

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