- Councillors **must** be informed at the earliest stage about significant Council events and issues affecting their electoral division and their constituents. The Council’s Constitution **requires** it.
- In particular Officers must inform Councillors about local impacts of:
 - Changes to council services
 - Council decisions (before and after the decision is taken).
 - Controversial issues (local campaigns / planning applications etc)
 - Events such as opening or closing of premises.

Keeping Councillors informed is vital for good communications, effective decision-making and service delivery.

Key rules:

- Think about informing local Councillors at the earliest possible stage in the development of a proposal or as soon as an issue becomes apparent to you.
- If you’re telling the public about something, tell the Councillor too – ideally beforehand.
- Individual services are responsible keeping Councillors informed. The Communications and Corporate Governance teams cannot do it for you.
- Newly elected Councillors may not be aware of the history of local issues and may need additional briefings from the outset.
- If in doubt consult with senior managers – but assume that it’s better to tell the Councillor than not. The Communications and Corporate Governance teams can also advise you.

The following pages provide detail in support of the Protocol and the responsibilities of Officers and Councillors.

1. Introduction

1.1 This Protocol is for all Officers and sets out the arrangements to ensure that Officers understand the need for keeping Councillors informed, and confirms the arrangements for doing so.

1.2 Our Councillors are decision makers, the voice of their communities, and are often the first point of call for local people when they have a problem.

- They need therefore to know what the Council is doing or proposing to do that directly affects their electoral division.
- They are uniquely placed to bring information and views from the community into the council to help decision making and delivery of services.
- They are democratically accountable for the work the council does including within their own electoral divisions.

1.3 For this reason, Councillors **must be informed about all significant developments affecting their electoral division at the earliest opportunity.**

1.4 As a 'rule of thumb':

- A significant development is anything that may cause a constituent, a local organisation, or the press to contact the Councillor.
- **If in doubt, tell the Councillor anyway.**

Part 3 gives examples of "significant developments".

1.5 Failure to inform Councillors of local developments / issues can result in embarrassment for them locally and complaints from them against Officers. This can be to the detriment of the relationships between Councillors and Officers.

1.6 Overall responsibility for ensuring that this Protocol is implemented rests with the Senior Leadership Team, Strategic Managers and Service Managers although the responsibility for informing Councillors rests with all staff.

1.7 The Council and Officer Scheme of Delegation **requires** local Councillors to be consulted before formal decisions are taken which affect localities and also to be informed of the decision taken. Officers preparing proposals for decision are responsible for ensuring that local Councillors are consulted at the earliest possible stage in the process.

In addition, for decisions proposed to be taken under authority delegated by the Council (and not the Leader / Cabinet) to an Officer, where the local Councillors consulted above so requests, the matter will be referred to the relevant Committee for decision.

1.8 The requirement to inform local members about significant developments goes way beyond formal decisions. A significant development or an issue about Council services may arise in a number of ways and may even be initiated by residents or local groups.

1.9 It is most important to avoid situations where a local Councillor first hears about a significant Council development or issue affecting their electoral division from a resident or the press.

1.10 General information is made available to Councillors in a variety of ways including electronically through the Council website, the Members' Portal and the monthly Members'

Core Brief. However, this does not guarantee that a Councillor will pick up information relating to their local area and is not a substitute for direct contact.

2. Councillor's Roles

2.1 Newly elected Councillors may need time to build up knowledge of local issues and how the Council functions. Bear this in mind when communicating with them, particularly where an issue has a long or detailed history.

2.2 Councillors act on behalf of individual constituents on specific issues. They may also represent the Council on other groups including school governing bodies.

2.3 The local press often contact Councillors for their views on local issues, particularly where there is likely to be controversy or a major local impact.

2.4 Councillors are in a good position to assess the effectiveness and quality of service delivery at the local level and are therefore a vital communication link between the Council and local people.

2.5 Councillors have an important role to play in policy and decision-making and it is important that their views and the views of their local communities are heard and taken into account by decision-makers - whether that is Full Council, the Cabinet, Cabinet Members, Committees or Officers.

2.6 Councillors are encouraged to inform relevant Officers of significant local issues which they become aware of and may have an impact on the Council and its services and to give feedback from their communities.

2.7 Councillors have a responsibility to ensure that they are able to receive communications from officers by SCC email and by phone.

3. Examples of significant issues

3.1 It is not possible to cover everything but the following are examples of the kinds of issues which Councillors might regard as significant.

Inform Councillors of:

3.2 Changes to Council services including:

- Changes to opening hours or admission arrangements.
- Changes to the type of service provided.
- Introduction of or changes to fees and charges.
- Closures: partial, temporary or permanent.
- Expansions of facilities.
- Planned or programmed highways works.
- Planned or programmed building/maintenance works.
- Changes to 'catchment' areas or areas where a service is provided.
- Changes to rules on financial or professional assistance.
- Communications with parish, town, district or borough councils.
- Major school issues such as closures, amalgamations or schools placed in 'special measures.'

3.3 Where the Council is taking decisions on issues including:

- Planning applications.
- Traffic management.
- Trading standards.
- Aspects of social care, subject to data and confidentiality rules.
- Local transport matters.



controversial issues such as:

- Issues that are or may become of interest to the media
- Planning applications.
- Where a local campaign is developing.
- Multiple letters received by Officers on the same subject.
- Where a local MP has become involved in an issue.
- Where there are concerns about the performance of a Council service, especially where it is externally assessed.

3.5 Local events. Local Councillors should be involved in, or at least informed of:

- Official visits (for instance by MPs or Royals) in their Division.
- Formal openings of premises or facilities in their Division.

Officers must consider early on whether local Councillors should be invited and, if not, be able to explain why if challenged.

3.6 Corporate issues:

- Formal representations on the part of the Council on big issues, regional, national, European.
- Formal responses to consultations from government at regional, national or European levels or from 'quangos' and other public bodies.

3.7 Civil contingencies

- Councillors can be a key link between the Council and communities during emergencies. It may be appropriate or useful to inform Councillors of incidents affecting part or all of their Division, or services provided in their Division.
- How and when to make contact with Councillors during an emergency should be considered as part of each service area's Business Continuity Planning process and in the Corporate Business Continuity Plan.
- Full guidance can be found in the [Somerset Elected Members' Emergency Handbook](#)

4. Definition of 'local Councillor'

4.1 Most local Councillor notifications relate to site or area/locality specific proposals and usually only affect a single electoral division. However, some proposals have a wider impact and Officers will need to judge whether to inform other local Councillors.

4.1.1 The closure of a secondary school, for example, clearly affects a wide catchment area.

4.1.2 Also, road closures, bus routes and library opening times are other examples where more than one electoral division may be affected.

5. Particular requirements relating to formal decisions and the Community Governance team

5.1 Local Councillors should be involved at the earliest possible stage of a decision-making process by the Officer developing a proposal for decision so that they can deal with constituents' concerns and represent constituent's views. Local Councillor support for a plan is very influential.

5.2 For decision reports the Community Governance team will remind report authors about the need to consult local Councillors if it is not clear from a draft report that such consultation has taken place.

The [Decision Making Guidance Notes](#) on the intranet explain Officers' obligations.

5.3 If the Community Governance team identify that a local Councillor has not been consulted but should have been, there may be a delay in the decision being taken whilst the necessary consultation takes place.

6. Who is responsible for notifying local Councillors?

6.1 Each service is responsible for identifying issues that affect local Councillors and establishing their own methods of making contact, in accordance with this Protocol.

6.2 If you are unsure about how or whether to notify a local Councillor on a particular matter please take advice within your own service or from the Community Governance team.

6.3 You should consider carefully whether the relevant Cabinet Member and / or Opposition Group Spokesperson should also be advised of a particular local proposal or issue as they may also be asked by the press or others to comment.

6.4 How to contact Councillors depends on the importance and urgency of the issue. Usually it is better to email or write so that the Councillor has a clear written description of the issue. In urgent cases telephone contact may be necessary.

7. Information about local Councillors and their divisions

7.1. Details of Members and their electoral division areas are available on the Council's internet and intranet.

8. Monitoring and review of this protocol

8.1 Where a Councillor believes that this Protocol is not being followed they should inform the relevant Senior Leadership Team Officer who will investigate in accordance with requirements of the Member / Officer Protocol.

The Councillor who raised the complaint will be informed of the outcome of any investigation and actions resulting from it. If the Councillor is not satisfied with the action taken then they may refer the matter to the Chief Executive for consideration.

9. Data Protection and Confidentiality

- 9.1 Member roles and legislative provisions mean that in many circumstances personal data **can** be disclosed to Councillors without having to obtain the consent of the data subject, **if** disclosure is necessary for the Councillor to carry out their official duties.
- 9.2 Councillors are required by the Members' Code of Conduct not to breach confidentiality. Therefore, an issue being confidential does not in itself prevent the sharing of it with the local Councillor, but the Councillor must be made aware that it is confidential.
- 9.3 Notable **exceptions** to the requirement to share confidential information are:
- Where the issue is about the provision of a personal service from the Council to the individual or a dependent, **unless** the individual or person in receipt of the service has expressly asked for the involvement of a local Councillor(s) and has agreed that correspondence can be shared, or where the issue is already public, such as in the press or media.
 - Where it involves the personal circumstances of an Officer or another Councillor.
- 9.4 Councillors must ensure that when asked questions by the media requiring them to release information that they know to be or suspect may be confidential, they should have regard to the requirements of the Members' Code of Conduct, make no comment and refer the reporter to an officer in the Communications team.

Julian Gale
Monitoring Officer

Agreed by the Constitution Committee on 27th October 2015

INDEPENDENT PERSONS PROTOCOL

1. Introduction

1.1 Somerset Council has appointed an Independent Person (IP) who will be consulted at various stages during Member Conduct reviews. A Reserve Independent Person (RIP) has been appointed to cover the situation when the IP is unable to act either through non availability or conflict issues.

1.2 The role of IP as described in the legislation is complex with the ability of all parties in a complaint to contact the IP during the course of the matter to seek advice and support.

This protocol seeks to set out the IP's duties and responsibilities, provide clarity on the IP's role and ensure that the 'advice and support' responsibility does not affect the IP's independence and impartiality at the point when their role is most crucial.

1.3 For the avoidance of doubt all references to:

- IP in this protocol also cover the RIP
- The Monitoring Officer include any nominated Deputy Monitoring Officer
- Members include Co-opted Members of the Council's Committees.

2. Duties and Responsibilities of the Independent Person

2.1 To consider any member misconduct complaint referred by the Monitoring Officer (MO) and provide advice to the MO in connection with the determination of the complaint. The final decision on the future treatment of individual complaints rests with the MO.

2.2 To advise any Hearings Panel in connection with the determination of member misconduct complaints in accordance with the Council's arrangements. The final decision in respect of the complaint rests with the Panel.

2.3 To liaise with Members and officers of Somerset Council as required although the primary contact with the Council will be with the MO.

2.4 To attend and participate in meetings of the Standard Committee and any associated meetings in an advisory capacity.

2.5 To provide, as requested, advice to Members about whom a conduct complaint has been received and specifically to discharge the functions detailed in Section 28(7) of the Localism Act 2011.

2.6 To support the promotion and maintenance of high standards of conduct by Members.

2.7 To develop and apply knowledge of the Code of Conduct in relation to any and all matters relating to standards, including the assessment and determination of allegations of member misconduct under the Code of Conduct.

2.8 To analyse and exercise fair and impartial judgement when providing advice on conduct issues.

2.9 To consult, liaise and maintain a professional working relationship with the Council's MO, and other officers of the Council.

2.10 To provide a view on the governance of the Council from an external perspective that will better enable the Council to assess conduct and standards issues.

2.11 To develop a firm understanding of the standards and wider governance framework within which the Council operates.

2.12 To participate in training events relevant to the work of standards within the Council.

2.13 To attend meetings of the Council when required and other meetings as necessary in order to raise the profile of standards within Somerset.

2.14 To participate in any national and / or regional forum established for Independent Persons.

2.15 To undertake such other responsibilities as the MO considers reasonably commensurate with the role.

3. Role of the Independent Person

3.1 It is acknowledged that the IP's skills and experience will assist the ongoing review of the complaint handling process and as such will be a useful resource in undertaking preventative work and/or mediation. However it is essential that the role of the IP is, and is seen to be, independent in any matter to be determined so the IP must not do anything or act in any way that will compromise that independence or be swayed by the arguments of one party over another.

3.2 To assist the IP in maintaining this independence, **all contact** to the IP from any party, whether Members of the public or Members of the Council, should be through the MO or his designated deputy. This is to ensure that contact remains within the bounds of professional relationships. If however direct contact is made with the IP and issues other than procedural issues of the complaint are discussed then the IP will be excluded from being involved in the determination of that particular complaint and the RIP will be substituted.

3.3 In addition the IP

- Should not discuss matters with the press or public.

- Should not form a final opinion on a matter to be determined until the final stage when their opinion on the investigation and its outcomes is presented; until that stage their role is to advise and assist parties.
- Is subject to the Code of Conduct for Members whilst undertaking their role in this process, which imposes a duty of Equality, fairness, objectivity and open mindedness.
- Should ensure that any advice given to one party is shared with all to ensure that any Member Conduct Review is compliant with the rules of natural justice and transparency in its process. The exception to this is where in the opinion of the IP the advice is specific to one party's circumstances. In that case the IP has the discretion not to share the advice with others.
- Should comply with the all relevant Council policies particularly Confidentiality and Data protection.

3.4 Whilst the detailed nature of any discussions that the IP may have with parties can and should be kept confidential, the independent person should keep a record of what views were expressed in a particular case, by them, including being date specific, as such views could change/vary as a case is progressed. These records to be available to the MO and/or Hearing Panel or/and interested party to ensure clarity and avoid any possible misunderstanding or misinterpretation of the views made by the IP in respect of a particular case.

3.5 It is good practice that only one IP should have his/her views sought on each specific case. Therefore the Council should only use the RIP when the IP is either unavailable or consider that they have a conflict of interest in a particular case.

4. **Procedural Matters**

4.1 **The First Stage**

4.1.1 The first stage of an allegation of breach of Member conduct is the receipt of the complaint. On receiving the complaint the MO will inform the IP of the complaint, send him/her copies of the documentation and, within a reasonable timescale will, in conjunction with the IP, take a view as to the severity of the allegation/s and process for the treatment of the complaint.

4.1.2 If the complaint identifies criminal conduct, including failure to declare a Disclosable Pecuniary Interest, (DPI) the MO will consult the IP before referring the matter to the police.

4.1.3 Where the matter is suitable for informal resolution, the complainant and the subject member will be asked to meet with the MO. The MO has the discretion to invite the IP to attend this meeting. This will normally be at separate sessions but, in the case where the complainant is another Member, the MO has the discretion to conduct this meeting with both the complainant and the subject member present at the same time. The MO will then consult the IP (if they were not present at the meeting(s)) to discuss the outcome of the meeting(s) and whether or not informal resolution is still possible. It is for the MO and the IP to agree how they will discuss the outcomes; be it e-mail, telephone or face to face contact. The MO will take notes of all discussions and ensure

that all those attending receive a copy. The IP will also be given a copy if they were not present at any meeting. To ensure that the IP is kept fully informed the MO will also provide the IP with copies of any notes taken of telephone and/or e-mail contact with any party/ies to the complaint.

4.1.4 If the complaint is deemed too frivolous or without merit, the MO will make this recommendation to the IP. If the IP agrees the matter should not be progressed the MO will confirm the recommendation and notify all parties in writing.

4.1.5 If the complaint justifies investigation but informal resolution is not appropriate, the MO will conduct a fact finding exercise to satisfy himself that;

- a) The complaint is against a Member of the Authority,
- b) The Member was acting in that capacity and,
- c) The complaint if proven would amount to a breach of the Code of Conduct.

On collating that information the MO will discuss the complaint with the IP prior to deciding if the complaint merits a full investigation. The IP may provide comments to the MO but must do so if they disagree with the MO's recommendation(s). The MO will then decide whether an investigation is necessary.

4.2 The Second Stage

4.2.1 Once the matter has proceeded to investigation the IP may again be consulted by the MO if the investigation report concludes that there is evidence of a failure to comply with the Code of Conduct and it is considered that the matter can be dealt with by local resolution rather than the need for a hearing. In this case the procedure for informal resolution will be the same as above.

4.3 The Third Stage

4.3.1 If a local hearing is to take place advice will be sought from the IP by the Hearing Panel where;

- a. The Panel are minded to conclude that the Member did not fail to comply with the Code of Conduct.
- b. The Panel are minded to conclude that the Member did breach the Code of Conduct, and
- c. In the case of b above any action to be taken as a result of that breach.

4.3.2 In all of the above scenarios, the Hearings Panel has the decision making responsibility.

SOMERSET COUNCIL

MONITORING OFFICER PROTOCOL

A. GENERAL INTRODUCTION TO STATUTORY RESPONSIBILITIES

The Monitoring Officer is a statutory appointment pursuant to Section 5 of the Local Government and Housing Act, 1989, as amended by paragraph 24 of Schedule 5 Local Government Act 2000. This Protocol sets out how those statutory requirements will be discharged at Somerset Council.

The responsibilities of the Monitoring Officer role rests with the Monitoring Officer who undertakes to discharge their statutory responsibilities with a positive determination and in a manner that enhances the overall reputation of the Council. In doing so, he/she will also safeguard, so far as possible, Members and Officers, whilst acting in their official capacities, from legal difficulties and/or criminal sanctions.

A summary list of the statutory responsibilities appears in the table annexed to this document. In general terms, the Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on Members and Officers:-

- (a) Complying with the law of the land (including any relevant Codes of Conduct);
- (b) Complying with any General Guidance issued, from time to time, by the Department of Levelling Up, Housing and Communities, Somerset Council's Standards Committee and the Monitoring Officer;
- (c) Making lawful and proportionate decisions; and
- (d) Generally, not taking action that would bring the Council, their offices or professions into disrepute.

B. WORKING ARRANGEMENTS

It is important that Members and Officers work together to promote the corporate health of the Council. The Monitoring Officer plays a key role in this and it is vital therefore, that Members and Officers work with the Monitoring Officer (and his/her staff) to enable him/her to discharge his/her statutory responsibilities and other duties.

The Monitoring Officer issues guidance to officers to assist them in understanding the nature, breadth and requirements that the Monitoring Officer puts upon all officers. The guidance also explains how the Monitoring Officer will approach the role. The Monitoring Officer considers that the role is a positive and preventative one, related to legality, avoidance of maladministration and observance of codes of conduct / practice where there is actual / potential transgression by the Council. The Monitoring Officer gives authoritative advice and guidance on these issues which will be conducive to a culture of propriety and integrity. This will provide comfort for officers and Members alike. However, although the Monitoring Officer will seek to be positive about the role, it must be recognised that the role imposes a personal duty to make a public, statutory report where it appears to be necessary. This might ultimately force the authority to consider issues it might not wish to.

The Monitoring Officer and the authority should co-operate in every way possible so as to reduce the chance of the need for the Monitoring Officer to issue a formal report. In support of this, the Monitoring Officer places significant reliance upon the advice and support given by colleagues in Legal Services who will, in providing advice do so in an enabling manner, but also identify areas of particular risk and concern, assisting officers / Members to achieve their objectives, but ultimately in a lawful and proper manner.

The following arrangements and understandings between the Monitoring Officer, Members and Chief Officers are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will:-

Resources

- (a) In accordance with statutory requirements, make a report to the Council, as necessary on the staff, accommodation and resources he/she requires to discharge his/her statutory functions.
- (b) Appoint deputies and keep him or her briefed on any relevant issues that he/she may be required to deal with in the absence of the Monitoring Officer.

Access to Information/Meetings

- (a) be alerted by Members and Officers to any issue(s) that may become of concern to the Council, including, in particular issues around legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- (b) have advance notice (including receive Agendas, Minutes, Reports and related papers) of all relevant meetings of the Council at which a binding decision of the Council may be made (including a failure to take a decision where one should have been taken) at or before the Council, The Executive or a Lead Member, Committee meetings and/or the Management Team or Strategic Leadership Team.
- (c) Having the right to attend any meeting of the Council (including the right to be heard) before any binding decision is taken by the Council (including a failure to take a decision where one should have been taken) at or before the Council, The Executive, Committee meetings and/or the Management Team or Strategic Leadership Team.
- (d) In carrying out any investigation(s) have unqualified access to any information held by the Council and to any Officer who can assist in the discharge of his/her functions.

Relationships

- (a) Ensure the other statutory officers (Head of Paid Service and the Section 151 Officer) are kept up-to-date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise.
- (b) Meet regularly with the Head of Paid Service and the Section 151 Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise.

- (c) Develop effective working liaison and relationship with the Council's Auditors and the Local Government and Social Care Ombudsman (including having the authority, on behalf of the Council, to complain to the same, refer any breaches to the same or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary).
- (d) In consultation, as necessary, with the Chairman of the Standards Committee, defer the making of a formal report under Section 5 Local Government and Housing Act, 1989 where another investigative body is involved.
- (e) Make arrangements to ensure effective communication between his/her office and the Clerks of Somerset City, Town and Parish Councils on Monitoring Officer and Standards Committee issues.

Ombudsman Complaints

1. prepare reports as required by the Local Government Act 1974 and the Local Government and Housing Act 1989 in relation to complaints which have been the subject of investigation by the Local Government and Social Care Ombudsman and which have revealed maladministration whether or not that maladministration has caused injustice;
2. prepare reports to Members where considered necessary to bring to their attention issues of importance arising out of complaints made to the Local Government and Social Care Ombudsman whether or not investigated or maladministration found;

Standards Matters

- (a) Maintain and keep up-to-date relevant statutory registers for the declaration of members' interests, gifts and hospitality.
- (b) Maintain and keep up-to-date relevant registers for the declaration of officer's interests and gifts and hospitality
- (c) Advise the Standards Committee and its sub-committees in relation to Code of Conduct complaints and allegations of misconduct.
- (d) Be responsible for preparing any training programme for members on ethical standards and Code of Conduct issues; and

Constitution

- (a) Report to the Council, from time to time through the Standards Committee, on the constitution and any necessary or desirable changes following consultation, in particular, with the Head of Paid Service and Section 151 Officer.

Other

- (a) Be the Proper Officer for Access to Information, decision-making, Data Protection Act 1998 and the Freedom of Information Act 2000.

C. MEMBER AND OFFICER RESPONSIBILITIES

To ensure the effective and efficient discharge of the arrangements set out in paragraph 5 above, Members and Officers will report any breaches of statutory duty or Council policies or procedures and other vices or constitutional concerns to the Monitoring Officer, as soon as practicable.

D. ADVICE

The Monitoring Officer is also available for Members and Officers to consult on any issues of the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (e.g. Standing Orders, policy framework, terms of reference, scheme of delegations etc.).

E. SANCTIONS FOR BREACH OF SOMERSET COUNCIL'S CODE OF CONDUCT FOR MEMBERS AND THIS PROTOCOL

Complaints against any breach of Somerset's Code of Conduct for Members should be referred to the Monitoring Officer. Complaints against any breach of this Protocol by a Member will be referred to the Standards Committee and to the relevant Group Leader, unless the complaint is against the Group Leader, in which case, reference will be to the Deputy Group Leader. Complaints against any breach of this Protocol by an Officer may be referred initially to the relevant Executive Director and/or the Chief Executive.

SOMERSET COUNCIL

MONITORING OFFICER PROTOCOL

Summary of Monitoring Officer Functions

	Description	Source
1	Report on contraventions or likely contraventions of any enactment or rule of law.	Section 5 and 5A Local Government Housing Act, 1989
2	Report on any maladministration or injustice where Ombudsman has carried out an investigation	Section 5 and 5A Local Government Housing Act, 1989
3	Appointment of Deputy(s)	Section 5 Local Government Housing Act, 1989 Local Government Act 2000 s 82A
4	Report on resources	Section 5 Local Government Housing Act, 1989
5	Receive copies of whistleblowing allegations of misconduct	Local Code of Conduct for staff/Whistleblowing Policy
6	Investigate misconduct in compliance with Regulations	Localism Act 2011 and any regulations issued under the Localism Act 2011 and guidance issued by the Department for Levelling Up, Housing and Communities (DLUHC)
7	Establish and maintain registers of members interests and gifts and hospitality.	Section 29 of the Localism Act 2011 and Code of Conduct
8	Advice to members on interpretation of Code.	Member Code of Conduct
9	Key role in promoting and maintaining high standards of conduct through support to the Standards Committee.	Localism Act 2011;
10	Ethical framework functions in relation to City, Town and Parish Councils	Localism Act 2011
11	Advice on vires issues, maladministration, financial impropriety, probity and policy framework and budget issues to all members	Local Government Act, 1972 and 2000; Ombudsman publications, Government Regulations and Circulars
12	Maintain, review and monitor the constitution	Constitution articles.....

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Annual Report of the Constitution and Governance Committee

Lead Member: Cllr Theo Butt Philip, Chair of the Constitution and Governance Committee

Lead Officer: Scott Wooldridge, Monitoring Officer and Head of Governance and Democratic Services

Author: Clare Rendell, Governance Specialist, Cllr Theo Butt Philip, Chair of the Constitution and Governance Committee

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1. Summary

- 1.1.** The Constitution and Governance Committee is required through the Constitution to make an annual report to Full Council.
- 1.2.** The Constitution and Governance Committee forms a part of the County Council's corporate governance framework. Its purpose is to maintain an effective, up to date and legally compliant Constitution; consider proposals from Council committees for changes to the constitutional arrangements of the Council; approve in-year changes to individual parts of the Constitution; take all required decisions in respect of the County Council elections; oversee the Council's input and response to boundary or electoral reviews as required by the Boundary Commission; and develop the Constitution for the new Somerset Council.
- 1.3.** This report is to inform members of the work of the Constitution and Governance Committee over the municipal year.

2. Background

- 2.1.** The Constitution and Governance Committee was formed following the Annual General Meeting in May 2022.
- 2.2.** The Constitution and Governance Committee has met a total of 7 times between July 2022 and end of February 2023.
- 2.3.** Constitution and Governance Committees are a key component of an authority's governance framework. The key function this year was to develop the Constitution for the new Somerset Council.

3. Work Programme

3.1. Although the main focus of the work programme has been to develop the Constitution for the new Somerset Council, the Constitution and Governance Committee has also focused on the following items:-

3.2. Community Governance Review for the Unparished Are of Taunton

At the meeting held on 18 July 2022, the Committee received an update of the project being carried out by officers at Somerset West and Taunton Council to form a Taunton Town Council and to review the geographical scope for the project to include areas of urban extension as well as the unparished area of Taunton.

3.3. DBS Check Policy

At the meeting held on 12 September 2022, the Committee were requested to revisit the policy agreed by Full Council in November 2017, with a view to require all members to now be enhanced DBS checked. It felt timely to revisit the policy given the continuing emphasis on safeguarding and an assessment of DBS policies of other councils in relation to members.

3.4. Boundary Review

At the meeting held on 20 October 2022, the Committee were presented with the proposals for the final consultation stage of the 2023 Boundary Review – Parliamentary Constituencies. In the Avon, Somerset and Devon sub-region, the increase by two in the number of constituencies had meant that significant change to the existing pattern of constituencies was necessary. The proposed Tiverton and Minehead constituency would cross the county boundary between Somerset and Devon and the proposed Wells and Mendip Hills, and Frome constituencies would cross the county boundary between Somerset and Avon. There was a very in-depth debate held on the proposals, which led to the item being brought back to the meeting held on 21 November 2022, where the Committee agreed their final consultation submission.

3.5. Elections Act 2022

At the meeting held on 21 November 2022, the Committee were updated on the changes being brought in by the Elections Act 2022, which had received royal assent on 28 April 2022. The main changes being introduced were:-

- The requirement for voters to show photo ID at polling stations before a ballot paper was issued (expected to be in place for elections from May 2023)
- To extend election accessibility, which required the Returning Officers to take all reasonable steps to provide support for voters with a disability in polling stations (expected to be in place for elections from May 2023)
- To change voting and candidacy arrangements for EU voters (expected to be in from June 2023)
- To scrap the 'fifteen-year rule' to 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)

- To enable electors to apply online for an absent vote, with both online and paper applications requiring the applicant's identity to be verified (expected to be in place from July 2023)

3.6. New Somerset Council Constitution

Throughout the year, the Committee debated in depth the following articles of the Constitution:-

20 October 2022:

- Public Participation
- Full Council Meeting Procedures

15 December 2022:

- Licensing Committee Functions and Arrangements
- Pensions Fund Governance

30 January 2023:

- Scrutiny Functions and Arrangements
- Decision Making, Scheme of Delegation and Proper Officer Arrangements
- Local Community Network's Functions and Arrangements
- Planning Committee Functions and Arrangements

14 February 2023:

- Committee Structure and Arrangements
- Executive Functions and Arrangements
- Overall Review on the New Constitution for Somerset Council

4. Conclusions

- 4.1.** The Constitution and Governance Committee has had a very heavy workload throughout the past municipal year to ensure that the new Constitution was safe and legal in time for vesting day on 1 April 2023. However, this was just a starting point and in the first few years of the new Somerset Council, work will need to be carried out to review the Constitution to ensure it continues to be effective, up to date and legally compliant.

5. Background papers

- 5.1.** Supporting papers can be found at:

[Somerset County Council Constitution and Governance Committee Agendas and Minutes](#)

[Somerset West and Taunton Council – Community Governance Review for the Unparished Area of Taunton](#)

[2023 Boundary Review – Parliamentary Constituencies](#)

[Elections Act 2022](#)

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Constitution and Governance Committee Work Plan

Meeting Date	Proposed Agenda Items	Officer
26/09/2022 @ 10 am	Informal meeting to discuss work to be carried out on the New Council Constitution and Work Programme for the Committee.	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	Agenda Items	
	Licensing Functions and Arrangements	Scott Wooldridge
	Pensions Board and Pensions Committee - Terms of Reference	Anton Sweet
30 January 2023 at 10 am	Agenda Items	
	The Scrutiny Arrangements for new Somerset Council	Scott Wooldrige and Jamie Jackson
	Decision Making, Scheme of Delegation and Proper Officer Arrangements for new Somerset Council	Scott Wooldridge and Melanie Wellman
	Draft Full Council Procedures for new Somerset Council	Scott Wooldrige and Honor Clarke
	Planning Functions and Arrangements for new Somerset Council	Julie Reader Sullivan and Kevin Williams
	LCNs Functions and Arrangements for new Somerset Council	Sara Skirton and Amy Tregellas

14 February 2023 - now all day meeting 10am start	Proposed Agenda Items	
	Planning Functions and Arrangements for new Somerset Council	Julie Reader Sullivan and Kevin Williams
	Committee Structure and Arrangements for new Somerset Council	Scott Wooldridge
	The Executive Arrangements for new Somerset Council	Scott Wooldrige and Honor Clarke
	Overall Constitution for new Somerset Council to recommend to Full Council in February 2023	Scott Wooldrige and Honor Clarke
	Annual Report of Constitution & Governance Committee and future role for Somerset Council	Scott Wooldridge
20 March 2023 at 2 pm	Proposed Agenda Items	
	Unitary Council transitional Governance Arrangements	Scott Wooldridge and Alyn Jones
	Scoping work for 2023 / 24; review of Constitutional arrangements	Scott Wooldridge