

Report of the Monitoring Officer – Executive Arrangements within the new 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 / Background

- 1.1.** A number of appointments to key roles within the Council and to Committees are reserved to Full Council. Full Council at its annual meeting on 25 May 2022 appointed Cllr Bill Revans as the Leader of the Council. The Leader of the Council has authority to agree the Executive Arrangements in the Constitution and any Executive appointments alongside a number of other key elected member appointments which form part of the executive functions of the Council.
- 1.2.** The Council has operated a Leader and Cabinet model since 2001, under which the majority of functions that the Council undertakes are now the responsibility of the Leader and their Executive of up to 10 members operating as an 'Executive'. The Leader has responsibility for agreeing the executive arrangements.
- 1.3.** In March 2022 the Somerset Structure Changes Order was formally approved, this legally established the process for the formation of a new single unitary council from 1 April 2023.
- 1.4.** This report sets out the Leader of Council's proposed Executive Arrangements for inclusion within the new Constitution for Somerset Council. When developing the Executive Arrangements, reference has been made to good practice within the five councils and other peer councils such as Buckinghamshire, Cornwall, Dorset and Wiltshire.

2. Recommendations

- 2.1. The Constitution & Governance Committee is asked to consider and comment upon the proposed Executive Arrangements which are for the Leader of the Council to approve.**

3.Reasons for recommendations

- 2.2.** The County Council has operated a Leader and Executive/Cabinet model since 2001, under which the majority of functions that the Council undertakes are now the responsibility of a small number of councillors operating as an 'Executive' or 'Cabinet'. The Leader of the Council, Councillor Bill Revans, has responsibility for agreeing the executive arrangements.
- 2.3.** The Leader of the Council and the Executive will continue to be responsible for the discharge of all the executive functions of the Council under Education and Social Services legislation and in its capacity as Highway Authority (other than those public rights of way determinations exercised by the Regulation Committee), Planning Authority (other than the determination of planning applications), Waste Disposal Authority, Public Transport Authority and Traffic Authority and for all its statutory duties, including the exercise of relevant powers not specifically delegated by the Council to other Committees.
- 2.4.** The Leader of Council allocates all Executive decision-making responsibilities (covering Key and Non-Key Decisions) and functions, including any 'local choice' functions, where appropriate, delegated by Full Council. The Leader is proposing no changes to the current allocation of such responsibilities to:
- (a) the Leader;
 - (b) the Executive;
 - (c) the Traffic Regulation Order Sub-Committee of the Cabinet;
 - (d) jointly to two Lead members
 - (e) individual Lead Members; and
 - (f) Senior Leadership Team Officers.

Executive Membership

- 2.5** The Leader of the Council can appoint up to 9 other members to be members (known as Lead Members with specific areas of responsibility) of the Executive. The Leader also appoints the Deputy Leader of the Council.
- 2.6** In terms of the executive decision-making Cllr Revans has indicated his intention to maintain continuity as much as possible – so it is proposed that:
- The definition of key and non-key decisions will remain unchanged as will the key and non-key decision processes contained within the Constitution;
 - The existing Executive meeting arrangements have been used as the basis for the new Council.

Note that the Chair and Vice-Chair of the Council and members performing Overview & Scrutiny or Regulation Committee functions cannot be members of the Executive due to legislation.

In the event that a Lead Member is unable to discharge his/her specific decision

making functions for any reason (e.g. illness or holiday), the Leader (or in the Leader's absence or his/her inability to act – the Deputy Leader) may discharge those functions or decisions. Associate Lead Members cannot substitute or act as a Lead Member in their absence.

Associate Lead Members

- 2.7** To provide support to the Executive and to aid succession planning, the Leader of the Council intends to continue with the appointing Associate Lead Members to support the Executive. Associate Lead Members are not able to take decisions, but they can advise Lead Members and the Executive and:
- Lead on specific areas to be determined by the Lead Member.
 - Focus on information gathering and understanding key policy/service delivery areas.
 - Assist with the development of options and policies for consideration by the Lead Member.
 - Brief and make recommendations to Lead Members and others on the relevant issues that affect the decision making; and represent or deputise for the Lead Member at non-decision making meetings or events as necessary.

As an aid, the role of an Associate Lead Member could be compared to the Junior Minister roles of central government as they have no formal or legal powers of their own and instead provide a useful policy development and support role for their Lead Members. These roles also provide a valuable personal development opportunity and improve the resilience of the Council.

Where an Associate Lead Member is temporarily unable to perform their role e.g. due to illness, then the relevant Lead Member is able to appoint a temporary Associate Lead Member. In these instances the Leader of the Council will be consulted and the Monitoring Officer informed.

Executive Arrangements

- 2.8** The Leader of the Council has proposed the Executive Arrangements set out in Appendix 1. The development of the Executive Arrangements has been undertaken by the Monitoring Officer in collaboration with the four district councils' Monitoring Officers. This has involved extensive work and included reviewing best practice from the five Somerset councils and reviewing the Executive Arrangements of previous local government reorganisations in Buckinghamshire, Wiltshire and Dorset.

Review and feedback from the Leader of the Council and the Executive has been critical in informing and influencing the drafting of the Executive Arrangements for the new Constitution.

The Leader of the Council and / or the Executive can establish Executive Sub-

Committees with specific functions, membership and delegated powers. Work is being undertaken to develop several Executive Sub-Committees with functions such as planning policy, oversight of transition and transformation programmes, Harbour Management and considering significant objections to Traffic Regulation Orders. The Leader of the Council will present the proposals regarding any Executive Sub-Committees for consideration at the Executive meeting in March. The terms of reference for any Executive sub-committees that are approved by the Executive will be automatically incorporated into the new Council's Constitution and reported to the Council's Annual General Meeting in May 2023.

Public question time arrangements at meetings of the Executive will remain unchanged – members of the public may address the Executive at their meetings, ask questions of the Executive, or present a petition provided notice of the intention has been given to the relevant Committee Administrator in the Democratic Services Team in writing by 12 noon three clear working days before a Cabinet meeting. The Leader or Deputy Leader have the discretion to vary these arrangements.

The proposed Executive Arrangements seek to enable good and effective management of the council's business and ultimately good outcomes for residents and service users. These arrangements are intended to enhance the Council's ability to effectively pursue its vision as set out in the Council Plan. The Executive arrangements of the Council are key elements within the Council's Constitution which is the key governance document of the Council and facilitates delivery of the Council Plan.

3. Other options considered

- 3.1** None considered, these proposals reflect the Leader of the Council's wishes. The proposals seek to support the transition to the new Somerset Council on 1 April 2023.

4. Legal, Financial and Risk Implications

- 4.1** Under the Local Government Act 2000 and Local Government and Public Involvement Act 2007, the Leader of the Council may appoint the Deputy Leader and an Executive of his choosing, set the Executive portfolios and decide how executive functions are to be discharged. The size of the Executive (including the Leader of the Council) can be between 3 and 10 members of the Council.
- 4.2** 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.

Legislation sets out those functions of the new Council which must not be the responsibility of the Executive and those functions which authorities

may decide either to give to the Executive or not – these are referred to as “local choice functions”, other functions are, by default, the responsibility of the Executive. All non-executive functions are for the Council to approve, whereas all executive functions are for the Leader of the Council to approve.

This report complies with all legal requirements in relation to adopting a Constitution for Somerset Council. The only risk to the Council would result from the Council failing to fulfil its legal obligations and therefore the level of risk arising from the proposals in this report are considered to be low.

Failure to agree the changes proposed may hinder the delivery of Council services and key programmes / projects such as the change programme as the Executive has a key role in day to day decision making in relation to policy setting and service delivery. It could also leave the Council exposed to potential challenge and limit the ability of the Senior Leadership Team to operate effectively.

Likelihood	1	Impact	5	Risk Score	5
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The financial implications arising from the proposals in this report can be accommodated within the proposed budget for 2023/24.

4.3 Equalities Implications

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. Members must consider the effect that implementing a particular policy will have in relation to equality before making a decision.

No specific negative equalities implications have been identified with the proposals set out in the new Constitution. Decisions taken by the Council, in accordance with its Constitution, will consider equalities implications and have due regards to its legal duties under the Equality Act 2010. The arrangements for Executive meetings will take full consideration of equalities and public accessibility requirements. An Equalities Impact Assessment is not considered necessary for this decision as there are no direct impacts.

4.4 Community Safety, Sustainability, Health & Safety, Health and Well-Being and Social Value Implications

No specific negative implications have been identified.

5. Background Papers

5.1 Council’s Constitution

Leader of Council – Appointment of Executive May 2022

Monitoring Officer report to Council in May 2022
Somerset Structural Changes Order 2022
Local Government Acts 1972 and 2000

