

Report of the Monitoring Officer – Appointments / Procedural Matters / Review of the Constitution

Cabinet Member: N/A

Division and Local Member: N/A

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1. Summary

- 1.1 This report sets out decisions on procedural matters and appointments required by the Constitution to be made by the County Council at its annual meeting.

2. Recommendations

2.1 Appointments Schedule – Appendix 1 refers

To approve the Appointments Schedule – see section 3.2 and Appendix 1 to this report – to follow.

2.2 Meeting dates

To approve the programme of ordinary meetings of the Full Council for the year as set out in section 3.3 of this report and to delegate to the Monitoring Officer, in consultation with the Group Leaders and committee chairmen agreement of the detailed calendar of meetings of the committees of the Council for 2018/19.

2.3 Review of the Constitution

Approve the revised Constitution set out as Appendix 3 as recommended by the Constitution and Standards Committee from its May meeting.

3. Background

3.1. Appointments and Procedural Matters: Decisions required at the Council's Annual Meeting:

3.1.1 The Council is required at its annual meeting to:

1. Agree which committees (and any sub-committees) should be appointed, their size (in accordance with the statutory political balance on committee requirements) and terms of reference and appoint members to serve on each;
2. Elect chairmen and appoint vice-chairmen of committees (where appropriate);
3. Approve a programme of ordinary meetings of the Full Council for the year;

4. Approve a calendar of meetings for committees of the Council or put in place a delegation to enable a calendar to be agreed.

3.2 Appointments Schedule: see Appendix 1 to follow

3.2.1 Following the 2017 elections, the Council in May 2017 appointed committees and made all related appointments in accordance with the requirements of the Local Government and Housing Act 1989.

3.2.2 The Act sets out the principles to be used in agreeing the size of and allocation of places to committees (and sub-committees) of the Council and also requires this process to be repeated annually at the Council's AGM. The principles must be followed so far as is reasonably practicable.

3.2.3 The following principles from the 1989 Act, together with a commentary where appropriate, must be applied to the allocation of seats on committees.

1. All the seats should not be allocated to the same political group.
2. A majority group is required to have a majority on all committees unless the Council agrees otherwise. *The proposal in the table in 3.2.4 below satisfies this principle. Local arrangements apply to the Constitution and Standards Committee membership where all political groups are represented and the Scrutiny Committee for Children & Families where the membership includes 5 co-opted members with a vote on education matters only.*
3. Subject to principles (1) and (2), the total number of seats on all the committees of the Council allocated to each political group should reflect the number of seats held by that group on the Council. *The table below reflects this calculation.*
4. Subject to principles (1), (2) and (3), the number of seats on each committee of the Council allocated to each political group should reflect the number of seats held by that group on the Council. *This calculation is also reflected in the table below.*

3.2.4

PROPOSAL						
Seats held on the Council	35	12	3	3	2	55
Committee	Con	Lib Dem	Ind	Lab	Green	Total
Regulation	6	2	1 or	1		9
P&P (Place)	6	2	1 or	1		9
P&P (Adults & H)	6	2	1 or	1		9
P&P (Child's S)	6	2	1 or	1		9
HR Policy	4	1	1 or	1		6
Audit	6	2	1 or	1		9
Officer App	4	1	1 or	1		6
Pensions	3	1				4
Fire Authority	5	2	1 or	1		8
Exmoor NPA	3	1				4
Con & Standards	1	1	1	1	1	5
Individual cttee totals	50	17	5	5	1	78
Overall calculation - total places	49.64	17.02	4.25	4.25	2.84	78

Notes

- There have been no changes to the political make-up of the Council since May 2017 so the table and allocations outlined above have remained unchanged since then.
- The overall calculation takes priority over individual committee allocations
- As stated above, the Conservative Group must have a majority on each committee unless a 'local arrangement' is agreed. They have chosen to exercise this right in all cases other than the Constitution & Standards Committee
- On the larger committees (8/9 members) 1 seat needs to be filled either by the Independent or Labour Groups by agreement
- The Green group are not entitled to any places on individual committees but have a place on the Constitution and Standards Committee as of right under a proposed 'local arrangement'.

3.2.5 Any changes to appointments will be reported to the meeting in Appendix A to be tabled. This appendix will set out:

- Confirmation of the Council's committees, their size, the allocation of places and appointments to those places
- Appointment of Chairs and Vice-Chairs, where appointed by the Council

Any changes to Cabinet and Junior Cabinet appointments will be the subject of a separate decision, as required, by the Leader of Council.

3.2.6 No changes are proposed within this report to the terms of reference of Committees of the Council as agreed by Council in May 2015 and May 2017 as set out within the Constitution. The Constitution is elsewhere on your agenda for approval.

3.3 Programme of ordinary meetings of the Full Council

3.3.1 The dates proposed below for Full Council meetings in 2018/19 and for part of 2018 are set out below.

28th November 2018 (already scheduled)
20th February 2019 (Budget meeting)
27th February 2019 (Reserve Budget meeting)
15th May 2019 (Council AGM)
17th July 2019

All dates are Wednesdays and the meetings will start at 10 am unless otherwise notified.

3.3.2 The recommendations include a delegation to the Monitoring Officer to agree the calendar of meetings for committees of the Council. The Leader will approve the calendar of meeting dates for the Cabinet.

3.4 Review of the Constitution

3.4.1 The Council's Constitution requires the Council to review its Constitution on an annual basis. This is typically done at the Council's Annual General Meeting in May of each year although the last revision was agreed at the Council meeting in July 2017.

- 3.4.2** In May 2017, Council revised its committee arrangements by establishing the Constitution and Standards Committee and including within its responsibilities the requirement to recommend an amended Constitution to the Council for approval.
- 3.4.3** Accordingly, this report recommends a revised and updated Constitution to the Council for approval following its consideration and approval at the Constitution and Standards Committee on 4 May 2018.
- 3.4.4** Following the elections in May 2017 the only changes made to the Constitution since the Council's approval of an updated version in July 2017 related to:
- Part 2, Appendix B - Amendments to the Contract Standing Orders (approved by the Constitution and Standards Committee on 6 October 2017)

In addition the Committee approved the following proposed changes at their meeting on 4 May 2018:

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

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

- 3.4.5** A summary of the changes is outlined in Appendix 2 to this report and in summary:

Part 2, Appendix B - Contract Standing Orders

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

Part 1, Section 8 - Access to Information Rules

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

Part 1: Section 8 – Decision Making: This is summary content setting out the main requirements and processes behind the formal decision making process. This document can be accessed via the link below and the relevant pages are 74 to 82. <http://www.somerset.gov.uk/organisation/key-documents/the-councils-constitution/>

and

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

The intention has been to produce a single set of rules within Part 1 of the Constitution giving greater clarity to members, officers and the public alike.

The review of the rules with the Committee has focused upon:

- i. The need to know principle. The content would benefit from a more detailed explanation of the 'need to know' principle which is the common law right of members to inspect council documents and is often quoted by members seeking access to confidential information.
- ii. Use of Council information by members: Making it explicit that Council information can only be used by the member in connection with the proper performance of Council duties.
- iii. Requests for information: Clarifying the process for members to request information from services.
- iv. Passing on confidential information: To include some additional content about clarifying the status of information where it is unclear if it is confidential or not.
- v. Members' access to confidential or exempt information: As stated in the previous report the Council's current policy of providing access to confidential and exempt information to members goes beyond what is required by statute. The content therefore needs to outline the statutory position as well as our current practice.
- vi. Audio recordings of Council meetings: Since the introduction of audio-recording all formal committee meetings had been recorded. The recordings had not been published on the Council's website but had been made available on request to members and the public via transfer to audio disc. No time limit had been applied to this access. Making the recordings available in this way is an expensive and labour intensive process.

Technical amendments

In addition to the above there are some technical amendments that have been made as a result of:

- a) The Council agreed at its meeting in November 2017 to publish details of written public questions / statements submitted for a County Council meeting on the council's website the working day before a County Council meeting is held.
- b) Changes in post holder titles and responsibilities of Senior Leadership Team Directors require consequential amendments to the Constitution where specific posts are referred to.

4. Implications

4.1 Legal & Risk: This report complies with all legal requirements. The only risk to the Council would result from the Council failing to fulfil its legal obligations as set out in the report through any decisions taken or not taken at this meeting.

4.2 The Council's Constitution sets out the legal framework within which the Council takes decisions and fulfils its functions and responsibilities. It needs to be kept up to date and legally compliant. All of the proposed amendments to the Constitution are in accord with the legislative requirements which give considerable scope for the Council to agree its own constitutional arrangements.

4.2 Financial, equalities, sustainability and community safety implications: There are no direct equalities implications arising from any of the proposals in this report.

There are also no direct financial, sustainability or community safety implications.

5. Background papers

5.1 Council's Constitution dated July 2017