

Report of the Monitoring Officer – Interim Constitution for the County Council 2022/23

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1. Summary

- 1.1 This report sets out proposed recommendations on constitutional matters for consideration by the County Council at its Annual General Meeting (AGM). The report and its appendices set out proposed revisions to the County Council's existing Constitution which will then serve the Council for 2022/23 for the transitional period up to vesting day for the new Somerset Council on 1 April 2023.

It is proposed that a comprehensive review will be undertaken during 2022 through the proposed new Constitution and Governance Committee on the development of the new Somerset Council's Constitution. The review and its recommendations will be brought to the County Council for approval no later than its meeting in February 2023.

2. Recommendations

2.1 The Council is recommended to:-

- (1) Approve the proposed revisions to its Constitution as set out in Appendices 2-5;**
- (2) Approve the proposed guidance documents set out in Appendices 6-9;**
- (3) Note the further constitutional work to be undertaken during 2022; and**
- (4) Authorise the Monitoring Officer to make the necessary amendments required as a result of the decisions above to the Council's Constitution and publish the revised documents on the Council's website**

3. Background

The Council receives a report from the Monitoring Officer at its AGM which outlines the annual review of the Constitution and any proposed revisions for the Council to consider. In between the Annual General Meetings, the Constitution and Standards Committee considers any proposed amendments.

For the benefit of the public and new members, the Council operates a model of governance known as the Leader and Cabinet model which is in accordance with legislative requirements. The Council has operated this model of governance since 2001.

The Leader and Cabinet model places the majority of functions carried out by the Council as the responsibility of a specified number of councillors (maximum of 10) operating as an 'Executive' or 'Cabinet'. The Leader of the Council has responsibility for agreeing the Cabinet arrangements, the appointment of members to serve on the 'Executive' or 'Cabinet' along with their areas of responsibility and the Leader is responsible for the executive decision-making arrangements across the Council.

3.1 Constitutional work in 2021/22

3.1.1 At the AGM in May 2021, the Council agreed revisions and a summary of these were :

- The return to face-to-face committee meetings following the expiry of the virtual meeting regulations in May 2021 and that these may be held in locations across Somerset
- Delegated powers to officers to support the council's response to the Covid-19 pandemic
- Technical changes in relation to member and staff post titles
- Additional clarification regarding membership of some of the committees
- Appointment of the Chief Executive as the Council's Returning Officer
- Delegated authority to the Monitoring Officer, in consultation with the Chairs of committees and other bodies, to agree the dates, times and locations of their meetings

3.1.2 During 2021/22 further work was undertaken through the Constitution and Standards Committee on specific areas of the Constitution and these were

brought forward to Council:

- A new Members Code of Conduct based upon the Local Government Association's Model Code of Conduct
- Revisions to Contract Procedure Rules to ensure they remain fit for purpose

3.1.3 In addition to this, other areas of work that have been undertaken on behalf of the Council have included:

- lobbying the Government regarding the benefits of hybrid and virtual committee meetings and seeking changes to legislation to enable these for Local Government
- procurement and installation of a new system to enable the Council to webcast its principal committee meetings to support hybrid ways of working and to improve public participation.

3.2 **Interim Constitution for 2022/23**

The annual review of the Council's Constitution has been undertaken by the Monitoring Officer. The review has been supported by the collaborative work for Local Government Reorganisation (LGR) which has involved the Monitoring Officers of the four district councils. The Monitoring Officer jointly chairs the LGR Governance Workstream which meets weekly and is a member of the LGR Programme Board.

3.2.1 Against this background, work has been undertaken to examine what are the further changes necessary to reflect the make up of the Council following the 5 May 2022 Elections, together with any other necessary changes as the result of the Somerset Structural Changes Order 2022 (relevant legislation that enables the transition from the County Council and four district councils to the new Somerset Council), to address any other immediate operational needs of the Council or to extend the content of the Constitution where this would be relevant or helpful for the transitional period up to Somerset Council's vesting day on 1 April 2023.

3.2.2 **Appendix 1** sets out a summary of the proposed revisions and recommendations for the Council to consider. Some of the changes proposed to the Constitution for the transitional period are of a minor drafting nature (such as changing references to 55 members to 110 members of the Council) but areas of substantive or significant change include:

- Leader and Executive / Cabinet – revisions relating to the responsibilities

of the Executive in relation to Local Government Reorganisation in accordance with the Somerset Structural Changes Order 2022 (see section 5 Leader and Cabinet Arrangements of **Appendix 2**)

- Committees – Subject to the Council’s approval to the proposed changes in committee structure set out in the Appointments Report elsewhere on the Council’s agenda, then proposed changes will need to be made to the Committees and their functions set out in Part 1 of the Constitution to reflect:
 - Dissolution of the Constitution and Standards Committee
 - Establishing a new Constitution & Governance Committee
 - Establishing a new Standards Committee
 - Establishing a new Scrutiny Policies, Environment Committee
 - Establishing a new Local Government Reorganisation Joint Scrutiny Committee
 - Committee membership in terms of the number of elected members and also the quorum for each committee meeting
- Member and Officer Protocol – the current Member and Officer Protocol was last reviewed in 2014 and the opportunity has been taken to review this in comparison with other similar councils to ensure it remains fit for purpose. A revised Protocol is set out at **Appendix 3** for consideration and is recommended for approval.
- Recording and Webcasting of Committees Protocol - the current Protocol was last reviewed in 2017 and the opportunity has been taken to review this in comparison with other similar councils to ensure it remains fit for purpose. A revised Protocol is set out at **Appendix 4** for consideration and is recommended for approval.
- Whistleblowing Policy – the Council has had its existing policy for many years and this meets statutory requirements. In conjunction with South West Audit Partnership, the opportunity has been taken to review this in comparison with other similar councils to ensure it remains fit for purpose. A revised policy has been developed and consulted with the Constitution and Standards Committee and Advisory Board during 2021 and 2022. The revised policy is set out at **Appendix 5** for consideration and is recommended for approval.

In addition to the above, to assist elected members new guidance documents have been developed for:

- Gifts and Hospitality guidance for Members (see **Appendix 7**)
- Social Media guidance for Members (see **Appendix 8**)

- Whistleblowing policy guidance (see **Appendix 9**)
- Glossary of terms used in the Constitution to assist members and the public (see **Appendix 6**)

Further guidance documents will be developed during 2022 and Members views on topic areas are welcomed.

3.3 Developing the new Somerset Council's Constitution for 2023/24

Ahead of Vesting Day in April 2023 a major revision of the Constitution will be needed reflecting the governance arrangements, functions and responsibilities for the new Somerset Council. It is proposed that a comprehensive review will be undertaken during 2022 through the proposed new Constitution and Governance Committee on the development of the new Somerset Council's Constitution. The review and its recommendations will be brought to the County Council for approval no later than its meeting in February 2023.

The Monitoring Officers for the County Council and four district councils will continue to collaborate and support the review and development of the new Somerset Council's Constitution.

4. Consultations

- 4.1 Following the election on 5 May, there has been limited time prior to publication of the agenda on 17 May, to have meaningful discussions with all political groups on the proposals set out in this report. All political group leaders and members will receive the proposals and have an opportunity to consider and debate these ahead of and at the AGM.

5. Legal Implications

- 5.1 These are as set out in the report.

6. Impact Assessment

- 6.1 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. There are no direct impacts of these recommendations on the provision of services. There are no direct impacts on sustainability, health and safety, community safety or privacy aspects as a result of this proposal.

7. Financial Implications

- 7.1 The development of the new Somerset Council Constitution and any further work on the Interim Constitution during 2022/23 will need to be accommodated within the existing resources allocated for Democratic Services and the Local Government Reorganization Implementation Budget. Both the development work to be undertaken and the allocation of resources will be kept under review.

8. Background Papers

- 8.1 Somerset County Council Constitution
Local Government Act 1972
Local Government and Housing Act 1989
Local Government Act 2000
Localism Act 2011
Health and Social Care Act 2012
Public Service Pensions Act 2013
Somerset Structural Changes Order 2022

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