

Report of the Monitoring Officer – Update on the development of the Constitution for the new Somerset Council

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

Division and Local Member: N/A

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1. Summary

- 1.1 At its Annual General Meeting in May 2022, the Council agreed an interim Constitution for 2022/23 and recognised that there would be a comprehensive review of the Constitution during 2022/23 through the Constitution and Governance Committee, culminating in the proposed Constitution for the new Somerset Council being recommended to the County Council meeting on 22 February 2023 ahead of vesting day on 1 April 2023.
- 1.2 The Constitution and Governance Committee has been completing a phased review of key elements of the new Constitution for the new Somerset Council over a series of meetings. This work is being undertaken ahead of the Committee recommending the final draft Constitution at its meeting on 14 February 2023 to the County Council for approval on 22 February 2023.
- 1.3 The development of the new Constitution is being undertaken by the LGR Governance Workstream involving the Council's Monitoring Officer in conjunction with the Monitoring Officers of the four district councils. Their work has included reviewing best practice from Somerset councils and reviewing the Constitutions of previous local government reorganisations in Buckinghamshire, Wiltshire and Dorset.
- 1.4 There are several key elements of the draft Constitution for review by the Committee at its meeting on 30 January including:
 - Part C – Council functions, procedure rules and Budget and Policy Framework
 - Local Community Networks – draft terms of reference
 - Part D - Committee procedure rules
 - Part D - Planning Committee terms of reference
 - Part G - Scrutiny arrangements
 - Part I – Officer Scheme of Delegation and List of Statutory & Proper

Officers

2. Recommendation(s)

2.1 The Committee is asked to:-

- (1) Note the update on the development of the new Constitution; and**
- (2) Consider and comment upon the draft articles set out in Appendix 1 and Appendix 2.**

3. Background

3.1 Developing the new Somerset Council's Constitution

Under Section 9P of the Local Government Act 2000, the Council is required to prepare and keep up to date a Constitution containing the standing orders of the Council and such other information as is required or desirable.

The preparation of Somerset Council's Constitution is being undertaken by the Monitoring Officer in conjunction with the district councils' Monitoring Officers for approval by the Council in February 2023 ahead of vesting day. The Constitution and Governance Committee is overseeing the development of the new Constitution prior to the Committee recommending it to the Council meeting on 22 February 2023.

The approval or amendment of the Constitution is a non-executive function and is a function for the County Council and not the Executive. Nevertheless the Executive will want to be a key consultee on proposals since it incorporates the Executive arrangements.

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

3.4 Principles and approach to developing the proposed new Constitution

Principles

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

- Accountability

- Transparency
- Efficiency
- Proportionality

3.5 Approach

Following a review of options the Committee agreed in September 2022 that a new Constitution should be prepared for the new Somerset Council ahead of vesting day on 1 April 2023.

3.6 The new Constitution is being structured into key parts on the following basis:

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

3.7 Previous meetings of the Committee have reviewed key principles for Part C, Licensing & Regulatory arrangements, Pensions Committee and Pensions Board arrangements.

The meeting on 30 January is due to review:

- Part C – Council functions, procedure rules and Budget and Policy Framework
- Local Community Networks – draft terms of reference
- Part D - Committee procedure rules
- Part D - Planning Committee terms of reference

- Part G - Scrutiny arrangements
- Part I – Officer Scheme of Delegation and List of Statutory & Proper Officers

3.8 The final draft Constitution, comprising all Parts and Appendices, will be considered at the Committee’s meeting on 14 February. The Committee will then recommend the new Constitution to the Council meeting on 22 February for approval and adoption.

3.9 Appended to this report are the key elements of Appendix 1 - Part C (Council functions and procedure rules) and Appendix 2 - Part D (Committee Structure and Procedure rules) for review and comments in order to inform the final draft Constitution. The other matters for consideration by the Committee on 30 January are set out in other agenda items.

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.

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.

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 anticipated direct sustainability or community safety implications associated with the proposals in this report.

5. Background Papers

- 5.1 Council’s Constitution
Monitoring Officer report to Council in May 2022
Somerset Structural Changes Order 2022
Local Government Acts 1972 and 2000