

Standards Committee

Thursday 10 November 2022

10.00 am Luttrell Room - County Hall,
Taunton



To: The Members of the Standards Committee

Cllr J Bailey (Chair), Cllr N Cavill, Cllr H Davies, Cllr M Dimery, Alan Hemsley, Paul Hooper, Robin Horton, Cllr B Smedley and David Stripp

All Somerset County Council Members are invited to attend meetings of the Cabinet and Scrutiny Committees.

Issued By Scott Wooldridge, Monitoring Officer and Strategic Manager - Governance and Democratic Services – 2 November 2022

For further information about the meeting, please contact Andrew Melhuish andrew.melhuish@somerset.gov.uk or Clare Rendell clare.rendell@somerset.gov.uk or

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 Standards Committee - 10.00 am Thursday 10 November 2022

Public guidance notes contained in the agenda annexe

1 Apologies for Absence

To receive members apologies.

2 Declarations of Interest

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

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

3 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.**

4 Minutes of the Previous Meeting of the Standards Committee (Pages 9 - 12)

To note the minutes of the previous meeting of the Standards Committee, circulated within the agenda.

5 Priority One Update

The Chair will give a verbal update on work for Priority One.

6 Annual report on standards of conduct 2021/22 (Pages 13 - 14)

To consider the report.

7 Agenda Item 7

- (a) Somerset Councillor and Town and Parish Councils Code of Conduct Complaints Procedure (Pages 15 - 22)

To consider the report.

- (b) Proposed appointment of Reserve Independent Person for Somerset County Council and recruitment of Independent Persons for Somerset Council (Pages 23 - 28)

Item Standards Committee - 10.00 am Thursday 10 November 2022

To consider the report.

8 **SALC Update on Town and Parish Councils Codes of Conduct**

To receive a presentation from Justin Robinson from Somerset Association of Local Councils (SALC).

9 **Work Programme 2022/23**

To discuss items for the Work Programme 2022/23.

10 **Action Plan**

To agree any action points from the meeting.

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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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STANDARDS COMMITTEE

Minutes of a Meeting of the Standards Committee held in the Luttrell Room - County Hall, Taunton, on Thursday 6 October 2022 at 10.00 am

Present: Cllr J Bailey (Chair), Cllr N Cavill, Cllr H Davies, Cllr B Smedley, Alan Hemsley, Paul Hooper, Robin Horton and David Stripp

Other Members present via Microsoft Teams: Cllr M Dimery and Cllr L Leyshon

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

No apologies had been received.

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

The Committee noted the details of the personal interests of all Councillors present already declared in relation to their membership of County, District, Town and Parish Councils.

No additional declarations were made.

3 **Public Question Time** - Agenda Item 3

No members of the public had registered to speak.

4 **Terms of Reference for the Standards Committee** - Agenda Item 4

The Committee discussed the Terms of Reference and the following was a summary of the areas raised:-

- Committee members asked if the co-opted members could give their feedback on the Terms of Reference.
The Committee Manager advised that yes, all feedback was valid and appreciated as part of the discussion. However, only elected members could vote on any recommendations.
- Committee members queried whether there was an Independent Person appointed to assist with the complaint process.
The Committee Manager advised that yes there was as part of the Code of Conduct Complaints process.

Resolved that the Standards Committee noted the Terms of Reference as attached in Appendix 1.

5 **Update from Standards Committee Workshop on 14 September 2022** - Agenda Item 5

The Committee discussed the Workshop and the following was a summary of the areas raised:-

- The Chair highlighted the three priorities that would be the focus for the committee and when they would be worked upon throughout the year.

- The Chair suggested that the committee should split into three smaller groups to help work on the priorities. This was agreed by the committee.
- The Monitoring Officer suggested that Priority Two would be an aspiration to get all the Parish/Town Councils to adopt the Countywide Code of Conduct (CoC). They were aware that the County and District Councils had all adopted it and that they would encourage all the Parish Councils to do the same, to ensure there was some consistency across all the different levels of authority.
- The Monitoring Officer advised that Somerset Association for Local Authorities (SALC) had advised that there was still a lot of work to get all councils to that position.
- Committee members queried whether Justin Robinson from SALC could be invited to the next meeting of the committee.
The Committee Manager advised that Justin Robinson would be invited to attend the next meeting of the committee.
- The Monitoring Officer advised that Priority Three was further ahead in the work that had already been carried out. This was due to the Local Government Reorganisation (LGR) Project and the work that had been carried out by the workstream groups. The committee was advised that the People Workstream was working on the CoC and that it should be ready by early 2023 in time for Vesting Day.
- Committee members mentioned the Open Day that they had recently attended for work on the Local Community Networks (LCNs) and they queried what had been said on contracts being set up between Parish Councils and the Unitary Council. The discussions had included the CoC and information from SALC on a Town and Parish Charter.
- Committee members suggested that once they had found out which Parish Councils had not adopted the CoC, they could ask them the reasons why, to offer any assistance if required.
The Monitoring Officer agreed and advised that work should be carried out in collaboration with SALC to ensure as many Parish Councils adopt the CoC, especially in light of the work being carried out for the Town and Parish Charter as that would include the CoC.
- Committee members were keen to ensure all Parish Councils had adopted the same CoC as this would enable standardised training to be rolled out across the County and mean that the Monitoring Officer would only need to resort to looking at one version of the CoC when dealing with any complaints received.
- Committee members queried what happened with any complaints that had been received for Parish Councils that had not adopted the CoC.
The Monitoring Officer advised that they would have to use the individual code from that specific Parish Council.
- Committee members requested clarification on the complaint procedures.
- Committee members queried who was responsible for the CoC.
The Monitoring Officer advised he was responsible for the Somerset Council and that it was the individual Parish Councils who were responsible for their own. He further advised that the legal framework came from the Localism Act 2020 and the former Constitution and Standards Committee had carried out some work of the CoC previously.

- Committee members queried whether there was a minimum level required for the CoC.
The Monitoring Officer advised that the Localism Act 2020 set the high-level detail to be included along with the key areas that should be included.

The Standards Committee agreed the following actions:-

- 1) The three priorities:
Priority One - Review and assurance on existing complaints procedures, including any LGA recommendations for amendments ready for the New Council
Priority Two - Adoption of Parish Council CoC across the County to come before the Committee
Priority Three – Reviewing updates on Officer CoC
- 2) The members of the three groups:
Priority One: Councillor John Bailey, Councillor Brian Smedley, Councillor Norman Cavill, David Stripp and Paul Hooper.
Priority Two: Councillor Norman Cavill, Robin Horton and Alan Hemsley.
Priority Three: Councillor Hugh Davies, Councillor Martin Dimery and Alan Hemsley.
- 3) That Justin Robinson from SALC would be invited to the next meeting of the committee.

6 **Work Programme 2022/23** - Agenda Item 6

The Work Programme was discussed as part of the previous item.

The Chair advised the committee of his plan for the Work programme as follows:-

- 1) **6 October 2022** – Agreed the Project Action Plans for Priorities One, Two and Three
- 2) **10 November 2022** – To agree and update on Priority One and to agree the Standards Committee input to Priority Two
- 3) **8 December 2022** – To finalise the draft report for Priority One and to agree the Standards Committee input to Priority Three
- 4) **2 February 2023** (moved from 26 January 2023) – To agree recommendations for all three Priorities and to agree the Annual Report for the Standards Committee, which should include the forward horizon and the role of the committee in the New Council.

7 **Any other business** - Agenda Item 7

- Committee members asked for an update on the work being carried out on the new Constitution.
The Monitoring Officer gave an update from the Constitution and Governance Committee.

(The meeting ended at 11.45 am)

CHAIRMAN

Annual report on standards of conduct 2021/22

Lead Member: Cllr John Bailey, Chair of the Committee

Lead Officer: Scott Wooldridge, Monitoring Officer

Contact Details: tel (01823) 357628 or e-mail: scott.wooldridge@somerset.gov.uk

1. Summary

- 1.1. The current standards regime was introduced by the Localism Act, 2011 and the Council is no longer statutorily required to have a Standards Committee, but it decided that it should continue to do so in the interests of promoting transparency and high ethical standards in local governance. Following the May 2022 elections, the Council formed the Standards Committee.
- 1.2. The operation of the Council's arrangements for members' conduct is fundamental to the Council's compliance with the requirements of the Localism Act 2011 and by promoting good ethics the Council is demonstrating its core values as contained in the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- 1.3. The functions of the Standards Committee include promoting high standards of conduct by Members, Co-opted Members and Officers and monitoring the operation of the Members' Code of Conduct.

2. Recommendations

- 2.1 **That the Committee considers this annual report and provides any comments to the Monitoring Officer.**

3. Complaints received and investigated

- 3.1. The Council publishes on the website its processes, guidance notes and forms for people to make a complaint about a County Councillor. The process is summarised in the attached appendix.

For the period 1 April 2021 until 31 March 2022, the Monitoring Officer received three complaints relating to alleged breaches of the Code of Conduct by two County Councillors. Two of the complaints relate to the same elected member.

Two of the complaints were not upheld as they related to the Councillor's private life and not when undertaking their official duties as a County Councillor.

One of the complaints did not complete determination as the Councillor ceased to be an elected member in May 2022.

- 3.2. The low level of complaints illustrates that on the whole elected members take the need to maintain high ethical standards seriously. The Monitoring Officer

will continue to examine ways and means to improve awareness and understanding of the Members' Code of Conduct, including seeking the views of the Standards Committee.

4. Conclusion

- 4.1. The Committee remains committed to promoting high standards of conduct by Members, Co-opted Members and Officers and for the policies and processes which support this aim.

5. Background papers

- 5.1. Further information about the Committee including dates of meetings, agendas and reports from previous meetings are available via the Council's website.

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

Somerset County Council

Standards Committee

10 November 2022

Code of Conduct complaints procedures and transition of City, Town and Parish complaints to Somerset Council

Cabinet Member:

Division and Local Member:

Lead Officer: Scott Wooldridge, Monitoring Officer

Author: Melanie Wellman and Tom Woodhams

Contact Details:

1. Summary

1.1 As from 1 April 2023 Somerset Council will be responsible for dealing with Code of Conduct complaints both in relation to the 110 members of this Council but also in relation to members from over 278 City, Town and Parish Councils (“Parish Councils”) in Somerset. This will increase to 279 once Taunton Town Council comes into effect.

1.2 The purpose of this report is to update the Committee on the Code of Conduct complaints procedures currently in place at Somerset County Council, to provide an indication of the number of complaints we may expect to receive on an annual basis once Somerset Council is in place in light of the fact that the District Councils currently deal with the Parish Council complaints and to update the Committee on the steps that are being taken by the LGR Governance Board to prepare for the transition of the Parish member Code of Conduct complaints process to Somerset Council.

2. Recommendations

2.1 To note the update including the steps being taken by the LGR Governance Board to ensure a smooth transition of the countywide Code of Conduct complaint process and procedures to Somerset Council.

2.2 To note the likely impact upon resources and the need for sufficient resource in the new structure.

2.3 To invite the Committee to comment upon the proposals.

3. Background

3.1 As from 1 April 2023 Somerset Council will be responsible for dealing with Code of Conduct complaints both in relation to the 110 Unitary members but also in relation to the members of over 279 Parish Councils in Somerset.

3.2 The purpose of this report is therefore to update the Committee on: -

- (a) the Code of Conduct complaints procedures currently in place at Somerset County Council;
- (b) to provide an indication as to the number of complaints we may expect to receive once the new Unitary is in place;
- (c) to update the Committee on the steps that have been taken by the LGR Governance Board to prepare for the transition of the Code of Conduct complaints process to the Unitary Council and;
- (d) the likely resource implications.

4. Existing Code of Conduct complaints procedures

4.1 The Council is legally required under the Localism Act 2011 Section 28(6) to adopt arrangements for dealing with member code of conduct complaints for our own members. In April this year the Council adopted a revised Code of Conduct largely based on the LGA Model Code of Conduct (the Somerset Code), and the Monitoring Officer was granted delegated authority to put in place the processes and procedures for dealing with those complaints.

4.2 Attached at Appendix A is a copy of the Guidance and Procedures for dealing with Code of Conduct complaints as produced by the five Somerset Monitoring Officers and approved by the Monitoring Officer under delegated powers. As the Committee are aware, all four District Councils have adopted the Somerset Code and have therefore adopted the same procedures. Having the same practices and procedures across all five Somerset Authorities will help with transitioning any code of conduct complaints that are still in the process of being considered, when Somerset Council comes into place in April 2023.

4.3 This Council's current Code of Conduct complaints arrangements consist of the following key parts:

a) **First stage:** Acknowledging each complaint within 3 working days and considering whether the complaint is a valid Code of Conduct complaint within 5 working days.

b) **Second Stage:**

Level 1: Lower-level complaints about procedural matters, unhappiness with decisions, those which are not Code related, or may be technical very minor breaches will be determined by the Monitoring Officer in consultation with the Independent Person without further inquiry and the complainant advised of the outcome within approximately 20 working days.

Level 2: If a complaint is beyond Level 1, the subject member will be given details of the complaint and invited to make written representations within 10 working days. The Monitoring Officer will then, in consultation with the Independent Person, decide whether no further action should be taken, other action (e.g. an apology or training) or whether it should proceed to a full investigation. Again, this is dealt with in approximately 20 working days.

c) **Referral for Investigation:** If a formal investigation is needed then this will take place and if the conclusion of the investigator is that there is a potential breach of the Code of Conduct and the Monitoring Officer determines that it is in

the public interest to proceed to a formal hearing, a Code of Conduct Hearing Panel will be constituted consisting of three members. This process (from referral for investigation to hearing) takes up to approximately six months.

5. Arrangements from 1st April 2023

5.1 As from the 1 April 2023 Somerset Council will need to have in place arrangements for dealing with member code of conduct complaints both for our existing 110 members but also for Parish members. There may also be ongoing complaints being considered in relation to former District Councillors that will transfer over and need to be concluded.

5.2 The current Code of Conduct complaints procedures (as outlined above) will therefore need to be updated. The changes required are minimal and will simply require updating the guidance to reflect that complaints can be made about both Unitary members and City, Parish and Town Councillors in Somerset. The other important issue that will need to be reflected is the fact that Somerset Council will not have the power to impose sanctions in relation to members of Parish Councils (should a breach of the Code be found) and can only recommend sanctions to the relevant Parish Council.

6. Anticipated numbers of Code of Conduct complaints

6.1 It is important, in transitioning to Somerset Council, that we anticipate the likely demand that will be placed upon the Monitoring Officer in terms of the number of Code of Conduct complaints that are likely to arise. This is important, bearing in mind that there are currently five Monitoring Officers and additional Deputy Monitoring Officers across Somerset dealing with these complaints, as opposed to the one Monitoring Officer that will be appointed in the new structure. In the circumstances, we have reviewed both the number of complaints received by other Unitary Councils in the last two years and the number of complaints currently received by the four District Councils in Somerset in relation to Parish members.

6.2 Statistics for Cornwall, Dorset and Wiltshire Unitary Councils have been collated and are set out in Table 1 below. This table identifies the number of complaints received per annum in 2020/21 and 2021/22. As can be seen, Cornwall receives approximately 25 per annum, whereas Dorset and Wiltshire receive more than double that number, with an average of approximately 60 per annum. It is important to reflect that these figures relate to formal complaints received. It does not identify the number of informal concerns raised (that did not lead to a formal complaint).

TABLE 1

	Cornwall	Dorset	Wiltshire
2020/2021	23	54	72
2021/2022	28	60	52 (part year only)
Number of Unitary	87	82	98

members			
Number of Parish Councils	196	264	253

6.3 It is anticipated that at least 80% of complaints received by Somerset Council will relate to Parish Councils due to the high number of Parish members in Somerset.

6.4 The number of Parish complaints received by each of the four Somerset District Councils for the 2021/22 financial year are set out in Table 2 below. All four Districts hold accurate records of the number of formal complaints they have received and the outcomes. However, it is important to note that, as with County Code of Conduct complaints, Monitoring Officers receive many enquiries which do not progress to a formal complaint and for which records are not retained.

6.5 In the circumstances the District Monitoring Officers have estimated the number of enquiries they deal with in relation to alleged member misconduct (which do not result in a formal complaint) and the number of enquiries they receive from Parish Clerks seeking advice in relation to governance matters.

6.6 Table 2 shows that a total of 58 formal Parish complaints were received in 2021/22 across Somerset which, with the addition of the number of complaints anticipated in relation to Unitary councillors, indicates a figure of approximately 70 complaints per annum. This is much higher than suggested by the Cornwall figures but in line with those numbers experienced in Dorset and Wiltshire Unitary Councils. One of the reasons for the difference in the Cornwall figures may well be the fact that they have over 50 less Parishes than Dorset or Wiltshire. At 279 the new Council will have more Parishes than all three Unitary Councils.

6.7 In terms of the outcome of these Somerset Parish complaints, only two were referred for investigation, with the vast majority requiring no further action and a small number requiring some other form of action, such as an apology, training, or mediation. As regards those concerns raised that did not proceed to a formal complaint, these were estimated at 48 per annum across Somerset and requests for governance advice from Parish clerks, at approximately 100 per annum.

TABLE 2

	MDC	SDC	SSDC	SWT	Number referred for investigation	Total
Formal Complaints 2021/2022	9	8	29	12	2 (both on hold)	58
Code of Conduct enquiries not proceeding to a formal	12	12	Not known	15-20		Estimated at approx 48 per annum

complaint						
Advice and guidance to Parish Clerks on governance issues	25-30 per annum	30-40 per annum	1	25-30 per annum		Estimated at over 100 per annum

6.8 Whilst there were only 2 referrals for investigation by District Councils in 2021/22, it is very difficult to anticipate the likely level of investigations for the new Unitary. This will depend upon the severity of individual complaints. There are currently three matters being fully investigated by the Districts in 2022/23. The cost of an investigation ranges between £2500 for a straightforward matter to £20,000 for a large-scale investigation.

6.9 It is clearly important that we have robust procedures and sufficient resources in place from vesting, to ensure that we can resolve issues at the earliest opportunity and ideally before they progress to formal complaints. Alongside this, we need to offer regular training to City, Town and Parish Councillors and Parish Clerks to ensure that they are sufficiently aware of the requirements of the Code. We also need to ensure that we have sufficient resource to provide advice to members and Parish Clerks on interpretation of the Code of Conduct and declaration of interests where this is required. Furthermore, sufficient resource will also be needed to provide the general, often governance related, support regularly sought by Parish clerks.

7. LGR Governance Workstream

7.1 Work is currently being undertaken within the LGR Governance Workstream to ensure that Somerset Council has procedures in place for dealing with Parish complaints from 1 April 2023.

7.2 The Somerset Code of Conduct has been adopted by all the District Councils in Somerset in preparation. In addition, a standard set of procedures was produced by the Somerset Monitoring Officers which have also been adopted by all five Councils.

7.3 We have been promoting the Somerset Code with all Town and Parish Councils in Somerset and produced a version of the Code tailored for Parishes. It is important that we continue to promote this Code to Parishes, as at present, District Monitoring Officers are having to advise on more than one version of the Code of Conduct (at least 3, if not more). Having one Code will also make it easier for dual hatted members.

7.4 Another step that will need to be taken between now and vesting, is to make minor changes to the current County Council procedures to cover Parish complaints. We will also need to ensure that appropriate arrangements are in place to conclude any District complaints before vesting where possible, to

transfer those District Member complaints over to Somerset Council where still ongoing and to ensure that any Parish complaints that are in progress upon vesting, also have a seamless transfer to Somerset Council.

8. Resources

8.1 As well as dealing with the high number of Unitary and Parish complaints as from April 2023, Somerset Council will also need to manage the process for declaring interests and gifts and hospitality for the 110 County members and for the 279 Parish Councils across Somerset. This will mean that the level of work currently carried out by the County Council will increase significantly upon vesting when the Somerset Council assumes responsibility for maintaining the register of interests and gifts and hospitality for members of all the Somerset City, Town and Parish Councils.

8.2 The administration this involves is at its most significant in the first three months following an election but continues throughout the quadrennium as members have changes of circumstance, resign, are co-opted/elected. This is estimated to be approximately 37 hours per week for the three months following an election and 12 hours per week thereafter. This will be in addition to the Unitary and Parish Code of Conduct complaints identified in Table 2 above, together with all the informal concerns raised, advice needed in relation to declaration of interests and Parish governance advice. In the circumstances, it will be essential that the Monitoring Officer has sufficient resources, including at least two Deputy Monitoring Officers, to deal with all of these demands. We will also need sufficient Independent Persons in place and with this in mind, we are about (subject to Member approval) to commence a recruitment process to appoint 3 Independent Persons.

9. Options Considered and Consultations undertaken

9.1. This report is for the information of the Committee only. The figures outlined in the report have been provided by the Somerset Monitoring Officers.

10. Implications

10.1. Due to the number of City, Town and Parish Councils in Somerset there will be a significant increase both in relation to the number of Code of Conduct complaints to be dealt with post vesting and the declarations of interests and gifts and hospitality that will need to be administered by Somerset Council. It is important therefore that we have (1) robust procedures in place to manage those complaints and declarations and (2) sufficient resources to deal with those complaints/declarations and to promote ethical standards across Somerset, thereby reducing the likelihood of complaints arising. S5 of the Local Government and Housing Act 1989 confirms that a Monitoring Officer must be provided with sufficient resources to undertake their role. In the circumstances, these additional responsibilities will need to be considered when determining the new structure for Somerset Council.

11. Appendices

Appendix 1 – County Council Code of Conduct complaints procedures

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Somerset County Council

Standards Committee

– 10 November 2022

Report of the Monitoring Officer – proposed appointment of the Council’s Reserve Independent Person and recruitment of Independent Persons for Somerset Council

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

Contact Details: 01823 357628 or 01823 359043

1. Summary

- 1.1 The Localism Act 2011 requires Councils to have arrangements in place to investigate and make decisions on allegations that a Councillor has breached the Code of Conduct. The arrangements to make decisions on allegations must include provision for the appointment of one or more “Independent Person” through a transparent process, by advertisement and application. A Member, Co-opted Member or Officer of the Authority or a relative or close friend of such person cannot be appointed as an “Independent Person”. In addition, a person cannot be appointed as an “Independent Person” if at any time during the 5 years before the appointment, the person was a Member, Co-opted Member or an Officer of the Authority. For several years the County Council has put in place an Independent Person and Reserve Independent Person to support its standards arrangements.

The Council must seek and take into account the views of the Independent Person before reaching a decision about an allegation which it has decided to investigate. The Member against whom a complaint is made may also seek the views of the Independent Person. Whilst the Independent Person must be consulted, he/she has no vote or binding authority in any determination process with regard to a complaint. In addition, Councils must include at least two Independent Persons on any panel formed to consider disciplinary action against Statutory Officers.

The Council has been recruiting for a Reserve Independent Person to fill a vacancy. Interviews are now complete and as the appointment of Independent Persons must, by law, be approved by a majority of elected Members, Council are asked to endorse the decision of the Interview Panel.

As part of the transition to the new Somerset Council, work has been undertaken to review the proposals for Independent Persons to support the new Council’s standards arrangements.

2. Recommendation(s)

2.1 The Committee is asked to comment on the Monitoring Officer's proposed recommendations to Council in relation to:-

- 1. Appointing Lorraine Davey as a Reserve Independent Person under Section 28 of the Localism Act 2011 with immediate effect until 31 March 2023**
- 2. Authorising the recruitment of three Independent Persons for the new Somerset Council on the basis set out in this report**

3. Background

3.1 Appointment of a Reserve Independent Person

The Council has been recruiting for a Reserve Independent Person to fill a vacancy. At the same time, Mendip District Council needed to undertake the recruitment of an Independent Person and therefore a joint recruitment exercise was undertaken as part of the collaborative work on Local Government Reorganisation in Somerset. Interviews are now complete and as the appointment of Independent Persons must, by law, be approved by a majority of elected Members, Council will therefore be asked to endorse the decision of the Interview Panel.

- 3.1.1 A thorough and transparent selection process has been undertaken. The opportunity was advertised in the local press and online in July. The recruitment campaign was jointly undertaken with Mendip District Council who were also looking to recruit their own Independent Person. This collaborative approach is part of the five councils partnership work through local government reorganisation in Somerset. A single candidate was interviewed by the Monitoring Officers of both Mendip District Council and Somerset County Council.
- 3.1.2 The Interview Panel reached a unanimous decision that they would recommend Lorraine Davey to be appointed by their respective Council. Lorraine Davey has a background in the education sector and has worked for various education/local authorities as well as an academy at a senior level over the last 20 years. Currently she acts as an Independent Early Years Consultant in the nursery sector.
- 3.1.3 The Interview Panel concluded that Lorraine Davey has significant skills and qualities which would benefit the Council in meeting its legal duty to uphold and promote high standards of ethical behaviour amongst elected and co-opted Members.

- 3.1.4 Section 28 of the Localism Act 2011 places a duty on Councils to appoint at least one Independent Person. The Act also requires the vacancy for an Independent Person to be advertised in such manner as the Authority consider is likely to bring it to the attention of the public. A person cannot be appointed as an Independent Person unless they have submitted an application for the vacancy and their appointment has been approved by a majority of members of the Authority.

The options available to the Council therefore are to appoint the candidate recommended by the Panel, or recommend the post is re-advertised.

3.2.1 **Recruitment of Independent Persons for Somerset Council**

The Localism Act 2011 requires Councils to have arrangements in place to investigate and make decisions on allegations that a Councillor has breached the Code of Conduct. The arrangements to make decisions on allegations must include provision for the appointment of one or more "Independent Person" through a transparent process, by advertisement and application. A Member, Co-opted Member or Officer of the Authority or a relative or close friend of such person cannot be appointed as an "Independent Person". In addition, a person cannot be appointed as an "Independent Person" if at any time during the 5 years before the appointment, the person was a Member, Co-opted Member or an Officer of the Authority. For several years the County Council has put in place an Independent Person and Reserve Independent Person to support its standards arrangements.

- 3.2.2 The Council must seek and take into account the views of the Independent Person before reaching a decision about an allegation which it has decided to investigate. The Member against whom a complaint is made may also seek the views of the Independent Person. Whilst the Independent Person must be consulted, he/she has no vote or binding authority in any determination process with regard to a complaint. In addition, Councils must include at least two Independent Persons on any panel formed to consider disciplinary action against Statutory Officers.
- 3.2.3 The appointment of Independent Persons will also contribute to the openness and transparency of the Council's ethical standards arrangements by providing an external view on complaints against elected members.
- 3.2.4 Following the approval of the Somerset Structural Changes Order 2022, Somerset Council will come into effect on 1 April 2023 as part of local government reorganisation in Somerset. Section 28(7) of the Localism Act 2011 requires a relevant authority to put in place arrangements under which any allegations of misconduct can be investigated and decisions made on the

allegations. These arrangements must include provision for the appointment of at least one independent person

- 3.2.5 More than one independent person must be appointed to ensure compliance with the Employment Procedure Amendments Regulations 2015 and in relation to standards matters this is required to ensure appropriate cover should there be any prejudicial interest or other conflict preventing an independent person being utilised on a certain issue. Review of other unitary councils formed through local government reorganisation identifies that they have appointed the following numbers of Independent Persons:

Buckinghamshire (146 members) – 3

Bournemouth, Christchurch & Poole (76 members) – 3

Dorset (82 members) - 3

Wiltshire (98 members) – 3

- 3.2.6 In view of the large number of council members (110 council members) within Somerset who will be covered by Somerset Council's procedure for dealing with any allegation of misconduct, as well as supporting the Monitoring Officer and Deputy Monitoring Officers in respect of their role in assessing code of conduct complaints relating to all City, Town & Parish Councillors within the County, it is recommended at least three independent persons be appointed to provide the necessary resilience and sufficient capacity.

- 3.2.6 The Committee for Standards in Public Life recommends independent persons be appointed for a two-year period for a maximum of two terms. It is therefore recommended that in this instance independent persons be appointed on a four-year basis up until the next elections in 2027, so as to avoid a further recruitment process early in the first term of the new Somerset Council.

- 3.2.7 Allowances paid to Independent Persons vary across councils and in some instances only travel and subsistence expenses are paid. Examples of the annual allowances paid by unitary councils formed through local government reorganisation are as follows:

Buckinghamshire - £ 250 per annum

Bournemouth, Christchurch & Poole – £ 1,000 per annum

Dorset – £ 1,000 per annum

Wiltshire - £ 2,522 per annum

- 3.2.8 It is proposed that the three Independent Persons for the new Somerset Council receive an annual allowance of £ 1,000 per annum.

4. Implications

Legal – As outlined in this report the Council must appoint at least one Independent Person by Section 28 of the Localism Act 2011.

There is also a mandatory requirement introduced under the Employment Procedure Amendment Regulations 2015 to invite at least two independent persons to join a panel set up to consider the dismissal of statutory officers.

Appointments must be approved by a majority of the members of the authority. When considering the recommendations, the Council should have regard to budget implications that will arise from the agreed rate of payment for independent persons as detailed in this report.

Financial – For Somerset County Council the role of Independent Person has a current allowance of £ 577 per annum and the Reserve Independent Person has a 'retainer' allowance of £ 289 per annum.

It is proposed that the 3 Independent Persons for the new Somerset Council are paid an annual allowance of £ 1,000 per annum.

Equalities - The recruitment and advertisement process complies with Section 28 of the Localism Act 2011.

Risk - The key risk is that the Council does not have suitable persons to undertake the Independent Person(s) role. Once the appointment is accepted, then any risk will be limited to conflicts of interest which should be rare, but if they arise, they will be determined on an individual case by case basis.

5. Consultation

The Constitution and Governance Committee have been consulted on the proposed recruitment of three Independent Persons at their meeting on 20 October and the Committee was supportive.

The Standards Committee are being consulted for their views on the proposals in this report prior to the Monitoring Officer making recommendations to the Council meeting on 23 November 2022.

6. Background Papers

- 6.1 Council's Constitution
- Localism Act 2011
- Somerset Structural Changes Order 2022