

# COUNTY COUNCIL

**Wednesday 25 May 2022**

**10.00 am Hollinsworth Hall, The Canalside  
Conference Centre, Marsh Lane,  
Huntworth, Somerset, TA6 6LQ**



To: The members of the County Council

Cllr S Ashton, Cllr S Aujla, Cllr J Bailey, Cllr J Baker, Cllr L Baker, Cllr M Barr, Cllr M Best, Cllr B Bolt, Cllr A Boyden, Cllr A Bradford, Cllr H Bruce, Cllr T Butt-Philip, Cllr S Carswell, Cllr M Caswell, Cllr N Cavill, Cllr M Chilcott, Cllr N Clark, Cllr B Clarke, Cllr P Clayton, Cllr S Coles, Cllr S Collins, Cllr J Cook-Woodman, Cllr N Cottle, Cllr A Dance, Cllr D Darch, Cllr H Davies, Cllr T Deakin, Cllr D Denton, Cllr M Dimery, Cllr A Dingwall, Cllr L Duddridge, Cllr M Dunk, Cllr S Dyke, Cllr C Ellis, Cllr H Farbahi, Cllr B Ferguson, Cllr B Filmer, Cllr D Fothergill, Cllr A Govier, Cllr T Grimes, Cllr A Hadley, Cllr Pauline Ham, Cllr Philip Ham, Cllr S Hart, Cllr M Healey, Cllr B Height, Cllr A Hendry, Cllr R Henley, Cllr M Hewitson, Cllr E Hobbs, Cllr H Hobhouse, Cllr J Hunt, Cllr D Johnson, Cllr H Kay, Cllr V Keitch, Cllr A Kendall, Cllr J Kenton, Cllr T Kerley, Cllr M Kravis, Cllr C Lawrence, Cllr M Lewis, Cllr L Leyshon, Cllr T Lock, Cllr M Lovell, Cllr D Mansell, Cllr M Martin, Cllr H Munt, Cllr T Munt, Cllr M Murphy, Cllr F Nicholson, Cllr G Oakes, Cllr S Osborne, Cllr O Patrick, Cllr C Payne, Cllr K Pearce, Cllr E Pearlstone, Cllr D Perry, Cllr E Potts-Jones, T Power, Cllr H Prior-Sankey, Cllr S Pugsley, Cllr F Purbrick, Cllr W Read, Cllr L Redman, Cllr B Revans, Cllr M Rigby, Cllr T Robbins, Cllr D Rodrigues, Cllr J Roundell-Greene, Cllr D Ruddle, Cllr P Seib, Cllr H Shearer, Cllr G Slocombe, Cllr B Smedley, Cllr F Smith-Roberts, Cllr F Smith, Cllr J Snell, A Soughton, Cllr M Stanton, Cllr A Sully, Cllr C Sully, Cllr L Trimnell, Cllr S Wakefield, Cllr M Wale, Cllr R Wilkins, Cllr A Wiltshire, Cllr D Woan, Cllr R Woods, Cllr G Wren and Cllr R Wyke

All Somerset County Council Members are summoned and invited to attend the meeting of Somerset County Council.

Issued By Scott Wooldridge, Head of Governance & Democratic Services & Monitoring Officer - 17 May 2022

For further information about the meeting, please contact Scott Wooldridge, Head of Governance & Democratic Services & Monitoring Officer on 07811 313837 or [swouldridge@somerset.gov.uk](mailto:swouldridge@somerset.gov.uk) or [democraticservicesteam@somerset.gov.uk](mailto:democraticservicesteam@somerset.gov.uk)

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 Section 100A (4) of the Local Government Act 1972.

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](http://www.somerset.gov.uk/agendasandpapers)

**Are you considering how your conversation today and the actions you propose to take contribute towards making Somerset Carbon Neutral by 2030?**



**RNID typetalk**

# AGENDA

Item County Council - 10.00 am Wednesday 25 May 2022

## Full Council Guidance notes

### 1 Election of the Chair of the Council

To invite nominations and elect the Chair of the Council to serve until the Annual General Meeting in May 2023

### 2 Election of the Vice Chair of the Council

To invite nominations and elect the Vice Chair of the Council to serve until the Annual General Meeting in May 2023

### 3 Apologies for Absence

### 4 Declarations of Interest

The Statutory Register of Member's Interests can be inspected via request to the Democratic Service Team.

### 5 Minutes from the meeting held on Wednesday 27 April 2022 (Pages 7 - 12)

Council is asked to confirm the minutes are accurate.

### 6 Chair's Announcements (Pages 13 - 14)

To receive any communication or other business brought forward by the direction of the Chair of the Council

### 7 County Returning Officer's Report (Pages 15 - 20)

To receive the County Returning Officer's report of persons elected at the election held on 5 May 2022

### 8 Election of the Leader of the Council

To invite nominations and elect the Leader of the Council

### 9 Statement by the Leader of the Council

Leader of the Council make a statement to the Council, including their proposals for:

- The proposed appointment of a Deputy Leader
- The proposed number and appointment of Cabinet Members to form

Item County Council - 10.00 am Wednesday 25 May 2022

the Cabinet along with their responsibilities

10 **Public Question Time**

(see explanatory notes attached to agenda)

This item includes the presentation of petitions. Details of any public questions / petitions submitted will be included in the Chair's Schedule which will be made available to the members and to the public at the meeting.

**For Decision**

11 **Report of the Monitoring Officer** (Pages 21 - 216)

To consider reports by the Monitoring Officer with recommendations regarding:

**A - Committee proportionality, Committee appointments and annual calendar of meetings (refer to pages 21 – 51)**

**B - Appointments to Partnership and Outside Bodies (refer to pages 53 – 59)**

**C - Interim Constitution 2022/23 (refer to pages 61 onwards)**

## SOMERSET COUNTY COUNCIL – FULL COUNCIL MEETINGS

### GUIDANCE FOR PRESS AND PUBLIC

#### Recording of Meetings

The Council in support of the principles of openness and transparency allows filming, recording and taking photographs at its meetings that are open to the public providing it 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 and a designated area will be provided for anyone who wishes to film part or all of the proceedings. No filming or recording will take place when the press and public are excluded for that part of the meeting. As a matter of courtesy to the public, anyone wishing to film or record proceedings is asked to provide reasonable notice to Jamie Jackson, County Hall, Taunton, Somerset, TA1 4DY [democraticserviceteam@somerset.gov.uk](mailto:democraticserviceteam@somerset.gov.uk) so that the Chair of the meeting can inform those present.

We would ask that, as far as possible, members of the public aren't filmed unless they are playing an active role such as speaking within a meeting and there may be occasions when speaking members of the public request not to be filmed.

The Council meeting will be webcast and an audio recording made.

#### 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: [Members' Code of Conduct](#)

### EXPLANATORY NOTES: QUESTIONS/STATEMENTS/PETITIONS BY THE PUBLIC

#### General

Members of the public may ask questions at ordinary meetings of the Council or may make a statement or present a petition – **by giving advance notice.**

#### Notice of questions/statements/petitions

Prior submission of questions/statements/petitions is required in writing or by e-mail to the Monitoring Officer – Scott Wooldridge email: [democraticserviceteam@somerset.gov.uk](mailto:democraticserviceteam@somerset.gov.uk) by 5pm on Thursday 19 May. The Monitoring Officer may edit any question or statement in consultation with the author, before it is circulated, to bring it into an appropriate form for the Council.

In exceptional circumstances the Chair has discretion at meetings to accept questions/ statements/ petitions without any prior notice.

### **Scope of questions/statements/petitions**

Questions/statements/petitions must: -

- (a) relate to a matter for which the County Council has a responsibility, or which affects the County,
- (b) not be defamatory, frivolous or offensive,
- (c) not be substantially the same as a question/statement/petition which has been put at a meeting of the Council in the past six months and
- (d) not require the disclosure of confidential or exempt information.

The Monitoring Officer has discretion to reject any question that is not in accord with (a) to (d) above. The Monitoring Officer may also reject a statement or petition on similar grounds.

### **Record of questions/statement/petitions**

Copies of all representations from the public received prior to the meeting will be circulated to all members and will be made available to the public attending the meeting in the Chairman's Schedule, which will be distributed at the meeting. Full copies of representations and answers given will be set out in the minutes of the meeting.

### **Response to Petitions**

Normally the Council will refer any petition to an appropriate decision maker for response – see the [Council's Petition Scheme](#) for more details. The organiser will also be allowed 2 minutes at the meeting to introduce the petition and will receive a response from a relevant member (normally a Cabinet member).

If a petition organiser is not satisfied with the Council's response to the petition and the petition contains more than 5000 signatures (approximately 1% of Somerset's population) the petition organiser can request a debate at a meeting of the County Council itself. The Chair will decide when that debate will take place.

## COUNTY COUNCIL

Minutes of a Meeting of the County Council held in the Luttrell Room and Wyndham Room, County Hall, Taunton, TA1 4DY, on Wednesday 27 April 2022 at 10.00 am

**Present:** Cllr P Clayton (Vice-Chair - in the Chair), Cllr M Chilcott, Cllr M Dimery, Cllr D Fothergill, Cllr A Govier, Cllr D Hall, Cllr J Hunt, Cllr D Huxtable, Cllr C Lawrence, Cllr L Leyshon, Cllr F Nicholson, Cllr H Prior-Sankey, Cllr C Paul, Cllr F Purbrick, Cllr B Revans, Cllr D Ruddle and Cllr J Woodman

**In attendance:** Cllr M Caswell

**Other Members present remotely:** Cllr M Best, Cllr A Bown, Cllr H Davies, Cllr G Frascini, Cllr A Kendall, Cllr M Lewis, Cllr J Lock, Cllr T Napper, Cllr G Noel, Cllr G Verdon and Cllr R Williams

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

Apologies were received from Cllr N Taylor and Cllr D Loveridge.

The Vice-Chair advised that in line with legal requirements and planning for the meeting, the meeting is being held face to face but with attendance limited to 17 Councillors. Other Members are able to join online and participate at the meeting.

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

There were no new declarations of interest made.

### 38 **Minutes from the meeting held on 23 February 2022** - Agenda Item 3

The Minutes of the meeting held on 23 February 2022 were accepted as a true and accurate record, and were signed by the Vice Chair of the meeting subject to the following 2 minor amendments being made to Minute 25 (Report of the Leader and Cabinet): -

- second paragraph, third sentence - change 'divided' to 'dividend'
- fourth paragraph – delete first sentence.

### 39 **Chair's Announcements** - Agenda Item 4

The Vice Chair, Cllr Clayton presented the Chair of Somerset County Council Information Sheet No. 15 which had been circulated and published with the agenda and provided details of the activities and events attended since the report to the Council on 23 February 2022. He advised that he had attended the

Yeovil Civic Day on 26 April and had also visited Yeovil Town football club in the afternoon.

The Vice Chair then paid tribute to the following Councillors who were not standing for re election at the elections on 5 May 2022 –

Cllr Ann Bown – Bridgwater West

First elected – 2005

Years served as a County Councillor – 17

Highlights – Long standing Member on Scrutiny, Officer Appeals and Devon and Somerset Fire and Rescue. Most recently served as Vice Chair of the Scrutiny for Policies and Place Committee.

Cllr Anna Groskop – Wincanton and Bruton

First elected – 2009

Years served as a County Councillor – 13

Highlights – Served 3 years as Cabinet Member for HR, Health and Transformation. Most recently served as Chair of the Scrutiny for Policies and Place Committee.

Cllr Nigel Hewitt-Cooper – Mendip South

First elected – 2017

Years served as a County Councillor – 5

Highlights – Served as a Member of the Children and Families Scrutiny Committee, most recently served as Vice Chair of the Regulation Committee.

Cllr Mark Keating – Coker

First elected – 2017

Years served as a County Councillor - 5

Highlights – Served on Scrutiny and Regulation Committees. Served just under 3 years as Vice Chair of Council.

Cllr Jane Lock – Yeovil West

First Term – 1987 to 2001 representing Curry Rivel and then a Second term of 2013 to 2022

Years served as a County Councillor – 23

Highlights – Served as a Member of the Executive Board in the late 1990's. Spent several years as the Leader of the Opposition and most recently Opposition Spokesperson for Adult Social Care and Strategy, Customers and Communities.

Cllr Graham Noel – Mendip West

First elected – 2013

Years served as a County Councillor – 9

Highlights – Served as Chair of the Pensions Committee for several years.



Cllr Linda Oliver – Frome North

First elected – 2016

Years served as a County Councillor – 6

Highlights – Served on HR Policy and Scrutiny Committees.

Cllr Mike Pullin – Mendip Hills

First elected – 2017

Years served as a County Councillor – 5

Highlights – Most recently served as Junior Cabinet Member for Highways and Transport.

Cllr Nigel Taylor – Cheddar

First elected – 2017

Years served as a County Councillor – 5

Highlights – Served 4 years as Chair of Council. Also longstanding member of the Regulation Committee.

Cllr Josh Williams – Brympton

First elected – 2017

Years served as a County Councillor – 5

Highlights – Served on Children and Families Scrutiny Committee and the Avon and Somerset Police and Crime Panel.

The Leader of the Council, Cllr Fothergill paid tribute to the retiring Councillors and for their contribution to improving lives of people who live in Somerset.

The Leader of the Opposition, Cllr Revans echoed the comments and said that he hoped will be able to recognise the contribution of some of those as Alderman in the coming year and some sort of event to show appreciation for their services as well.

The Council received and noted the report.

40 **Public Question Time** - Agenda Item 5

There were no public questions received by the published submission deadline.

41 **Report of the Monitoring Officer** - Agenda Item 6

The Council considered a report by the Monitoring Officer, which set out proposals for Council to agree the accuracy of six sets of Committee minutes that were unable to be formally agreed under the Advisory Board model the Council implemented in January 2022 (Minute 18 refers) and now required formal sign off by Full Council. The Monitoring Officer also advised that the most recent set of Cabinet minutes (16 March 2022) and Regulation Committee minutes (13 January 2022) also required formal approval by Council as there had been no further opportunity to do so by the individual Committee.

The eight sets of minutes relate to the following meetings: -

1. Scrutiny for Policies, Adults and Health Committee – 3<sup>rd</sup> November 2021 – attached as Appendix A
2. Constitution and Standards Committee – 12<sup>th</sup> November 2021 – attached as Appendix B
3. Audit Committee – 30<sup>th</sup> November 2021 – attached as Appendix C
4. Scrutiny for Policies, Children and Families Committee – 1<sup>st</sup> December 2021 – attached as Appendix D
5. Pensions Committee – 7<sup>th</sup> January 2022 – attached as Appendix E
6. Scrutiny for Policies and Place Committee – 12<sup>th</sup> January 2022 – attached as Appendix F
7. Regulation Committee – 13<sup>th</sup> January 2022 – attached as Appendix G
8. Cabinet - 16<sup>th</sup> March 2022 – attached as Appendix H

Proposed by Councillor Fothergill and Seconded by Councillor Revans, the Council **RESOLVED:**

- 1) Agreed the accuracy of the 8 sets of minutes attached to the report as Appendices A to H.
- 2) Agreed that the Vice Chair of Council signs a copy of each of the 8 sets of Committee minutes on behalf of their respective Committee Chair.
- 3) Authorised the Monitoring Officer to take forward the implementation of the recommendations above and ensure accurate records are kept.

#### 42 **Report of the Chief Executive** - Agenda Item 7

The Council considered a report by the Chief Executive and Director of HR and Organisational Development which related to the recommendations relating to Chief Officers' pay awards for 2021/22, following consultation with the HR Policy Committee (Advisory Board) at its meeting on 5 April 2022.

At that meeting, Officers prepared a report confirming the nationally agreed Green Book pay award for staff of 1.75% for 2021/22 and in line with this made a proposal for Chief Officers Somerset Grades 1-3 to receive a pay award of 1.75% for the same period, which the HR Policy Committee advisory meeting considered and requested that the Cabinet Member for Resources present it to Full Council for its approval.

The HR Policy Committee forms a key part of the Council's constitutional arrangements which underpin the aims and delivery of the Somerset County Plan. The Committee exercises delegated authority from the Council in respect of the approval of the Council's HR policies and deciding and implementing pay awards for the Chief Executive and Senior Leadership Team. However, due to the pre-election period, the Committee met as an advisory board to Full Council.

Proposed by Councillor Chilcott and Seconded by Councillor Revans, the Council **RESOLVED** to approve the Chief Executive and Chief Officers pay award proposal of 1.75%, in line with Green Book pay award, to be backdated to April 2021.

43 **Chair of Council's final remarks and closure** - Agenda Item 8

The Vice Chair, Cllr Clayton made some concluding remarks at the end of the quinquennium and thanked Members for attending the meeting and wished them well in the forthcoming elections. The Leader, Cllr Fothergill thanked Cllr Clayton for his work and for chairing the meeting in the absence of the Chair Cllr Taylor, who is unwell. The comments were echoed by the Leader of the Opposition, Cllr Revans and also asked that good wishes be passed to Cllr Taylor as well.

**(The meeting ended at 10.30 am)**

**CHAIR**

This page is intentionally left blank



# Information

Chair's  
Information  
Sheet No. 16

for County Councillors

From:	Cllr Peter Clayton, Vice Chair of Somerset County Council
-------	---

Date:	26/04/2022– 11/05/2022
-------	------------------------

To:	All County Councillors
-----	------------------------

## **Chair's Report – 26/04/2022- 11/05/2022**

### **APRIL 2022**

26 April      The Vice Chair attended as a guest of the Mayor of Yeovil, the town's Civic Day.

### **MAY 2022**

1 May      The Vice Chair attended the Civic Service at St John the Evangelist Church, Withycombe, Exmouth as a guest of the Mayor of Exmouth.

11 May      The Vice Chair attended the BEM Ceremony at the Castle House, Taunton.

11 May      The Vice Chair attended the Somerset Youth Awards at Bridgwater and Taunton College.

This page is intentionally left blank

## **Report of the Returning Officer - Return of Councillors elected**

Lead Officers: Patrick Flaherty – Chief Executive and County Returning Officer and Scott Wooldridge Deputy County Returning Officer

Author: Mike Bryant – Service Manager, Democratic Services & Pippa Triffitt – Business Support, Democratic Services

Contact Details: [democraticservices@somerset.gov.uk](mailto:democraticservices@somerset.gov.uk)

### **1. Summary / Background**

- 1.1** The purpose of this report is to inform the County Council of the persons elected as Members (also known as Councillors) of Somerset County Council at elections held on 5 May 2022.

For the first time in Somerset County Council's history, the election saw 110 Councillors elected to 55 two member divisions. This was in accordance with the Somerset Structural Changes Order 2022 as part of the transition to the new Somerset Council. For their first year in office, elected members will be responsible for all Somerset County Council services before making the transition to become unitary members when the new Somerset Council comes into being on 1 April 2023.

Extensive planning and preparation for the elections was undertaken across the five councils over several months. Verification took place following the close of polls, with counts commencing at 10am on 6 May 2022. The Counts were undertaken at four venues across the County in Bridgwater, Shepton Mallet, Taunton and Yeovil.

The four district councils undertook the verification and counts for the City, Town and Parish Council elections that were also held on 5 May with results announced on 6 and 7 May.

- 1.2** Some key statistics from the election include:

- The Somerset electorate is 434,652.
- The overall election turnout was 37% - this can be broken down by each voting area as follows:
  - Mendip – 39%
  - Sedgemoor – 30%
  - Somerset West and Taunton – 39%
  - South Somerset – 38%
- 80,923 postal votes were issued.
- 477 polling stations were used on election day.
- 1995 people were involved in administering the polling stations on 5 May and the four voting area counts on 6 May.

## 2. Members Elected

2.1 The following persons were elected to the Council:

DISTRICT	DIVISION	ELECTORATE	% TURNOUT	COUNCILLORS	PARTY
Somerset West & Taunton	Bishops Hull & Taunton West	7928	43.2	Caroline Ellis	Liberal Democrat
				John Hunt	Independent
	Blackdown & Neroche	8598	40.9	Ross Henley	Liberal Democrat
				Sarah Wakefield	Liberal Democrat
	Comeytrove & Trull	7908	46.3	Habib Farbahi	Liberal Democrat
				Dawn Johnson	Liberal Democrat
	Dulverton & Exmoor	6726	48.5	Frances Nicholson	Conservative
				Steven Pugsley	Conservative
	Dunster	7097	39.5	Marcus Kravis	Liberal Democrat
				Christine Lawrence	Conservative
	Lydeard	8162	37.6	Mike Rigby	Liberal Democrat
				Andy Sully	Liberal Democrat
	Minehead	7033	39.6	Mandy Chilcott	Conservative
				Andy Hadley	Conservative
	Monkton & North Curry	9658	39.3	Norman Cavill	Conservative
				David Fothergill	Conservative
	Rowbarton & Staplegrove	7399	35.8	Dixie Darch	Liberal Democrat
				Derek Perry	Liberal Democrat
	Taunton East	8008	26.5	Simon Coles	Liberal Democrat
				Federica Smith- Roberts	Liberal Democrat
	Taunton North	7628	31.3	Lee Baker	Liberal Democrat
				Tom Deakin	Liberal Democrat
Taunton South	8335	33.9	Hazel Prior- Sankey	Liberal Democrat	
			Fran Smith	Liberal Democrat	
Upper Tone	7625	44.6	Dave Mansell	Green	
			Gwil Wren	Independent	
Watchet & Stogursey	7736	39	Hugh Davies	Independent	
			Rosemary Woods	Conservative	



	Wellington	9712	37	Marcus Barr	Conservative
				Andrew Govier	Labour
<b>Sedgemoor</b>	Brent	7966	37.7	Bob Filmer	Conservative
				Tony Grimes	Conservative
	Bridgwater East & Bawdrip	9083	26.6	Andy Dingwall	Conservative
				Diogo Rodrigues	Conservative
	Bridgwater North & Central	6973	18.2	Hilary Bruce	Labour
				Leigh Redman	Labour
	Bridgwater South	7743	20.1	Kathryn Pearce	Labour
				Brian Smedley	Labour
	Bridgwater West	7930	26.4	Lance Duddridge	Conservative
				Gill Slocombe	Conservative
	Burnham on Sea North	8010	36.7	Peter Clayton	Conservative
				Mike Murphy	Liberal Democrat
	Cannington	7400	39.1	Brian Bolt	Conservative
				Mike Caswell	Conservative
	Cheddar	7202	39.8	Pauline Ham	Liberal Democrat
				Ben Ferguson	Liberal Democrat
	Highbridge & Burnham South	7477	27.3	John Cook-Woodman	Conservative
				Alistair Hendry	Conservative
	Huntspill	7735	32	Suria Aujla	Conservative
				Mark Healey	Conservative
Kind Alfred	8127	45	Matthew Martin	Liberal Democrat	
			Harry Munt	Liberal Democrat	
North Petherton	7468	34.6	Alan Bradford	Conservative	
			Bill Revans	Liberal Democrat	
<b>Mendip</b>	Frome East	9283	34.3	William Collins	Green
				Helen Kay	Green
	Frome North	7447	43.7	Adam Boyden	Liberal Democrat
				Dawn Denton	Conservative
	Frome West	8161	38.5	Martin Dimery	Green
				Michael Dunk	Green
	Glastonbury	7227	41	Nick Cottle	Liberal Democrat
				Susannah Hart	Conservative
	Mendip Central & East	7427	40.8	Barry Clarke	Conservative
				Philip Ham	Conservative
Mendip Hills	7830	38.3	Edric Hobbs	Liberal Democrat	

				Tony Robbins	Liberal Democrat
	Mendip South	7771	44	Claire Sully	Liberal Democrat
				Alex Wiltshire	Liberal Democrat
	Mendip West	8101	44.1	Heather Shearer	Liberal Democrat
				Ros Wyke	Liberal Democrat
	Shepton Mallet	8331	32.4	Bente Height	Conservative
				Martin Lovell	Liberal Democrat
	Street	9054	33.7	Liz Leyshon	Liberal Democrat
				Simon Carswell	Liberal Democrat
	Wells	8860	43.8	Tessa Munt	Liberal Democrat
				Theo Butt Philip	Liberal Democrat
<b>South Somerset</b>	Blackmoor Vale	7338	43.6	Nicola Clark	Liberal Democrat
				Sarah Dyke	Liberal Democrat
	Brympton	6943	28.6	Peter Seib	Liberal Democrat
				Jeny Snell	Liberal Democrat
	Castle Cary	8038	41.4	Henry Hobhouse	Liberal Democrat
				Mike Lewis	Conservative
	Chard North	8042	36.4	Martin Wale	Conservative
				Jenny Kenton	Liberal Democrat
	Chard South	6657	41.5	Jason Baker	Liberal Democrat
				Connor Payne	Conservative
	Crewkerne	7091	48.1	Mike Best	Liberal Democrat
				Steve Ashton	Conservative
	Curry Rivel & Langport	8735	31.9	Mike Stanton	Liberal Democrat
				Richard Wilkins	Liberal Democrat
	East Coker	7533	38.1	Mike Hewitson	Liberal Democrat
				Oliver Patrick	Liberal Democrat
Ilminster	8331	48.2	Val Keitch	Liberal Democrat	
			Sue Osborne	Conservative	
Martock	8442	38.6	John Bailey	Liberal Democrat	

				Emily Pearlstone	Liberal Democrat
Somerton	8324	39	Tim Kerley	Liberal Democrat	
			Dean Ruddle	Liberal Democrat	
South Petherton & Islemoor	8531	44.3	Adam Dance	Liberal Democrat	
			Jo Roundell-Greene	Liberal Democrat	
Wincanton & Bruton	8746	45.4	Tom Power	Conservative	
			Lucy Trimnell	Conservative	
Yeovil Central	7281	47	Andy Kendall	Liberal Democrat	
			Dave Woan	Liberal Democrat	
Yeovil East	8115	25.4	Tony Lock	Liberal Democrat	
			Graham Oakes	Liberal Democrat	
Yeovil South	7885	26.4	Faye Purbrick	Conservative	
			Andy Soughton	Liberal Democrat	
Yeovil West	6436	37	Evie Potts-Jones	Liberal Democrat	
			Wes Read	Liberal Democrat	

This page is intentionally left blank

Somerset County Council

County Council

– 25 May 2022

---

**Report of the Monitoring Officer – Appointment of Committees and allocation of seats on committees to political groups**

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

Contact Details: 01823 359043

**1. Summary**

- 1.1 This report sets out decisions that are required at the Council's Annual General Meeting (AGM) regarding the appointment of committees and the allocation of seats on committees to the political groups. The report also updates the Council on size of the different political groups following the recent elections.

Note – an updated **Appendix 1** with names of members and allocation of committee places to political groups will be published prior to the AGM.

**2. Recommendation(s)**

**2.1 Council is recommended to:-**

- (1) Note the election and appointment of the Chair of the Council, Vice Chair of the Council and Leader of the Council agreed at this Annual General Meeting prior to this agenda item.**
- (2) Approve the County Council Appointments Schedule to this report (Appendix 1), to include, as necessary, summary revised terms of reference for proposed new committees, the proposed committees for appointments to be made to and the proposed appointments to Devon and Somerset Fire & Rescue Authority and Exmoor National Park Authority – see sections 3.1 and 3.2 for more detail.**
- (3) To approve the payment of Special Responsibility Allowances (SRA) for any new equivalent SRA qualifying posts created in 1 and 2 above that fit within the existing SRA bandings scheme, pending the Council considering recommendations of the Joint Independent Remuneration Panel in relation to the review of the Members' Allowances Scheme.**
- (4) To agree the dates already agreed for ordinary meetings of the**

## County Council for the year as set out in section 3.3

### 3. Background

#### 3.1 Democratic Arrangements

3.1.1 The Council at its annual meeting following the County Council elections is required to:

- (a) Appoint committees and sub-committees for 2022/23, agree their size (in accordance with the statutory political balance on committee requirements), terms of reference and appoint members to serve on each;
- (b) Elect Chairs and appoint Vice-Chairs of committees for 2022/23 (except the Officer Appeals Committee which appoints its own Chair at each meeting);
- (c) Agree any amendments to the Constitution (including the Scheme of Delegation) required as a result of the decisions made in respect of (a) to (c) above;
- (d) Approve a programme of ordinary meetings of the County Council for 2022/23 and the next Annual General Meeting in May 2023;
- (e) Agree arrangements to approve a calendar of meetings for committees of the Council (noting that the Leader will agree the calendar of meetings for the Cabinet).

This report covers all of these essential requirements.

3.1.2 The results of the 5 May 2022 County Council elections resulted in the following political balance on the Council.

- Liberal Democrats = 61 members
- Conservative = 36 members
- Labour = 5 members
- Green = 5 members
- Independents = 3 members

The Liberal Democrat group therefore forms a majority Administration from 2022 – 27. This report has been prepared on the basis of the political groups reflecting the position set out above (noting that this could change pending the formation of the actual political groups by the Annual General Meeting).

3.1.3 By the time of the AGM meeting we will have clarity on the Council's political groups. Under the regulations, two or more councillors may form and register

a group. The formation of political groups will then inform the final calculation of seats on committees and boards for each of the groups. That allocation of seats will conclude with the nomination of members for the seats. It is anticipated that the appointments schedule (**Appendix 1**) setting out the proposed nominations from each of the political groups will be published either immediately prior to or on the day of the Annual General Meeting.

#### 3.1.4 **Model of Governance and the role of Full Council**

For the benefit of new members the Council currently operates a Leader and Cabinet model of governance in accordance with legislative requirements. The Council has operated this model of governance since 2001. The main alternative model is the committee system model of governance and a small number of councils use this. The third option – the directly elected mayor model – has previously been not considered appropriate for Somerset and again only a small number of councils (mainly cities) use this. The 'Leader and Cabinet' model offers considerable flexibility and is considered more appropriate to the Council's circumstances and operating model.

3.1.4 The Leader and Cabinet model places the majority of functions carried out by the Council as the responsibility of a small number of councillors operating as an 'Executive' or 'Cabinet'. The Leader has responsibility for agreeing the Cabinet/Executive arrangements and the executive decision-making arrangements across the Council. It is anticipated that the Leader once appointed by the Council will appoint their Cabinet/Executive shortly afterwards via a Leader of Council's decision.

3.1.5 The key role of full Council in a 'Leader and Cabinet model' is to:

- Approve the Council's budget and key policies;
- Appoint the Leader and committees of the Council – which is one of the main tasks of today's meeting.

#### 3.1.6 **Appointment of committees**

In view of the significant organisational change through Local Government Reorganisation in Somerset, to maintain continuity it is proposed at this stage to retain the majority of the existing committee structure and to supplement this with additional committees.

3.1.7 At this stage, the summary of proposed changes to the existing committee structure for the Council to consider relate to:

- Dissolving the current Constitution and Standards Committees
- Establishing a new Constitution and Governance Committee
- Establishing a new Standards Committee
- Establishing a new Scrutiny Policies and Environment Committee

The proposed committees are set out in **Appendices 1 and 3**.

3.1.8 Following the County Council elections and in accordance with the Somerset Structural Changes Order 2022, the number of County Councillors has increased significantly from 55 to 110. Consequently, work has been undertaken to review the committee sizes and their quoracy of other councils that have completed local government reorganisation. This benchmarking work has focused on Wiltshire and Buckinghamshire councils due to their comparable number of elected members of 98 and 120 respectively.

3.1.9 Key points from that benchmarking are:

- Size of Council committees - the average County Council committee size is currently 8 elected members whereas this is between 11-15 for Wiltshire and Buckinghamshire
- Quorum – this is usually set at about ¼ of the membership of the relevant committee (with a minimum of 3 members) but can increase to over 50% of the membership where this relates to decision making committees

3.1.10 Consequently it is proposed that the Council considers the appointment of the following committees, together with their size and quorum:

<b>Council Committees – required to be politically balanced</b>	<b>No of places</b>	<b>quorum</b>
Appointments Committee	5	3
Audit	13	5
Constitution & Governance *	13	5
Human Resources	13	5
Officer Appeals	13	3
Pension Fund	4	3
Regulation	13	5
Scrutiny (Environment)	13	5
Scrutiny (Place)	13	5



Scrutiny (Adults & Health)	13	5
Scrutiny (Children)	13	5
Individual cttee totals	<b>126</b>	

\*- proposed new committees

<b>Council Committees – <i>not required to be politically balanced</i></b>	<b>No of places</b>	<b>quorum</b>
Somerset Health and Well-Being Board	5	3

Under the Health and Social Care Act 2012, the Council is required to appoint a Health and Wellbeing Board that works with partners, including the GP led Clinical Commissioning Group (CCG), to prepare a Joint Health and Wellbeing Strategy for the Council and the CCG and to encourage the delivery of integrated services. The Board is to be regarded as an ordinary committee of the Council and is therefore appointed by the Council, reports to the Council and with membership, as defined by the legislation, agreed by the Council.

<b>Council Committees – <i>balanced locally</i></b>	<b>No of places</b>	<b>quorum</b>
Standards * (and 5 independent co-opted members)	5	3

\*- proposed new committee

<b>Joint Committees – politically balanced</b>	<b>No of places appointed from county council</b>
Heart of the South West Joint Committee	1
Heart of the South West Joint Scrutiny Committee (LEP)	4

<b>Joint Committees – locally balanced</b>	<b>No of places appointed from county council</b>
Local Government Reorganisation Joint Scrutiny Committee **	8

\*\* - subject to Council approval to re-establish

<b>Appointments to other authorities – locally politically balanced</b>	<b>No of places appointed from county council</b>
Devon and Somerset Fire and Rescue Authority	8
Exmoor National Park Authority	4

Note that the political proportionality rules do not apply to the Cabinet/Executive or the Pension Board. Under the Public Service Pensions Act 2013 and consequent amendments to the Local Government Pension Scheme Regulations 2013, each administering authority is required to appoint a local pension board to assist the administering authority to comply with relevant legislation and guidance, and to ensure the effective and efficient governance and administration of the Local Government Pension Scheme. Such Boards are constituted entirely under the Public Service Pensions Act 2013 and are not local authority committees.

### **3.2 Appointments / Allocation of places**

- 3.2.1 Under the Local Government & Housing Act 1989 and subsequent Regulations, the Council must review the representation of the different political groups on committees at the annual Council meeting.
- 3.2.2 **Appendix 1** will set out arrangements to enable the Council to meet the requirements of the Local Government and Housing Act 1989 which requires the application of certain rules to the appointment of council committees.

The Schedule will provide for:

- (a) The appointment of members to the committees of the Council.

- (b) The appointment of chairs and vice-chairs of the committees where appropriate.

3.2.3 Using the assumption that the formation of political groups will correspond with the election results then this will mean the following political balance and overall entitlement to seats:

<b>Political Group</b>	<b>No of Members</b>	<b>Overall entitlement to committee seats</b>
Liberal Democrat	61	55.5%
Conservative	36	32.7%
Labour	5	4.5%
Green	5	4.5%
Independent	3	3%
Individual member	0	0%
Totals	110	100%

3.2.4 The number of seats on ordinary committees are allocated to each political group in the same proportion as the overall strength of each political group as far as practicable. This excludes the Cabinet as those appointments are made by the Leader of the Council and also any other committee where political balance is not required such as the Health and Well Being Board and the Somerset Waste Board.

3.2.5 The Local Government and Housing Act 1989 sets out the principles to be used in agreeing the size of and allocation of places to committees (and sub-committees) of the Council and also requires this process to be repeated annually at the Council's AGM. The principles must be followed so far as is reasonably practicable.

3.2.6 **Principles for allocating places** - the following principles from the 1989 Act, together with a commentary where appropriate, must be applied to the allocation of seats on committees.

1. *Preventing domination by a single group:* All the seats should not be allocated to the same political group.
2. *Ensuring a majority group enjoys a majority on all committees.* If one political group has a majority in the full Council, that political group should have a majority on each committee.

3. *Aggregating all committee places and allocating fair shares.* Subject to the above principles 1 and 2, the total number of seats on all the committees of the Council allocated to each political group should be in the same proportion as that political group's seats on the full Council.
4. *Ensuring as far as practicable fairness on each committee:* Subject to the above principles 1, 2 and 3, the number of seats on each committee of the Council allocated to each political group should be in the same proportion as that political group's seats on the full Council.

3.2.7 **Application of the principles** - the Council must review the establishment of its committees in accordance with the principles set out above in 3.2.6. Immediately after this is done, each political group should state the names of the members it wishes to take its allocated places on committees, and when those wishes are known, the Council is under a duty to make the appointment of those councillors as soon as practicable.

3.2.8 **Method of Calculating the Allocation of Places to Political groups** - The principles in paragraph 3.2.6 can be applied in the following sequence:

- (i) Calculate the total number of seats with votes on all the ordinary committees and any Joint Committees.
- (ii) Calculate the proportion that each political group forms of the total membership of the Council. Reserve an appropriate number of seats for any members not in a political group.
- (iii) Apply those proportions to the total number of ordinary committee seats to give the aggregate entitlement of each group; the requirement to apply the proportions "so far as reasonably practicable" can be met by rounding down fractional entitlements of less than half, and rounding up entitlements of a half or more; if this results in a greater aggregate than the number of seats available, the fractional entitlement(s) closest to a half should be rounded in the other direction until entitlements balance the available seats.
- (iv) Apply the proportions to the number of members on each ordinary committee to give provisional entitlement to seats on that committee.

- (v) If the provisional entitlement gives only one group seats on the committee, adjust the entitlement so that the next largest group has a seat (thus applying principle (a) in paragraph 3.2.6).
  - (vi) Finally, adjust the seats on each committee so that the total allocated to each group is as near as possible to their aggregate entitlement, whilst preserving the results reached at steps (iv) and (v) (thus applying principle (c) in paragraph 3.2.6).
- 3.2.9 The Council is free to adopt any aggregate number of places on ordinary committees so long as it follows the principles in paragraph 3.2.6 and the sequence outlined above. A draft scheme of committee places is set out at **Appendix 3**.
- 3.2.10 Explanation of the committee places table in **Appendix 3**:
- There are 126 committee places in total to be allocated. These do not divide neatly across the 5 political groups within the overall calculation hence the inclusion of decimal points. This is the second most important calculation after ensuring that the Liberal Democrat Group has a majority on each committee where it wants it.
  - The Labour Group is over-provided for in terms of places on individual committees (12 places) and **Appendix 3** shows where places need to be reallocated to the Liberal Democrat, Conservative, Green and Independent Groups. Those reallocations will be set out in **Appendix 1** to be considered at the AGM on 25 May.
- 3.2.11 A numerical guide to proportional representation on Committees is set out at **Appendix 2** to reflect the Council's updated political composition.
- 3.2.12 **Members not in a political group** - In the case of members who are not members of a political group, a proportion of seats on committees equal to the proportion of Council members who do not belong to a political group, has to be reserved, with appointments to these seats being made by the Council at its discretion. There are no members on this Council that are not in a political group at this time.
- 3.2.13 Full Council may waive the political balance rules for any committee(s) where the Council wishes to appoint an alternative number of members from political groups. In order for political balance to be waived no member

must vote against this motion, an objective by a single member would make it necessary to apply strict proportionality. Relevant committees and appointments to other authorities where this is proposed are set out in this report and its appendices e.g. Standards Committee where it is proposed to waive the political balance rules and instead appoint one member from each political group.

- 3.2.14 The Council's Constitution includes a delegation to the Monitoring Officer to make in-year changes between Annual General Meetings to committee appointments in the event of a vacancy occurring and to make changes to appointments to internal, partnership and outside bodies where requested and subject to the conditions being met.

### **3.3 Council meeting dates**

- 3.3.1 Following the elections, the following dates are proposed for Full Council meetings:

#### **2022**

20 July

23 November

#### **2023**

22 February (Budget Meeting)

24 February (Budget Meeting reserve date)

24 May (1<sup>st</sup> Annual General Meeting of new Somerset Council)

- 3.3.2 Once the Council meeting today approves the committee structure then the Monitoring Officer will work with committee chairs to finalise and agree the meetings calendar through to the end of 2022/23.

### **3.5 Members' Allowances**

- 3.5.1 The Joint Independent Remuneration Panel that advises the Council on members' allowances will meet following the Full Council AGM to review the changes to the Council's democratic arrangements and make any subsequent recommendations for changes to the Members Allowances Scheme 2022/23 at the earliest available Council meeting.
- 3.5.2 Pending this review it is recommended that any new equivalent SRA qualifying posts created that fit within the existing SRA bandings scheme should be paid the appropriate rate of SRA from the date of appointment. Any further adjustments can be picked up as part of the review.

#### **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 immediate financial implications from the proposals set out in this report will relate to any changes to the democratic arrangements outlined in **Appendix 1**. These will relate to posts qualifying for Special Responsibility Allowance payments, additional members' expenses and support costs for the new committees.

The proposals to be considered by the Council, if agreed, are likely to result in:

- an increase of £ 12,915 as a result of the proposed 4 new SRA posts (Chair of Scrutiny Environment £ 7,045, Vice-Chair of Scrutiny Environment £ 2,348, Chair of Standards Committee £2,348, Vice-Chair Constitution and Governance Committee £ 1,174) due to the creation of the new Standards Committee and Constitution & Governance Committee. This is pending the review of the Members' Allowances Scheme which will be brought to Council for consideration.
- An increase of approximately £ 50,000 in member expenses and support costs for the new Committees.
- An increase of approximately £ 30,000 in travel expenses due to overall increase in committee sizes and consequent increase in travel due to

the legal requirements for face to face committee meetings.

Note that the appointment of Cabinet Members and any Cabinet Member Assistants is for the Leader of the Council. Therefore there could be financial implications as a result of those appointments and will be set out in the decision report that the Leader will consider. Additionally there is likely to be the corresponding appointments from the Opposition Group Leader of Opposition Spokespersons. Those cost implications are not known at the time of finalising this report.

The above costs will need to be met by the resources allocated for Democratic Services and additional funding will be required to accommodate these costs in 2022/23. Funding from the Contingency Budget will need to be reallocated to meet these additional costs. Resources will be kept under review by the Monitoring Officer in consultation with the Section 151 Officer throughout 2022/23.

## **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.



# APPENDIX 1

## MAY 2022

# DRAFT APPOINTMENTS SCHEDULE

### COMMITTEE APPOINTMENTS

#### AUDIT COMMITTEE (13 members)

*Group / Seats*

**Chair:**

**Vice-Chair:**

**Membership:** *(CIPFA advice is no Cabinet members and preferably no high profile scrutiny members to be appointed)*

Con (4)

Green/Labour/  
Independent (2)

Lib Dem (7)

#### CONSTITUTION AND GOVERNANCE COMMITTEE (13 elected members)

*Groups / Seats*

**Chair:**

**Vice Chair:**

**Membership – elected members:**

Con (4)

Green/Labour/  
Independent (2)

Lib Dem (7)

**HUMAN RESOURCES COMMITTEE (13 elected members)**

***Groups / Seats***

**Chair:** *(This Committee is chaired by the Cabinet member with responsibility for HR issues)*

**Membership:**

Con (4)

Green/Labour/  
Independent (2)

Lib Dem (7)

**OFFICER APPEALS COMMITTEE (13 members)**

***Groups / Seats***

**Chair:** **(appointment delegated to the Committee)**

**Membership:** *(Committee of 3 members chosen from the 9 to hear each appeal – members **must** receive appropriate training in HR issues to be allowed to participate)*

Con (4)

Green/Labour/  
Independent (2)

Lib Dem (7)

**PENSION FUND COMMITTEE (4 elected members)**

***Groups / Seats***

**Chair:**

**Membership:** (not to include Cabinet Members)

Con (1)

Lib Dem (3)

**Non-elected Membership:**

(4 voting representatives for the district councils, Avon &

Contact : Scott Wooldridge, Monitoring Officer, Democratic Services

Somerset Police Authority, other bodies in the scheme & Unison)

Cllr R Henley – representing the district councils

Mr P Butler – Avon & Somerset Police & Crime Commissioner

vacancy – representing other employers

Sarah Payne – representative of pension scheme members

**REGULATION COMMITTEE (13 members)**

**Chair:**

**Vice-Chair:**

**Membership:** *(no Cabinet members. Members **must** receive training in planning, rights of way and village green issues before taking part in a committee meeting)*

***Groups / Seats***

Con (4)

Green/Labour/  
Independent (2)

Lib Dem (7)

Named substitutes

Con (2)

Green/Labour/  
Independent (1)

Lib Dem (4)

**SCRUTINY FOR POLICIES, ADULTS AND HEALTH COMMITTEE (13 members)**

**Chair:**

**Vice-Chair:**

**Membership:** *(no Cabinet members to be appointed)*

***Groups / Seats***

Con (4)

Green/Labour/  
Independent (2)

Lib Dem (7)

**SCRUTINY FOR POLICIES, CHILDREN & FAMILIES**

**(13 members)**

**Chair:**

**Vice-Chair:**

**Membership:** *(no Cabinet members to be appointed)*

***Groups / Seats***

Con (4)

Green/Labour/  
Independent (2)

Lib Dem (7)

Voting non-elected representatives for the consideration of  
education matters only:

Ruth Hobbs  
Mrs E Tipper

School Gov  
Reps (2)

Vacancy

Schools Forum  
(1)

Vacancy  
Vacancy

Parent Gov Reps  
(2)

Vacancy – Roman Catholic Diocesan  
Revd T Osmond – Church of England Diocese

Church Rep (2)

**SCRUTINY FOR POLICIES AND ENVIRONMENT COMMITTEE**

**(13 members)**

**Chair:**

**Vice-Chair:**

**Membership:** *(no Cabinet members to be appointed)*

***Groups / Seats***

Con (4)

Green/Labour/  
Independent (2)

Lib Dem (7)

**SCRUTINY FOR POLICIES AND PLACE COMMITTEE**

**(13 members)**

**Chair:**

**Vice-Chair:**

**Membership:** *(no Cabinet members to be appointed)*

*Groups / Seats*

Con (4)

Green/Labour/  
Independent (2)

Lib Dem (7)

**Scrutiny Committee – Joint Scrutiny for Local Government  
Reorganisation Committee**

**(16 members, 8 County Council and 8 District Councils)**

**Chair:**

**Vice-Chair:**

**Membership:** *(8 members - no Cabinet members to be appointed)*

*Groups / Seats*

Con (3)

Green/Labour/  
Independent (0)

Lib Dem (5)

**District Council Elected Representatives (8 elected members)**

**2 members – Mendip District Council**

**2 members – Sedgemoor District Council**

**2 members – Somerset West and Taunton Council**

Contact : Scott Wooldridge, Monitoring Officer, Democratic Services

**2 members – South Somerset District Council**

**SOMERSET HEALTH AND WELLBEING BOARD**

***Groups / Seats***

**Membership** *(overall membership agreed by the Council):*

**Proposed County Council membership – subject to the approval of the Leader** *(5 members appointed by the Leader – generally includes relevant Executive Members with responsibilities for Children’s Services, Education, Public Health and Adult Social Care)*

Con (2)

Green/Labour/  
Independent (0)

Lib Dem (3)

**District Council Elected Representatives (1 elected member per Council)**

Ros Wyke – Mendip District Council  
Janet Keen – Sedgemoor District Council  
Chris Booth – Somerset West and Taunton Council  
Brian Hamilton – South Somerset District Council

**Officers and Independent Members**

Ms Trudi Grant (SCC)  
Ms Mel Lock (SCC)  
Mr Julian Wooster (SCC)  
Dr Alex Murray (Clinical Commissioning Group)  
Mr James Rimmer (Clinical Commissioning Group)  
Dr Ed Ford (Clinical Commissioning Group) – Vice Chair  
Mark Cooke (NHS England)  
Judith Goodchild (HealthWatch)  
Superintendent Dickon Turner, Avon and Somerset Police

**STANDARDS COMMITTEE (5 elected members and 5 co-opted members)** ***Groups / Seats***

**Chair:**

**Membership – elected members:** *(5 member committee political proportionality requirements waved by the Council – all political*

Contact : Scott Wooldridge, Monitoring Officer, Democratic Services

*groups represented – 1 member each )*

Con (1)  
Green(1)  
Labour (1)  
Independent (1)  
Lib Dem (1)

**Membership – co-opted non-voting members:**

Alan Hemsley  
Paul Hooper  
Robin Horton  
David Stripp  
Vacancy

**SOMERSET PENSIONS BOARD (6 – 3 Employer reps, 3 Member reps)**

***Groups / Seats***

**Chair: (appointment delegated to the Board)**

**Membership:** *(one elected member to be included as an 'employer' rep)*

3 'Employer' reps:

Cllr XXXX

Mrs Rachel Ellins (Officer, County Council)

Cllr Anne Hills (Frome Town Council)

Lib Dem (1)

3 'Member' reps

Mr N Behan (Unite)

Rod Bryant

Anthony White

**APPOINTMENTS TO OTHER AUTHORITIES**

**DEVON AND SOMERSET COMBINED FIRE AUTHORITY**

**(8 members)**

*Chair's appointment is made by the Fire Authority itself*

**SCC's Membership:**

***Groups / Seats***

Con (3)

Green/Labour/  
Independent (0)

Lib Dem (5)

**EXMOOR NATIONAL PARK AUTHORITY (4 members)**

***Groups / Seats***

*Chair's appointment is made by the Park Authority itself*

**SCC's Membership:**

Con (1)

Lib Dem (3)



**FOR INFORMATION**

**EXECUTIVE (SUBJECT TO DECISION BY THE LEADER OF THE COUNCIL)**

Note these are draft proposals at this stage:

- Leader of the Council –
- Deputy Leader of the Council and Lead Member on Finance and Human Resources -
- Lead Member for Children and Education –
- Lead Member for Adults –
- Lead Member for Transport and Digital –
- Lead Member for Public Health, Equalities and Diversity –
- Lead Member for Economic Development and Inward Investment –
- Lead Member for Environment and Climate Change –
- Lead Member for Assets, Planning and Housing –
- Lead Member for Communities–

**Associate Lead Members (SUBJECT TO DECISION BY THE LEADER OF THE COUNCIL)**

Note these are draft proposals at this stage:

- Associate Lead Member for Governance and Communications –
- Associate Lead Member for Finance –
- Associate Lead Member for Education –
- Associate Lead Member for Public Health –
- Associate Lead Member for Adults –
- Associate Lead Member for Economic Development and Inward Investment -
- Associate Lead Member for Assets -

**OPPOSITION APPOINTMENTS – (TO BE ADVISED BY THE OPPOSITION LEADER)**

**CONSERVATIVE GROUP**

**Leader:**

**Deputy Leader:**

Cabinet Member (Leader of the Council) (Deputy Leader) and Lead Member for Finance and Human Resources	Opposition Group Spokesperson
---	-------------------------------

Contact : Scott Wooldridge, Monitoring Officer, Democratic Services

Lead Member for Children & Education Lead Member for Adults Lead Member for Transport & Digital Lead Member for Public Health & Equalities Lead Member for Econ Development Lead Member for Environment & Climate Change Lead Member for Assets, Planning and Housing Lead Member for Communities	
--	--

**LABOUR GROUP**

Leader: **To be advised**

**INDEPENDENT GROUP**

Leader: **To be advised**

**GREEN GROUP**

Leader: **To be advised**

## **Terms of reference for proposed new committees**

### **SCRUTINY COMMITTEE POLICIES, ENVIRONMENT**

#### **FUNCTIONS:**

Functional areas that are the responsibility of the Committee are as follows:

- Climate Change & Carbon Reduction
- Environment services (and appointment of members to the Joint Waste Scrutiny Panel with the district councils)
- Planning Policy
- Property & Asset Strategy
- Flooding & Water Management
- Energy and Sustainability
- Scientific services
- Countryside and Areas of National Beauty

#### **FORM AND COMPOSITION:**

The Committee comprises 13 elected Members reflecting the political composition of the Council.

#### **QUORUM:**

A minimum of 5 elected members are required to be present for a valid meeting to take place.

### **CONSTITUTION AND GOVERNANCE COMMITTEE**

**FUNCTIONS:** In summary, the Committee's main responsibilities relate to reviewing and updating the Council's Constitution and its governance framework.

#### Constitutional matters:

The Committee is responsible for:

- (a) Maintaining an effective, up to date and legally compliant Constitution.
- (b) Considering proposals from Council committees for changes to the constitutional arrangements of the Council.
- (c) Approving in-year changes to individual parts of the Constitution and submitting an annual report to the Council recommending a revised Constitution for approval to the Council's Annual General Meeting. See notes below.

Contact : Scott Wooldridge, Monitoring Officer, Democratic Services

- (d) Taking all required decisions in respect of the County Council elections;
- (e) Overseeing the Council's input and response to boundary or electoral reviews as required by the Boundary Commission.
- (f) Developing the Constitution for the new Somerset Council

Notes: The delegation set out in (c) above exclude approval of:

- Any changes to the operational arrangements of the Council including the Committee structure – which will be referred to Council for approval as a recommendation
- The Scheme of Members' Allowances which is approved by the Council on the recommendation of the Joint Independent Remuneration Panel;
- The Council's executive arrangements , which are the responsibility of the Leader of Council;
- Any change to the Council's model of democratic governance under the Localism Act 2011.

## **FORM AND COMPOSITION:**

The Constitution and Governance Committee comprises 13 elected members. Substitutes will be permitted for the elected members appointed to the Committee. The Chair is appointed by the Council on an annual basis.

## **QUORUM:**

A minimum of 5 elected members is required for a valid meeting of the Committee.

## **STANDARDS COMMITTEE**

### **FUNCTIONS:**

The Standards Committee is expected to be apolitical in carrying out its functions and its responsibilities. The Committee promotes and maintains high standards of conduct by elected Members and Co-opted Members of Council and Council bodies.

The Committee:-

- (a) Has responsibility for promoting high standards of conduct by Members, Co-opted Members and Officers and for the policies and processes which support this aim.
- (b) Advises on the induction and training of Members and Co-opted Members on standards of conduct ;
- (c) Monitors the operation of the Members' Code of Conduct and recommends any changes considered necessary to the Code to the Council for approval.

Contact : Scott Wooldridge, Monitoring Officer, Democratic Services

- (d) Has responsibility for overseeing the Standards of Conduct for officers and recommending any changes considered necessary to the Council for approval
- (e) Manages the members' and officers' registers of interests and gifts / hospitality;
- (f) Monitors the Council's Whistleblowing Policy and make recommendations to the Council in respect of any proposed changes.

The Committee has no role in considering or determining member complaints.

**FORM AND COMPOSITION:**

The Constitution and Standards Committee comprises of 1 elected member per political group (currently 5 elected Members) [but no Cabinet Members] and 5 Co-opted Members without voting rights. Substitutes will be permitted for the elected members appointed to the Committee. The Chair is appointed by the Council on an annual basis. Council has agreed to waive the political proportionality requirements for appointments to the Committee to enable all of the political groups on the Council to be represented.

**QUORUM:**

A minimum of 3 elected members is required for a valid meeting of the Committee.

**LOCAL GOVERNMENT REORGANISATION JOINT SCRUTINY COMMITTEE (to be advised)**

FUNCTIONS:

FORM AND COMPOSITION:

QUORUM:

This page is intentionally left blank

**APPENDIX 2 - NUMERICAL GUIDE OF PROPORTIONALITY IN COMMITTEES (May 22)**

<b>POLITICAL GROUP</b>	<b>Liberal Democrat</b>	<b>Conservative</b>	<b>Labour</b>	<b>Green</b>	<b>Independent</b>	<b>No Group</b>	<b>TOTALS</b>
<b>NUMBER OF MEMBERS</b>	<b>61</b>	<b>36</b>	<b>5</b>	<b>5</b>	<b>3</b>	<b>0</b>	<b>110</b>
<b>% OF TOTAL MEMBERS</b>	<b>55.5%</b>	<b>32.7%</b>	<b>4.5%</b>	<b>4.5%</b>	<b>2.7%</b>	<b>0.0%</b>	<b>100.0%</b>
<b>COMMITTEE SIZE</b>							
3	1.66	0.98	0.14	0.14	0.08	0.00	3.00
4	2.22	1.31	0.18	0.18	0.11	0.00	4.00
5	2.77	1.64	0.23	0.23	0.14	0.00	5.00
6	3.33	1.96	0.27	0.27	0.16	0.00	6.00
7	3.88	2.29	0.32	0.32	0.19	0.00	7.00
8	4.44	2.62	0.36	0.36	0.22	0.00	8.00
9	4.99	2.95	0.41	0.41	0.25	0.00	9.00
10	5.55	3.27	0.45	0.45	0.27	0.00	10.00
11	6.10	3.60	0.50	0.50	0.30	0.00	11.00
12	6.65	3.93	0.55	0.55	0.33	0.00	12.00
13	7.21	4.25	0.59	0.59	0.35	0.00	13.00
14	7.76	4.58	0.64	0.64	0.38	0.00	14.00
15	8.32	4.91	0.68	0.68	0.41	0.00	15.00
16	8.87	5.24	0.73	0.73	0.44	0.00	16.00
17	9.43	5.56	0.77	0.77	0.46	0.00	17.00
18	9.98	5.89	0.82	0.82	0.49	0.00	18.00
19	10.54	6.22	0.86	0.86	0.52	0.00	19.00
20	11.09	6.55	0.91	0.91	0.55	0.00	20.00
110	61.00	36.00	5.00	5.00	3.00	0.00	110.00

This page is intentionally left blank



### Appendix 3 – Schedule of Committee Places

Political Group	Liberal Democrat	Conservative	Labour	Green	Independent	No group	Total
<b>Seats held on the Council</b>	<b>61</b>	<b>36</b>	<b>5</b>	<b>5</b>	<b>3</b>	<b>0</b>	<b>110</b>
Appointments Committee (3-5 members)	3	2	0				5
Audit	7	4	2				13
Constitution and Governance *	7	4	2				13
Human Resources	7	4	2				13
Officer Appeals	7	4	2				13
Pension Fund	3	1	0				4
Regulation	7	4	2				13
Scrutiny (Environment)	7	4	2				13
Scrutiny (Place)	7	4	2				13
Scrutiny (Adults & Health)	7	4	2				13
Scrutiny (Children)	7	4	2				13
<b>Totals</b>	<b>69</b>	<b>39</b>	<b>18</b>	<b>0</b>	<b>0</b>		<b>126</b>
Overall calculation – entitlement	<b>69.87</b>	<b>41.24</b>	<b>5.73</b>	<b>5.73</b>	<b>3.44</b>		<b>126</b>
Adjustment required	<b>+1</b>	<b>+2</b>	<b>-12</b>	<b>+6</b>	<b>+3</b>		

Political Group	Liberal Democrat	Conservative	Labour	Green	Independent	No group	Total
-----------------	------------------	--------------	--------	-------	-------------	----------	-------

### Committees where political balance waived locally

Standards **	1	1	1	1	1		5
--------------	---	---	---	---	---	--	---

\*\* - political balance waived and one member from each group

### Committees not required to be politically balanced

Somerset Health & Well-Being Board	3	2					5
------------------------------------	---	---	--	--	--	--	---

### Joint Committees – politically balanced locally

Heart of the South West Joint Committee	1						1
Heart of the South West Joint Scrutiny Committee (LEP)	3	1					4

Joint Committees – locally	No of places appointed
----------------------------	------------------------

<b>balanced</b>	<b>from county council</b>
Local Government Reorganisation Joint Scrutiny Committee **	8

\*\* - subject to Council approval to re-establish

### **Appointments to other authorities – locally politically balanced**

Devon and Somerset Fire and Rescue Authority	5	3					8
Exmoor National Park Authority	3	1					4

This page is intentionally left blank

## **Report of the Monitoring Officer – Appointments to internal, partnership and outside bodies**

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

Contact Details: 01823 359043

### **1. Summary**

- 1.1 This report sets out decisions that are required at the Council's Annual General Meeting (AGM) regarding the appointment of members to internal, partnerships and outside bodies for 2022/23 (up until the next Annual General Meeting).

Note – an updated **Appendix 1** with names of members will be published prior to the meeting.

### **2. Recommendation**

#### **2.1 Council is asked to :**

- 1. approve the appointment of members to internal, partnerships and outside bodies for 2022/2023 as set out at Appendix 1**
- 2. appoint Councillor XXXXX as the Armed Forces Member Champion**

### **3. Background**

#### **3 Democratic Arrangements**

- 3.1. The Council has a schedule of internal, partnerships and outside bodies to which it is responsible for making appointments. These include national, regional, countywide and local bodies and partnerships. In some cases, these are strategic organisations where Members can shape and influence better outcomes for Somerset's communities and policy affecting Somerset. In others, the role of the appointed Member is important in promoting the relationship with the Council. The schedule identifies the number of places that the Council can appoint to in each case. The schedule and proposed appointments are set out at **Appendix 1**.

3.2 Further work will be undertaken by the new Constitution & Governance Committee during 2022 to review the Council's role and membership in these various bodies. This review will be reported to the next Annual General Meeting in 2023.

#### **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. Financial and Legal Implications**

5.1 No special responsibility allowances are payable by the Council for appointment to these bodies.

#### **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.

**APPENDIX 1 - APPOINTMENTS TO INTERNAL, PARTNERSHIPS AND OUTSIDE BODIES**

<b>Name</b>	<b>Type</b>	<b>Member(s) to be appointed</b>
<b>National Bodies</b>		
County Councils Network (4)	Outside Body	
County Councils Network Executive (1)	Outside Body	
Connecting Devon and Somerset (1) *	Partnership Body	
Local Government Association General Assembly (4)	Outside Body	
Local Government Association, Innovation and Improvement board (1)	Outside Body	
Local Government Association, Peoples and Places board (1)	Outside Body	
Local Government Association - Fire Service Forum (1)	Outside Body	
Partnership Committee of England and Wales for the civil enforcement of Bus Lanes Outside London (1) *	Partnership Body	
Partnership Committee of England and Wales for the civil enforcement of Parking and Traffic Regulation Outside London – PATROL (1) *	Partnership Body	
<b>Regional Bodies</b>		
Avon & Somerset Police and Crime Panel (1) *	Partnership Body	
Heart of the South West LEP Board (1) *	Partnership Body	
Heart of the South West LEP Local Transport Board (1) *	Partnership Body	
Devon and Somerset Trading Standards Service Panel (1) *	Partnership Body	
Devon and the Severn Inshore Fisheries and Conservation Authority (1) *	Outside Body	

**APPENDIX 1 - APPOINTMENTS TO INTERNAL, PARTNERSHIPS AND OUTSIDE BODIES**

Peninsula Transport Board (1) *	Partnership Body	
North Somerset Heritage Panel (1) *	Partnership Body	
Salisbury to Exeter Lineside Consortium of Local Authorities (SELCA) (1) *	Outside Body	
Severn Estuary Partnership (1) *	Outside Body	
South West Audit Partnership Members Board (2)	Partnership Body	
South West Councils (1)	Outside Body	
South West Heritage Trust (1) *	Outside Body	
South West Councils Employers Panel (SW Provincial Council) (1) *	Outside Body	
Wessex Regional Flood and Coastal Defence Committee (1) *	Outside Body	
<b>Somerset bodies</b>		
Blackdown Hills Partnership Management Group (1) *	Partnership Body	
The Brewhouse (1) *	Outside Body	
Carbon Management Board (1) *	Internal	
Chard Regeneration Scheme Project Board (1) *	Outside Body	
Children and Young People's Mental Health and Psychological Wellbeing Group (1) *	Partnership Body	
Citizens Advice Bureau / Community Information Bureau (2) *	Outside Body	
Corporate Parenting Board (no limit on membership and membership should include relevant Cabinet Members, Chair of Scrutiny Children & Families)	Partnership Body	



**APPENDIX 1 - APPOINTMENTS TO INTERNAL, PARTNERSHIPS AND OUTSIDE BODIES**

Friends of Brides Mound (1) *	Outside Body	
Glastonbury Tribunal Ltd (2) *	Outside Body	
Henry Leigh Trust (1) *	Outside Body	
Hinkley Point C CIM Planning Obligations Board (1) *	Partnership Body	
Hinkley Point Site Stakeholders Group (2) *	Partnership Body	
Hinkley Strategic Delivery Forum (1) *	Partnership Body	
John Nowes Education Foundation (1) *	Outside Body	
Local Liaison Group for Quarries in East Mendips (1) *	Outside Body	
Member Development Panel (5)	Internal	
Mendip Hills AONB Partnership Committee (1) *	Partnership Body	
Mendip Quarries Advisory Group (5) *	Partnership Body	
Passion for Somerset Board (1)	Outside Body	
Prowde's Educational Foundation (1) *	Outside Body	
Quantock Hills Partnership Advisory Committee (2) *	Partnership Body	
Safer Somerset Partnership (1) *	Partnership Body	
Smokefree Somerset Alliance (1) *	Outside Body	
Somerset Archaeological & Natural History Society (SANHS) (1) *	Outside Body	
Somerset Armed Forces Covenant	Partnership	

**APPENDIX 1 - APPOINTMENTS TO INTERNAL, PARTNERSHIPS AND OUTSIDE BODIES**

Partnership (1)	Body	
Somerset Association of Local Councils (1)	Partnership Body	
Somerset Buildings Preservation Trust (1) *	Outside Body	
Somerset Community Foundation - Hinkley Point C Community Fund Panel (1) *	Outside Body	
Somerset Employment and Skills Steering Group (SESSG) (1) *	Partnership Body	
Somerset Growth Board (1) *	Partnership Body	
Somerset Leaders' and Chief Executives' Group (1) *	Partnership Body	
Somerset Local Access Forum (1) *	Partnership Body	
Somerset Local Nature Partnership (1) *	Outside Body	
Somerset Outdoor and Residential Learning Advisory Group (2) *	Internal	
Somerset Partnership NHS Foundation Trust - Council of Governors (1)	Outside Body	
Somerset Rivers Authority Board (1) *	Partnership Body	
Somerset Rivers Authority Scrutiny Panel (2)	Partnership Body	
Somerset Safeguarding Adults Board (SSAB) (1) *	Partnership Body	
Somerset Safeguarding Children Partnership (1) *	Partnership Body	
Somerset Schools Forum (1) *	Partnership Body	
Somerset Social Enterprise Loans Fund Panel (2) *	Partnership Body	

**APPENDIX 1 - APPOINTMENTS TO INTERNAL, PARTNERSHIPS AND OUTSIDE BODIES**

Somerset Waste Board (2) *	Partnership Body	
Somerset Waste Board Partnership Scrutiny Panel (2)	Partnership Body	
Somerset Water Management Partnership (1) *	Partnership Body	
Standing Advisory Council for Religious Education (SACRE) (3) *	Partnership Body	
Taunton & Somerset NHS Foundation Trust (1)	Outside Body	
Visit Somerset (1) *	Outside Body	
Walpole Liaison Group (1)	Outside Body	
Yeovil District Hospital NHS Trust Council of Governors (1)	Outside Body	
Yeovil Innovation Centre Funding Partners Group (1) *	Outside Body	

\*- Appointments to be confirmed by the Leader of the Council

This page is intentionally left blank

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

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

Contact Details: 01823 359043

### **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.

## REVIEW OF THE CONSTITUTION – INTERIM CONSTITUTION FOR 2022/23

### SUMMARY OF REVISED CONTENTS AND CHANGES

	Title (and summary of subject matter)	Summary of changes
<b>Part 1 – Sections</b>	<b><u>Constitutional Arrangements</u></b>	
1	<b>Constitution:</b> (Purpose, Structure, Review, Interpretation, Access, Definitions)	No change at this stage. Will review as part of work to be done to develop the 2023/24 Constitution for new Somerset Council
2	<b>Members of Council:</b> (Council composition, Role and Functions of Members, Appointments, Allowances)	2.1 Reference to 55 members revised to 110 members
3	<b>Citizens and the Constitution:</b> (Citizens' rights, Voting and petitions, Accessing Information, Complaints, Citizen's Responsibilities)	No change at this stage. Will review as part of work to be done to develop the 2023/24 Constitution for new Somerset Council
4	<b>Full Council</b> <ul style="list-style-type: none"> <li>• <b>Arrangements:</b> (Form and Composition, Functions &amp; Responsibilities, Full Council Meetings, Time and Place of Full Council Meetings, Description of Executive Arrangements)</li> <li>• <b>Procedural Rules:</b> (Election of Chairs and Vice-Chairs, Chair's Powers and Full Council Meetings, Quorum, Full Council Meeting Business Plan, Proposals Requisitioned by Members, Public Question Time [including Treatment of Small Petitions] , Treatment of Large Petitions, Leader and Cabinet Member Reports – Member Questions, Overturning Council Decisions, Proposals and Amendments not Requiring Notice, Voting, Minutes, Record of Attendance, Exclusion of the Public, Members' Right to Speak, Members' Conduct, Disturbance by the Public, Suspension and Amendment of Council Meeting Rules)</li> </ul>	4.1 Reference to 55 members revised to 110 members  4.18 – clarification that minutes from a previous meeting not to be signed at an extraordinary meeting  4.24.1 – amended to propose at least 73 (two-thirds of membership) of the 110 members are present
5	<b>Leader and Cabinet Arrangements:</b> (Leader, Deputy Leader and Cabinet Appointments, Functions and Responsibilities of the Leader, Decision-making Responsibilities and Functions of the Cabinet, Allocation of Service Responsibilities and Decision making Responsibilities to Cabinet Members – Summary, Allocation of Decision making Responsibilities to Cabinet Members, Traffic Regulation Order Sub-Committee, Somerset Waste Board, Sub-delegation of Executive Responsibilities, Cabinet meeting arrangements, Cabinet Decision-making Arrangements)	Revisions required to include responsibilities of the executive for Local Government Reorganisation transitional arrangements for 2022/23 in accordance with the Somerset Structural Change Order 2022

6	<b>Council Committees Arrangements</b> (Committees of the Council, Committee Appointments, Committee Chairs & Vice-Chairs, Substitution on Committees, Meeting Dates, Committee Business – Public Involvement, Non-committee Member Involvement in Committee Meetings)	
6A	<b>Scrutiny for Policies and Places Committee / Scrutiny for Policies, Children and Families Committee / Scrutiny for Policies, Adults and Health Committee</b> (Functions, Form and Composition, Joint Health Scrutiny, Quorum, Committee Business, Call-in of Key Decisions, Referral of Non-Key Member Decisions)	<p>Scrutiny proposals for Local Government Reorganisation Programme being reviewed for 2022/23.</p> <p>Addition of new Scrutiny Committee for Policies, Environment</p> <p>Size of committees and quorum revised following comparative work with other similar size councils</p>
6B	<b>Decision-making Committees (Regulation, Pensions, Audit, HR Policy, Officer Appeals, Constitution and Standards Committees and the Somerset Health and Well-being Board):</b> (Functions, Form and Composition, Quorum, Committee Business, Reporting)	<p>Proposed replacement of Constitution and Standards Committee with a new Constitution &amp; Governance Committee and a new Standards Committee</p> <p>Size of committees and quorum revised following comparative work with other similar size councils</p>
6C	<b>Somerset Pensions Board</b>	No change at this stage. Will review as part of work to be done to develop the 2023/24 Constitution for new Somerset Council
6D	<b>Code of Conduct Hearing Panel Arrangements</b>	No change at this stage. Will review as part of work to be done to develop the 2023/24 Constitution for new Somerset Council
7	<b>Officer Arrangements</b> (Appointment of Officers, Dismissal [including Redundancy] of Officers or other Disciplinary Action], Officer Employment – Mandatory Standing Orders)	No change at this stage noting that this will be reviewed as part of work for 2023/24 Constitution for Somerset Council
8	<b>Decision Making:</b> (Principles of Decision-making, Types of Decision, Human Rights Issues, Decisions on the Budget and Policy Framework [includes Mandatory Standing Orders], Council and Cabinet Scheme of Delegation to Officers, Decision-making Access to Information Procedure Rules)	No change at this stage. Will review as part of work to be done to develop the 2023/24 Constitution for new Somerset Council

<b>Part 2 - Sections</b>	<b><u>Codes and Protocols (appendices to the Constitution)</u></b>	
A	<b>Financial Regulations</b>	No change at this stage noting that this will be reviewed as part of work for 2023/24 Constitution for Somerset Council
B	<b>Contract Standing Orders</b>	No changes proposed as recently revised in February 2022. Will review as part of work to be done to develop the 2023/24 Constitution for new Somerset Council
C	<b>Code of Conduct for Members and Co-opted Members</b>	No changes proposed as recently revised in February 2022. Will review as part of work to be done to develop the 2023/24 Constitution for new Somerset Council
D	<b>Scheme of Members' Allowances</b>	No changes proposed as recently revised in February 2022. Will review as part of work to be done to develop the 2023/24 Constitution for new Somerset Council
E	<b>Code of Practice – Commons Registration, Planning Control, Rights of Way</b>	No change at this stage. Will review as part of work on 2023/24 Constitution for new Somerset Council especially with the additional district council planning and regulatory functions from 1 April 2023
F	<b>Protocol on Members' Access to Information and Other Confidential Issues</b>	No change at this stage. Will review as part of work to be done to develop the 2023/24 Constitution for new Somerset Council
G	<b>Member / Officer Protocol</b>	<b>Revised protocol proposed</b>
H	<b>Members' Role Descriptions</b>	No change at this stage noting that unitary councillor role description already developed for inclusion in 2023/24 Constitution for Somerset Council
I	<b>Somerset County Council Recording Protocol: Third Party</b>	<b>Revised protocol to reflect new ways of working and the Council's</b>

	<b>Recording of Committees, Boards and Panels</b>	<b>webcasting of its principal public meetings</b>
J	<b>Tell Local Councillor (TLC)</b>	No change at this stage. Will review as part of work to be done to develop the 2023/24 Constitution for new Somerset Council
K	<b>Appointment of Honorary Aldermen and Alderwomen</b>	No change at this stage. Will review as part of work to be done to develop the 2023/24 Constitution for new Somerset Council.
L	<b>Scrutiny Task and Finish Group Protocol</b>	No change at this stage. Will review as part of work to be done to develop the 2023/24 Constitution for new Somerset Council
M	<b>Officer Code of Conduct</b>	No change at this stage. Will review as part of work to be done to develop the 2023/24 Constitution for new Somerset Council
N	<b>Officer Scheme of Delegation</b>	No change at this stage noting that work is being undertaken during 2022/23 to ensure district council functions are reflected
O	<b>Whistleblowing Policy</b>	<b>Revised policy proposed following consultation with Constitution &amp; Standards Advisory Board</b>
P	<b>Glossary</b>	<b>New addition to aid transparency and understanding of the Constitution</b>
	<b>Guidance:</b> <b><i>Gifts and Hospitality guidance for Members</i></b>  <b><i>Social Media guidance for Members</i></b>	<b>New guidance documents</b>

# CONSTITUTION OF SOMERSET COUNTY COUNCIL

**May 2022**

## **PART 1 – CONSTITUTIONAL ARRANGEMENTS**

### **CONTENTS**

Part	Title (and summary of subject matter)	Page No
<b>Part 1 – Sections</b>	<b><u>Constitutional Arrangements</u></b>	
1	<b>Constitution:</b> (Purpose, Structure, Review, Interpretation, Access, Definitions)	<b>3</b>
2	<b>Members of Council:</b> (Council Composition, Role and Functions of Members, Appointments, Allowances)	<b>5</b>
3	<b>Citizens and the Constitution:</b> (Citizens' rights, Voting and Petitions, Accessing Information, Complaints, Citizen's Responsibilities)	<b>7</b>
436	<b>Full Council</b> <ul style="list-style-type: none"> <li>• <b>Arrangements:</b> (Form and Composition, Functions &amp; Responsibilities, Full Council Meetings, Time and Place of Full Council Meetings, Description of Executive Arrangements)</li> <li>• <b>Procedural Rules:</b> (Election of Chairs and Vice-Chairs, Chair's Powers and Full Council Meetings, Quorum, Full Council Meeting Business Plan, Proposals Requisitioned by Members, Public Question Time [including Treatment of Small Petitions] , Treatment of Large Petitions, Leader and Cabinet Member Reports – Member Questions, Overturning Council Decisions, Proposals and Amendments not Requiring Notice, Voting, Minutes, Record of Attendance, Exclusion of the Public, Members' Right to Speak, Members' Conduct, Disturbance by the Public, Suspension and Amendment of Council Meeting Rules)</li> </ul>	<b>9</b>
5	<b>Leader and Cabinet: Arrangements:</b> (Leader, Deputy Leader and Cabinet Appointments, Functions and Responsibilities of the Leader, Decision-making Responsibilities and Functions of the Cabinet, Allocation of Service Responsibilities and Decision making Responsibilities to Cabinet Members – Summary, Allocation of Decision making Responsibilities to Cabinet Members, Traffic Regulation Order Sub-Committee, Somerset Waste Board, Sub-delegation of Executive Responsibilities, Cabinet meeting arrangements, Cabinet Decision-making Arrangements)	<b>20</b>
6	<b>Council Committees:</b> <ul style="list-style-type: none"> <li>• <b>Arrangements</b> (Committees of the Council, Committee Appointments, Committee Chairs &amp; Vice-Chairs, Substitution on Committees, Meeting Dates, Committee Business – Public Involvement, Non-committee Member Involvement in Committee Meetings)</li> </ul>	<b>30</b>
6A	<b>Scrutiny for Policies and Places Committee / Scrutiny for Policies, Children and Families Committee / Scrutiny for Policies, Adults and Health Committee</b> (Functions, Form and Composition, Joint Health Scrutiny, Quorum, Committee Business, Call-in of Key Decisions, Referral of Non-Key Member Decisions)	<b>31</b>
6B	<b>Decision-making Committees (Regulation, Pensions,</b>	<b>36</b>

	<b>Audit, Human Resources, Officer Appeals, Constitution and Standards Committees and the Somerset Health and Well-being Board):</b> (Functions, Form and Composition, Quorum, Committee Business, Reporting)	
6C	<b>Somerset Pensions Board</b>	<b>46</b>
6D	<b>Code of Conduct Hearing Panel Arrangements</b>	<b>48</b>
7	<b>Officer Arrangements</b> (Appointment of Officers, Dismissal [including Redundancy] of Officers or other Disciplinary Action], Officer Employment – Mandatory Standing Orders)	<b>51</b>
8	<b>Decision Making:</b> (Principles of Decision-making, Types of Decision, Human Rights Issues, Decisions on the Budget and Policy Framework [includes Mandatory Standing Orders], Council and Cabinet Scheme of Delegation to Officers, Decision- making Access to Information Procedure Rules)	<b>64</b>
<b>Part 2 - Sections</b>	<b><u>Rules, Codes and Protocols</u></b>	<b>83</b>
A	<b>Financial Regulations</b>	<b>84</b>
B	<b>Contract Procedure Rules and Standing Orders</b>	<b>108</b>
C	<b>Code of Conduct for Members and Co-opted Members</b>	<b>160</b>
D	<b>Scheme of Members' Allowances</b>	<b>174</b>
E	<b>Code of Practice – Commons Registration, Planning Control, and Rights of Way</b>	<b>187</b>
F	<b>Protocol on Members' Access to Information and Other Confidential Issues</b>	<b>208</b>
G	<b>Member / Officer Protocol 2014</b>	<b>215</b>
H	<b>Members' Role Descriptions</b>	<b>228</b>
I	<b>Somerset County Council Recording Protocol: Third Party Recording of Committees, Boards and Panels</b>	<b>250</b>
J	<b>Tell Local Councillor</b>	<b>253</b>
K	<b>Appointment of Honorary Aldermen and Alderwomen</b>	<b>259</b>
L	<b>Scrutiny Task and Finish Group Protocol</b>	<b>261</b>
M	<b>Officers' Code of Conduct</b>	<b>268</b>
N	<b>Scheme of Delegation for Officers</b>	<b>275</b>
O	<b>Whistleblowing Policy</b>	<b>309</b>



# Section 1 - The Constitution

1.1 **PURPOSE:** The Constitution sets out how the Council operates and how decisions are made. It reflects current legislation and, where appropriate, the ability of the Council to choose from options available within the law. Legislative requirements take precedence over the contents of this Constitution.

1.2 **STRUCTURE:** The Constitution comprises:  
(a) Part 1 – Constitutional Arrangements: These sections set out the basic rules governing the Council’s business.  
(b) Part 2 – Rules, Codes and Protocols: Supporting documents relating to the role and rights of elected Members and Officers.

1.3 **REVIEW:** Full Council approves the Constitution and updates it at least annually and as recommended by the Constitution and Standards Committee.

Note: The part of the Constitution that comprises the Council’s ‘executive arrangements’ has also to be agreed by the Council Leader.

1.4 **INTERPRETATION:** The Chair of Council’s ruling on the interpretation and / or application of this Constitution is final. The Chair will consult the Monitoring Officer prior to issuing such a ruling.

1.5 **ACCESS:** The Constitution is published on the Council’s website at <http://www.somerset.gov.uk/constitution> and copies can be inspected at County Hall, Taunton in normal office hours. Copies can be purchased for a reasonable fee. Printed copies are available from Democratic Services (01823 357628).

## 1.6 **DEFINITIONS:**

**Budget.** Reference to the ‘Budget’ includes the allocation of funds to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council’s borrowing requirement and investments, the control of its capital expenditure, the setting of virement limits and procedures for dealing with under and overspendings on budget headings at year end.

“**Disciplinary action**” has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001.

“**Executive**” and “**executive Leader**” have the same meaning as in Part II of the Local Government 2000 Act.

### **Land.**

(a) “Land” has the meaning assigned to it in Section 205 of the Law of Property Act 1925 and, in particular, but without in any way limiting

that meaning, includes land, buildings or parts of buildings and easements of both freehold and leasehold tenure;

- (b) References to the acquisition of land include the acceptance of gifts of land and the taking of leases, licences, dedications and easements of or over any land (including buildings) whether by way of valuable consideration or exchange but not the appropriation of land.

### **Local Choice**

'Local Choice' functions are indicated throughout the document in italics. The Council may choose to exercise 'local choice functions' itself, delegate them to Committees or Officers or to the Leader as 'executive' functions. They may be further delegated as indicated within the Constitution.

**"Member of staff"** means a person appointed to or holding a paid office or employment under the authority; and

**Policy Framework.** This refers to following plans and strategies:

- (a) Somerset Health & Wellbeing Strategy (agreed on behalf of the Council by the Somerset Health and Wellbeing Board)
- (b) Local Transport Plan;
- (c) Plans and alterations which together comprise the Development Plan;
- (d) Medium Term Financial Plan
- (e) Treasury Management Plan
- (f) Asset Management Plan
- (g) County Plan
- (h) The Council's Pay Policy Statement.

**"Proper Officer"** means an Officer appointed by the authority for the purposes of the provisions in this Part.

**Senior Leadership Team:** This description includes the following posts: Chief Executive; Director of Corporate Affairs; Director for Adult Services & Lead Commissioner Adults and Health (DASS); Director of Children's Services; Lead Director for Economic and Community Infrastructure & Director of Commissioning; Director of Finance;; Director of Public Health; HR & OD Director; Deputy Director Children and Families ; Economic & Community Infrastructure Operations Director; Economic & Community Infrastructure Commissioning Director; Managing Director Somerset Waste Partnership; Deputy Director Adults & Health Operations and Deputy Director Adults & Health Commissioning.

**"The 1989 Act"** means the Local Government and Housing Act 1989;

**"The 2000 Act"** means the Local Government Act 2000;

## Section 2 - Members of the Council

**2.1 COUNCIL COMPOSITION:** The Council consists of 110 County Councillors (commonly referred to as Members) elected by, and representing the voters of, an area of Somerset referred to as an electoral division. Members are elected for a 4 year period. The next election is in 2022. Details of current councillors including contact details are set out on the Council's website.

**2.2 ROLES AND FUNCTIONS OF MEMBERS:** Detailed role descriptions for Members are set out in Part 2 (Rules, Codes and Protocols). In summary:

- (a) **Key roles.** All Members:
  - (i) Take formal decisions;
  - (ii) Provide a key link between representing their communities and the Council;
  - (iii) Participate in running the Council.

Some Members also hold positions of special responsibility, e.g. Leader of Council, Cabinet Members and Committee Chairs.

- (b) **Rights and duties:** Members:
  - (i) Have rights of access to information held by the Council.
  - (ii) Must act in accordance with the law and this Constitution including the Members' Code of Conduct.

### 2.3 APPOINTMENTS:

2.3.1 In Council election year, all Council and Leader Member appointments are valid until the new Council meets following the election or until a replacement is appointed, as long as the Member is re-elected to the Council. The only exceptions to this are the appointments of Chair and Vice-Chair of Council who remain in post until their replacements are appointed by the new Council following the election, whether or not they were re-elected as councillors at the election.

2.3.2 The Council or the Leader (depending on who has responsibility for the appointment) can change any appointment at any time. In addition, Members will automatically be removed from any Council position or appointment if:

- (a) They resign from the position; or
- (b) They are suspended from being a Member of the Council under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (c) They are no longer a Member of the Council.

2.4 **ALLOWANCES:** Members are entitled to receive allowances for undertaking official duties in accordance with the Scheme of Members' Allowances set out in Part 2 of this Constitution.

## Section 3 - Citizens and the Constitution

**3.1 CITIZENS' RIGHTS:** The Constitution explains citizens' rights to access information about the democratic process and opportunities to participate in it. For reasons of space, it does not detail all of the rights of citizens in respect of the work of the Council and much more information can be found on the Council's website.

**3.2 VOTING AND PETITIONS:** Somerset citizens registered on the electoral roll can:

- (a) Vote at the County Council elections.
- (b) Petition the Council (subject to meeting the minimum number of signatures required and published by the Council annually) for a referendum to request the election of a directly elected mayor model of governance for Somerset and the Council as an alternative to the Leader and Cabinet governance model.
- (c) Petition for a community governance review of the area to request changes to electoral division arrangements.

Also, if you live, work or study within Somerset you can submit or present a petition on any matter which relates to a function of the Council and you will receive a response. The Council has a petitioning scheme on its website together with the facility to submit on-line petitions.

**3.3 ACCESSING INFORMATION:** This is a summary of the provisions set out in Section 8 – Decision-making Access to Information Procedure Rules. Citizens can:

- (a) Attend formal member meetings and make representations;
- (b) Find out about decisions made and to be made and make representations to decision makers before decisions are taken (for all Member decisions and some Officer decisions);
- (c) Inspect the Council's accounts and submit views to the external auditor;
- (d) Access certain information held by the Council using the provisions of the Freedom of Information Act 2000;
- (e) Access personal information held about them by the Council, in accordance with the relevant data protection legislation.

**3.4 COMPLAINTS:** Citizens rights to make complaints or submit views on services are detailed on the Council's website. Complaints about Members are dealt with under a separate procedure and the process is also detailed on the Council's website.

### 3.5 **CITIZENS' RESPONSIBILITIES:**

3.5.1 Citizens must not be violent, abusive or threatening to Members or Officers (either physically or verbally), nor may they harass or victimise Members or Officers of the Council.

3.5.2 Citizens must not wilfully harm any property owned by the Council, Members or Officers. In addition they must not misuse information obtained in the course of their contact with the Council (e.g. for personal/commercial financial gain).

3.5.3 The Council take complaints very seriously but it also has a procedure – the **Unacceptable Customer Behaviours Policy** - which will only be used in exceptional circumstances, to respond to habitual and vexatious complainants.

## Section 4 - Full Council

### ARRANGEMENTS

4.1 **FORM AND COMPOSITION:** Full Council (“the Council”) consists of all 110 Members.

4.2 **FUNCTIONS AND RESPONSIBILITIES:**

#### 4.2.1 Full Council Responsibilities:

To:

- (a) (i) Approve the Constitution annually on the recommendation of the Constitution and Standards Committee. Only Council can change the model of democratic governance or the Council’s Committee structure or the operational arrangements of the Council. Approval of the Constitution is subject to the Leader’s approval of any changes to the Leader and Cabinet arrangements.
- (a) (ii) Subject to (i) above, delegate authority to the Constitution and Standards Committee to approve in-year amendments to specific parts of the Constitution.
- (b) Approve the Policy Framework and Budget (see Part 1, Section 1 for definitions of both);
- (c) Take any decision which is a departure from the Policy Framework or Budget, subject to the urgency procedure contained in Part 1, Section 8 - Decision-making Arrangements;
- (d) Appoint the Chair and Vice Chair of the Council at the Annual General Meeting to hold office until the next Annual General Meeting (usually held in May each year)
- (e) Appoint the Leader of the Council to hold office from his/her appointment until the day of the post election annual general meeting (usually a 4 year term of office) , including the power to rescind the appointment;
- (f) Consider any issues referred by the Leader or the Scrutiny Committee Chairs for advice, including issues where the Leader and the relevant Committee are not in agreement;
- (g) Adopt a Scheme of Members’ Allowances - see Part 2 of the Constitution – Part D;
- (h) Appoint Council Committees (including their Chairs and Vice-Chairs as appropriate) and decide their functions annually. The Committees, their functions and operating arrangements are detailed in Part 1, Sections 6, 6A and 6B;
- (i) Remove the Chairs and Vice-Chairs where appointed by the Council;
- (j) Receive regular reports from the Cabinet and the Scrutiny

- Committees on their work, including an annual report from each Committee;
- (k) Receive an annual report from the Leader of Council, in addition to the Leader submitting any matter for consideration by the Council at any other time. The Leader will also report significant changes made to Cabinet arrangements to the next available meeting of the Council
- (l) Receive annual reports on the work of the Pensions, Audit and Constitution and Standards Committees, and the Corporate Parenting Board. The annual report of the Constitution and Standards Committee will be taken as the first main item of business on the Council agenda at the AGM. The report of the Corporate Parenting Board will be taken as the second main item of business on the Council agenda at the AGM;
- (m) Receive reports for information on an 'as and when' necessary basis from the Human Resources Committee;
- (n) Approve the annual calendar of meetings for Council and Committee meetings;
- (o) Approve the appointment of the Chief Executive on the recommendation of the Appointments Committee;
- (p) Consider any matter for which the Council has a responsibility or which, in the Council's opinion, affects the authority's area or its inhabitants;
- (q) Appoint or nominate representatives of the Council to serve on joint or outside bodies where these appointments are the responsibility of the Council;
- (r) *The appointment of any individual*  
 (i) *to any office other than an office in which he/she is employed by the authority*  
 (ii) *to any body other than*
  - *the authority*
  - *a Joint Committee of two or more authorities; or*
  - *any Committee or Sub-Committee of such a body,**and the revocation of any such appointment;*  
*('Local choice' function for appointments which are the responsibility of Council)*
- (s) Make an order to implement recommendations made in a community governance review of electoral division arrangements;
- (t) Approve the treasury management policy statement on an annual basis;
- (u) Approve the Council's pay policy statement on an annual basis;
- (v) Receive the Annual Reports of the Heart of the South West Local Enterprise Partnership and the Avon & Somerset Police and Crime Panel following consideration by the Cabinet, and any other relevant partnership as requested by the Constitution and Standards



<p>Committee;</p> <p>(w) Deal with all other matters which, by law, must be reserved to Council.</p>
--

**4.2.2 Full Council delegations:**

Council delegates functions and responsibilities to:

- (a) Committees of the Council – as detailed in Part 1, Sections 6A and 6B.
- (b) Officers of the Council – as detailed in Part 1, Section 7
- (c) The Council Leader (under the ‘local choice’ provisions) – as detailed in Part 1, Sections 5 and 8.

The Council can also delegate County Council functions to another council or accept functions. A Committee of the Council may do the same.

**4.2.3 DESCRIPTION OF EXECUTIVE ARRANGEMENTS:** The following parts of the Constitution comprise the ‘executive arrangements’ of the Council which are the responsibility of the Council to agree:

- (a) Part 1, Section 5 – Leader and Cabinet Arrangements (subject to the approval of the Leader - see note below)
- (b) Part 1, Section 6A – Scrutiny Committee Arrangements
- (c) Part 1, Section 8
  - Paragraphs under 8.5 – Council and Cabinet Scheme of Delegation to Officers – relevant delegations
  - Paragraphs under 8.6 – Decision-making Access to Information Procedure Rules

Note: The Leader and Cabinet Arrangements which form part of the Council’s executive arrangements are the responsibility of the Leader to approve.

**4.3 FULL COUNCIL MEETINGS:** There are 3 types of Full Council meeting:

- (a) The Annual General Meeting - In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in either April or May. The Annual General Meeting deals with the annual review of the Council’s Constitution, procedural matters and appointments as well as the usual business of the Council.
- (b) Ordinary Meetings – held 3 times a year normally in February, July and November to deal with the usual business of the Council. In a County Council election year there is an additional meeting in advance of the election.

- (c) Extraordinary (or special) Meetings. These deal specifically with the business for which the meeting has been called. They can be called by:
- (i) The Council;
  - (ii) The Chair of the Council or, in the absence of the Chair, the Vice-Chair of the Council;
  - (iii) Any 5 Members of the Council through a signed request to the Chair of the Council (or the Vice-Chair in the absence of the Chair). The Chair must make arrangements to call an extraordinary meeting within 7 calendar days of receiving the request;
  - (iv) The Monitoring Officer.

**4.4 TIME AND PLACE OR FULL COUNCIL MEETINGS:** Council meetings usually start at 10.00am and are normally held at Shire Hall, Taunton or such other place as the Council may decide (including virtual or hybrid meetings subject to legislative requirements being met). The dates of Council meetings are published on the Council's website for up to a year in advance of the meetings.

## PROCEDURAL RULES

**4.5 ELECTION OF CHAIR AND VICE-CHAIR:** From the elected Members of the Council, the Council elects the Chair and Vice-Chair at its Annual General Meeting. The Chair shall, unless he/she resigns or becomes disqualified, continue in office until his/her successor becomes entitled to act as Chair of the Council.

If a vacancy in these positions occurs the Council will fill the vacancy at the next available meeting. In the absence of the Chair and the Vice-Chair at a Council meeting, a Chair will be elected for the meeting from the members present.

**4.6 CHAIR'S POWERS AND FULL COUNCIL MEETINGS:** The Chair may:

- (a) Call an extraordinary meeting of Full Council;
- (b) Vary the order of business for Full Council meetings in advance of the agenda being sent out or at the meeting itself;
- (c) Alter both the start time and the venue of Full Council meetings;
- (d) Decide how and when business from an adjourned meeting is dealt with;
- (e) Exercise discretion over the application of the requirements of the rules for public question time and member debate.

**4.7 QUORUM:** 14 Members are required for a valid Full Council meeting to be held. If a quorum is not present, the meeting will be adjourned until a quorum is present or any remaining business will be considered at the next Ordinary Meeting or at a time and date fixed by the Chair.

**4.8 DURATION OF MEETING:** Unless the majority of Members present vote for the meeting to continue, any meeting that has lasted for four hours will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next scheduled meeting.

**4.9 FULL COUNCIL MEETING BUSINESS PLAN:** The Business Plan for each meeting is contained within the Chair's Schedule which is published on the day of the meeting to members, all other persons attending the meeting and on the Council's website. Public questions or statements to be considered at the meeting shall be published on the Council's website by 5pm on the working day before the meeting is held.

**4.10 PROPOSALS REQUISITIONED BY MEMBERS:** Any Member can requisition a proposal for consideration by the Council. In order to be formally considered requisitioned proposals must:

- (a) Relate to Council business or be a matter which affects the County and must request the Council to take action;
- (b) Be formally notified to the Monitoring Officer at least 13 calendar days (excluding any bank holidays) before the meeting at which it is to be considered.
- (c) Be formally proposed by the Member who submitted it or, with his/her consent, by another Member;
- (d) Be formally seconded by another Member at the meeting.

A proposal can only be withdrawn by the Member who originally submitted it either in writing in advance of the meeting or verbally at the meeting.

#### **4.11 PUBLIC QUESTION TIME (INCLUDING TREATMENT OF SMALL PETITIONS)**

Note: References in this section to petitions relate to petitions which individually or collectively (on the same subject matter) contain under 5000 signatures.

4.11.1 Public representations (questions, statements or a petition) must be received in writing by the Monitoring Officer by 5pm on the Thursday prior to the meeting (for Wednesday Council meetings) to be considered at that meeting. Any questions, statements or petitions received after the deadline will only be considered with the discretion of the Chair of the relevant meeting. The questioner will need to set out reasons for their late submission to be considered at the meeting. If the Chair rejects the late question or statement then a written reply will be provided by the council within 20 working days of the meeting.

Notwithstanding the above, where a question relates to a matter which is included on the agenda for a meeting at which the question is to be put but that agenda or any Officers Report has not been made available before the normal deadline for submission of questions by 5pm three clear working days before the meeting then provided written notice of a question is received within 24 hours of that Agenda or Report having been so published then the question shall be allowed.

4.11.2 If a person submits more than three questions (including any sub-division or component questions ie. Question 1a, 1b and 1c would mean three questions the same as Question 1, 2 or 3) then only the first three questions shall be accepted for a meeting (subject to those questions not duplicating or being similar to other questions received from other persons for the meeting). Where there is duplication or the question or statement is similar then it is proposed that those will be rejected. The Monitoring Officer shall adjudicate on the application of this in consultation with the Chair.

4.11.3 Public representations will be rejected by the Chair of the Council, following consultation with the Monitoring Officer, if they:

- (a) Do not relate to a matter for which the council has a responsibility or which affects the County;
- (b) Are defamatory, frivolous, offensive, vexatious or unlawful;
- (c) Are substantially the same as a public representation which has been put at a meeting of the Council, Cabinet or a Committee in the past six months;
- (d) Require or request the disclosure of confidential or exempt information in any response;
- (e) Relate to any non-determined planning application or town and village green application
- (f) Name or identify individual service users, members of staff or members of staff of partner agencies
- (g) Are considered to be inappropriate for the particular meeting

The Monitoring Officer can edit public representations in consultation with the author and the Chair. If changes cannot be agreed the Monitoring Officer can reject the representations.

4.11.4 The Chair's Schedule for the meeting includes details of public representations. They are also detailed in the Minutes together with the responses (given at the meeting or provided following the meeting). Up to 20 minutes is allowed for public question time.

4.11.5 Members of the public have up to 3 minutes to introduce and present their representations. If a member of the public is unable to attend a meeting in person, then they will be allowed to arrange for someone to ask the question on their behalf. If no person is able to put the question to the meeting then either the Chair or the Monitoring Officer shall present their question to the meeting.

4.11.6 A Member (usually the relevant Cabinet Member) will normally provide a brief verbal response to public representations at the meeting. There will be no member debate. If a full response cannot be given at the meeting, then a written response will be provided within 20 working days of the meeting.

## **4.12 TREATMENT OF LARGE PETITIONS**

4.12.1 Petitions of 5000 or more signatures (individually or collectively) qualify for a 15 minute debate at a Full Council meeting if notice is given in accordance with 4.11 above.

4.12.2 The petition will be regarded as having been formally handed over to the Chair and the Council by being placed on the front table at the meeting.

4.12.3 The petition organiser will have a maximum of 5 minutes to introduce the petition. Any related public questions to the petition will then be considered – the normal rules for public questions set out in 4.11 above apply.

4.12.4 The relevant Cabinet Member has a maximum of 5 minutes to respond to the petition organiser / public questions prior to a member debate which is limited to 15 minutes.

#### **4.13 FILMING OF FULL COUNCIL MEETINGS BY THIRD PARTIES**

4.13 Recording and transmission of formal Council meetings by third parties is allowed to in accordance with the Somerset County Council Recording Protocol: Third Party Recording of Committees, Boards and Panels as set out as Appendix I in Part 2 of the Constitution. Details of the provisions are included on all formal meeting agendas and are displayed in the meeting rooms.

#### **4.14 LEADER AND CABINET MEMBER REPORTS - MEMBER**

**QUESTIONS:** Member questions must be received by the Monitoring Officer by 5pm on the Thursday before the meeting (when that meeting is being held on a Wednesday) to guarantee receiving a full response by the Cabinet Member at the meeting. Questions notified are included in the Chair's Schedule for the meeting. If notice is not given a full answer may be given at the meeting but if this is not possible a written answer will be provided within 20 working days of the meeting. Questions and responses are included in full in an appendix to the Minutes.

#### **4.15 OVERTURNING COUNCIL DECISIONS**

4.15.1 A proposal to:

- (a) overturn a decision made within the past 6 months; or
- (b) consider a similar proposal to one that has been rejected in the past 6 months

can only be considered if supported by at least 10 Members at the meeting. Once dealt with, the Council will not consider a similar proposal for 6 months.

4.15.2 Paragraph 4.15.1 above does not apply to recommendations of the Leader, the Cabinet, a Committee or decisions / proposals made prior to the last main County Council election.

#### **4.16 PROPOSALS AND AMENDMENTS NOT REQUIRING NOTICE:**

4.16.1 The following proposals or amendments to proposals can be proposed at a Full Council meeting without giving notice under paragraph 4.10:

- (a) Electing a Chair.
- (b) Referring a matter to the Leader or a Committee.
- (c) Appointing a Committee (or Members to a Committee) when the agenda contains an item to allow Members to do so.
- (d) Requesting approval to withdraw a proposal.
- (e) Amending a proposal submitted under paragraph 4.10 above.
- (f) Amending a recommendation in a report.

- (g) Asking the Council to proceed to the next item on the agenda.
- (h) Asking the Council to move straight to a vote on the issue being discussed (otherwise known as a proposal that the question is put to the vote without delay).
- (i) Adjourning the debate.
- (j) Adjourning the meeting.
- (k) Suspending the Council's procedural rules.
- (l) Excluding the press and public to deal with confidential or exempt business.
- (m) Dealing with disorderly conduct by a Member under paragraph 4.22 that follows below;
- (n) Dealing with disorderly conduct by a member of the public under paragraph 4.23 below.

4.16.2 Significant amendments must, wherever possible, be received by the Monitoring Officer by noon on the Monday before a Wednesday meeting. The Monitoring Officer will approve any amendments and include them in full in the Chair's Schedule. Amendments received after the Monday deadline will only be allowed at the discretion of the Chair.

#### **4.17 VOTING:**

4.17.1 Decisions are made by a simple majority vote. The Chair will seek a general verbal agreement from those present or request a show of hands or set out other means in which Members can indicate their vote. If the vote is equal, the Chair can exercise a second or casting vote and may cast one or both votes in whatever way he or she chooses. Any Member immediately following a vote can request that their vote is recorded in the Minutes.

4.17.2 If 11 Members present demand it (such as by standing), the names for and against the proposal or amendment and those who didn't vote are recorded in the Minutes.

4.17.3 For any budget proposal or amendment formally considered, the names of the persons who voted for or against, or those who didn't vote, are recorded in the Minutes.

4.17.4 Where there are more than two people nominated for any position and one person fails to achieve a clear majority of votes, then the person with the least number of votes is taken off the list and a new vote taken. The process continues until there is a majority of votes for one person.

**4.18 MINUTES: Minutes include all proposals, amendments and decisions in the exact form and order considered at the meeting. With the consent of the Council, the Chair will sign the Minutes as a correct record at the next scheduled meeting. Only the accuracy of the Minutes may be discussed. Any signed Minute is sufficient to be received in evidence in a court of law without further proof.**

In respect of the Council's audio recordings of its meetings, reference should also be made to the Access to Information Procedure Rules.

No requirement to sign minutes of a previous meeting at an extraordinary meeting - where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972 (an extraordinary meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes.

**4.19 RECORD OF ATTENDANCE: All Members present must sign the attendance sheets provided at the meeting or alternatively the Monitoring Officer will be required to record Members' attendance at the meeting.**

**4.20 EXCLUSION OF THE PUBLIC:** The public and press can only be excluded for confidential or exempt business or under paragraph 4.23 (Disturbance by the public).

#### **4.21 MEMBERS' RIGHT TO SPEAK**

4.21.1 A Member's speech must relate either to the matter under discussion or to a 'personal explanation' or to a 'point of order', as appropriate. A member has up to 5 minutes to speak on an agenda item and shall speak only once on a single item.

4.21.2 Any Member who wants to raise either a point of order or to speak by way of personal explanation will be allowed by the Chair to speak immediately.

- (a) **Points of order** - the Member must immediately state which procedural rule or statutory provision has been broken and in what way.
- (b) **Personal explanation** – a Member has the right to speak to clarify remarks made by him/her earlier in that debate which appear to him/her to have been misunderstood.

Note - there is no automatic right to speak just because a Member has been named and in this instance the relevant Member must seek the Chair's permission to address the Council.

4.21.3 In seconding a proposal or an amendment a Member can reserve his/her right to speak later in the debate.

#### **4.22 MEMBERS' CONDUCT**

4.22.1 Members must indicate their wish to speak to the Chair. When invited by the Chair, the Member must stand and address the meeting through the Chair. If the Chair stands or indicates otherwise his request for any Member



to stop speaking during a debate, any Member speaking at the time must immediately be silent and sit down and all other Members must be silent and seated.

4.22.2 If a Member's behaviour disrupts the meeting, the Chair can propose that the Member is silent and if seconded, the proposal will be voted on without discussion. If agreed and the Member continues to behave improperly, the Chair can propose that either the Member is excluded from the meeting or that the meeting is adjourned for a specified period. If seconded, the proposal will be voted on without discussion.

4.22.3 If there is a general disturbance amongst the Members, the Chair may adjourn the meeting for as long as he/she thinks necessary.

**4.23 DISTURBANCE BY THE PUBLIC:** If a member of the public interrupts the meeting, the Chair will invite the person to stop. If they continue to disrupt the meeting, the Chair can order their removal from the meeting. If there is a more general disturbance the Chair may adjourn the meeting for as long as they consider necessary to allow all or part of the meeting to be cleared.

#### **4.24 SUSPENSION AND AMENDMENT OF COUNCIL MEETING RULES**

4.24.1 Any Full Council meeting rule can be suspended with the agreement of the Council as long as at least 73 of the 110 Members of the Council are present. Suspension can only be for the duration of the meeting or part of the meeting.

4.24.2 Any proposal (other than a recommendation contained in a report) to change any of the Full Council meeting rules will, if seconded, be referred without discussion to the Constitution and Standards Committee for consideration and report to the next scheduled Meeting of the Council.

**4.25 APPLICATION OF THESE RULES TO COMMITTEES OF THE COUNCIL:** Procedural rules 4.5, 4.8, 4.11, 4.17 to 4.20 and 4.22 to 4.23 apply with appropriate modification to meetings of the Committees of the Council. The procedural rules that apply to the Council's 'executive' arrangements are detailed in Part 1, Section 5 of this Constitution.

## Section 5 - Leader and Cabinet Arrangements

### 5.1 LEADER, DEPUTY LEADER AND CABINET APPOINTMENTS

5.1.1 The Council appoints the Leader of Council for a period of 4 years and the Council can rescind the appointment at any time.

5.1.2 A Cabinet of 8 members (the maximum allowed is 10 members) has been appointed by the Leader including a Deputy Leader and 6 other Cabinet Members. The Leader can change the Cabinet membership at any time. All members of the Cabinet are currently members of the largest political group on the Council. The Leader chairs meetings of the Cabinet unless absent when the Deputy Leader chairs the meeting.

5.1.3 The Leader has appointed 2 Junior Cabinet Members to provide support to the Cabinet Members as well as a degree of possible succession planning for future Cabinet membership. Their main responsibilities are detailed in 5.6 that follows. Junior Cabinet Members cannot legally be given the full range of Cabinet Members responsibilities and therefore they cannot take formal decisions. They have, however, been given a formal constitutional role as they are required to be consulted on key and non-key decision reports that fall within their service areas.

5.1.4 The Chair and Vice-Chair of the Council and members of any of the Scrutiny Committees cannot be members of the Cabinet.

### 5.2 FUNCTIONS AND RESPONSIBILITIES OF THE LEADER

5.2.1 Under the Policy Framework and Budget agreed by the Council, the Leader of the Council ("the Leader") is responsible for the day-to-day running of the Council and all related decisions (known as 'executive' decisions). The Leader therefore discharges all the Council's responsibilities under Education and Social Services legislation and as Highway Authority (other than those public rights of way decisions exercised by the Regulation Committee), County 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 'local choice' functions delegated by the Council.

*'Local Choice' functions (see Part 1, Section 1 for a definition) are indicated in italics below.*

5.2.2 The Leader has allocated decision-making responsibilities to:-

- (a) The Leader;
- (b) The Cabinet;
- (c) The Traffic Regulation Order Sub-Committee of the Cabinet;
- (d) Jointly to two Cabinet members;
- (e) Individual Cabinet members;
- (f) The Somerset Waste Board; and

(g) Senior Leadership Team Officers.

Note: (g) above includes interim appointments in the absence of relevant contracted employees

5.2.3 The Leader has retained the following responsibilities:-

- (a) To refer to Council for approval any proposed executive decision which is outside of the Council's Policy Framework or Budget, or the virement limits set by the Council.
- (b) To exercise any delegated executive decision-making responsibility including where a Cabinet Member wants to take a decision against officer advice, or where there is uncertainty as to who may take a decision.
- (c) In addition to any specific delegations to Cabinet Members and Senior Leadership Team Officers, to acquire land by agreement or, failing agreement, by compulsory purchase and to dispose of County Council land – see 5.2.4 to 5.2.6 below.
- (d) To appoint any individual to an outside body or partnership or joint committee of two or more authorities where the appointments relate to executive functions.
- (e) *The determination of an appeal against any decision made by or on behalf of the authority in respect of Early Years Providers. (Local choice function)*
- (f) *The appointment of any individual*
  - (i) *to any office other than an office in which he/she is employed by the authority*
  - (ii) *to any body other than*
    - *the authority*
    - *a Joint Committee of two or more authorities; or*
    - *any Committee or Sub-Committee of such a body,**and the revocation of any such appointment*  
*(‘Local choice’ function for appointments falling under the responsibility of the Leader)*

5.2.4 The Leader can only acquire land after having first considered the Chief Finance Officer's advice and recommendations on the value and for a sum no greater than the maximum (if any) recommended by the Chief Finance Officer.

5.2.5 When acquiring land or disposing of land, the Leader will comply with the relevant general procedures laid down by the Council including for dealing with capital payments or capital receipts.

5.2.6 The Leader shall not re-delegate his / her power to acquire land, except:-

- (a) where statute permits;
- (b) where the powers concern the compulsory acquisition of land or the acceptance of gifts of land for the creation or improvement of an existing County road - these powers can be delegated to a Sub-Committee comprising the Leader, Deputy Leader and one other Member of the Cabinet.

5.2.7 The Leader can amend the Leader and Cabinet arrangements at any time via a Leader's Non-Key decision. Any changes will be reported for information to the next meeting of the Council.

5.2.8 In the absence of the Leader or where the Leader is unable to act, the Deputy Leader has authority to exercise the Leader's responsibilities.

### **5.3 DECISION MAKING RESPONSIBILITIES AND FUNCTIONS OF THE CABINET**

5.3.1 The Cabinet collectively take key strategic, policy or operational decisions or where there are significant cross-cutting issues across 3 or more Cabinet Member's areas of responsibility as set out in 5.3.2 below e.g. the Council's County Plan, and countywide plans.

5.3.2 The Cabinet:-

- (a) Make recommendations to Council on the Policy Framework, except where the statutory responsibility for the submission of such recommendations rests with another body;
- (b) Recommends the Annual Budget and Precept to Full Council for approval;
- (c) Advises the Council on the economy, efficiency and effectiveness of its activities and the need for new services and the necessity of existing ones;
- (d) Advises the Council on the overall organisation, co-ordination and management of the Council;
- (e) Advises the Council on its policy and response to international, national and regional initiatives;
- (f) Has responsibility for the overall allocation and control of the financial, staff and land resources of the Council and acts as the 'corporate client';
- (g) Receives the annual outturn reports;
- (h) Approves the Council's risk management strategy and policy statement. This is a joint responsibility with Full Council;
- (i) Recommend the treasury management policy statement to Full Council for approval, on an annual basis;
- (j) Reviews policy and develops and agrees new policy (aside from policies within the Council's Policy Framework) as required, seeking where appropriate to involve scrutiny in the development of proposals;
- (k) Considers any Scrutiny Committee recommendations.

5.3.3 During the period to and including 31 March 2023 the Cabinet also has responsibility for supervising the implementation of local government reorganisation in Somerset, exercising the main transitional function and the article 7 functions as defined in the Somerset (Structural Changes) Order 2022.

5.3.4 In addition, the Leader may put on any Cabinet meeting agenda any 'executive' matter which he or she wishes providing the statutory notice requirements are complied with.

5.3.5 The Leader, a Cabinet Member or the Cabinet can delegate functions to another council or to accept functions from another council in their area of responsibility.

#### **5.4 ALLOCATION OF SERVICE RESPONSIBILITIES AND DECISION MAKING RESPONSIBILITIES TO CABINET MEMBERS - SUMMARY:**

5.4.1 Service responsibilities allocated to Cabinet Members by the Leader are detailed on the Council's website. Alternatively, a copy can be obtained from the Democratic Services Team, tel 01823 357628.

5.4.2 Cabinet Members take Key and Non-Key Decisions in their allocated service areas and some have additional responsibilities as detailed in this section. They always have the option to refer decisions to full Cabinet. They:

- (a) Ensure effective delivery of services;
- (b) Are responsible for all policy matters in their area of responsibility involving scrutiny as appropriate;
- (c) Monitor compliance with policies and the framework of accountability and control.

5.4.3 A Cabinet Member can convene, on an ad hoc basis, a small representative group of Members of the Council (i.e. all party) to assist in the consideration of particular issues or matters. These are not formal meetings as defined in the Code of Conduct and the Cabinet Member is responsible for all of the arrangements.

#### **5.5 ALLOCATION OF DECISION MAKING RESPONSIBILITIES TO CABINET MEMBERS**

<b>Cabinet functions for which responsible</b>	<b>Conditions on the exercise of the function</b>
<p><b><u>General delegations to all Cabinet members</u></b></p> <p><b>Key Decisions:</b> Cabinet Members take Key Decisions in their</p>	<p><b>General:</b></p> <p>A Cabinet Member can take a Key Decision and Non-Key Decision as long as it is:-</p>

areas of responsibility (except those reserved to the Leader or Cabinet).

**Non-Key Decisions:**

Cabinet Members take Non-Key decisions in their areas of responsibility – as follows:

- To spend budgets or realise savings between £100,000 and £500,000
- To approve bids for Council funding from external bodies, subject to suitable on-going revenue support and time periods/exit strategies are in place.
- To submit bids on behalf of the Council for external funding, subject to suitable on-going revenue support and time periods/exit strategies are in place.
- To let contracts and employ consultants and contractors on behalf of the Council
- To declare land surplus to operational requirements
- To approve responses to consultation papers
- To authorise any relevant consultation on behalf of the Council
- To make planning and building regulations applications
- To approve capital or revenue virements between £50,000 and £ 250,000 in consultation with the relevant Senior Leadership Team Officer and the Director of FinanceTo appoint representatives to internal committees / bodies and joint committees
- To approve procurement / tendering for delivery of services on behalf of the County Council (with no financial limit)
- To approve operational arrangements for delivery level partnerships / joint working arrangements with other public, private, voluntary and community sector organisations
- To take decisions on behalf of the Council when officially representing the Council on a partnership or outside body subject to advance notice of the issue having been given to the Council's representative.

**Specific delegations to individual Cabinet Members**

- (a) within the Council's policies and objectives;
- (b) in accord with legislation, statutory guidance, good practice and the Constitution;
- (c) within Budget.

All decisions taken by Cabinet Members must follow the relevant procedures set out in Part 1, Section 8, para 8.6.

All proposed Leader or Cabinet Member Non-Key and Key Decisions must be notified to the Service Manager – Executive, Democratic Services together with any report(s) or other information supporting the decision.

The Monitoring Officer or his/her representative will attend to advise the decision maker and ensure compliance with constitutional requirements when any Member Key or Non-Key Decision is taken.

All decisions and supporting material will be published via the Council's website and available for public inspection at any time – excluding any exempt or confidential documents or information.

Joint Non-Key decisions can be made by Cabinet Members on matters within their collective remits. Joint Key Decisions can be made by two or more members of the Cabinet.

Approval of partnership operational arrangements and memberships rests with the Cabinet Member with the greatest input. For true cross-cutting partnerships, this responsibility rests with the relevant Cabinet Member when identified.

If a Cabinet Member is absent or otherwise unable to act, the Leader (or in his / her absence the Deputy Leader) can take the decision on their behalf.

If a Cabinet Member wants to take a Key or Non-Key Decision against Officer advice, or there is uncertainty or a dispute as to who

<p>The <b>Cabinet Member- Resources</b> can:</p> <ul style="list-style-type: none"> <li>• declare land / property surplus to the requirements of the Council and agree its disposal regardless of its capital value or annual rental income / leasehold consideration.</li> <li>• acquire land and property regardless of its capital value or leasehold consideration / annual rental cost.</li> <li>• approve capital sales at an under-value.</li> <li>• approve any changes to the Council’s office portfolio and authorise any necessary property requirements, including disposal, office relocations, acquisitions, leases, etc</li> <li>• approve any capital or revenue virements above £250,000 in consultation with the relevant Cabinet Member(s) and Director of Finance.</li> <li>• receive and approve the financial and performance monitoring reports on behalf of the Cabinet, with a requirement for subsequent notification to all Cabinet Members and the Chairs of the Scrutiny Committees.</li> </ul> <p>The <b>Cabinet Member-Resources</b> approves the establishment of all earmarked reserves and all new trading accounts and activities.</p> <p>The <b>Cabinet Member-Highways and Transport</b> can approve, amend or rescind traffic management schemes.</p> <p>The <b>Cabinet Member- Resources</b> approves staffing levels as part of the Medium Term Financial Plan.</p>	<p>may act, the matter will be decided by the Leader (or Deputy Leader in the absence of the Leader) in consultation with relevant Officers.</p> <p><b>Consultation requirements pre-decision:</b></p> <p>The consultation requirements for member decisions are set out in Part 1, Section 8, paras 8.6.14 (Key Decisions) and 8.6.15 (Non-Key Decisions)</p> <p><b>Publication requirements pre-decision:</b></p> <p>Publication requirements in relation to Member / Officer Key Decisions before the decision is taken are set out in paragraphs Part 1, Section 8, paras 8.6.17 to 8.6.20.</p> <p><b>Publication requirements post decision:</b></p> <p>Publication requirements in relation to Member / Officer Key Decisions, Member Non-Key Decisions, and Officer Non-Key Decisions taken under direct delegated authority after the decision is taken are set out in Part 1, Section 8, paras 8.6.21 and 8.6.22.</p> <p><b>Scrutiny call-in of Key Decisions:</b></p> <p>The process for the call-in of Key Decisions by the Scrutiny Committees is set out in Part 1, Section 6, paras 6.2.6 and 6.2.7.</p> <p><b>Non-Key Member Decisions - referral back</b></p> <p>The process for Members to request a referral of a Non-Key Member Decision not yet implemented back to the decision taker is set out in Part 1, Section 6, para 6.2.8.</p>
---	---

## 5.6 JUNIOR CABINET MEMBERS

5.6.1 The Support Members are not able to take decisions but they can advise the Cabinet and the relevant Cabinet Member. They will:

- (a) Support their relevant Cabinet Member to provide clear political leadership both within and outside of the County Council in order to help advance and deliver the Council’s priorities and key outcomes
- (b) Focus on information gathering and understanding key policy / service delivery in their areas of responsibility
- (c) Assist with the development of options and policies for consideration by the Cabinet and relevant Cabinet Member taking into account national policies and local circumstances

- (d) Brief and make recommendations to Cabinet and their relevant Cabinet Members and others on relevant issues in relation to policy and strategy development, service improvement or changes and decision making.
- (e) Represent or deputise for their relevant Cabinet Member at meetings or events as necessary. NB (The term 'deputise' does not include authority to take formal decisions.)
- (f) Promote and support good governance of the Council and its business.
- (g) Keep other Members of Council informed about their activities,
- (h) Maintain effective working relationships with Senior Leadership Team officers and other Officers.
- (i) Create and maintain effective relationships with partners and organisations to deliver the Council's priorities
- (j) Be accountable to their relevant Cabinet Member, and ultimately the Leader of the Council, for the development and delivery of policies and strategies to meet the outcomes required by the Council and the Cabinet.
- (k) Be accountable to their relevant Cabinet Member for supporting the commissioning and delivery of services to meet the outcomes required by the Council and the Cabinet. This includes supporting the delivery of County Plan priorities and Medium Term Financial Plan savings
- (l) Play a key role in supporting transformational programmes within their areas of responsibility
- (m) Play a key role in the delivery of specific projects within their areas of responsibility.

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

## **5.7 TRAFFIC REGULATION ORDER SUB-COMMITTEE**

5.7.1 The Leader has appointed a 3 member Traffic Regulation Order Sub-Committee whose function is to make decisions on Traffic Regulation Orders where there are significant objections to the proposed Order. The Sub-Committee has delegated powers to confirm the Order, make minor modifications or to refer it back to Officers for reconsideration of the scheme proposals.

5.7.2 The Economies & Communities Infrastructure Commissioning Director will determine whether a Sub-Committee meeting will be held in consultation with the local Member and Cabinet Member for Highways and Transport.

5.7.3 The Sub-Committee meets when required. The Chair of the Sub-Committee agrees the venue, time and meeting date. Cabinet members appointed to the Sub-Committee will not normally include any Cabinet member from the relevant district council area that relates to the Order. All three Sub-Committee members (or a substitute) must be present in order for there to be a valid meeting. The Sub-Committee's decisions are reported to Council in the Cabinet's regular report. Normally, the business of the Sub-Committee will be shown in the Cabinet Forward Plan of Key Decisions.



## 5.8 SOMERSET WASTE BOARD

5.8.1 **Functions:** The Leader has delegated to the Board the County Council's statutory functions as Waste Disposal Authority, together with the delegation of powers under Local Government Act 2003 in relation to the ability to charge for discretionary services such as the use of discretionary recycling sites/services that are not provided under Section 51 Environmental Protection Act 1990.

5.8.2 **Form and Composition:** The Board is a Joint Committee of Somerset County Council, Mendip District Council, Sedgemoor District Council, South Somerset District Council and Somerset West and Taunton Council . The Board was established under sections 101(5) and 102 of the Local Government Act 1972 and other relevant enabling legislation.

5.8.3 Each Council appoints two of its elected Members to be its representatives on the Board. One of the authority's appointed Members must be the relevant Cabinet Member for waste and/or the environment. Where a substitute takes the place of a Cabinet Member then the substitute must also be a Member of the Cabinet.

5.8.4 **Board decisions:** Aside from the Board itself, the following can take decisions with the agreement of the Board:

- (a) A Sub-Committee of the Board (a minimum of 3 Members representing 3 of the Partner Authorities);
- (b) The Administering Authority (under the Board's Scheme of Delegation);
- (c) The Managing Director (under the Board's Scheme of Delegation).

Delegation of a decision under (a) to (c) above does not prevent the Board taking the decision if it wishes to do so.

5.8.5 Board decisions are taken at a meeting in accordance with the Board's Forward Plan except where the General Exception Procedure or the Special Urgency Procedure applies.

5.8.6 **Access to Information:** The Board includes Members who are not on the Cabinet / Executive of any participating councils. Therefore, the Decision making Access to Information Procedure Rules in Part 1, Section 8, apply in accordance with the access to information provisions in Part VA of the Local Government Act 1972.

## 5.9 SUB-DELEGATION OF EXECUTIVE RESPONSIBILITIES:

5.9.1 All executive decision-making responsibilities can be delegated to an Officer subject to compliance with financial threshold limits. The Monitoring Officer maintains details of delegations from the Leader, Cabinet or Cabinet

Members within the Council and Cabinet Scheme of Delegation to Officers – see Part 1, Section 8.

5.9.2 A delegation does not prevent the discharge of a delegated responsibility by the person or body who agreed the delegation.

#### 5.10 **CABINET MEETING ARRANGEMENTS:**

5.10.1 **Meetings Calendar:** The Leader agrees the calendar of meetings for the Cabinet and publishes them on the Council's website. Special meetings can be called by the Leader or any 3 members of the Cabinet. The Cabinet normally meets at the Council's main offices in County Hall, Taunton or any such other place as the Leader of the Council determines.

5.10.2 **Public involvement at Cabinet Meetings:** Cabinet meetings are open to the public unless exempt or confidential information is being discussed. Members of the public may make a statement, ask a question or present a petition and the rules are set out in detail in Para 1, Section 8, paragraphs 8.6.35 and 8.6.36.

5.10.3 **Non-Cabinet Member involvement in Cabinet meetings:** The Chair may allow non-Cabinet Members to speak on any Cabinet item.

5.10.4 **Cabinet quorum:** A minimum of 4 members are required to have a valid meeting of the Cabinet. The quorum for a Sub-Committee of the Cabinet shall be fixed when the Sub-Committee is established. Only a member of the Cabinet may substitute for a member of a Cabinet Sub-Committee.

5.10.5 **Cabinet decision making:** Part 1, Section 8 – Decision-making Access to Information Procedure Rules detail the Cabinet decision making processes. Paragraphs 4.10, 4.15 to 4.18 and 4.20 to 4.21 in Part 1, Section 4 – Full Council Procedural Rules – apply in full or in part to meetings of the Cabinet, the Traffic Regulation Order Sub-Committee and Somerset Waste Board.

5.10.6 **Who can put items on the Cabinet agenda?** The following can put items on a Cabinet agenda:

- (a) The Cabinet itself;
- (b) The Full Council;
- (c) A Scrutiny Committee;
- (d) Any member of the Cabinet;
- (e) The Chief Executive;
- (f) The Monitoring Officer;
- (g) The County Solicitor;
- (h) The Chief Finance Officer / Section 151 Officer;
- (i) Any Officer from the Senior Leadership Team.

5.10.7 **Leader / Cabinet reports to Council:** A report of Cabinet meetings and all Key decisions taken is made to each Full Council meeting. Individual

Cabinet Members also present annual reports to the Full Council of their activities.

**5.11 CABINET DECISION-MAKING ARRANGEMENTS:** The procedures for taking Key and Non-Key Decisions are detailed in Section 8. This includes the rights of the public to:

- (a) Access details of decisions and related reports before and after they are taken; and
- (b) Make representations to the decision maker before a decision is taken.

## Section 6 – Council Committees

### **ARRANGEMENTS**

**6.1.1 COMMITTEES OF THE COUNCIL:** The Council has appointed standing Committees as detailed in sections 6A, 6B and 6C to undertake the functions specified. Committee functions cannot be delegated to the Leader unless allocated by the Council as a ‘local choice’ function.

*Local Choice’ functions (as defined in Part 1, Section 1) are indicated in italics.*

**6.1.2 COMMITTEE APPOINTMENTS:** Full Council appoints all members of Committees on an annual basis.

**6.1.3 COMMITTEE CHAIRS AND VICE-CHAIRS:** Full Council appoints the Chairs and Vice-Chairs of Committees on an annual basis unless otherwise indicated in sections 6A, 6B and 6C.

**6.1.4 SUBSTITUTION ON COMMITTEES:** Substitutes for elected members of Committees are allowed on the Council’s Committees except the Pensions Committee, the Officer Appeals Committee, the Somerset Health and Wellbeing Board and the Pensions Board. In the case of the Regulation Committee substitutes must be trained in planning and rights of way issues. Where substitution is allowed, the nomination of a substitute is for the entire meeting, not a part of it, even if the named Member of the Committee is available for part of the meeting. Substitution is not allowed for co-opted members.

**6.1.5 MEETING DATES:** Committee meeting dates and times are published on the Council’s website, the public notice board at County Hall, and at any external venue used for a meeting. Committees normally meet in public at the Council’s main offices in County Hall, Taunton or such other place as the Council may decide (including virtual or hybrid meetings subject to legislative requirements being met). All of the Committees meet on a regular cycle except the Officer Appeals Committee which meets as and when necessary. The Officer Appeals Committee generally meets in private because of the nature of its business.

**6.1.6 COMMITTEE BUSINESS – PUBLIC INVOLVEMENT:** Committee meetings are open to the public unless exempt or confidential information is being discussed. Members of the public can find out about the business to be considered and may attend to make a statement, ask a question or present a petition where the agenda makes such provision. The rights of members of the public are set out in the rules detailed in Part 1, Section 8.

**6.1.7 NON-COMMITTEE MEMBER INVOLVEMENT IN COMMITTEE MEETINGS:** A Chair may allow a Member who is not a member of a Committee to speak on an item of business at a formal Committee meeting.

## Section 6A – Scrutiny Committees

### **6.2 SCRUTINY FOR POLICIES AND ENVIRONMENT COMMITTEE / SCRUTINY FOR POLICIES AND PLACES COMMITTEE / SCRUTINY FOR POLICIES, CHILDREN AND FAMILIES COMMITTEE / SCRUTINY FOR POLICIES, ADULTS AND HEALTH COMMITTEE**

#### **FUNCTIONS**

6.2.1 These Committees fulfil the statutory “overview and scrutiny” functions of the Council, to influence the decision makers and drive improvement in public services in Somerset. The Committees have no decision-making powers but have responsibilities delegated by Council.

#### Environment

Functional areas that are the responsibility of the Committee are as follows:

- Climate Change & Carbon Reduction
- Environment services (and appointment of members to the Joint Waste Scrutiny Panel with the district councils)
- Planning Policy
- Property & Asset Strategy
- Flooding & Water Management
- Energy and Sustainability
- Scientific services
- Countryside and Areas of National Beauty

#### Place

Functional areas that are the responsibility of the Committee are as follows:

- Economic Development and Growth
- Hinkley C development
- Transport and Connectivity
- Highways
- Traffic Management
- Trading Standards
- Infrastructure and infrastructure projects
- Cultural Services (eg, Libraries, Heritage)
- Corporate services (eg, ICT, Customers and Communities, Change Programme and Commissioning Development).

#### Children and Families

Functional areas that are the responsibility of the Committee are as follows:

- Investing in and improving school facilities
- Improving the health of children & young people

- Supporting educational achievement and improved outcomes for children & young people
- Improving young people's prospects and skills (*shared with Cabinet Member for Resources & Economic Development*)
- Delivery of Personalisation Agenda and Personal Budgets
- Protect and care for the most vulnerable
- Support and recruit more adopters and fosterers of children
- Improve prospects of disadvantaged children and young people and their families, and those at risk of being disadvantaged
- Specialist services for children with disabilities
- Special Educational Needs
- Safeguarding children
- School admissions
- Academy conversions.
- Youth offending and targeted youth work
- Early years and children's centres
- Appointment of school governors

#### Scrutiny for Policies, Adults and Health Committee

Functional areas that are the responsibility of the Committee cover personal services to individuals as follows:

- Health & Wellbeing (including Public Health Services)
- Education, Training & Skills
- Learning and Physical Disabilities
- Adult Care & Support Services
- Community Safety
- Somerset Armed Forces Community Covenant
- In addition the Committee considers any referrals made by Healthwatch.

6.2.2 In respect of their functions, each committee will:

- (a) Advise the Cabinet, on the formative stages of key service developments and reviews;
- (b) Influence planned key decisions before they are taken;
- (c) Hold Cabinet decision-makers (including Officers) to account for Key decisions.
- (d) Question members of the Cabinet and/or committees and senior officers about their decisions and performance standards
- (e) Ensure that all the Council's performance management and assessment systems continually improve the Council's service delivery;
- (f) Assist the Cabinet / Council in budget and policy development;
- (g) Review delivery of key action plans (including external inspection action plans) and Council objectives through the achievement of outcomes;
- (h) Consider any matter affecting the County of Somerset or its inhabitants (specifically children in the case of Scrutiny Children and Families);
- (i) Ensure active engagement of Members, the public, media, stakeholders, partners and Officers in the work of the Council and the

Committee and to enable the voice of the wider community to be heard within the Council;

- (j) Make reports and/or recommendations to the Full Council and/or the Cabinet, Council, other Committees and/or partner bodies;
- (k) Scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to discuss their activities and performance.

**6.2.3 FORM AND COMPOSITION:** Each Committee comprises 13 elected Members reflecting the political composition of the Council. In addition, the membership of the Scrutiny for Policies, Children and Families Committee includes 2 co-opted church representatives, 2 co-opted parent governor representatives, 2 school governor representatives and 1 representative from the Schools Forum, all with voting rights (which are full voting rights) on educational matters only. Members of the Cabinet cannot be members of these committees.

**6.2.4 JOINT HEALTH SCRUTINY:** For significant NHS proposals, eg, regional matters and ambulance NHS Trust matters, a Joint Overview and Scrutiny Committee of the relevant councils is appointed to provide a collective response. The Council's representatives to the Joint Committee (up to 4) are appointed by the Scrutiny for Policies, Adults and Health Committee. The Chief Executive approves the terms of reference, constitution and arrangements for such a Joint Committee on behalf of the Council.

**6.2.5 QUORUM:** A minimum of 5 elected members are required to be present for a valid meeting to take place.

**6.2.6 COMMITTEE BUSINESS:** The following can include items on scrutiny agendas:

- (a) The Committee itself;
- (b) Full Council;
- (c) The Leader;
- (d) The Cabinet collectively;
- (e) Any Member of the Committee. The non-elected Members of the Scrutiny for Policies, Children and Families Committee may include items on the Committee's agendas in relation to education;
- (f) Any other Member, for an issue affecting their division and where all other methods of resolution have been exhausted;
- (g) The Monitoring Officer;
- (h) The County Solicitor;
- (i) Any Officer from the Senior Leadership Team;
- (j) The Scrutiny Officer.

## **CALL-IN OF KEY DECISIONS**

**6.2.7** "Call-in" is a facility which Members can use to challenge Key Decisions where a scrutiny committee has not been involved prior to the

decision being taken or where a Member believes a decision has been taken without the proper process having been followed.

6.2.8 Call-in of Key Decisions is subject to the following rules:

- (a) General provisions:
  - (i) Call-in should be used on an exception basis and not to unnecessarily delay Council business;
  - (ii) An individual Key Decision should normally only be subject to scrutiny once, whether pre or post decision;
  - (iii) Key Decisions cannot be called in where the decision requires urgent implementation. Urgent implementation requires the approval of the Leader of the Council and the Chair of the relevant Scrutiny Committee;
  - (iv) Call-in only applies to decisions. Recommendations (for example, made by the Cabinet to Council) cannot be called-in.
- (b) Scrutiny of Key Decisions before they are taken: This should focus on ensuring that the decision-maker has all the necessary information, to take a fully informed decision and that any procedures have been properly followed. Any scrutiny review at this stage should not preempt the decision. The decision-maker must take the views of the relevant Scrutiny Committee into account before taking the decision.
- (c) Scrutiny of Key Decisions after they are taken but before they are implemented:
  - (i) Key Decisions are published to all Members and the public (via the website) within 2 working days of the decision date;
  - (ii) Key Decisions (unless urgency is agreed) must be called-in within 5 working days of publication or the decision will be implemented automatically.
  - (iii) Any Member may request a call-in but the call-in must be supported by a Member of the relevant Scrutiny Committee and agreed by the Chair (or Vice Chair in their absence) of that Committee in order to be formally considered. The call-in must be submitted in writing or by email to the Chair of the relevant Committee;
  - (iv) The Chair of the relevant Scrutiny Committee will consider call-in requests against the principles of good decision-making and will either agree the request or detail their reasons for rejecting the request for report to the next available meeting of the relevant Committee;
  - (v) A call-in must specify the subject matter, the reason(s) for it, information required to enable full consideration and the preferred outcome;



- (vi) Each call-in will be considered at the next meeting of the relevant Scrutiny Committee unless an alternative is agreed with the decision-maker;
  - (vii) The Scrutiny Committee having considered a call-in will report to the decision-maker. The Committee also has the option of reporting direct to the Council as well as or instead of the decision-maker;
  - (viii) Where an item has been subject to pre-decision scrutiny of the process, post decision call-in should normally only relate to the decision itself;
  - (ix) If there is no pre-decision scrutiny of an item then the process and/or the decision may be the subject of call-in.
- (d) Scrutiny of Key Decisions after implementation: This should only occur where the decision-maker was required to make a decision that was time critical or at a later stage to gauge the effect of the decision. Scrutiny in these circumstances is not part of the call-in process.

**6.2.9 REFERRAL OF NON-KEY MEMBER DECISIONS:** Non-key member decisions can be referred back to the decision-maker by Members prior to implementation as follows:

- (a) Non-Key Member Decisions are published to all Members and the public on the Council's website within 2 working days of the date of decision;
- (b) Any Member with the support of their Group Leader (or in their absence, the Deputy Group Leader) and the agreement of the Chair of the relevant Scrutiny Committee may refer a proposed decision back to the decision-maker within 3 working days of it having been published. The decision-maker will consider the referral prior to confirming the decision and its implementation.
- (c) If there is no referral the decision will be implemented automatically at the expiry of the 3 day notification period.
- (d) The only exception to this rule shall be 'urgent' decisions requiring immediate implementation. A decision will be urgent if any delay would, or would be likely to, significantly prejudice the Council's or the public interests. Urgent implementation requires the approval of the Leader of the Council and the Chair of the relevant Scrutiny Committee.

**6.2.10 MEMBERS AND OFFICERS ATTENDING SCRUTINY**

**COMMITTEES:** A Scrutiny Committee can **require** a Member of the Cabinet, the Chief Executive and/or an appropriate Senior Officer or Officers (as agreed the Chief Executive) to attend a meeting in order to explain matters within their remit including any particular decision or series of decisions. Officers identified must attend.

**6.2.11 ATTENDANCE BY OTHERS AT SCRUTINY MEETINGS:** A Scrutiny Committee can **invite** others to address their meetings, discuss issues of local concern and/or answer questions. Attendance is optional.

**6.2.12 REPORTING:** A Scrutiny Committee can report and make recommendations to the Leader / Cabinet or the Council, as appropriate, and to partner public bodies involved with Community Safety or the NHS. Each Committee presents a summary of its work to each Full Council meeting and reports annually to Full Council on its work, its future work programme and recommendations for improving the way it carries out its functions, if appropriate.

**6.2.13 FORWARD WORK PLANS OF BUSINESS:** The chairs and vice-chairs of each committee meet as and when required to organise and co-ordinate the forward work programmes of business.

## Section 6B – Decision-making Committees

### 6.3 REGULATION COMMITTEE

6.3.1 **FUNCTIONS:** The Committee undertakes a range of regulatory functions and other functions as delegated by the Council. These are the responsibilities of the Council for:-

- (a) Town and country planning and development control (except any functions reserved to the Full Council meeting or the Cabinet)
- (b) Registration of common land and town or village greens
- (c) Assertion and protection of public rights of way
- (d) The issue of fire certificates under Section 5 of the Fire Precautions Act 1971
- (e) *Contaminated land*
- (f) *The control of pollution or the management of air quality*
- (g) Making byelaws
- (h) The approval of premises for the solemnisation of marriages
- (i) The Registration Service and Registrars
- (j) *Any function under a local Act*
- (k) *The service of an abatement notice in respect of a statutory nuisance*
- (l) *The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area*
- (m) The inspection of the authority's area to detect any statutory nuisance
- (n) Delegating the Committee's functions to another authority

*(‘Local Choice’ functions [as defined in Part 1, Section 1] delegated by the Council)*

except for functions delegated to the Economic & Community Infrastructure Commissioning Director (see Part 1, Section 8, paragraph 8.5.6), but subject nevertheless to the Committee retaining an overseeing role in respect of such functions.

6.3.2 **FORM AND COMPOSITION:** The Committee comprises 11 Members and the membership reflects the political composition of the Council. Membership must not include Cabinet Members. Substitution is allowed but excludes Cabinet Members.

All Members of Regulation Committee must have received the appropriate training before sitting on the Committee and taking part in decision making. Only Members who have received this training are eligible to act as substitute Members on the Committee.

6.3.3 **QUORUM:** A minimum of 5 members is required for a valid meeting of the Committee.

6.3.4 **COMMITTEE BUSINESS:** The following can include items on the Committee's agenda:

- (a) The Committee itself
- (b) Full Council
- (c) A member of the Committee
- (d) The Chief Executive
- (e) The Monitoring Officer
- (f) The County Solicitor
- (g) Relevant Senior Leadership Team officers.

6.3.5 **REPORTING:** In the event that a report is necessary, the Committee reports to Full Council.

6.3.6 **CODE OF PRACTICE – COMMONS REGISTRATION, PLANNING CONTROL, RIGHTS OF WAY:** The Committee must have regard to the Code of Practice - Commons Registration, Planning Control and Rights of Way (contained within Part 2 of the Constitution) which sets out procedures to guide Members in decision-making on regulatory matters.

## 6.4 PENSION FUND COMMITTEE

6.4.1 **FUNCTIONS:** The Committee discharges the functions of the Council in its role as the administering authority of the Somerset County Council Pension Fund. Principal responsibilities of the Committee are to decide investment policy objectives, manage the investments and monitor their performance, consult with stakeholders and consider requests from organisations wishing to join the Fund.

6.4.2 **FORM AND COMPOSITION:** The Committee comprises 4 elected Members of the County Council (the membership reflects the number of Members that each political party has on the Full Council), 1 elected Member representative of the district councils in Somerset, 1 representative of the Avon and Somerset Police and Crime Commissioner, 1 representative of all other employers, and 1 representative of the individuals covered by the Fund (current active, deferred and pensioners). All Members of the Committee are voting members. With the Chair's casting vote, those Members of the Committee appointed by the County Council must form a majority of voting members. The Committee does not have a Vice-Chair.

6.4.3 **QUORUM:** A minimum of 3 elected members is required for a valid meeting of the Committee.

6.4.4 **COMMITTEE BUSINESS:** The following can include items on the Committee's agenda:

- (a) The Committee itself
- (b) Full Council
- (c) A member of the Committee
- (d) The Chief Executive
- (e) The Monitoring Officer
- (f) The County Solicitor
- (g) The Section 151 Officer.

6.4.5 **REPORTING:** The Committee submits an Annual Report to Full Council.

## 6.5 **AUDIT COMMITTEE**

6.5.1 **FUNCTIONS:** In summary, the Committee approves internal audit arrangements, considers external audit reports and deals with other governance matters including risk.

The Committee:

- (a) Approves (but not directs) internal audit's strategy, plan and performance;
- (b) Reviews summary internal audit reports and the main issues arising, and seeks assurance that action has been taken where necessary;
- (c) Considers the reports of external audit and inspection agencies;
- (d) Ensures that the Council's assurance statements, including the Annual Governance Statement, properly reflect the risk environment and any actions required to improve it;
- (e) Ensures that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process and effective financial governance is actively promoted;
- (f) Reviews the financial statements, external auditor's opinion and reports to Members, and monitors management action in response to the issues raised by external audit.
- (g) Approves the annual accounts of the Council and the Annual Governance Statement, together with considering the Matters Arising from the Accounts Audit.

6.5.2 **FORM AND COMPOSITION:** The Committee comprises 11 Members and the membership reflects the political composition of the Council. Membership must not include Cabinet Members. Substitution is allowed but excluding Cabinet Members.

6.5.3 **QUORUM:** A minimum of 5 members is required for a valid meeting of the Committee.

6.5.4 **COMMITTEE BUSINESS:** The following can include items on the Committee's agenda:

- (a) The Committee itself
- (b) Full Council
- (c) A member of the Committee
- (d) The Chief Executive
- (e) The Monitoring Officer
- (f) The County Solicitor
- (g) The Chief Internal Auditor
- (h) The Section 151 Officer.

6.5.5 **REPORTING:** The Committee submits an Annual Report to Full Council and reports to the Leader or Cabinet as necessary.

## 6.6 HUMAN RESOURCES COMMITTEE

6.6.1 **FUNCTIONS:** The Committee formally:

- (a) Determines, monitors, reviews and amends staffing policies and practices to secure the best use and development of the council's staff, including the power to deal with all matters relating to staff terms and conditions.
- (b) Acts as the Council's Remuneration Committee for Chief Officers pay (with the exception of the post of Monitoring Officer).

Note: The term 'Chief Officers' as used in this delegation reflects the legislative definition. It applies to all officers within the Council's Senior Leadership Team.

In exercising the functions outlined above, and in accordance with the Council's approved Pay Policy Statement, the Committee:

- (a) decides whether national pay awards for SLT Officers are applied locally and where it is agreed that these awards will be paid these will be reflected in the next annual review of the Pay Policy Statement
- (b) reviews on at least an annual basis the pay and grading structure of the Council (including SLT officers grades and salaries) and makes recommendations for any changes considered necessary to Full Council by way of a revised Pay Policy Statement .

6.6.2 The Committee also has responsibility for employee relations on behalf of the Council. Specifically it will meet as a forum for consultation 3 times a year with representatives of the trades unions and senior officers as set out below. The Committee will then formally consider recommendations arising from these consultative meetings and make decisions or recommendations to Council as necessary. Functions of this meeting:

- (a) To act as a forum for consultation to secure co-operation between the Council and its employees and between the different services of the County Council.
- (b) To discuss the conditions of service, hours of employment, remuneration, training and health, safety and welfare at work of employees of the Council within the terms of overall County Council HR Policies and Procedures and make recommendations as necessary.
- (c) To take or recommend such action as it may be deemed necessary or desirable to prevent differences and misunderstandings between the County Council and its employees, provided that no question of individual discipline, remuneration, promotion or efficiency shall be within the purview of the joint meeting.

- (d) To consider any proposed legislation affecting employees of the County Council.
- (e) To encourage, consider and recommend improvements to the organisation, and the study of methods of administration including recruitment and training with a view to improving the efficiency of the service.
- (f) To consider any matter which may be referred to it by a standing Committee of the County Council, the Central Safety Committee or alternatively a matter which it may be requested to deal with jointly by the Joint Secretaries.

**6.6.3 FORM AND COMPOSITION:** Meeting as a Committee of the Council, the Committee comprises 11 Members and the membership reflects the political composition of the Council. The Committee does not have a Vice-Chair.

**6.6.4 QUORUM:** A minimum of 5 members is required for a valid meeting of the Committee.

**6.6.5 COMMITTEE BUSINESS:** The following can include items on the Committee's agenda:

- (a) The Committee itself
- (b) Full Council
- (c) A member of the Committee
- (d) The Chief Executive
- (e) The Monitoring Officer
- (f) The County Solicitor
- (g) The HR & OD Director.

**6.6.6 REPORTING:** The Committee reports to Full Council on relevant matters as required.

**6.6.7 CONSULTATIVE MEETINGS WITH THE TRADE UNIONS:** The consultative meetings will be closed to the public and press although recommendations arising from them will be considered at scheduled formal meetings of the Committee held under the requirements of the Local Government and Housing Act 1989.

**6.6.8** The position of chair of the joint consultative meeting with the unions will rotate annually between the chair of the Human Resources Committee and a trade union representative.

**6.6.9** The joint consultative meetings will continue to be supported by relevant officers.

## 6.7 OFFICER APPEALS COMMITTEE:

6.7.1 **FUNCTIONS:** To hear and determine all Officer appeals against dismissal (except appeals resulting from posts becoming redundant) or against the rejection of a complaint under the grievance procedure, in respect of all employees of the Council except where other specific provision is made.

6.7.2 **FORM AND COMPOSITION:** The Committee comprises 13 Members and the membership reflects the political composition of the Council. To undertake each individual hearing, a minimum of 3 Members are selected from the total membership. The members convened for each hearing appoint a Chair for the duration of the hearing.

6.7.3 **QUORUM:** A minimum of 3 members are required for a valid meeting of the Committee.

6.7.4 **COMMITTEE BUSINESS:** The HR & OD Director refers individual cases to the Committee.

6.7.5 **REPORTING:** In the event that a report is necessary, the Committee reports to Full Council.

## 6.8 CONSTITUTION AND GOVERNANCE COMMITTEE

6.8.1 **FUNCTIONS:** In summary, the Committee's main responsibilities relate to reviewing and updating the Council's Constitution and its governance framework.

### Constitutional matters:

The Committee is responsible for:

- (a) Maintaining an effective, up to date and legally compliant Constitution.
- (b) Considering proposals from Council committees for changes to the constitutional arrangements of the Council.
- (c) Approving in-year changes to individual parts of the Constitution and submitting an annual report to the Council recommending a revised Constitution for approval to the Council's Annual General Meeting. See notes below.
- (d) Taking all required decisions in respect of the County Council elections;
- (e) Overseeing the Council's input and response to boundary or electoral reviews as required by the Boundary Commission.
- (f) Developing the Constitution for the new Somerset Council

Notes: The delegation set out in (c) above exclude approval of:



- Any changes to the operational arrangements of the Council including the Committee structure – which will be referred to Council for approval as a recommendation
- The Scheme of Members' Allowances which is approved by the Council on the recommendation of the Joint Independent Remuneration Panel;
- The Council's executive arrangements , which are the responsibility of the Leader of Council;
- Any change to the Council's model of democratic governance under the Localism Act 2011.

**6.8.2 FORM AND COMPOSITION:** The Constitution and Governance Committee comprises 11 elected members. Substitutes will be permitted for the elected members appointed to the Committee. The Chair is appointed by the Council on an annual basis.

**6.8.3 QUORUM:** A minimum of 5 elected members is required for a valid meeting of the Committee.

**6.8.4 COMMITTEE BUSINESS:** The following people and bodies may include items on the Committee's agendas:

- (a) The Committee itself;
- (b) Full Council;
- (c) The Leader;
- (d) The Chair of any Council Committee;
- (e) A member of the Committee, including a co-opted member
- (e) The Chief Executive;
- (f) The Monitoring Officer;
- (g) The Chief Finance Officer / Section 151 Officer;
- (h) The County Solicitor.

**6.8.5 REPORTING:** The Committee shall make an annual report to Council and shall report as necessary outside of these occasions.

## **6.9 SOMERSET HEALTH AND WELL-BEING BOARD**

### **FUNCTIONS**

6.9.1 The Board, on behalf of the County Council and the Somerset Clinical Commissioning Group (SCCG), identifies and agrees health and wellbeing needs and priorities across Somerset through:

- (a) The regular refresh and publication of the Joint Strategic Needs Assessment (JSNA) to support evidence-based prioritisation, commissioning and policy decisions;
- (a) The preparation, agreement and publication of the Somerset Health and Wellbeing Strategy (SHWBS). The SHWBS sets a high level joint strategic

vision for health and wellbeing, taking into account the JSNA and the Annual Public Health Report, as well as national policy developments and legislation.

Organisations represented on the Board have a duty to have regard of the strategy and are held to account for their contribution to delivery of outcomes.

6.9.2 The Board also:

- (a) Oversees, where appropriate, the use of resources across a wide spectrum of services and interventions, to ensure that the SHWBS and priority outcomes are achieved and to drive a genuinely collaborative approach to commissioning, including the co-ordination of agreed joint strategies.
- (b) Supports the inclusion of the public, patients and communities in the setting of strategic priorities, including (but not solely) through the involvement of local Healthwatch.
- (c) Communicates and engages with local people in how they can achieve the best possible quality of life and be supported to exercise choice and control over their own health and wellbeing and that of the people living around them.

**6.9.3 FORM AND COMPOSITION:** The Board is a Committee of the County Council established under Section 102 of the Local Government Act 1972 as amended in relation to the Board. The base membership of the Board is set out in the legislation and the Council has authority to appoint additional Board members. The membership as agreed by the Council includes 5 elected members of the Council. The Leader of the Council appoints the Council's representatives on the Board. The Leader of Council also has responsibility for appointing the Chair and the 2 Vice-Chairs of the Board. The Board reports to Full Council and to the Cabinet on relevant matters.

**6.9.4 THE BOARD'S CONSTITUTION:** The Board has its own Constitution agreed by the Council and other constituent bodies setting out the procedural arrangements for its business and meetings arrangements.

**6.9.5 REPORTING:** The Board reports to Full Council and Cabinet on an 'as necessary basis'.

## **6.10 STANDARDS COMMITTEE**

**6.10.1 FUNCTIONS:** The Standards Committee is expected to be apolitical in carrying out its functions and its responsibilities. The Committee promotes and maintains high standards of conduct by elected Members and Co-opted Members of Council and Council bodies.

The Committee:-

- (b) Has responsibility for promoting high standards of conduct by Members, Co-opted Members and Officers and for the policies and processes which support this aim.
- (b) Advises on the induction and training of Members and Co-opted Members on standards of conduct ;
- (c) Monitors the operation of the Members' Code of Conduct and recommends any changes considered necessary to the Code to the Council for approval.
- (d) Has responsibility for overseeing the Standards of Conduct for officers and recommending any changes considered necessary to the Council for approval
- (e) Manages the members' and officers' registers of interests and gifts / hospitality;
- (f) Monitors the Council's Whistleblowing Policy and make recommendations to the Council in respect of any proposed changes.

The Committee has no role in considering or determining member complaints.

**6.10.2 FORM AND COMPOSITION:** The Constitution and Standards Committee comprises of 1 elected member per political group (currently 5 elected Members) [but no Cabinet Members] and 5 Co-opted Members without voting rights. Substitutes will be permitted for the elected members appointed to the Committee. The Chair is appointed by the Council on an annual basis. Council has agreed to waive the political proportionality requirements for appointments to the Committee to enable all of the political groups on the Council to be represented.

**6.10.3 QUORUM:** A minimum of 3 elected members is required for a valid meeting of the Committee.

**6.10.4 COMMITTEE BUSINESS:** The following people and bodies may include items on the Committee's agendas:

- (a) The Committee itself;
- (b) Full Council;
- (c) The Leader;
- (d) The Chair of any Council Committee;
- (e) A member of the Committee, including a co-opted member
- (e) The Chief Executive;
- (f) The Monitoring Officer;
- (g) The Chief Finance Officer / Section 151 Officer;
- (h) The County Solicitor.

**6.10.5 REPORTING:** The Committee shall make an annual report to Council and shall report as necessary outside of these occasions. To reflect the importance of the Committee its reports to Council always appear at the beginning of the Council agenda before any other reports.

## Section 6C – Pensions Board

### LEGAL BACKGROUND

6.10.1 The Pensions Board is established under Section 5 of the Public Service Pensions Act 2013 and regulation 106 of the Local Government Pension Scheme Regulations 2013 (as amended).

6.10.2 The Board is established by Somerset County Council in its capacity as the Administering Authority of the Somerset County Council Pension Fund and operates independently of the Pensions Committee.

### FUNCTIONS

6.10.3 The Board's remit covers all aspects of governance and administration of the LGPS, including funding and investments.

6.10.4 The Board will exercise its duties in the following areas:

- (a) monitor compliance with the relevant legislation and Codes of Practice set by The Pensions Regulator;
- (b) review and ensure compliance of the Fund's:
  - (i) governance compliance statement
  - (ii) funding strategy statement
  - (iii) pension administration strategy statement
  - (iv) discretionary policy statement
  - (v) communications policy statement
  - (vi) statement of investment principles
  - (vii) annual report and accounts
- (c) review and scrutinise the performance of the Fund in relation to its governance and administration, policy objectives and performance targets;
- (d) ensure policies and processes are in place so that employers comply with their obligations under the regulations;
- (e) review the processes for setting strategy, policy and decision-making and ensure they are robust;
- (f) agree the annual internal audit plan for the Fund;
- (g) consider the output of any internal audit work carried out on the Fund;

- (h) consider the external audit report on the Fund's Annual Report and Statement of Accounts;
- (i) review the Fund's risk register;
- (j) monitor the Fund's Internal Dispute Resolution Procedures;
- (k) from time to time the administering authority may consult the Board or ask assistance on specific issues.

6.10.5 Under Regulation 106(8) the Board has the general power to do anything which is calculated to facilitate or is conducive or incidental to, the discharge of its functions.

## **FORM AND COMPOSITION**

6.10.6 The Board comprises of:

- (a) 3 employer representatives – 1 of whom is a county councillor
- (b) 3 employee representatives – 2 of whom are directly nominated by the Trades Unions

6.10.7 The Board's members are appointed by Full Council as per the requirements of the Board's Constitution and Terms of Reference.

6.10.8 The Chair of the Board shall be elected annually by the members of the Board and shall rotate between the employer and the employee representatives on the Board.

## **QUORUM**

6.10.9 The quorum for a meeting of the Board shall be 3 to include the Chair. The quorum must include one employer representative and one member representative.

## **BOARD MEETINGS ARRANGEMENTS**

6.10.10 Board meetings shall be conducted in accordance with its Constitution and Terms of Reference.

6.10.11 The Boards terms of reference shall be reviewed by the Council on the advice of the Board and on an annual basis to ensure that they remain fit for purpose and in accordance with any regulations and guidance issued by the Secretary of State. Any revisions will be agreed by the Council and by the Board.

## Section 6D – Code of Conduct Hearing Panel Arrangements

### FORM, FUNCTION AND COMPOSITION

6.11.1 The Code of Conduct Hearing Panel deals with the assessment, review and determination of complaints under the Members' Code of Conduct against Members and Co-opted Members where referred by the Monitoring Officer following consultation with the Council's Independent Person (IP). Where an investigation finds evidence of a failure to comply with the Code of Conduct and a local resolution is not appropriate or not possible, a Hearing Panel shall be appointed by the Leader on the request and advice of the Monitoring Officer to consider and determine the complaint.

6.11.2 Given the wider provisions in place for determining complaints against members, it is expected that these arrangements will only be required to be used in exceptional circumstances where the alleged breach of the Code of Conduct is particularly serious and a satisfactory outcome has not been achieved through the other stages of the process.

6.11.3 The Hearing Panel will comprise 3 members:

- The Leader of the Council (or his/her nominated representative)
- The Leader of the largest opposition group (or his/her nominated representative)
- 1 other member from the opposition groups nominated by their group leader with the agreement of the other opposition group leaders.

6.11.4 Appointments to the Panel will be made by the Leader of Council on the basis of the nominations made by Group Leaders. If a Group Leader is the subject of the complaint to be considered, they will take no part in the selection of the members for the Panel. In these circumstances the nominations will be made by the Deputy Group Leader or the other members of a political group where there is no Deputy Group Leader.

6.11.5 The Panel will have authority to determine complaints and apply sanctions under the Council's procedure as required except where the decisions are not unanimous. In these circumstances the Panel's decision must be referred as a recommendation to Full Council for confirmation.

### QUORUM

6.11.6 The quorum for a meeting of the Panel shall be 3 members.

### MEETING ARRANGEMENTS

6.11.7 The Panel will be chaired by the Administration's appointed representative from within the membership set out in 6.11.3 above.

6.11.8 Prior to a hearing, there will be a 'case management' meeting involving the Chair of the Hearings Panel, the subject member, the Monitoring Officer and the County Solicitor to consider options for the procedure to be followed. Following this meeting, the Chair of the Hearing Panel, in consultation with the Monitoring Officer, will confirm the scope and content of the hearing panel process. This delegated authority includes agreeing the format of the hearing including whether with the agreement of the subject member there should be a full public hearing with witnesses etc or whether it could be dealt with in private session by way of written representations. All parties will be informed of the Chair's decision.

6.11.9 If it is decided that a full public hearing is held it will be held in public subject to the rules on exempt information and will be conducted on a relatively informal basis. However both parties will be able to make representations and call a limited number of witnesses to be agreed in advance with the Chair. At the end of the Hearing, the Panel, after consulting with the IP, will decide whether, on the balance of probabilities there has been a failure to comply with the Code of Conduct and what 'sanction' or 'sanctions' should be imposed.

6.11.10 The Panel will be advised by the Monitoring Officer and/or the County Solicitor on the process to be followed and potential outcomes including the sanctions available to the Panel should the decision be made that the Code of Conduct has been breached.

6.11.11 At the conclusion of the evidence and following any confidential members' discussion to reach a draft decision, the Panel members will meet in exempt session with the MO, County Solicitor (in order to have access to legal advice), and the IP, to formally agree their decision prior to the decision and outcomes being confirmed to the subject member and published.

## **SANCTIONS**

6.11.12 Where the Hearings Panel confirms that a breach of the Code of Conduct has occurred, the range of actions available to the Panel is as follows:-

- (a) Reporting its findings to Council for information;
- (b) Recommending to the Member's Group Leader that the Member is removed from any or all Committees or Sub-Committees of the Council of which they are a member;
- (c) Recommending to the Leader of the Council that the Member is removed from the Cabinet, or removed from particular cabinet responsibilities;
- (d) Instructing the Monitoring Officer to arrange training for the Member;
- (e) Removing the Member from all outside appointments to which he/she has been appointed or nominated by the authority;
- (f) Withdrawing facilities provided to the Member by the Council, such as a computer, website and/or email and internet access;

- (g) Excluding the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Cabinet, Committee and Sub-Committee meetings.



## Section 7 – Officer Arrangements

This section incorporates the Mandatory Standing Order requirements as designated in the Local Authorities (Standing Orders) (England) Regulations 2001. It also includes relevant requirements of the annual Pay Policy Statement as agreed by the Council.

### 7.1 **APPOINTMENT OF OFFICERS:**

7.1.1 **GENERAL:** The Head of Paid Service (the Chief Executive) is responsible to the Council for:

- (a) appointing sufficient Officers to deliver the Council's functions;
- (b) the Council's Senior Leadership Team (SLT) (see section 1 for the definition of the posts which comprise SLT) and the supporting officer structures to deliver agreed outcomes. The process for such reviews shall be decided by the Chief Executive following consultation with whoever he/she considers relevant. SLT comprises all officers within grades 1 to 3 in the Council's grading structure.

Any changes proposed to SLT and supporting officer structures are subject to consultation with the Cabinet and informing Full Council of the changes. Changes will be agreed via a formal decision taken by the Chief Executive.

The Council's Pay Policy Statement, senior management structure and pay details and a description of the roles of the statutory officers of the Council is available to view on the Council's website via the following link:

<http://www.somerset.gov.uk/organisation/senior-salaries-and-pay-policy/>

7.1.2 The Chief Executive has authority:

- (a) to appoint and dismiss all employees except where this function is specifically delegated to Members.
- (b) to approve changes to the terms and conditions of all SLT posts (and to include the Monitoring Officer) on the recommendation of the Appointments Panel or the Appointments Committee or on his / her own initiative and having obtained the agreement of the Leader of the Council . All decisions taken by the Chief Executive on such matters will be the subject of a formal Officer Decision which will be published on the Council's website as soon as it is confirmed
- (c) after having sought the agreement of the Leader, and after appropriate consultations, to agree:
  - (i) acting up arrangements into SLT positions (to include the Monitoring Officer but excluding the post of Chief Executive) to cover periods of temporary absence either planned or unplanned
  - (ii) emergency cover arrangements for the statutory Chief Officer roles (other than that of Chief Executive) where these positions become vacant between Full Council meetings. Any such agreement will

be subject to review and confirmation at the next available Full Council meeting.

7.1.3 The Chief Executive, having obtained the agreement of the Leader of Council, will approve the recruitment of interims at SLT (and to include the Monitoring Officer) on a case by case basis and based on a business case presented by the Appointments Panel.

### **SENIOR LEADERSHIP TEAM APPOINTMENTS (AND THE MONITORING OFFICER)**

7.1.4 Appointments to these posts must involve elected Members.

- In addition, in the absence of full-time contracted employees in relevant SLT posts, appointments to interim posts are also subject to the requirements of section 7.

The Monitoring Officer post is not part of SLT but appointments to this post will similarly involve members.

7.1.5 Where a vacancy occurs in these appointments, the recruitment process requires the appointment of an Appointments Panel and then an Appointments Committee.

#### **Appointments Panel:**

7.1.6 The Panel reviews the terms and conditions of employment relating to the post and where appropriate makes recommendations to the Chief Executive for any changes; decides the appointments process or other course of action; and appoints the Appointments Committee to undertake the appointments process. This review includes reviewing the job and person specifications, the means of advertisement and short-listing arrangements. The Panel will then appoint an Appointments Committee. The Panel can convene virtually or meet as required.

7.1.7 If a Panel decides that no changes to terms and conditions are necessary when it reviews a vacant post (and that the salary will be advertised at the bottom of the range [the 'spot' for the grade] for posts on grades 1 to 3) then the Panel has authority to progress the recruitment without the need to seek further approvals. If a Panel wishes to make changes to the terms and conditions of a vacant post (other than the post of Chief Executive) then these are subject to the approval of the Chief Executive having obtained the agreement of the Leader of the Council. This includes where a Panel wishes to advertise a salary for a post on grades 1 to 3 (other than the post of Chief Executive) above the 'spot' at the bottom of the range. This must be the subject of a Panel recommendation to the Chief Executive for decision. If the Panel's recommendations for changes to terms and conditions relate to the post of Chief Executive then Full Council must agree these changes. In all cases the Panel will appoint the Appointments Committee.

7.1.8 In respect of the appointment of interims to SLT posts (including the post of Monitoring Officer) the Panel will present a business case to the Chief Executive which takes into account:

- value-for-money for the taxpayer
- the evaluated grade of the post to be covered
- the public profile of the post
- risks to the Council
- the labour market, both nationally and locally in the South West, for interims providing cover for similar posts in councils of a similar size

7.1.9 The Panel comprises 3 members, the Leader of the Council, the Leader of the largest Opposition Group, and the Deputy Leader of the Council (or their nominated representatives) with any relevant Cabinet Members as consultees.

### **Appointments Committee**

7.1.10 The Committee will:

- (a) Interview all short-listed candidates and either
- (b)
  - Appoint a suitable candidate to the post; or
  - In the case of the Chief Executive make a recommendation to the Full Council who must approve the proposed appointment before an offer of appointment is made; or
  - Follow any other course of action decided upon by the Appointments Panel.

7.1.11 The Committee comprises a maximum of 5 Members including:

- (a) The Leader of the Council (or his/her nominated representative)
- (b) The Leader of the largest Opposition Group (or his/her nominated representative)
- (c) Up to 3 other Members of the Council selected in accordance with the rules of political proportionality and including the relevant Cabinet Member.

Notes:

- (a) It is a statutory requirement that at least 1 member of an Appointments Committee must be a Member of the Cabinet.
- (b) The Committee appoints its own Chair.
- (c) All Members of the Committee must have up-to-date knowledge of and have received training in the areas of Recruitment and Equalities.
- (d) The selection process must be conducted in accordance with the Council's agreed Code of Practice.

7.1.12 An offer of employment to these posts shall only be made where no justifiable objection has been made by the Cabinet member.

7.1.13 If the Committee during the course of an appointment process wishes to vary the terms and conditions or the salary already agreed for a specific post, then such a proposal is subject to the approval of the Chief Executive having obtained the agreement of the Leader of the Council. The exception to this is where the Committee's recommendations relate to the appointment of the Chief Executive where only Full Council may amend the terms and conditions to be applied to the post.

7.1.14 The Appointments Committee will interview candidates for interim appointments at SLT (and to include the post of Monitoring Officer) level to assess their suitability for the role and will confirm appointments.

7.1.15 Chief Officer level interim appointments will be subject to formal review by the Chief Executive at the end of six months and at six monthly intervals thereafter to assess whether there is a requirement to retain their services. The original Appointments Committee will be consulted where the Chief Executive proposes to extend the engagement of an interim. The final decision on the extension of an interim rests with the Chief Executive.

#### **Appointment of Agency Interims below Chief Officer level**

7.1.16 All interim appointments below Chief Officer level will be sourced by the relevant Chief Officer or the Chief Executive where a Chief Officer is unable to act. If this interim is to be employed at a rate of over £500 per day:

- (a) The appointment will be subject to a formal review process at the end of the first six months and six monthly thereafter; and
- (b) Any decision to extend the engagement of such an interim will require the approval of the Chief Executive.

7.1.17 All other interim appointments will be subject to a formal review process at the end of the first six months and six monthly thereafter and the decision to extend the engagement of such appointments rests with the relevant Chief Officer.

7.1.18 **VOTING ON OFFICER APPOINTMENTS:** Where two or more candidates are interviewed for an appointment to a senior post, and there is not a majority of votes cast in favour of one candidate the candidate receiving the least number of votes will be disregarded and a fresh vote taken, and so on until one candidate receives a majority of the votes.

7.1.19 **OTHER OFFICERS:** Appointment of all other Officers is the responsibility of the Chief Executive as the Head of the Paid Service, or the relevant Senior Leadership Team Officer as authorised by the Chief Executive. Members cannot be formally involved in these appointments but leading members may be involved on an informal basis. Guidance on this involvement is available from the HR & OD Director.

**RECRUITMENT AND APPOINTMENT – DECLARATIONS:** Note: For the purpose of these paragraphs, ‘Senior Officer’ means any Officer holding an appointment on spinal column point SCP32 or above.

7.1.20 Candidates for appointment must state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing member, an ‘additional voting or non-voting Member’ or a Senior Officer of the Council; or of the partner/spouse of such persons. Failure to make such a declaration will render the candidate disqualified for the appointment and, if appointed, liable to dismissal.

7.1.21 Every Member, ‘additional voting or non-voting Member’ of a Committee and Senior Officer of the Council, will inform the Monitoring Officer in writing of any relationship known to them to exist between themselves and any person whom they know is a candidate for an appointment under 7.1.2 above, as soon as they are aware of that person’s candidature. The Monitoring Officer will report any such disclosure to the Appointments Committee.

7.1.22 A candidate who is related to a member or an Officer will only be appointed with the agreement of the relevant Senior Leadership Team Director or an Officer nominated by him/her.

#### **SEEKING SUPPORT FOR APPOINTMENT:**

7.1.23 An applicant who directly or indirectly seeks the support of a Member or ‘additional voting or non-voting Member’ of a Committee for any appointment will be disqualified from appointment.

7.1.24 No Member or ‘additional voting or non-voting Member’ of a Committee will seek support for any person for any appointment with the Council.

7.1.25 **VACANCIES TO BE ADVERTISED:** All vacancies will be advertised in accordance with the County Council’s Code of Recruitment Practice unless otherwise agreed by the HR & OD Director.

7.1.26 **PAYMENT OF EXPENSES:** Every candidate interviewed will be reimbursed their expenses in accordance with the policy of the Council. In the event of no scale of allowance having been prescribed, the candidate will be paid their actual and reasonable travelling and out-of-pocket expenses. The successful candidate will normally only be reimbursed on taking up their appointment.

## 7.2 DISCIPLINARY ACTION (INCLUDING DISMISSAL) IN RELATION TO OFFICERS:

7.2.1 **DEFINITION:** ‘Disciplinary action’ means any action confirmed in relation to alleged misconduct and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body. It only includes failure to renew a contract of employment for a fixed term where the Council has undertaken to renew such a contract.

7.2.2 **GENERAL:** The rules set out below are subject to:

- (a) Conditions of service approved by national negotiating bodies recognised by the County Council;
- (b) Special conditions of service prescribed by the Articles of Government and Voluntary Aided schools in relation to non-teaching staff in such establishments;
- (c) Where any disciplinary action is taken, regard having been had to the Council’s Disciplinary and Appeals Procedure.

### SLT OFFICERS (AND INCLUDING THE MONITORING OFFICER):

7.2.3 Any proposal for a **dismissal** of the **Chief Executive, the Section 151 Officer** or the **Monitoring Officer** under 7.2.1 above, will be determined by the Council on the recommendation of the Independent Persons’ (IPs) Panel comprising a minimum of 3 IPs selected to participate by the Chief Executive in accordance with the Local Authority (Standing Orders) (England) (Amendment) Regulations 2015. The IPs will be selected from a joint Somerset Councils’ Panel of IPs. The Panel will be appointed by the Chief Executive (or the Head of HR where the Chief Executive is the subject of the proposed dismissal). The Panel shall be appointed a minimum of 20 days before the Council is due to meet to consider the dismissal.

7.2.4 Aside from the officers referred to in 7.2.3 above, a proposal for a dismissal of a SLT Officer will be determined by the Council on the recommendation of a special Panel of 6 Members appointed by the Leader of the Council (or his/her nominated representative) and comprising:-

- (a) The Leader of the Council (or his/her nominated representative)
- (b) The Leader of the largest opposition group (or his/her nominated representative)
- (c) 4 other Members of the Council selected by the Leader of the Council in consultation with the other Group Leaders and in accordance with the rules of political proportionality.

*Note: The membership of the Panel will not include any Member previously involved in an individual Officer’s case.*

7.2.5 Any question of dismissal on the grounds of redundancy (including voluntary), permanent ill-health or infirmity of mind or body in relation to a Chief Officer shall be determined by the Special Members' Panel appointed in accordance with 7.2.4 above with the exception detailed in 7.2.6 below

7.2.6 The exception is where a proposed financial settlement for an officer leaving the Council exceeds £100,000. In these circumstances only Full Council can agree the financial settlement.

7.2.7 Any question of disciplinary action in relation to a Chief Officer or the Monitoring Officer shall be determined by the Special Members' Panel appointed in accordance with 7.2.4 above.

7.2.8 The Special Members' Panel referred to in 7.2.4 above, when a proposal is made to dismiss one of these statutory post-holders, shall decide whether there is any justification to the proposal and therefore whether it needs to be investigated. If the decision is that an investigation is necessary the Panel will appoint an investigator. If the investigation confirms a potential dismissal, the Panel will refer the matter to the IPs' Panel for consideration and report to Council. If the investigation recommends disciplinary action then the Special Members' Panel shall consider and decide whether disciplinary action is justified and if so agree any action to be taken.

7.2.9 An Officer named in this section who is subject to possible dismissal or other disciplinary action has the right to be informed as to the basis of any action which may be taken and to appear before the relevant Panel prior to a decision being made or before a recommendation is made to Council.

7.2.10 The Officer concerned also has the right to appear before and address the Council before a dismissal is confirmed. The Panels and the Council will be advised by the Monitoring Officer and the HR & OD Director. If either of these officers is the subject of the Panel's report, the Chief Executive will make alternative arrangements for the provision of advice to the Council in place of that Officer.

7.2.11 Council can only give notice of dismissal to an Officer named in this section (other than the Monitoring Officer) where no justifiable objection has been made by any Member of the Cabinet.

7.2.12 A SLT Officer can be suspended for the purpose of investigating potential gross negligence or gross misconduct where such suspension is considered:

- (a) necessary to allow an investigation to take place;
- (b) otherwise desirable in the interests of the Council or the employee

Any such suspension shall be on full pay and terminate no later than 2 months beginning on the day on which the suspension takes effect. The power to suspend a SLT Officer rests with the Chief Executive, in consultation with the Leader. If the Chief Executive is the subject of the proposed

suspension, then the Leader shall have the power to suspend the Chief Executive following consultation with the other group leaders and on the advice of the HR & OD Director.

### **OTHER OFFICERS:**

7.2.13 As authorised by the Chief Executive as Head of the Paid Service, any SLT Officer, or a Senior Officer nominated by them, can suspend any employee suspected of potential gross negligence or gross misconduct where such suspension is considered:

- (a) Necessary to allow an investigation to take place, or
- (b) Otherwise desirable in the interests of the Council or the employee.

7.2.14 When suspended the employee is entitled to full salary or wages, subject to any agreement to the contrary that they may reach with the Council.

7.2.15 As authorised by the Chief Executive, any SLT Officer, or their nominated Senior Officer, can dismiss an employee:-

- (a) Employed under a fixed-term or temporary contract of employment which is ending;
- (b) Whose post is or is about to become redundant;
- (c) For unsatisfactory performance at the end of an agreed probationary period;
- (d) Medically certified to be incapable of discharging their duties by reason of ill-health;
- (e) Who has reached compulsory retirement age; or
- (f) For some other substantive reason.

7.2.16 A SLT Officer, or their nominated Senior Officer, can:-

- (a) Dismiss with due notice any employee who has previously been the subject of formal disciplinary action but whose standards of conduct or capability have remained unsatisfactory;
- (b) Dismiss any employee without notice where satisfied on reasonable enquiry that the employee has been guilty of gross misconduct; subject to prior consultation with the Monitoring Officer and the HR & OD Director.

7.2.17 Any appeal against dismissal or disciplinary action will follow the Council's Disciplinary and Appeals Procedure.

7.2.18 Any employee selected for compulsory redundancy has a right of appeal to the Redundancy Review Panel.

7.3 **GRIEVANCES:** Any grievance by a member of staff will be dealt with in accordance with the Council's agreed procedures.



**7.4 SLT OFFICERS (INCLUDING THE MONITORING OFFICER) – SEVERANCE PROCESS:** Any process for the consideration and determination of severance arrangements for these posts is determined by the HR & OD Director in consultation with whoever he/she considers relevant.

**7.5 STATUTORY DESIGNATIONS:** Certain posts carry statutory responsibilities and authority. Statutory designations and the posts agreed by the Council to cover these statutory requirements are set out below. The posts of Head of Paid Service, Chief Finance Officer (also know as Section 151 Officer) and Monitoring Officer have a range of key constitutional responsibilities as set out in relevant legislation.

<b>Designation</b>	<b>Post</b>
Head of Paid Service and Returning Officer for local elections	Chief Executive
Monitoring Officer	Strategic Manager – Governance & Democratic Services
Chief Finance Officer (Section 151 Officer)	Director of Finance  In the absence of a contracted employee to the above role, the Interim Director of Finance shall fulfil the statutory role.
Director of Children’s Services	Director of Childrens Services / Lead Commissioner Children and Learning  In the absence of a contracted employee to the above role, the Interim Director of Children’s Services shall fulfil the statutory role.
Director of Adult Social Services	Director of Adult Services & Lead Commissioner Adults and Health
Director of Public Health	Director of Public Health
Scrutiny Officer	Service Manager – Governance (Scrutiny)

**7.6 DUTY TO PROVIDE SUFFICIENT RESOURCES TO THE MONITORING OFFICER AND THE CHIEF FINANCE OFFICER / SECTION 151 OFFICER:** The Council is required to provide the Monitoring Officer and the Chief Finance Officer / Section 151 Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

## **7.7 OFFICER EMPLOYMENT – MANDATORY STANDING ORDERS**

Note: The paragraphs that follow set out the mandatory Standing Orders that apply in this particular area and must be included in the Constitution. The rest of Section 7 – Officer Requirements – reflects these Standing Orders.

## **OFFICERS – APPOINTMENTS AND DISMISSALS**

7.7.1 Subject to paragraphs 7.7.2 and 7.7.9, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the Officer designated under section 4(1) of the 1989 Act (designation and reports of Head of Paid Service) as the Head of Paid Service or by an Officer nominated by him/her.

7.7.2 Paragraph 7.7.1 shall not apply to the appointment or dismissal of, or disciplinary action against –

- (a) The Officer designated as the Head of Paid Service;
- (b) A statutory Chief Officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
- (c) A non-statutory Chief Officer within the meaning of section 2(7) of the 1989 Act;
- (d) A Deputy Chief Officer within the meaning of section 2(8) of the 1989 Act; or
- (e) A person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).

7.7.3 Where a Committee, Sub-Committee or Officer is discharging, on behalf of the authority, the function of the appointment or dismissal of an Officer designated as the Head of Paid Service, the authority must approve that appointment before an offer of appointment is made to him/her or, as the case may be, must approve that dismissal before notice of dismissal is given to him/her.

7.7.4 Where a Committee or Sub-Committee of the authority is discharging, on behalf of the authority, the function of the appointment or dismissal of any Officer referred to in sub-paragraphs (a) to (d) of 7.8.3, at least one member of the executive must be a member of that Committee or Sub-Committee.

7.7.5 In paragraphs 7.7.5 to 7.7.6, “appointor” means, in relation to the appointment of a person as an Officer of the authority, or, where a Committee, Sub-Committee or Officer is discharging the function of appointment on behalf of the authority, that Committee, Sub-Committee or Officer, as the case may be.

7.7.6 An offer of an appointment as an Officer referred to in sub-paragraphs (a) to (d) of 7.7.2 must not be made by the appointor until –

- (a) The appointor has notified the Proper Officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;

- (b) The Proper Officer has notified every member of the executive of the authority of –
  - (i) The name of the person to whom the appointor wishes to make the offer;
  - (ii) Any other particulars relevant to the appointment which the appointor has notified to the Proper Officer; and
  - (iii) The period within which any objection to the making of the offer is to be made by the executive Leader on behalf of the executive to the Proper Officer; and
  
- (c) Either the –
  - (i) Executive Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither he/she nor any other member of the executive has any objection to the making of the offer;
  - (ii) Proper Officer has notified the appointor that no objection was received by him/her within that period from the executive Leader; or
  - (iii) Appointor is satisfied that any objection received from the executive Leader within that period is not material or is not well-founded.

7.7.7 In paragraphs 7.7.7 to 7.7.8, “dismissor” means, in relation to the dismissal of an Officer of the authority, the authority or, where a Committee, Sub-Committee or another Officer is discharging the function of dismissal on behalf of the authority, that Committee, Sub-Committee or other Officer, as the case may be.

7.7.8 Notice of the dismissal of an Officer referred to in sub-paragraphs (a) to (d) of paragraph 7.8.3 must not be given by the dismissor until –

- (a) The dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
  
- (b) The Proper Officer has notified every member of the executive of the authority of –
  - (i) The name of the person who the dismissor wishes to dismiss;
  - (ii) Any other particulars relevant to the dismissal which the dismissor has notified to the Proper Officer; and
  - (iii) The period within which any objection to the dismissal is to be made by the executive Leader on behalf of the executive to the Proper Officer; and
  
- (c) Either the -
  - (i) Executive Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither he/she nor any other member of the executive has any objection to the dismissal;

- (ii) Proper Officer has notified the dismissor that no objection was received by him/her within that period from the executive Leader; or
- (iii) Dismissor is satisfied that any objection received from the executive Leader within that period is not material or is not well-founded.

7.7.9 Nothing in paragraph 7.7.1 shall prevent a person from serving as a member of any Committee or Sub-Committee established by the authority to consider an appeal by:

- (a) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
- (b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

## **OFFICERS – DISCIPLINARY ACTION**

### **HEAD OF THE PAID SERVICE, CHIEF FINANCE OFFICER, MONITORING OFFICER – DISCIPLINARY ACTION**

7.7.10 Definitions:

- (a) “the 2011 Act” means the Localism Act 2011;
- (b) “Chief Finance Officer”, “disciplinary action”, “Head of the Authority’s Paid Service” and “Monitoring Officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Order) (England) Regulations 2001;
- (c) “Independent Person (IP)” means a person appointed under section 28(7) of the 2011 Act;
- (d) “local government elector” means a person registered as a local government elector in the register of electors in the authority’s area in accordance with the Representation of the People Acts;
- (e) “the Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;
- (f) “relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and
- (g) “relevant officer” means the Chief Finance Officer, Head of the Paid Service or Monitoring Officer, as the case may be.

7.7.11 A relevant officer may not be dismissed by an authority unless the procedure set out in the following paragraphs is complied with.

7.7.12 The authority must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.

7.7.13 In paragraph 7.7.12 “relevant independent person” means any independent person who has been appointed by the authority or, where there

are fewer than 2 such persons, such independent persons as have been appointed by another or such authorities as the authority considers appropriate.

7.7.14 Subject to paragraph 7.7.15, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 7.7.12 in accordance with the following priority order:

- (a) a relevant independent person who has been appointed by the authority and who is a local government elector;
- (b) any other relevant independent person who has been appointed to the authority;
- (c) a relevant independent person who has been appointed by another authority or authorities.

7.7.15 An authority is not required to appoint more than two relevant independent persons in accordance with paragraph 7.7.12 but may do so.

7.7.16 The authority must appoint any Panel at least 20 working days before the relevant meeting.

7.7.17 Before the taking of a vote at the relevant meeting on whether to approve such a dismissal, the authority must take into account, in particular:

- (a) any advice, views or recommendations of the Panel;
- (b) the conclusions of any investigation into the proposed dismissal;
- (c) any representations from the relevant officer.

7.7.18 Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 Act.

# SECTION 8 – DECISION MAKING

**8.1 PRINCIPLES OF DECISION-MAKING:** All decisions will comply with the following principles:

- (a) Proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) After consultation and in the light of professional advice from officers;
- (c) Lawfulness, including respect for human rights (see below for further details);
- (d) Efficiency of decision-making;
- (e) A presumption in favour of openness;
- (f) Explanation of the options considered and recording of the reasons for the decision including an evaluation of risk; and
- (g) Clarity of aims and desired outcomes.

## 8.2 TYPES OF DECISION:

8.2.1 Decisions taken under the authority of Full Council at meetings of the Council, Committees of the Council as detailed in Part 1, Section 6B or under the Council and Cabinet Scheme of Delegation to Officers as detailed in this section.

8.2.2 'Executive' decisions under the authority of the Leader at member level as detailed in section 5 and the Council and Cabinet Scheme of Delegation to Officers as detailed in this section. There are two categories of executive decisions – Key Decisions and Non-Key Decisions and different rules apply to each.

Key Decisions - defined in legislation as:

- (a) Resulting in the local authority incurring expenditure\*\* which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; and / or
- (b) Significant in terms of their effect on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

\*\*There is no definition in the legislation of the word 'significant' in (a) above. Therefore the Council has decided that the financial threshold at or above which a financial decision is significant (and a Key Decision) will be a total value of £500,000 for capital / revenue expenditure or savings. Money delegated to schools as part of the Scheme of Financial Management of Schools exercise is exempt from these thresholds once it is delegated to the school.

'Key Decisions' can be taken by the Leader, the Cabinet collectively, jointly by two Cabinet Members, individual Cabinet Members, Senior Leadership Team Officers and the Somerset Waste Board.

In the event of any doubt, the Monitoring Officer will determine whether a proposed decision is a Key Decision under the definitions set out above.

Non-Key Decisions: These are all 'executive' decisions which fall beneath the 'Key Decision' financial or geographical thresholds. 'Non-Key Decisions' can be taken by the Leader, the Cabinet collectively, jointly by two Cabinet Members, individual Cabinet Members, the Somerset Waste Board and Officers.

**8.3 HUMAN RIGHTS ISSUES:** The Council, the Leader, the Cabinet collectively, a Cabinet Member, a Committee of the Council, or an Officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

## 8.4 DECISIONS ON THE BUDGET AND POLICY FRAMEWORK

*Note. The paragraphs that follow set out the mandatory Standing Orders that apply in this particular area and must be included in the Constitution. The rest of Section 8 complies with these requirements.*

**8.4.1 THE FRAMEWORK FOR EXECUTIVE DECISIONS:** The Council agrees the Policy Framework and Budget. The Leader implements the Policy Framework and Budget.

**8.4.2 PROCESS FOR DEVELOPING THE FRAMEWORK:** The process for developing the Policy Framework and Budget is:

- (a) The Cabinet recommend the adoption of the relevant Policy or Budget to Full Council. Council either:
  - (i) Adopts the Cabinet's proposals without amendment and with immediate effect,
  - (ii) Follows the process set out in (b) to (h) below, where it has objections to the proposals.
- (b) Where Council is unable to adopt the Policy or Budget in full it informs the Cabinet of the objections and requires the Cabinet to reconsider the Policy or Budget.
- (c) Under (b) above the Council must give the Cabinet at least 5 working days to:
  - (i) Submit to the Council a revised draft Policy or Budget with reasons for amendments; or
  - (ii) Inform the Council of any disagreement with its objections and the reasons for any such disagreement.
- (d) The Council must consider the Cabinet's response to its objections, and decide whether to amend the Policy or Budget or adopt it unchanged.

Note: The Monitoring Officer will, if necessary, call a Council meeting within 21 working days of the expiry of the period referred to in (c) above, to enable the considerations in (d) to take place.

- (e) In approving the Policy Framework and Budget, the Council agrees the extent to which monies can be transferred between different budget headings (virement) within the Budget and the degree of in-year changes to the Policy Framework which can be agreed by the Leader / Cabinet, in accordance with paragraphs 8.4.5 to 8.4.12 of these Rules (decisions outside of the Budget or Policy Framework, urgent decisions outside of the Budget or Policy Framework, and virement).



## **VOTING ON THE BUDGET**

8.4.3 Immediately after a vote is taken on the budget at a budget decision meeting of the Council there will be recorded in the Minutes of the proceedings the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.

8.4.4 Budget decision meeting as referred to in 8.4.3 above means a meeting of the Council at which it—

- (a) makes a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992(4); or
- (b) issues a precept under Chapter 4 of Part 1 of that Act, and includes a meeting where making the calculation or issuing the precept as the case may be was included as an item of business on the agenda for that meeting;

8.4.5 References to a vote in 8.4.3 above are references to a vote on any decision related to the making of the calculation or the issuing of the precept as the case may be.

## **DECISIONS OUTSIDE OF THE POLICY FRAMEWORK OR BUDGET**

8.4.6 Subject to the provisions of paragraph 8.4.10 (in relation to virement), only the Council can take decisions outside of the Policy Framework or Budget.

8.4.7 If the Monitoring Officer and / or the Chief Finance Officer consider that a proposed decision is outside of the Policy Framework or Budget, then the decision can only be made by Full Council, unless the decision is a matter of urgency, in which case the provisions in paragraph 8.4.8 (urgent decisions outside the Budget and Policy Framework) apply.

8.4.8 An urgent decision can only be taken:

- (a) If it is not practical to convene a meeting of the Full Council; and
- (b) If the Chair of the relevant Scrutiny Committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a meeting of Full Council must be recorded on the record of the decision.

8.4.9 Urgent decisions taken under 8.4.8 above are reported to the next Full Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

8.4.10 **VIREMENT:** The rules on the transfer of approvals (virement) between budget headings are set out in the Council's Financial Regulations – see Part 2 of the Constitution.

#### **REVIEW OF DECISIONS THAT MAY FALL OUTSIDE OF THE POLICY FRAMEWORK OR BUDGET**

8.4.11 Where a Scrutiny Committee considers that a Key Decision made or proposed is or would be outside of the Policy Framework or Budget, then it can seek advice from the Monitoring Officer and/or the Chief Finance Officer.

8.4.12 If the Monitoring Officer and/or the Chief Finance Officer agree with the Scrutiny Committee's opinion they will present a report to the Leader with a copy sent to every Member of the Council. The Leader must decide what action to take and prepare a report to Full Council.

8.4.13 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be outside of the Policy Framework or Budget, the Scrutiny Committee can refer the matter to Full Council for decision. Full Council must meet within 21 days of the request by the Scrutiny Committee. Full Council can either:

- (a) Confirm that the decision falls within the Policy Framework or Budget;  
or
- (b) Amend the Council's Financial Regulations or the relevant policy and agree to the decision with immediate effect; or
- (c) Require the Leader to reconsider the matter in accordance with the advice of either the Monitoring Officer / Chief Finance Officer.

#### **8.4.14 COUNCIL DELEGATIONS TO OFFICERS**

Somerset County Council has functions given to it by statute. Certain functions rest with the authority as a whole. These powers can be delegated to Officers under the Local Government Act 1972. Other functions, called Executive Functions rest with the Council's Leader of the Council and can be delegated by the Leader to the Cabinet, Cabinet Members or Officers.

See section 8.5 – Council and Cabinet Scheme of Delegation to Officers

## 8.5 COUNCIL AND CABINET SCHEME OF DELEGATION TO OFFICERS

*'Local Choice' functions (as defined in Part 1, Section 1) are indicated in italics.*

### 8.5.1 To the Chief Executive and Senior Leadership Team (SLT) Officers

#### **General:**

Authority to manage the services for which they are responsible for commissioning or delivering and to act to safeguard, protect and promote the interests of the Council.

Authority for all relevant decisions not delegated to members (unless delegated to an Officer by a Member or by a Committee). Where a specific delegation is available then it should be used as opposed to any general delegation

Where the decision making responsibility is shared with a Cabinet Member, the Officer cannot make a decision without the agreement of the relevant Cabinet Member.

Authority to delegate decision making responsibilities to other Officers of the Council. Current delegations are set out in the Officer Scheme of Delegation.

Specific delegations to Operations Directors can be exercised by any Commissioner within the Senior Leadership Team where the named Officer is absent or unable to act.

*The making of agreements with other local authorities for the placing of staff at the disposal of those authorities (this delegated authority includes the County Solicitor).*

Note: the authority to act and take decisions under this Scheme includes the following interim appointments in the absence of relevant contracted employees:

- Interim Director of Finance

#### **Prevent Duty**

Authority for the Chief Executive to act and take decisions as part of the Prevent Duty (Counter Terrorism and Security Act 2015)

#### **Property**

Authority to enter, inspect and survey land, buildings or premises and issue as necessary any evidence or authority as may be required in order

for them to execute their duties in accordance with the Council's statutory powers.

Where either the capital payment does not exceed £500,000 or the annual rental does not exceed £100,000, authority:-

- (a) Subject to the consent of the Section 151 Officer and the Monitoring Officer, and in consultation with the relevant Cabinet Member, to authorise and approve the acquisition of land and the taking of leases, licences, dedications and easements of or over any land (including buildings) whether by way of valuable consideration or exchange;
- (b) To declare land surplus to Directors' requirements and meet Corporate Landlord requirements.
- (c) To arrange for sessional lettings of premises for periods of less than 24 hours.

**Partnerships:** Authority

- (a) To approve operational frameworks for delivery level partnership / joint working arrangements with other public, private, voluntary and community sector organisations
- (b) When representing the Council or the Leader on a partnership or outside body to take decisions on behalf of the Council / Leader subject to advance notice of the issue having been given to the Council's representative.

**Financial:** The authority and responsibilities of Senior Leadership Team Officers in respect of financial matters are set out in the Council's Financial Regulations – see Part 2 of the Constitution.

**Contracts:** The authority and responsibilities of Senior Leadership Team Officers in respect of contractual matters are set out in the Council's Contract Standing Orders set out in Part 2 of the Constitution.

**Staff Resources:** Authority to act in relation to the appointment, dismissal and all other matters relating to the employment of Officers. For further details about the exercise of these delegated powers see Part 1, Section 7.

**Section 106 agreements, Bid submissions & Consultations:**

Authority to :-

- (a) Approve responses to consultation papers
- (b) Agree operational requirements for S106 Agreements or other similar agreements with no financial limit, providing suitable on-going revenue support and exit strategies are in place.
- (c) Agree the completion of Section 106 Agreements on behalf of the Council or other similar agreements with no financial limit, providing suitable on-going revenue support and exit strategies are in place.
- (d) Submit bids on behalf of the Council. Any Council bids for funding

from external bodies are only to be made where suitable on-going revenue support and time periods/exit strategies are in place.

- (e) Carry out any relevant consultation on behalf of the Council
- (f) Make appropriate planning and building regulations applications
- (g) Approve promotional and marketing campaigns.

#### **8.5.2 To the Chief Executive**

Authority to act on behalf of the Council in all such duties and functions of a Head of Paid Services as set out in legislation.

#### **Functions**

- (a) Management: Overall corporate management and operational responsibility including overall management responsibility for all staff, and co-ordinating the work of the Council's services.
- (b) Professional advice: Together with the Monitoring Officer and County Solicitor, the provision of professional advice to all parties in the decision making process.
- (c) Record Keeping: Together with the Monitoring Officer, responsibility for a system of record keeping for all decisions made by or on behalf of the Council.
- (d) Representation: Representing the Council on partnership and external bodies as required.
- (e) Discharge of functions by the Council: Authority in relation to Officer arrangements is set out in Section 7 of the Constitution,
- (f) Restrictions on functions: The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

#### **Emergency Powers**

In an emergency, the Chief Executive (and any Officer(s) authorised by the Chief Executive) is authorised to take any and / all action(s) he/she considers appropriate to protect and/or further the best interests of the Council, the County of Somerset and / or the public, subject to:

- (a) Consultation with the Leader of Council or in his/her absence the Deputy Leader and any appropriate Member of the Cabinet.
- (b) A report of the action taken and the reasons behind it being presented to the next meeting of the Cabinet, the Council or the relevant Committee.

This includes exercising the Council's powers under Section 138 of the Local Government Act 1972 to incur expenditure (regardless of whether the value would equate to a key decision) and to suspend aspects of

business as usual to enable the Council to comply with its duties under the Civil Contingencies Act.

### **8.5.3 To the Director of Finance (Section 151 / Chief Finance Officer):**

Authority to act on behalf of the Council in all such duties and functions of a Chief Finance Officer (Section 151 Officer) as set out in legislation.

Functions:

(a) Ensuring lawfulness and financial prudence of decision making: After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council (or to the Cabinet in relation to an executive function) and send a copy of the report to all Members of the Council and to the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council (or the Executive) is about to enter an item of account unlawfully.

(b) Administration of financial affairs: The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

(c) Contributing to corporate management: The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

(d) Providing advice: The Chief Finance Officer (in liaison as necessary with the Monitoring Officer) will provide advice on the scope of powers and authority to take decisions, maladministration in relation to financial matters, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and staff in their respective roles.

(e) Give financial information: Where required by law or authorised by the Council, the Chief Finance Officer will provide financial information to the media, members of the public and the community.

Powers:

- i) Arrangements for internal audit.
- ii) Authority to accept resources from the Government and other third parties additional to that set out in the Council's approved Medium Term Financial Plan where there is no consequential impact to either capital resources or the Revenue Budget.

### **8.5.4 To the Monitoring Officer**

Authority to act on behalf of the Council in all such duties and functions of a Monitoring Officer as set out in legislation. In addition the Monitoring Officer is empowered to act as the Proper Officer in the following instances:

Appointment matters

- 1) Authority to make appointments to:
  - (a) Committees and Sub-Committees,
  - (b) Internal, partnership and outside bodies.

This authority is subject to the Political Group Leaders agreeing to the appointments. In the event that a Group Leader does not agree with a proposed appointment then the decision will be referred to a County Council meeting.

- 2) Authority to receive and witness the declarations of acceptance of office by the Chair of Council, Vice Chair of Council or a Member of the County Council under Section 83 of the Local Government Act 1972.
- 3) Authority to accept the written notice of resignation from any office under the Local Government Act 1972.

Procedural matters

- 4) In consultation with the Chairs of Committees, Sub-Committees, Internal, Partnership and Outside bodies to agree the calendar of meeting dates, places and times of meetings
- 5) To receive notification from Members of the formation of and changes to political groups
- 6) To receive information concerning Members' interests and keeping that information up to date.
- 7) To be the Proper Officer for receiving written requests for dispensations from Members and any voting co-opted members from either or both of the restrictions in Section 31(4) of the Localism Act 2011.
- 8) To sign and issue a summons to attend a meeting of the Council and excluding from inspection by members of the public the whole or part of any report which in the Monitoring Officer's opinion is not likely to be considered in public at a Council, Committee or Sub-Committee meeting.

Functions:

- (a) Maintaining the Constitution: The Monitoring Officer will maintain an up to date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.
- (b) Ensuring lawfulness and balance in decision making: After consulting with the Head of Paid Service, the Chief Finance Officer and County Solicitor, the Monitoring Officer will report to the full Council (or to the

Executive in relation to an executive function) if he or she considers that any proposal, decision or omission would give rise to unlawfulness or to maladministration. Such a report will be sent to all Members of the Council and will have the effect of stopping the proposal or decision being implemented until the report has been considered.

(c) Supporting the Standards Committee: The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct and ethics through provision of support to the Standards Committee.

(d) Receiving complaints and reports: The Monitoring Officer will receive and act on complaints that Members may have breached the Members' Code of Conduct and any reports made by Investigating Officers appointed by him/her and any determination decisions of the Standards Committee and/or its Hearings Panel.

(e) Assessment of complaints and conducting investigations: The Monitoring Officer will assess complaints made, in consultation with the Independent Person(s) for standards, and will decide whether a complaint merits formal investigation or other action.

(f) Advising whether executive decisions are within the budget and policy framework: The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.

(g) Providing advice: The Monitoring Officer (in liaison as necessary with the Chief Finance Officer and County Solicitor) will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.

(h) Restrictions on posts: The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

#### **8.5.5 To the Director of Children's Services**

Authority to act on behalf of the Council in all such duties and exercise the functions of a Director of Children's Services as set out in legislation.

*('local choice' functions allocated by Council to the Leader):*

*(a) The making of arrangements pursuant to subsection (1) of section 67 of, and Schedule 18 to, the 1998 Act (appeals against exclusion of pupils).*

*(a) The making of arrangements pursuant to section 94(1) and (4) of, and Schedule 24 to, the 1998 Act (admission appeals).*

*(b) The making of arrangements pursuant to section 95(2) of, and Schedule 25 to, the 1998 Act (children to whom section 87 applies: appeals by governing bodies).*

#### **8.5.6 To the Director of Adult Social Care**

Authority to act on behalf of the Council in all such duties and exercise the



functions of a Director of Adult Social Services as set out in legislation.

**8.5.7 To the County Solicitor and other Officers - Legal and Procedural**

The County Solicitor (and other such person authorised by the County Solicitor) is authorised:

- (a) To serve statutory notices to ascertain the legal interest in land of any person;
- (b) To institute, defend or settle any legal proceedings or any dispute or matter where there is the potential for legal proceedings to be instituted by any party (either in the name of the Council or an individual Member and / or Officer of the Council) and to lodge an appeal in any matter. For the avoidance of doubt this authority shall extend to the taking of all procedural steps, including the service of notices, statutory or otherwise, counter notices, and Notices to Quit.
- (c) Where any document is required for any legal procedure or proceedings on behalf of the Council, it will be signed by the County Solicitor or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given the necessary authority to some other person.
- (d) To attest the affixing of the Common Seal of the Council. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to documents as required by the Contract Standing Orders or which in the opinion of the County Solicitor (or some other person authorised by him/her) otherwise require sealing. The affixing of the Common Seal must be attested by the County Solicitor or some other person authorised by him/her.
- (e) To authorise Officers of the Council to prosecute or defend or appear in any legal proceedings by virtue of the provisions of Section 223 of the Local Government Act 1972;

Without prejudice to the powers of the County Solicitor to institute proceedings, Devon County Council have full delegated powers on behalf of Somerset County Council to institute proceedings either in the name of the Council or in the name of a designated Officer under the relevant statutory powers, duties and provisions to enforce Trading Standards, Food and Animal Health legislation. Devon County Council has been given the power to authorise Officers (subject to approval by the Lead Director for Economic and Community Infrastructure approving any appointments) to enforce Trading Standards, Food and Animal Health legislation, to issue statutory notices in relation to those areas and to authorise other local authorities to investigate and institute proceedings in respect of alleged offences under any legislation which are alleged to have been committed within Somerset. Devon County Council has been given delegated powers to appoint a Chief Inspector of Weights and Measures under s72 of the Weights and Measures Act 1985, a Public Analyst under S27 Food Safety Act 1990, and an Agricultural Analyst and under S67(3)(b) of the

Agriculture Act 1970, and deputies if required, subject to the approval of the Lead Commissioner for Economic and Community Infrastructure.

Senior Leadership Team Officers are authorised to appoint any individual Officer of the Council as the “Proper Officer” for the purpose of any legislation.

#### **8.5.8 To the Lead Director for Economic and Community Infrastructure – Property**

Subject to the consent of the Section 151 Officer and the Monitoring Officer:

- (a) Where either the capital payment does not exceed £500,000 or the annual rental does not exceed £100,000, authority:-
  - (i) to declare land and property surplus to the Council’s requirements;
  - (ii) to dispose of land and grant, or vary, leases, licenses, dedications of or over any land. In the case of the grant of tenancies of small-holdings, these delegated powers shall be exercised in consultation with the relevant Cabinet member.
- (b) Authority to sell land or property at an undervalue not exceeding £100,000 (expressed as a capitalised figure) or 20% of the unrestricted value, whichever is the lower.
- (c) Authority to issue and sign documents in relation to the Right to Buy provisions of the Housing Act 1985
- (d) The function of Authorising Officer under the Regulation of Investigatory Powers Act 2000 and to designate such other Authorising Officers (as defined in the Act) as he/she considers to be necessary and competent for the purposes of the Act.

#### **8.5.7 To the Economic & Communities Infrastructure Commissioning Director**

##### Planning Control

The functions of the Council relating to town and country planning and development control with the exception of:

- (c) Any such functions reserved to Full Council or the Cabinet;
- (b) Determining an application for planning permission where
  - (i) a significant planning objection has been made, or
  - (ii) the Officer recommendation is to refuse planning permission, or
  - (iii) the local Member refers the application to committee for determination under the pre-decision consultation process.

Where the Economic & Communities Infrastructure Commissioning Director considers an objection not to be significant, he/she must obtain the agreement of the local Member(s), and the Regulation Committee

Chair & Vice-Chair and Regulation Committee lead member (Opposition Group) before the decision can be taken under delegated powers. Where such agreement is not reached the Regulation Committee shall determine the application.

#### Public Rights of Way

The functions of the Council relating to public rights of way, including the maintenance of the rights of way network and the review of the definitive map and statement, under the Highways Act 1980, the Wildlife and Countryside Act 1981 and any other relevant enactment, including, in consultation with the County Solicitor, the determination of applications for modification of the definitive map, with the exception of the following which shall be determined by the Regulation Committee:

- (a) Those applications which in the view of the Economic & Communities Infrastructure Commissioning Director, in consultation with the Chair of the Regulation Committee, are contentious or controversial; and
- (b) Requests from applicants for Modification applications to be taken out of turn from the adopted Statement of Priorities.

#### Common Land, Town or Village Greens

The functions of the Council relating to common land and town or village greens under the Commons Act 2006 and any other relevant enactment, including, in consultation with the County Solicitor, the determination of applications for the registration of the same or for amendment of the Commons Register, with the exception of those applications which in the view of the Economic & Communities Infrastructure Commissioning Director, in consultation with the Chair of the Regulation Committee, are contentious or controversial, which shall then be determined by the Regulation Committee.

#### Traffic regulation

- (a) To determine applications for traffic regulation orders determined in accordance with criteria of the Department of Transport and County Council policy.
- (b) To determine applications for the stopping up of a highway and/or its diversion (except in relation to rights of way).

#### *'Local choice' functions allocated by the Council*

- (a) *The investigation of any complaint as to the existence of a statutory nuisance.*
- (b) *The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land*
- (c) *The obtaining of particulars or persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976*
- (d) *The making of any agreements for the execution of highways works.*

### 8.5.9 Conditions on the exercise of any delegated power

Before exercising a delegated power the Officer must consider whether the decision to be made is of such a nature that it ought to be referred to members for decision.

Any action taken under delegated powers shall be in accordance with:

- (a) The Council's Policies and Budget;
- (b) All appropriate legislation, statutory guidance, good practice and this Constitution (including the Contract Standing Orders and the Council's Financial Regulations/Financial Procedures).

The exercise of delegated powers is subject to:

- (a) Consultation, where appropriate, with the Cabinet Member, Junior Cabinet Member, or relevant Committee Chair (or in his/her absence the Vice-Chair).
- (b) Any local Member whose area is significantly affected being consulted before the decision is taken and informed of any subsequent action / outcome.(\*)
- (c) Consultation with relevant Senior Leadership Team Officer(s) (including the Section 151 Officer) and / or the Monitoring Officer and County Solicitor and due regard to any advice given.
- (d) Consulting or informing the relevant Opposition Spokespersons and Scrutiny Chair, as appropriate to the subject matter and depending on the type of decision.

\* where the decision relates to more than one electoral division then all relevant Members should be informed ie. if this is countywide then all members should be informed

#### Notes

- (a) For decisions proposed to be taken under the authority of the Council, where the local Member(s) consulted under (b) above so requests, the matter will be referred to the relevant Committee for decision.
- (b) Where a Non-Key Decision is below £15,000 in value then only provision (c) above needs to be followed, together with (b) where appropriate.
- (c) The delegated authority to Officers excludes the determination of policy, amendments to policy and exceptions to policy.

(d) All Key Decisions taken by Officers are subject to call-in action by scrutiny.

## 8.6 ACCESS TO INFORMATION PROCEDURE RULES GENERAL

8.6.1 Part 1 of these rules set out the rights of the public and Members to access information under the decision making process.

8.6.2 Part 2 details Members' wider access rights to access information held by the Council. These rights are complex and are set out in legislation, regulations and the common law. Members' rights go beyond those of the public. **However, Members do not have an automatic right of access to all information held by the Council. A Member's right to access information held by the Council is dependent on their legal and constitutional rights as determined, where necessary, by the Monitoring Officer as an 'independent' arbiter.**

8.6.3 "Need to know": The common law right of Members to have access to Council information on a "need to know" basis is a broad provision based on the principle that a member has a prima facie right to have such access so far as is reasonably necessary to enable him/her to perform their duties as a member of the Council. To exercise this right the Member must be able to demonstrate a genuine "need to know" rather than just undertake a general 'fishing expedition'. Members do not have a general right to access all documents held by the Council. In most cases access will be provided as a matter of course but in some circumstances (e.g. a Member wishing to access Council documents which contain personal information about third parties) justification will be required. In some cases, Members may be required to sign a non-disclosure agreement in order to have a greater level of access to exempt information than would be allowed to Members' generally. Even in these circumstances full access may still not be allowed for legal reasons or where the risks of disclosure are considered too great to the Council, an organisation or an individual. Any Member asked to sign a non-disclosure agreement must be advised of the level of access that will be permitted by signing the agreement. If access is disputed the Monitoring Officer will give a final ruling.

8.6.4 A Member may request information and advice from a council service in connection with their role as a member. Such approaches should however normally be directed to the relevant Director or Strategic Manager. Members must not put undue pressure on Officers to release information and documents to which they are not entitled to have access.

8.6.5 A Member must only use Council information provided for his/ her duties as a member of the Council.

8.6.6 The rules set out in Part 1 apply in full or in part to the Council's Cabinet (executive) decision-making arrangements as indicated. The following rules in Part 1 apply as specified to meetings of Full Council and the Council's Committees, 8.6.7-9, 20-22, 27-29, 31-37, 44 and 47-51. The rules comply with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012).

## **PART 1 – ACCESS TO INFORMATION RULES – DECISION MAKING**

### 8.6.7 Definitions:

- (a) '5 clear days' – references to the term 'clear' in this context excludes Saturdays, Sundays, Bank and Public Holidays, the day that the agenda is sent to Members and the day of the meeting.
- (b) '28 clear days' - references to the term 'clear' in this context includes weekends and public holidays.
- (c) 'Executive decisions' – are Key or Non-Key decisions taken under the authority of the Leader and by the Leader or delegated to the Cabinet, a committee of the Cabinet, a Cabinet Member or an Officer.
- (d) 'Information' - means information, including any document, report or background paper other than in draft form.
- (e) 'Publication', or derivatives of - means: publication on the Council's website unless otherwise stated. Hard copies of papers are available for inspection or can be provided free of charge on request. If large volumes are requested a charge may be made.

## **MEMBERS OF COMMITTEES – RECEIPT OF PAPERS**

8.6.8 Committee Members receive a printed copy of agendas and papers for meetings of that body unless they have exercised the option to receive the papers electronically via a link to the website. Either method complies with the legal requirement to give notice by the Council under the Local Government (Electronic Communications) (England) Order 2015. A Member may revoke this request at any time.

8.6.9 **NOTICE OF MEETINGS:** The Council normally gives at least 5 clear days' notice of public meetings via the website, the public notice board at County Hall, Taunton and at the venue for the meeting if held elsewhere. If the meeting is convened at shorter notice than 5 days, then public notice is given at the time the meeting is convened.

## **CABINET FORWARD PLAN OF KEY DECISIONS**

8.6.10 The Cabinet Forward Plan of proposed Key Decisions is published weekly. The Council also publishes the Somerset Waste Board Forward Plan of proposed Key Decisions. Normally at least 28 clear days' notice of key decisions is given in the plans. Meeting notices list the key decisions to be taken.

## **PROCEDURE BEFORE A KEY DECISION CAN BE TAKEN:**

8.6.11 Unless the General Exception Rule (8.6.13) or Special Urgency Rule (8.6.14) is used, a Key Decision can only be taken:

- (a) If published in the relevant Forward Plan;
- (b) At a formally convened meeting;
- (c) By an individual Cabinet Member or Officer, where a notification report has been published at least 5 clear days before the decision is due to be taken or when published if less than 5 clear days can be given.

Key decision details published must include the:

- (a) The key decision title and description
- (b) Name or title of the decision-making body or person
- (c) Date of the decision or the period within which it will be made
- (d) List of documents submitted to the decision maker for consideration
- (e) Details of copies of the documents can be obtained or accessed
- (f) Opportunity for other documents to be submitted to the decision-maker and details of how copies may be obtained.

8.6.12 A Cabinet Member must consider officer advice before committing the Council via a formal decision in any dealings with third parties in relation to the acquisition or disposal of land, property or contractual issues.

## **KEY DECISIONS – GENERAL EXCEPTION AND SPECIAL URGENCY RULES:**

8.6.13 General Exception Rule: If 28 clear days notice of a Key Decision cannot be given, then subject to Rule 8.6.14 (Special Urgency), then a key decision can only be taken if the Monitoring Officer has:

- (a) Informed the Chair of the relevant Scrutiny Committee, or, in their absence, each member of that Committee in writing or by email, of the matter for decision;
- (b) Has given 5 clear days' notice via the public notice board at County Hall, Taunton and on the Council's website.

8.6.14 Special Urgency Procedure Rule: If a Key Decision is required so urgently that Rule 8.6.13 above (General Exception Procedure) cannot be complied with, then the decision can only be taken with the agreement of the Chair of the relevant Scrutiny Committee (or if unavailable, the Chair of Council or in his/her absence the Vice-Chair of Council), in writing or by email that the decision is urgent and cannot be deferred.

8.6.15 If urgency is agreed, the Monitoring Officer will publish a notice at County Hall, Taunton and on the Council's website stating the reasons for



urgency and why the 28 day notice and general exception procedures cannot be complied with.

### **CABINET MEMBER AND OFFICER KEY AND CABINET MEMBER NON-KEY DECISIONS – CONSULTATION REQUIREMENTS**

8.6.16 Before a Key Decision can be taken, the following must be consulted:

- (a) The relevant Cabinet Member(s), Junior Cabinet Member (where appropriate) and Senior Leadership Team Officer(s).
- (b) Any local Member whose electoral division is significantly affected. They must also be informed of any subsequent action / outcome.
- (c) The Chief Finance Officer, the Monitoring Officer and the County Solicitor and due regard given to their advice where there are likely to be financial, legal or standards implications.
- (d) The relevant Opposition Spokesperson / Leader
- (e) The Chair (or in their absence the Vice-Chair) of the relevant Scrutiny Committee.

8.6.17 Before a Cabinet Member Non-Key decision is taken, the consultation requirements at (a), (b) and (c) of 8.6.16 above must be met.

In addition, the relevant Opposition Spokesperson / Leader and the Chair (or Vice-Chair in their absence) of the relevant Scrutiny Committee must be informed of the decision.

### **QUARTERLY REPORTS ON SPECIAL URGENCY DECISIONS**

8.6.18 The Leader reports Special Urgency Key Decisions taken in the preceding three months within the quarterly reports of the Cabinet to the Full Council.

### **SCRUTINY – RIGHT TO REQUIRE CABINET TO REPORT TO COUNCIL**

8.6.19 Where a Scrutiny Committee considers that a non key decision should have been taken as a key decision, the Committee can require the Cabinet to submit a report to the County Council at the earliest opportunity. The report must set out the decision, the reasons for it, the name of the decision maker and, following review, the reasons why it was not treated as a key decision.

### **PUBLIC ACCESS TO REPORTS AND OTHER DOCUMENTS:**

#### General

8.6.20 Documents for key and Member non-key decisions and for formal meetings are published except those containing confidential or exempt information. Meeting papers are published at least 5 clear days before the meeting or when the meeting is convened if at shorter notice. If a late item is

added to an agenda, a revised agenda and any additional report (s) will be published at the same time as being sent to Members.

### **BACKGROUND PAPERS:**

8.6.21 Each decision report includes a list of documents (called background papers) used to prepare the report and which are not already referred to. The list will not include published works or those which disclose exempt or confidential information.

8.6.22 Background papers for all Member decisions, key decisions taken by officers and decisions taken by an Officer under delegated authority from the Cabinet or a Cabinet member are published.

### **DECISION NOTICES:**

8.6.23 As soon as possible after a decision is taken at a Cabinet meeting or by a Cabinet Member, the Monitoring Officer will produce a decision notice to include:

- (a) A record of the decision including the date
- (b) The reasons for the decision
- (c) Details of any alternative options considered and rejected
- (d) A record of conflicts of interests declared by members of the Cabinet and any dispensations agreed by the Chief Executive.
- (e) Details of whether urgent implementation has been agreed, along with reasons.

There are similar requirements for recording executive decisions taken by officers.

### **INSPECTION OF DOCUMENTS FOLLOWING AN EXECUTIVE DECISION**

8.6.25 Decision notices prepared under 8.6.23 above and supporting papers are published for Member / Officer Key Decisions, Member Non-Key Decisions and Officer Non-Key decisions taken under a direct delegation from the Cabinet or a Cabinet Member.

8.6.26 Hard copies of published decision notices and supporting papers are available on request. Where a number of copies are requested a reasonable charge may be made to cover printing and postage costs.

#### Access to decision records/reports/minutes/background papers etc after decisions are taken

8.6.27 The Council makes available for inspection via its website the following for a minimum of 6 years from the date of the decision:

- (a) Minutes of Council, Committee or Cabinet meetings
- (b) Records of Cabinet, joint and individual Cabinet Member decisions
- (c) Officers decisions (for Key Decisions / and decisions delegated by Cabinet or an individual Cabinet member only);
- (d) A non-confidential summary of any Minute(s) / decision record (s) containing exempt or confidential information;

- (e) Agendas; and
- (f) Any relevant reports.

8.6.28 Background papers supporting decisions made at formal meetings are also made available for inspection for a minimum of 4 years from the date of the decision. In addition, in the case of a decision taken by the Cabinet, a Cabinet Member or an Officer under delegated authority from the Cabinet or a Cabinet Member, the background papers are published and available for a minimum of 4 years from the date of the decision.

**RIGHTS OF THE PUBLIC TO ATTEND MEETINGS:**

8.6.29 Members of the public may attend all formal Members’ meetings except where confidential or exempt information is to be considered.

8.6.30 There are separate rules for the consideration of confidential and exempt Cabinet and Somerset Waste Board business from those that apply to Full Council and Committees. Where a Cabinet or Somerset Waste Board meeting is due to consider confidential or exempt information, advance notice will be published in the relevant Forward Plan together with details of how representations can be made for the business to be considered in public session. A further notice will then be published 5 days before the decision meeting setting out details of any representations received and the Council’s response.

8.6.31 If advance notice of confidential or exempt business required under 8.6.30 cannot be given then the approval of the Chair of the relevant Scrutiny Committee (or where unavailable the Chair or Vice-Chair of the Council) must be given and a notice published as soon as the item is known about.

8.6.32 ‘Confidential’ information is information given to the Council by a Government Department on terms forbidding its public disclosure or information which is prevented from being publicly disclosed by Court Order. Where confidential information is to be considered it is a requirement to exclude the press and public from accessing papers and discussions on such matters and members access is limited by statute. Accordingly, the press and public will be excluded from the meeting by resolution where confidential information is to be considered.

8.6.33 Exempt information is as follows,

Category	Qualifications
<ol style="list-style-type: none"> <li>1. Information relating to any individual.</li> <li>2. Information which is likely to reveal the identity of an individual</li> <li>3. Information relating to the financial or business affairs of any particular</li> </ol>	<ol style="list-style-type: none"> <li>1. Information is not exempt information if it is required to be registered under the Companies Act,</li> </ol>

<p>person (including the authority holding that information).</p> <p>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the Authority or a Minister of the Crown and employees of, or office holders under, the Authority.</p> <p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p> <p>6. Information which reveals that the Authority proposes –</p> <p>(a) to give under any enactment notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make order or direction under any enactment.</p> <p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	<p>Charities Act etc.</p> <p>2. Information is not exempt information if it relates to proposed development for which the Council may grant itself planning permission.</p> <p>3. Subject to paragraphs 1 and 2 above, information which falls within paragraphs 1 to 7 opposite is exempt information if and so long as the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
---	--

8.6.34 The press and public may be excluded from a meeting where exempt information is to be considered and any supporting information withheld from publication or the meeting may decide to consider the item of business and any reports with the public present and publish the report after the meeting.

8.6.35 Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6 of the Act.

**RIGHTS OF THE PUBLIC TO SPEAK AT FORMAL MEETINGS OF THE CABINET AND COMMITTEES OF THE COUNCIL – PUBLIC QUESTION TIME (PQT):**

Note: Different requirements apply to Public Question Time at Full Council meetings and these are set out in Section 4.

8.6.36 The relevant Chair has discretion to vary any of the following rules:

- (a) A member of the public may ask a question or make a statement about any item on an agenda for the meeting.
- (b) In addition, a petition may be presented on any matter within the overall remit of the body.
- (c) The agenda will provide for questions/statements/petitions to be taken early in the meeting although the Chair has discretion to take them when the relevant item is reached on an agenda.
- 1) (d) For Committee meetings, a person wishing to speak under public question time should submit their statement / questions in writing to the relevant Democratic Services Manager / meeting administrator (via the following email address: [democraticservices@somerset.gov.uk](mailto:democraticservices@somerset.gov.uk)) by 5pm three clear working days before the meeting i.e. 5pm on the Thursday prior to a meeting that is being held on a Wednesday.. Any questions, statements or petitions received after the deadline will only be considered with the discretion of the Chair of the relevant meeting. The questioner will need to set out reasons for their late submission to be considered at the meeting. If the Chair rejects the late question or statement then a written reply will be provided by the council within 20 working days of the meeting.

Notwithstanding the above, where a question relates to a matter which is included on the agenda for a meeting at which the question is to be put but that agenda or any Officers Report has not been made available before the normal deadline for submission of questions by 5pm three clear working days before the meeting then provided written notice of a question is received within 24 hours of that Agenda or Report having been so published then the question shall be allowed.

- (e) The Chair will allow those who have given prior notice to introduce their question / statement / petition - 3 minutes maximum. If a person is unable to attend a meeting in person, then they will be allowed to arrange for someone to ask the question on their behalf. If no person is able to put the question to the meeting then either the relevant Chair of the meeting or the Democratic Services Manager will present the statement / questions to the meeting.
- (f) If a person submits more than three questions (including any sub-division or component questions ie. Question 1a, 1b and 1c would mean three questions the same as Question 1, 2 or 3) then only the first three questions shall be accepted for a meeting (subject to those questions not duplicating or being similar to other questions received from other persons for the meeting). Where there is duplication or the question or statement is similar then these will be rejected. The Monitoring Officer or relevant Democratic Services Manager shall adjudicate on the application of this in consultation with the Chair of the relevant meeting.
- (g) A response will be given once the question/statement/petition has been introduced or when the relevant agenda item is considered. After the response has been given there will be no member debate.
- (h) Normally a maximum of 20 minutes is allowed for public question time.

- (i) Where there are a large number of questioners on the same subject matter, the Chair may ask those concerned to nominate one or more of their number to ask question(s).
- (j) In exceptional circumstances the Chair may adjourn the meeting temporarily to allow views to be expressed more freely.

## **RECORDING AND REPORTING AT PUBLIC MEETINGS:**

8.6.37 Public and press are welcome to record / film / transmit the proceedings of formal meetings in accordance with the Somerset County Council Recording Protocol set out in Part 2 of the Constitution.

8.6.38 The Council makes audio recordings of its main decision making meetings – Full Council, Cabinet and Regulation Committee – available to access on the website immediately following meetings and until the minutes of the meeting have been signed as a correct record at the next meeting. Audio recordings are also made separately available to members via private access arrangements for the same period. Other formal meetings may be recorded on an ad-hoc basis depending on the circumstances and those attending will be informed where this is the case in advance of the start of the meeting.

## **MEMBERS ACCESS RIGHTS TO REPORTS FOR FORMAL MEETINGS**

### General

8.6.39 All Members have a statutory right under the Local Government Act 1972 to inspect any Council document for business to be transacted at a Council, Cabinet, or committee meeting. This right extends to any relevant background papers but normally excludes confidential and exempt information.

### Cabinet business

8.6.40 Subject to 8.6.41 below, all Members have a statutory right to inspect any Cabinet document (including background papers) in support of business to be transacted at a meeting and this shall be available five clear days before the meeting or at the time when an item is added to an agenda or a meeting convened at shorter notice. These legal rights are restricted in relation to confidential and exempt information.

8.6.41 The right to inspect in 8.6.39 above extends to any document in support of and a decision made by:

- (a) a Cabinet Member under delegated powers, or
- (b) an Officer as a key decision or under a delegation from the Cabinet or a Cabinet Member.

### Rights of scrutiny committee to access Cabinet documents

8.6.42 Rights to copies / inspect documents: Subject to Rules 8.6.43 to 8.6.44, members of the Scrutiny Committees are entitled to inspect any Cabinet document and which contains material relating to:-

- (a) Business to be transacted at a Cabinet meeting; or
- (b) A Cabinet Member decision
- (c) Any Key Decision taken by an Officer and Officer Non-Key decisions taken under delegated authority from the Cabinet or a Cabinet member.

8.6.43 A document requested under 8.6.42 will be made available as soon as is practicable after the request and within 10 clear days.

8.6.44 Scrutiny Committee Members are **not** entitled to:

- (a) Draft documents; or
- (b) Any part of a document containing exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise.

8.6.45 The Cabinet can refuse access to information requested by a scrutiny member but must provide a written statement giving the reasons for refusal.

8.6.46 In the event of any conflict between this Protocol, any other policy, protocol, or guidance of the Council and any law (either common law or statutory), the law shall take precedence.

## **MEMBERS ACCESS TO CONFIDENTIAL / EXEMPT REPORTS FOR FORMAL MEETINGS**

8.6.47 The right of access for non-Cabinet members to confidential or exempt information within the ownership of the Cabinet is limited to certain categories of information – see 8.6.48 below. Access is limited to viewing the document after the meeting or after a decision is made and must be available on request within 24 hours of the decision.

8.6.48 The legal right of access only applies to documents that fall under Part 1 of Schedule 12A of the Local Government Act 1972 in the following categories:

- (a) Paragraph 3, ie, information relating to the financial and business affairs of any particular person [including the authority] except for information relating to terms proposed or to be proposed in negotiations for a contract); and
- (b) Paragraph 6, ie, information which reveals the authority proposes (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person or (b) to make an order or directions under any enactment.

8.6.49 The Council goes beyond the legal requirements set out above in providing access to confidential and exempt information held by or on behalf of the Cabinet. Cabinet Members taking a Cabinet or a non-Cabinet decision will receive papers containing confidential or exempt information as necessary in order to be able to take the decision. There is then a

presumption that, except in the case of reports which contain confidential personal information about employees or other persons, or where the report contains highly confidential commercially sensitive information, reports containing confidential or exempt information will be made available to other individual non-Cabinet members attending the meeting or on request. As stated above this in addition to any other specific rights that members may have as a result of having a specific role on the Council, eg, as a Scrutiny Member. This presumption of openness also applies to Committee meetings.

8.6.50 There may be occasions where the Monitoring Officer advises that a report contains information which is so sensitive (eg, contains highly sensitive commercial information) that it is necessary to limit access to the report following a request by members not involved in the decision making process. This may be achieved in various ways including giving out named copies at the start of a debate and collecting them in at the end of the debate or requiring Members with a specific interest or role to sign a non-disclosure agreement.

8.6.51 Confidential or exempt information will normally be provided to Members as a confidential annex to a public report. A public summary of the confidential report will be published. The same approach is taken to confidential decision records or the minutes of the meeting.

8.6.52 A Member's entitlement (under common law or under statute) to see a report containing confidential or exempt information, extends to relevant background papers. However, the Member must maintain the confidentiality of the background papers.

8.6.53 A Member who is refused access to information and is dissatisfied with this response, may take the matter up with the appropriate Senior Leadership Team Officer (or Chief Executive for corporate or cross-cutting issues) who, if necessary, will consult with the Leader of the relevant group, the relevant Cabinet Member or Opposition Group Spokesperson and the Monitoring Officer before responding.

## **PART 2 – Members' Access to Information and Confidentiality Issues – General.**

8.6.54 There are two basic requirements for information to be considered confidential.

- (a) It must not already be published and widely available publicly.
- (b) The information must fall under the protection of the confidentiality laws, eg personal data, commercially sensitive data, military secrets and the like. In many areas of law such as Access to Information, Data Protection and Freedom of Information the categories protecting information are clear. The general law is far less clear and there has to be a legitimate expectation of confidentiality. Without justification, writing "confidential" at the top of a document will not provide legal protection, nor is a document "confidential" merely because its contents



may be embarrassing or inconvenient.

8.6.55 Confidentiality usually arises because a person or organisation claims confidentiality for information they have, and wish to withhold from publication. In the public sector anyone wishing to claim protection at law for confidential information is increasingly likely to have to justify that claim.

8.6.56 Confidential information can only be released or passed on with legal justification or with proper authority, eg, with the consent of a person properly authorised to give it. To release confidential information without consent:

- (a) Could lead to legal action (against either the individual personally and/or the Authority).
- (b) Is likely to be a breach of the Council's Standards of Conduct for Officers or the Members' Code of Conduct.

If you are unsure whether information passed to you is confidential or not please check its status with the sender before you pass it to anyone else.

8.6.57 The Members' Code of Conduct includes 'tests' that Members must fulfil if they are considering releasing confidential information, as follows:

- (i) The 'public interest' test. In order for disclosure to be in the "public interest", the information should involve one or more of the following matter(s), or something of comparable seriousness:
  - a) a criminal offence;
  - b) failure to comply with a legal obligation;
  - c) a miscarriage of justice;
  - d) serious health or safety issue
  - e) potential damage to the environment
  - f) deliberate concealment of any of the above matters;
- (ii) The 'good faith' test. For a disclosure to be in "good faith", a Member should not be acting with an ulterior motive, eg to achieve a party political advantage or to settle a score with a political opponent or some other person.
- (iii) The "reasonable requirements of the Authority" test, which requires the Member to comply with the Council's policy or protocols on matters such as whistle blowing, confidential information and any other specific requirements which the Council may reasonably make. The Member must first raise his or her concerns through the appropriate channels set out in relevant policies or protocols

8.6.58 Anyone considering releasing confidential information without consent is strongly advised to obtain and consider professional advice before passing the information on. In the case of members you must consult the Monitoring Officer or the County Solicitor before releasing such information without consent.

8.6.59 A person passing on confidential information with legal justification or permission must make it clear to the recipient of the information that the information is confidential and must not be disclosed. If the recipient cannot provide appropriate assurance that the confidentiality of the information will be respected, it must not be passed on.

## **G - PROTOCOL FOR MEMBER / OFFICER RELATIONS**

### **Content:**

1. Introduction
2. Members
3. Officers
4. The Relationship: General
5. Family Relationships
6. Officer advice to Party Groups
7. Provision of Support Services to Members and Party Groups
8. Members' Access to Information and to Council Documents
9. Officer – Cabinet/Chair Relationships
10. Specific Member Roles / Officer Relationships
11. Conduct at meetings
12. Press and Media
13. Correspondence
14. Involvement of local County Councillors
15. Elections
16. Breaches of this Protocol
17. Monitoring, Review and Further Advice

## 1. Introduction

- 1.1 The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another. The Protocol's intention is to build and maintain good working relationships between Members and Officers as they work together.
- 1.2 A strong, constructive, and trusting relationship between Members and Officers is essential to the effective and efficient working of the Council.
- 1.3 This Protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared object of these Codes is to enhance and maintain the integrity of Local Government and they therefore demand very high standards of personal conduct.
- 1.4 The following extract from the Local Government Association ("LGA") guidance on the 2020 Local Government Association Model Councillor Code of Conduct states that:

*"Both Councillors and officers are servants of the public and are indispensable to one another. Together, they bring the critical skills, experience and knowledge required to manage an effective local authority."*

*At the heart of this relationship, is the importance of mutual respect. Councillor-officer relationships should be conducted in a positive and constructive way. Therefore, it is important that any dealings between Councillors and officers should observe reasonable standards of courtesy, should show mutual appreciation of the importance of their respective roles and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.*

*Councillors provide a democratic mandate to the local authority and are responsible to the electorate whom they represent. They set their local authority's policy framework, ensure that services and policies are delivered and scrutinise local authority services.*

*Councillors of the executive, chairs and vice chairs of committees have additional responsibilities. These responsibilities will result in increased expectations and relationships with officers that are more complex. Such Councillors must still respect the impartiality of officers and must not ask them to undertake work of a party-political nature or compromise their position with other Councillors or other officers.*

*Officers provide the professional advice and managerial expertise and information needed for decision making by Councillors and to deliver the policy framework agreed by Councillors. They are responsible for implementing decisions of Councillors and the day-to-day administration of the local authority.*

*The roles are very different but need to work in a complementary way.*

*It is important for both sides to respect these differences and ensure that they work in harmony. Getting that relationship right is an important skill. That is why the code requires Councillors to respect an officer's impartiality and*

*professional expertise. In turn officers should respect a Councillor's democratic mandate as the people accountable to the public for the work of the local authority.*

1.5 The provisions of this Protocol are designed to complement the LGA Guidance and LGA Model Code of Conduct and will be interpreted having regard to the requirements of the Members' Code of Conduct, the Officers' Code of Conduct, the Council's Whistleblowing Policy and the Council's policies, procedures and processes. This Protocol sets out how the relationship works and what both Members and Officers can expect in terms of mutual respect and good working relationships.

1.6 Definitions in this document:

- Members: refers to elected or co-opted Members
- Senior Officer: refers to members of the Council's senior leadership team
- Officers: refers to officers employed by the Council
- Administration: refers to the largest ruling political group on the Council.
- Opposition Group: refers to the largest political group in opposition on the Council.

## **2. Members**

2.1 Mutual respect between Members and Officers is essential to good Local Government. Overly close personal familiarity between individual Members and Officers can damage this relationship and can be perceived as inappropriate or favouritism by the public or other Members and Officers.

2.2 It is important that any dealings between Members and Officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position.

2.3 In line with the Members' Code of Conduct, a Member must treat others with respect, must not bully or harass people and must not do anything which compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, the Council.

2.4 Officers can expect Members:

- to give political leadership and direction and to seek to further their agreed policies and objectives with the understanding that Members have the right to take the final decision on issues based on advice
- to act within the policies, practices, processes and procedures established by the Council
- to work constructively in partnership with Officers acknowledging their separate and distinct roles and responsibilities
- to understand and support the respective roles and responsibilities of Officers and their associated workloads, pressures and reporting lines

- to treat them fairly and with respect, dignity and courtesy
- to act with integrity, to give support and to respect appropriate confidentiality
- to recognise that Officers work to the instructions of their Senior Officers and not to individual Members or political groups
- not to subject them to intimidation, harassment, or put them under undue pressure. Members will have regard to the seniority of Officers in determining what are reasonable requests, having regard to the relationship between the Member and Officer, and the potential vulnerability of Officers, particularly at junior levels
- not to request them to exercise discretion which involves acting outside the Council's policies and procedures
- not to authorise, initiate, or certify any financial transactions or to enter into any contract, agreement or undertaking on behalf of the Council or in their role as a Member without proper and lawful authority
- not to use their position or relationship with Officers to advance their personal interest or those of others or to influence decisions improperly
- to comply at all times with the Members' Code of Conduct, the law, the Constitution and such other policies, procedures, protocols and procedures agreed by the Council.

2.5 It is important that Members of the Council:

- respect the impartiality of Officers and do not undermine their role in carrying out their duties
- do not ask Officers to undertake work, or act in a way, which seeks to support or benefit a particular political party or gives rise to an Officer being criticised for operating in a party-political manner
- do not ask Officers to exceed their authority where that authority is given to them in law, by the Council or by their Senior Managers

2.6 The Head of Paid Service, the Monitoring Officer and the Chief Finance (section 151) Officer and other Statutory Officers including the Director of Adult Services, Director of Children Services, Public Health Director, the County Solicitor and the Scrutiny Officer have specific responsibilities placed on them by law. These responsibilities go beyond their obligations as employees of the Council. Where an Officer is discharging their responsibilities under any statutory office Members shall not:

- improperly interfere with or obstruct the Officer in exercising those responsibilities
- victimise any Officer who is discharging or has discharged their responsibilities of Statutory Office
- compromise or attempt to compromise their impartiality and must allow them to carry out their duties in a neutral, non-biased and non-partisan way

### **3. Officers**

- 3.1 The primary role of Officers is to advise, inform and support all Members and to implement the lawfully agreed policies of the Council.
- 3.2 Officers are responsible for day-to-day managerial and operational decisions within the Council. Members should avoid inappropriate involvement in such matters.
- 3.3 In performing their role Officers will act professionally, impartially and with political neutrality. Whilst Officers will respect a Member's view on an issue, the Officer should not be influenced or pressured to make comments, or recommendations which are contrary to their professional judgement or views.
- 3.4 Officers must:
  - implement decisions of the Council and its Committees which are lawful, which have been properly approved in accordance with the requirements of the law and the Council's Constitution and are duly recorded.
  - work in partnership with Members in an impartial and professional manner
  - treat Members fairly and with respect, dignity and courtesy
  - assist and advise all parts of the Council. Officers must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.
  - respond to enquiries and complaints in accordance with the Council's procedures.
  - be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public.
  - act with honesty, respect, dignity and courtesy at all times.
  - provide support and learning and development opportunities for Members to help them in performing their various roles.
  - not seek to use their relationship with Members to advance their personal interests or to influence decisions improperly.
  - comply, at all times, with the Officer Code of Conduct, and such other Policies or procedures approved by the Council.
  - Officers have the right not to support Members in any role other than that of Member, and not to engage in actions incompatible with this Protocol. In particular, there is a statutory limitation on Officers' involvement in political activities.

#### **4. The Relationship: General**

- 4.1 Members and Officers are indispensable to one another. However, their responsibilities are distinct. Members are accountable to the public, whereas Officers are accountable to the Council as a whole.
- 4.2 At the heart of the Codes, and this Protocol, is the importance of mutual confidence and trust and also of civility. Member/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position nor seek to exert undue influence on the other party. It is also important that such dealings take place only when Members and Officers are acting in their official capacity. It is important that both parties respect the other's free time.
- 4.3 Members should not raise matters relating to the conduct or capability of an Officer, or of Officers collectively, in a manner that is incompatible with this Protocol at meetings held in public, on social media or in the press. Officers do not necessarily have the same right of reply to such comments as Members do and Members should take care not to abuse or exploit this imbalance.
- 4.4 A Member who is unhappy about the actions taken by, or conduct of, an officer should:
- avoid personal attacks on, or abuse of, the officer at all times
  - ensure that any criticism is well founded and constructive
  - ensure that any criticism is made in private
  - take up the concern with the appropriate Senior Manager
  - If the matter is of a particularly serious nature inform the Chief Executive Officer.
- 4.5 Neither should an officer raise with a Member matters relating to the conduct or capability of another Officer or to the internal management of the service in a manner that is incompatible with the objectives of this Protocol.
- 4.6 Potential breaches of this Protocol are considered at paragraph 15 below.

#### **5. Family relationships and friendships on Social Media**

- 5.1 Any family relationships between Members and Officers (e.g. parent/child, spouse/partner) must be disclosed as soon as reasonably practicable to the Chief Executive Officer who will then decide how far this needs to be disclosed to others.
- 5.2 A Member should not take up a decision-making role where it would give them decision-making responsibility for any Officer to whom they are closely related so as to avoid any perceptions or accusations of preferential treatment or a lack



of objectivity.

- 5.3 If a Member or Officer is in any doubt about what is appropriate or not in relation to 5.1 or 5.2 above, then they should seek the advice of the Monitoring Officer or County Solicitor.
- 5.4 Members and Officers should carefully consider the appropriateness of forming friendships on social media and whether this will infer a friendship between the Officer and Member that could create a perception of lack of objectivity.

## **6. Officer Advice to Party Groups**

- 6.1 There is statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to such considerations by party groups.
- 6.2 The support provided by Officers can take many forms, ranging from a briefing meeting with a member of the Cabinet or shadow Cabinet or Chair prior to a Committee meeting, to a presentation to a full party group meeting. Whilst in practice such Officer support is likely to be in most demand from the Administration, such support is available to all party groups.
- 6.3 Any requests for advice or attendance are to be directed through the Group Leaders, Cabinet Members (or their shadows) or Chairs for the relevant Committee. The request shall be made to the relevant Senior Officer or, in their absence, to their deputy or the next appropriate lower tier Officer. An Officer accepting an invitation to one political group or individual will not decline an invitation to advise another political group or individual on the same subject. However, the Officer is not obliged to offer to advise another political group on the same subject.
- 6.4 Certain points must however be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:
  - (i) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not expected to be present at meetings, or parts of meetings, when matters of *party* business are to be discussed;
  - (ii) Party Group Meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such, particularly having regard to the risk of challenge on the grounds of pre-determination;

- (iii) The presence of an Officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so;
- (iv) Similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Council meeting, Committee or Sub-Committee when the matter in question is considered.

6.5 In relation to budget proposals;

- (a) The Administration shall be entitled to confidential discussions with Officers regarding options and proposals. These will remain confidential until determined by the Administration or until published in advance of the Cabinet /Council meetings, whichever is the earlier;
- (b) The opposition groups shall be entitled to confidential discussions with officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Cabinet/Council meetings, whichever is the earlier.

6.6 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons will not be bound by the Council's Codes of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons, Officers will only attend in these circumstances where the request has been made to, and agreed by, a Senior Officer. It must then be understood that Officers may not be able to provide the same level of information and advice as they would to a 'Members only' meeting.

6.7 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group, unless agreed otherwise.

6.8 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive Officer who will discuss them with the relevant group leader(s).

## **7 Provision of Support Services to Members and Party Groups**

7.1 Officers provide support services and resources to Members as agreed by the Council to enable them to undertake their various roles. This includes the provision of direct Personal Assistant support to the Leader, Cabinet and Chair of Council which is provided on a part-time basis.

7.2 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport, etc.) to Members is to assist them in discharging their role as Members of the Council. Such support services should therefore only be used on Council

business. They should never be used in connection with party political or campaigning activity or for private (including business) purposes.

## **8 Members' Access to Information and to Council Documents**

- 8.1 Members are free to approach any service area of the Council to provide them with such information, explanation and advice (about the service area's functions) as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a service areas activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Senior Manager for the service area concerned.
- 8.2 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law. Further details on this and the use of Council information that is provided to a Member are set out in the Protocol on Members' Access to Information and other Confidentiality Issues.
- 8.3 Members are expected to give reasonable notice of requests for information and to have regard to the cost of producing detailed information.

## **9 Officer – Cabinet Member/Chair Relationships**

- 9.1 It is clearly important that there should be a close working relationship between the relevant Cabinet Member or Chair of a Committee and the Senior Officers who support that Portfolio or Committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers' ability to deal impartially with other Members and other party groups.
- 9.2 Under the Constitution, individual Members of the Cabinet may, in some situations, take decisions. The Council has put in place mechanisms to ensure that the individual Cabinet Member seeks advice from relevant Members and Officers before making a decision within their delegated authority. This includes taking legal advice, financial advice and professional officer advice.
- 9.3 The Council's delegation scheme and resolutions passed at Cabinet or Committee meetings may authorise a named Officer to take action, sometimes in consultation with one or more Members such as the Cabinet Member or Chair and Vice-Chair of a Committee. In these circumstances it is the Officer, rather than the Member, who takes the decision or action and it is the Officer who is accountable for it.
- 9.4 Finally, it must be remembered that Officers within a service are accountable to their Senior Officer and that, whilst Officers should always seek to assist a Cabinet Member or Chair (or indeed any Member) they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Senior Officer.

## 10. Specific Member Roles / Officer Relationships

### 10.1 Leader & Chief Executive Officer / Senior Officers

The Leader gives political direction and leadership to the Council. The role encompasses:

- Setting standards of conduct and expectations for his / her group of Members and resolving any instances of misconduct by a member of that group that has been referred to him/her from the Standards Committee / Hearing Panel.
- Appointing his/her Cabinet and allocating responsibilities to Cabinet Members and Officers under the Cabinet Scheme of Delegation
- Encouraging all Members to play a full part in the running of the Council and being effective community leaders.
- Working closely with the Chief Executive Officer to ensure proper coordination of the Council's leadership and management. The Leader and Chief Executive Officer have ultimate responsibility for the corporate working of the Council. They also have responsibility for ensuring that overall partnership working is effective.
- The Chief Executive Officer is responsible to the Leader for the corporate, strategic and operational management of the Council.
- The Council will provide sufficient support and resources to enable the Leader to perform his / her role effectively.

### 10.2 Cabinet Members and Officers

- Cabinet Members will develop the expertise, knowledge of and responsibility for the service(s) allocated to them by the Leader. This includes taking decisions delegated to them by the Leader within the Cabinet Scheme of Delegation. The nature of this role means that Cabinet Members will work closely with their relevant Senior Officer(s) particularly on policy development, decision-making, service delivery and performance issues.
- For their area of responsibility, the Cabinet Member provides political focus and leadership for their political group and is the lead spokesperson and 'first' political contact for opposition group spokespersons, other Members of Council, the public, press and Officers.
- The Council will provide sufficient support and resources to enable the Cabinet Member to perform their role effectively.

### 10.3 Leader of the Opposition and Officers

The Leader of the largest political group in opposition on the Council has several key

roles including:

- supporting the democratic process by ensuring that the activities of the Administration are appropriately examined, contributed to and, where considered necessary, challenged through mechanisms provided for in law and within the Constitution;
  - bringing forward alternatives to policies or operational decisions proposed by the Administration, as appropriate;
  - giving political direction and leadership to their group of Members, setting standards of conduct and expectations and resolving any instances of misconduct by a member of that group referred to him/her by the Standards Committee / Hearing Panel
  - liaising with the leaders of other minority political groups on the Council.
- 
- The office-holder should establish effective working relationships with particularly the Chief Executive Officer and Senior Leadership Team officers and other Officers, as appropriate.
  - The Council will provide appropriate support, resources and advice to enable the office-holder to perform their role effectively.
  - In addition, other minority Group Leaders will play a similar role as set out above in respect of the members of their own groups.

#### 10.4 Scrutiny Members and Officers

Members of the Council's Scrutiny Committees shall:

- obtain the advice of the Monitoring Officer or County Solicitor where they consider there is doubt about the vires for a decision or they consider a decision of the Leader, Cabinet, Cabinet Member or an Officer might be outside the policy and / or budget framework.
- when considering calling Officers to give evidence, consult the relevant Senior Officer to identify as to the most appropriate Officer to attend.
- when asking Officers to give evidence, confine questions, so far as possible, to questions of fact and explanation relating to policies and decisions. Officers may be asked to give a professional opinion, but Officers must not be asked questions relating to political views.
- where they consider it appropriate, ask Officers to explain and justify advice given to Members prior to decisions being taken and justify decisions they themselves have taken under the Council's Constitution.
- not question Officers in such a way as to be in breach of the Members' Code of Conduct nor deal with matters which are of a personal or disciplinary nature.

It is not the role of scrutiny to act as a disciplinary tribunal in relation to the actions of Members or Officers. Neither is it the role of Officers to become involved in what would amount to disciplinary investigations on a Scrutiny Committee's behalf. This means:

- (a) Overview & Scrutiny's questioning about the conduct of individuals should be in the sense of establishing the facts about what occurred in the making of decisions or implementing of Council policies, not to imply criticism or blame;
- (b) In these circumstances, it is for the Chief Executive Officer to institute a formal enquiry, and Overview & Scrutiny may ask (but not require) him/her to do so.

Overview & Scrutiny should not act as a "Court of Appeal" against decisions or to pursue complaints by individuals, as other procedures exist for this. These are internal, for example, the Council's corporate complaints procedure, and external/statutory, for example the Local Government Ombudsman or appeal to the Courts. However:

- (a) Overview & Scrutiny may investigate the manner in which decisions are made but should not pass judgement on the merits or otherwise of a decision in individual cases;
- (b) They can comment on the merits of a particular policy affecting individuals.

Wherever possible Overview & Scrutiny should provide written questions or details of indicative topics to someone invited to appear before the Committee to ensure they have adequate time to prepare for the meeting. In addition, invitees ought to be told the general line that further questioning is likely to take. Questioning should not stray outside the subject area that the Committee has previously indicated.

Officers shall:

- maintain political impartiality at all times when commenting on the Cabinet's / Council's policies and actions.
- be prepared to explain and justify advice given to Members of the Cabinet and the Council prior to decisions being taken and justify decisions they themselves have taken under the Council's Constitution.
- ensure that appropriate Officers appear before the relevant Council body.

## **11. Conduct at meetings of the Council**

- 11.1 Officers should respect Members in the way they respond to Member' questions. Members should not question Officers in a way which could be interpreted as harassment.
- 11.2 Proceedings must not be used to question the capability or competence of Officers, or to criticise them in public. Chairs and Members need to make a distinction between reviewing the policies and performance of the Council and its services, and appraising the personal performance of Officers (particularly at scrutiny meetings.) The latter is not an appropriate role for Members.
- 11.3 Senior Officers have the right to present reports and give advice to Committees and sub-committees of the Council. All reports to Council meetings include the

name of a contact officer, and Members are encouraged to approach that Officer for any query or issue they wish to raise prior to the meeting.

- 11.4 Members on a Committee or sub-committee shall take decisions within the remit of that body, and will not instruct Officers to act otherwise.
- 11.5 At meetings of the Council, a resolution may be passed which authorises a named Officer to take action between meetings in consultation with the Chair, other Member(s) of that body or other Officers. In these circumstances it is the Officer, not the Chair, who takes the action and is responsible for it. Neither the Chair nor any other Member, or group of Members, (other than Cabinet Members) has any legal power to take decisions on behalf of the Council; neither should they apply inappropriate pressure on the officer.

## **12. Press and Media**

- 12.1 Local Authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Council, explaining its objectives and policies to the electors and customers. Local Authorities use publicity to keep the public informed and to encourage public participation. The Council needs to tell the public about the services it provides. Good effective publicity should aim to improve public awareness of the Council's activities. Publicity is a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant.
- 12.2. The Council must comply with the provisions of the Local Government Act 1986 ("the Act") regarding publicity. All media relations work will comply with the national Code of Practice for Local Government Publicity. The Code is statutory guidance and the Council must have regard to it and follow its provisions when making any decision on publicity.
- 12.3 All Council press releases should be in accordance with the Council's agreed Media Guidelines and must be issued through the Council's Communications Team.
- 12.4 Members or political groups have the right to issue political press releases but these shall not be prepared or issued using the Council's resources of any kind. If a Member is contacted by, or contacts, the media on an issue, they should:
  - indicate in what capacity they are speaking (e.g. as a local County Councillor, in a personal capacity, as a Cabinet Member, on behalf of the Council, or on behalf of a party group);
  - if necessary, and always when they would like a press release to be issued on a non-party political nature seek assistance from the Council's Communications and Marketing Team;
  - consider the likely consequences for the Council of their statement (e.g. commitment to a particular course of action, image, allegations of predetermination);
  - never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter;
  - consider whether to consult other relevant Members; and
  - take particular care in what they say in the run-up to local or national elections to avoid giving the impression of electioneering, unless they been

contacted as an election candidate or political party activist.

It is important for Members to comply with their general obligations in the Code of Conduct when dealing with the press and media and recognise that as a representative of the Council their actions impact on how the Council as a whole is viewed by the public.

- 12.5 Lead Members with special responsibilities will receive training in handling the media and shall receive additional support as required and as appropriate for their roles from the Communications and Marketing Team.
- 12.6 Any press release that may be necessary to clarify the Council's position in relation to disputes, major planning developments, court issues or individuals' complaints should be approved by the appropriate Senior Manager and/or the Monitoring Officer.
- 12.7 Members should have regard to their obligations under 4.3 above when making any statements to the press or media.

## **13 Correspondence**

### **13.1 Use of Paper**

- 13.1.1 The paper containing the Council's corporate identity image must be used for all correspondence written on behalf of the Council. When Members are writing in their capacity as a Member they must make it clear whether they are writing on behalf of the Council or as the divisional member. Members must never use paper or electronic communications containing the Council's corporate identity image for personal, party political or business matters.

### **13.2 Correspondence between Members and Officers**

- 13.2.1 Correspondence from an individual Member to an Officer will not normally be copied by the Officer to any other Member unless it is the intention of the Member that it should be so (e.g. representations made in relation to a planning application). Where, exceptionally, and having sought the advice of a Senior Officer, it is considered appropriate to copy the correspondence to another Member, then the original Member should be given prior notification and be told to whom it is proposed to be copied and the reasons for this proposed course of action. The decision of whether another Member should be sent the correspondence is ultimately for the Chief Executive Officer to take.
- 13.2.2 Particular care needs to be taken with email correspondence where the Council's use of email policy should be followed. For example, when dealing with constituency email correspondence be careful when copying emails when using 'cc' or 'bcc' or 'reply to all'. Only copy your email to those people that really need to see it, don't inadvertently forward confidential information and don't forward a constituent's email to others even within the Council without having first obtained their consent.



14.1 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the division or divisions affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the relevant local County Councillors should be notified at the outset of the exercise.

## 15. Elections

15.1 Particular rules apply around elections and by-elections. These are contained in the Somerset Election Protocol.

## 16. Breaches of the Protocol

16.1 This paragraph of the Protocol should be read in conjunction with the Council's Whistleblowing Policy.

16.2 Where the relationship between Members and Officers breaks down or becomes strained, every effort will be made to resolve matters informally, through conciliation by an appropriate Senior Officer or Members.

16.3 Where a **Member** is dissatisfied with the conduct, behaviour or performance of an Officer, the matter should be raised with the relevant Senior Leadership Team Officer. Where the Officer concerned is a Director, the matter should be raised with the Chief Executive Officer. Where the employee concerned is the Chief Executive Officer, the matter should be raised with the Monitoring Officer.

16.4 The Senior Officer will acknowledge the complaint and advise on next steps. The timescale for dealing with such a complaint will be in accordance with the Council's normal complaints procedure.

16.5 Members have a right to know if action has been taken to address a matter, but they must not, either:

- influence, or seek to influence, the level of disciplinary action to be taken against an Officer, nor
- insist (nor be seen to insist) that an Officer is disciplined.

16.6 Members have a right to be told the outcome of any disciplinary case, but have no entitlement to detailed information about the hearing or its conduct aside from those Members of the Officer Appeals Committee where specific cases are considered by the Committee.

16.7 Where an **Officer** feels that they have not been properly treated with respect and courtesy, and wishes to make a complaint under the Members' Code of Conduct this should be made to the Monitoring Officer or the County Solicitor. In the event of the concerns being raised informally, the Monitoring Officer may refer the matter to the leader of the relevant party group or to the Member concerned. In the event of a formal complaint, the Monitoring Officer will consider whether the complaint should be referred for investigation, other action or whether no further action should be taken and the Council's procedures for dealing with Members' Code of Conduct complaints will be

followed as set out in the Constitution.

- 16.8 Breaches of this Protocol by a Member may constitute a breach of the Members' Code of Conduct.
- 16.9 Breaches of this Protocol by an Officer may be referred for disciplinary action.

## **17 Monitoring, Review and further Advice**

- 17.1 The application and implementation of this Protocol will be monitored and reviewed by the Council's Standards Committee in consultation with the Council's Monitoring Officer or County Solicitor.
- 17.2 Further advice on the interpretation of this Protocol is available from the Chief Executive Officer, Monitoring Officer or County Solicitor.

# **I – SOMERSET COUNTY COUNCIL PROTOCOL: COUNCIL AND THIRD PARTY RECORDING AND WEBCASTING OF COMMITTEE MEETINGS:**

Somerset County Council is committed to being open and transparent in the way it conducts its business. The press and members of the public are therefore welcome to film, photograph or record at any meeting that is open to the public and to use social media such as Twitter, Facebook and blogs. The Council has also put in place arrangements so that some public meetings such as Cabinet and Full Council should be the subject of live web transmission ('webcasting'), or recorded for subsequent transmission.

This Protocol aims to assist the conduct of webcast meetings and to ensure that in doing so the Council is compliant with its obligations under the Data Protection Act 1998 and the Human Rights Act 1998. It also provides practical information to assist anyone considering recording meetings and anyone speaking at meetings which may be recorded.

In accordance with the Openness of Local Government Bodies Regulations 2014 recording is allowed at all formal meetings of the authority to enable those not present to see or hear the proceedings either as they take place (or later) and to enable the reporting of those proceedings.

In this Protocol references to:

- 'Recording' covers any means used to record the proceedings including filming, auto-recording and the use of photography.
- 'Reporting' covers the reporting of the business of the meeting via any social media.
- 'Council meetings' covers all formal Full Council, Cabinet and Committee meetings which are open to the press and public to attend and other meetings as agreed at the time by the Council.

## **General**

A notice will be included on the agenda and also be displayed on the door and inside the meeting room advising everyone who attends that the meeting may be webcast or recorded and that by attending the meeting they are consenting to the broadcast of their image.

Those wishing to record proceedings (including elected members) should, as a courtesy, inform the chair (or clerk) of the committee of their intentions prior to the beginning of the meeting.

The Chair will make an announcement to attendees at the start of the meeting informing attendees that the meeting may be webcast or recorded and that the Chair may terminate or suspend the webcast or recording should the Chair consider this desirable to maintain the proper running of the meeting. If objections are raised by members of the public, then the person responsible for the recording must take all reasonable steps to ensure that an individual request not to be recorded is complied with. Elected members and officers attending a formal public meeting and in an official capacity cannot object to being recorded or filmed. Anyone who remains at the meeting after the Chair announcement will be deemed to have consented to the broadcast of their image.

Recording must be non intrusive and the Chair may order the removal of a member of the public from a meeting should that person, having been warned, continue to interrupt proceedings. The Chair may also call for any part of the meeting room to be cleared in the event of a general disturbance.

**PLEASE NOTE:** Any person or organisation choosing to record or broadcast any meeting is responsible for any claims or other liability from them so doing and by choosing to record or broadcast proceedings they accept that they are required to indemnify the Council, its members and officers in relation to any such claims or liabilities.

### **Before the meeting**

Anyone intending to record or webcast a meeting should contact the Democratic Services Team on 01823 357628 for advice and guidance. Reasonable advance notice will enable practical arrangements to be made and any special requirements to be discussed.

Flash photography, additional lighting or large equipment will *not* be permitted, unless agreed in advance and it can be accommodated without causing disruption to the proceedings. Requests to use equipment of this nature will be subject to consideration of the constraints of the meeting rooms.

### **During the meeting**

Recordings taken by press representatives, members of the public and elected members may only be taken from the area designated for the public and:

- Recording devices must be in silent mode
- No flash or additional lighting is permitted

Recordings must be taken from one fixed position and must not obstruct others from observing proceedings. Other than in accordance with this provision, members must not record, photograph or film other elected members, staff or members of the public during a meeting.

Any person can provide a written commentary during the course of a meeting that falls under this Protocol. Oral commentaries are not permitted within the meeting room during the course of the meeting.

Recording of meetings should:

- Not interfere with the effective conduct of the meeting, nor should it be disruptive or distracting. The Chair has discretion to suspend or stop recording at any time if and to take appropriate action if anyone is, in their opinion, doing so in a disruptive manner.
- Not seek to 'overview' sensitive information such as close ups of confidential papers or private notes
- Not obstruct others from observing and participating in the proceedings.
- Cease immediately if and when the meeting agrees to formally exclude the Press and public due to business of an Exempt or Confidential nature.
- Not be edited in a way that could lead to misinterpretation of the proceedings or the comments made, or that ridicules those being recorded.
- When published or broadcast, recordings should be accompanied by information including when and where the recording was made and the context in which the discussion took place.
- Be overt (i.e. clearly visible to anyone at the meeting).
- Cease, unless continued recording has been explicitly agreed by the Chair, when the meeting is formally concluded.

It should be noted that Members will be accessing their meeting documentation ie agenda and reports electronically. This stems from a decision by Council to have paperless meetings in order to reduce the costs associated with hard copies.

The Chair can require recording to be stopped where:

- The requirements of section 3 above are not met by the person doing the recording
- The press and public are excluded from the meeting due to the nature of (exempt or confidential) business being discussed
- There is public disturbance or a suspension/adjournment of a meeting

- The recording has become disruptive or distracting to the good order and conduct of the meeting
- Where it is considered that continuing the recording might infringe the rights of an individual or intimidate them.

### **Exempt or confidential business**

No part of any meeting will be webcast or recorded after members have passed a resolution excluding the press and public because there is likely to be disclosure of exempt or confidential information. The Democratic Services officer will ensure that recording of the meeting has ceased and will confirm this to the Chair before any discussion of exempt or confidential matters is commenced. If the person doing the recording is not present then the clerk shall remove the equipment from the meeting room for the consideration of confidential or exempt business.

### **Practical advice**

#### 1. Speaking at a meeting

Firstly and most importantly remember to speak into the microphone each time to ensure that your words can be clearly heard.

Try to avoid moving unduly whilst speaking and using expansive hand gestures; because the video stream is highly compressed all movement causes temporary pixilation and leads to a diminution of picture quality. In addition the camera operator will struggle to keep a moving person in shot. For the same reason if giving a presentation please try to stand in the same area rather than walking around the room.

When other people near you are speaking please bear in mind that you may still be on camera. Bear in mind that even when there is no audience in the room members of the public are nonetheless watching the meeting.

#### 2. Microphone noise

Microphone noise is an artificial sound that is introduced when an object touches the microphone; speakers should not tap pencils and rings against microphones or touch the cable. When speaking, do not place objects in-between yourself and the microphone as this may distort what you are saying.

#### 3. Clothing

It is advisable to avoid bright colours which tend to cause exposure problems

when webcast.

Stripes and checked clothes are best avoided as they can cause a strobe effect when webcast, especially when the subject is moving.

#### Application of this Protocol to Members

The Council's Code of Conduct for Members states that Members must:

- not conduct themselves in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct of Members and
- must act in accordance with the Council's reasonable requirements.

Members must therefore have regard to the requirements of this protocol in carrying out their duties.

#### Rules for use of Recordings by Third Parties

A The law applies to any information recorded and transmitted including the laws on defamation, public order, Human Rights and Data Protection and intellectual property rights. Freedom of speech within the law should also be exercised with personal and social responsibility.

B. Any published recording should be accompanied by a statement of when and where the recording was made, the context of the discussion, and a clear identification of the main speakers and their role or title.

C. Those making recordings must not edit the recording in a way that could lead to misinterpretation or misrepresentation of the proceedings or comments made by attendees. In particular there should be no internal editing of published extracts; recordings may start at any point and end at any point but the material between those points must be complete.

D Those making recordings will be responsible for any breaches of the law resulting from their use of recorded material. The Council takes no responsibility for any recording carried out by a third party or its subsequent use.

This page is intentionally left blank



# **P – Somerset County Council Whistleblowing Policy**

## **Introduction**

The term whistleblowing is generally used only with reference to workers and has a specific legal definition under the Public Interest Disclosure Act 1998, i.e., a disclosure of information which, in the reasonable belief of the worker, is made in the public interest and tends to show serious misconduct. In a non-legal context, the term might also be used to describe a similar disclosure of information, by anyone who is not a worker. The Council recognises that as a public body, it might receive a disclosure of information, not just from its workers, but from members of the public as well.

The term 'worker' includes an employee of the Council, agency staff, contractor or consultant doing work for the Council, collectively referred to in this policy as "employees". A member of the public will be anybody not falling within the definition of 'employees', which could include, the parent of a child at a school, or any person who uses Council services.

This policy applies to disclosures from employees, but also sets out the Council's commitment to deal with disclosures from members of the public in the same way. To this end, where this policy refers to a "whistleblower", it refers to both employees and members of the public who make a disclosure. In this policy, receipt of any such information will simply be referred to as a "concern" or a "disclosure".

Somerset County Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment, we wish to encourage employees and members of the public, who have serious concerns about any aspect of the Council's work to come forward and voice those concerns.

Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

This policy is intended to encourage and enable individuals to raise concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside. The policy makes it clear that individuals can do so without fear of victimisation, subsequent discrimination or disadvantage. The Council is committed to listening to concerns, taking them seriously and ensuring that they are dealt with promptly and fairly.

The policy will be published to ensure that it is available and accessible to employees and members of the public.

The policy can also be used to raise concerns about suppliers and those providing services under a contract with the Council in their own premises, for example, care homes or schools.

The policy is in addition to the Council's Complaints Procedure and other statutory reporting procedures applying to some service areas. A decision on which route each concern takes will be made upon receipt.

There is a Grievance Procedure in place for employees to raise a concern relating to their own employment. The policy is based on the Department for Business Innovation & Skills: Guidance for Employers and Code of Practice and has been discussed with the relevant trade unions and professional organisations and has their support.

In addition to the Council's commitment to protect employees who raise concerns, the Public Interest Disclosure Act 1998 provides a worker with potential protection from detriment and dismissal for making a 'qualifying disclosure'. The Act has rules for making a protected disclosure:

- You must reasonably believe the disclosure is in the public interest.
- You must believe it to be substantially true.
- You must not act maliciously or make false allegations.
- You must not seek any personal gain.

An employee who raises a concern under this policy and reasonably believes the disclosure is in the public interest, will be protected from any claim of defamation by the Council's insurance policy.

### **Aims and Scope of the Policy**

This policy aims to:

- Encourage employees and members of the public to feel confident in raising serious concerns and to question and act upon concerns about practice;
- Provide avenues for employees and members of the public to raise concerns and receive feedback on any action taken;
- Ensure that employees and members of the public receive a response to concerns and that they are aware of how to pursue them if they are not satisfied;
- Reassure employees and members of the public that they will be protected from possible reprisals or victimisation if they have a reasonable belief that the disclosure made is in the public interest.
- Assist with deterrent and detection of wrongdoings.

This policy is intended to cover major concerns reasonably believed to be in the public interest in one or more of the following categories:

- Criminal offences, for example, fraud, theft, physical or sexual abuse.
- Failure to comply with an obligation set out in law.
- Miscarriages of justice.
- Abuse or bullying of clients including children and vulnerable people, Evasion of statutory responsibilities.
- Unauthorised use of public funds or other assets.
- Abuse of power for financial or other gain.
- Endangering of someone's health and safety (employee or member of the public).
- Damage to the environment.
- Other causes of malpractice, negligent, unprofessional or unethical behaviour.
- Covering up wrongdoing in the above categories.

Thus, serious concerns which you have about any aspect of service provision or the conduct of employees or members of the Council or others acting on behalf of the Council can be reported under the Whistleblowing Policy. This may be something that:

- makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to; or
- is against the Council's Standing Orders, Financial Regulations and policies; or
- falls below established professional standards of practice; or
- amounts to improper conduct.

The whistleblowing procedure cannot be used as an alternative to the council's grievance or safeguarding policy and procedures. Whistleblowing usually has an element of public interest attached to it. Typically, the matter involved presents a risk to others, such as customers, taxpayers, or the environment. A concern about your own employment situation is more properly addressed by means of the council's grievance procedure.

### **How to Raise a Concern**

If you are an employee who has a concern, we hope you will feel able to raise it first with your line manager or Director in writing. To assist you, the concern should be copied to the whistleblowing generic email address: [confidential@swapaudit.co.uk](mailto:confidential@swapaudit.co.uk) (the confidential phone number is 020 8142 8462).

If you feel unable to raise the matter with your Line Manager or Director, for whatever reason, please raise the matter through the confidential phone number on 020 8142 8462 or email to [confidential@swapaudit.co.uk](mailto:confidential@swapaudit.co.uk). This line is monitored by our Internal Audit provider, South West Audit Partnership (SWAP). SWAP is independent of the Council.

If you are a member of the public, please raise your matter directly with SWAP on the contact details above.

A member of staff will take your call, which will be in complete confidence. It is always helpful if you can give a little background information, but if you are not comfortable doing so, please just leave your contact details. You can leave a home or mobile number if you don't want to be contacted at work, but please let the call recipient know when it would be convenient for you to be called back.

After you make your initial contact, the hotline staff will pass a message on to a member of the SWAP Counter Fraud and Investigations Team who endeavour to respond to all initial calls within 48 hours (excluding weekends). They will then consider what action should be taken.

It is sometimes necessary to undertake an investigation. Investigations are undertaken by staff who have the technical and professional skills relevant to each particular case.

If the above channels have been followed but you continue to have concerns or believe that those listed above are implicated then you should approach one of the following:

- The Chief Executive.
- The Head of Governance and Democratic Services (who is also the Council's Monitoring Officer).

Please consider that:

- When raising a concern, you must declare any personal interest you have in the matter.
- The earlier you express the concern, the easier it is to act.

Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate that there are reasonable grounds for a concern. However, you must not attempt to investigate a concern or accuse individuals directly.

Advice and guidance on how to pursue matters of concern may also be obtained from:

- HR Advisory Service
- The Council's Legal Team
- Your trade union/ a professional association representative.

Employees may wish to consider discussing concerns with a colleague first and may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.

Employees may invite a trade union /professional association representative or work colleague to be present during any meetings or interviews in connection with the concerns raised. Meetings can be arranged off-site if necessary.

If there is an immediate risk call 999 for emergency services or 101 for local Police.

If you have concerns regarding abuse to adults or children you may also contact Safeguarding on 0300 123 2224 or out of hours on 0300 123 23 27.

### **How Will We Respond**

The Council (or SWAP) will respond to your concerns as quickly as possible. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.

The action taken by the Council will depend on the nature of the concern. Where appropriate, the matters raised may:

- be investigated by management or SWAP Internal Audit Services;
- be referred to the Police;
- be referred to an external auditor;
- form the subject of an independent inquiry;
- be dealt with under a more appropriate Council procedure.

In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, child protection or discrimination issues or financial irregularities) will normally be referred for consideration under those procedures.

Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.

Within ten working days, the Council (or SWAP) will write to you:

- acknowledging that the concern has been received;
- indicating how they propose to deal with the matter giving an estimate of how long it will take to provide a final response;
- telling you whether any initial enquiries have been made;
- supplying you with information on staff support mechanisms, and
- telling you whether further investigations will take place, and if not, why not.

The amount of contact will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from you.

The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For example, if you are required to give evidence as an employee, the Council will arrange for you to receive advice about the procedure from a nominated officer, usually someone from HR or legal.

The Council accepts that you need to be assured that the matter has been properly addressed and you will be informed of the final outcome of the investigation. In some circumstances, however, it may not be possible to reveal the full details where this relates to personal issues involving a third party or legal constraints.

If you make an allegation that you reasonably believe is in the public interest but it is not confirmed by the investigation, no action will be taken against you.

## **Support**

If you are unsure whether to use this policy or want independent advice or support at any stage, you may contact The independent charity Protect (formerly Public Concern at Work) on 020 3117 2520. Their advisers can give you free confidential advice on how to raise a concerns appropriately.

## **How the Matter can be taken Further**

This policy is intended to help you raise concerns you may have. Hopefully, you will be satisfied with any action taken. If you are not, there are other people you can contact and these are:

- the External Auditor;
- your Trade Union/professional association;
- relevant professional bodies or regulatory organisations (for example Health and Safety Executive)
- Public Concern at Work
- an elected Member of the Council
- the Police;
- the ombudsman;
- your own solicitor.

If you do take the matter outside the Council, you should ensure that you do not misuse confidential information. The person you contact should be able to advise you on this.

The policy, in line with the legislation, provides protection for employees who raise concerns internally. It is inconsistent with the satisfactory operation of the policy to pursue such concerns with the media (newspapers, TV, radio, etc) and employees who do so are unlikely to be protected by the provisions of the Public Interest Disclosure Act and may be subject to disciplinary action.

### **Anonymous Allegations**

This policy encourages you to put your name to your allegation whenever possible.

Concerns expressed anonymously or through a third party are much less powerful and may not be possible to investigate. SWAP will discuss these with the Council's Monitoring Officer, and it will be at their joint discretion as to whether the concern will be considered further.

In exercising this discretion, the factors to be taken into account would include:

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

### **Harassment or Victimisation**

The Council recognises that the decision to report a concern can be a difficult one to make. The Council will not tolerate any harassment or victimisation (including informal pressures) and will take action to protect you when you raise a concern where you reasonably believe the disclosure is in the public interest.

Disciplinary action will be taken against an employee if they try to stop you from raising a concern or if an employee is responsible for any act of recrimination against you for raising a concern.

Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

### **Confidentiality**

All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. It must be appreciated, however, that the investigation process may reveal the source of the information, and that a statement may be required as part of the evidence and/or you may be asked to come forward as a witness at the appropriate time. We will keep your identity confidential, if that is what you

want, unless required to disclose it by law (for example, by the police or if it is required to be disclosed for the purposes of subsequent disciplinary action).

### **False Allegations**

If an allegation is knowingly made frivolously, maliciously or for personal gain, disciplinary action may be taken. The Whistleblower does not need evidence but instead need to have reasonable belief that the concerns raised are true.

### **The Responsible Officers**

SWAP will retain a record of all whistleblowing concerns and these will be shared at regular intervals with the Monitoring Officer who has overall responsibility for monitoring the policy and will report annually to the Council's Standards Committee on the operation of the policy.

### **Links to other Policies**

The Council has agreed a Constitution, which sets out how the Council operates, how decisions are made, and the procedures to follow to ensure that these are efficient, transparent and accountable to local people. While some of these processes are required by law, others are a matter for the Council to choose. The Constitution also has a number of rules and regulations to make sure that financial, working and organisational procedures are properly controlled.

### **Review**

The policy will be kept under review and as a result may be subject to amendment by the Whistleblowing Policy Contact Officer:

Scott Wooldridge  
Monitoring Officer and Head of Governance & Democratic Services  
Somerset County Council  
01823 357628 or [swouldridge@somerset.gov.uk](mailto:swouldridge@somerset.gov.uk)

Policy last reviewed February 2022.



# Somerset County Council Constitution

## Glossary

*This glossary explains key terms used in the Council's Constitution but is not part of the Constitution.*

### Adjourned

To suspend (i.e. a meeting) with the intention to resume it later.

### Annual Governance Statement

A public statement which reviews how well the Council has kept to its own governance rules.

### Annual Statement of Accounts

See Statement of Accounts.

### Anti-Fraud and Corruption Strategy

The Council's strategy for protecting its valuable resources which describes the expectations and practices to avoid their loss.

### Asset Management Plan / Strategy

The Council's approach to getting the best possible value and revenue from things it owns (assets), such as buildings, land, roads and technology.

### Approved Supplier List

A list of suppliers which have met specific criteria to enable them to provide particular goods or services to the Council.

### Balance Sheet

A statement of the Council's assets, liabilities, and capital at a particular point in time which details the balance of the Council's income and expenditure over the preceding period.

### Budget

Every year the Council puts a financial plan or budget in place. This shows how and where the Council will spend money to provide services and deliver the aims which it set out in its corporate plan / vision. It also sets the level of Council tax which it will charge in the next financial year. All councils must set a balanced budget.

### Cabinet

Also known as the Executive, the Cabinet is the Council's strategic decision-making body responsible for making the majority of decisions - "Executive Decisions"- for which the Council is responsible. The Cabinet is made up of the Leader and up to nine other elected councillors, including up to two Deputy Leaders, who are appointed and led by the Leader of the Council

### Cabinet Member

An elected councillor appointed to the Cabinet by the Leader. Some Cabinet Members are assigned responsibility for a specific 'portfolio' and are sometimes referred to as 'Portfolio Holders'. Cabinet Members can also make key decisions which are included in the Forward Plan.

### Capital and Investment Strategy

The Council's medium to long term plan for investing in its asset base.

### Capital Programme

Part of the Medium Term Financial Plan which sets out capital projects approved by full Council over a medium term, multi-year period.

### Chair of the Council

The Chair of the Council is an elected member who chairs meetings of the Council and carries out a variety of civic and ceremonial duties. The Chair is elected to be the Chair by the other members of the Council, usually at the Council's Annual Meeting in May. The Chair cannot be a Cabinet Member and is assisted in their work by the Vice-Chair.

### Chief Executive

The Council's most senior Officer who is responsible for the management and direction of the Council's Officers. The Chief Executive manages the Council's Senior Leadership Team and is accountable to the Leader of the Council, the Cabinet and the Council as a whole. The Chief Executive is designated as the Council's Head of Paid Service and is one of the Statutory Officers.

### Chief Finance Officer

The Chief Finance Officer (CFO) is a Statutory Officer\*. The CFO is responsible for managing the Council's finances and providing expert financial advice to the Council. The CFO must be a qualified accountant and balancing the Council's budget each year is one of their major responsibilities. This officer is referred to as the Section 151 Officer throughout this Constitution.

*\* Section 151 of the Local Government Act 1972 requires every Council to have a Chief Financial Officer.*

### Clear Days

Does not include the starting or finishing day. Example: for 5 clear days notice: do not include the day when notice was given. If this was on a Tuesday, time starts to run on Wednesday. Notice would not be completed until 12.01am the following Wednesday. If clear working days are used Saturday, Sunday or bank holidays would not be counted.

### Code of Conduct (Councillor Code of Conduct / Officer Code of Conduct)

A set of rules which elected and co-opted councillors and officers must follow.

### Commercial Agreement

A type of contract by way of which goods, services or other tasks are provided or undertaken for consideration (usually money).

## Commissioning

Within the Council, the process of specifying, securing and monitoring service delivery by and from a provider- usually from outside the Council (i.e. a contractor).

## Committee

A Committee is a formal group of elected councillors whose remit, terms of reference and operating rules are set out in the Council's Constitution. There are many different committees of the Council. Each one makes decisions about a specific area of responsibility – for example audit or planning.

## Confidential Information

In relation to meetings and reports this is information which the Council has received from a Government department on terms but which it cannot disclose publicly.

It can also be information which (i) the Council cannot disclose due to a court order or legislation or (ii) is not in the public domain, is information which you would expect to be kept out of the public domain and was given to the Council in such a way that made it clear it was meant to be kept confidential.

## Constitution

A governance document, or 'rule book', which sets out how the Council is run, how decisions are made and how it complies with the law.

## Contingent Liability

A liability which may be incurred by the Council dependent upon a future uncertain event, eg a court case.

## Contract

An agreement which: may be oral, written, partly oral and partly written or implied from conduct between the Council and another person; gives rise to obligations which are enforceable or recognised by law (i.e. legally binding); and commits the Council to paying or doing something.

A reference to a contract may also include a contract to which the Contract Procedure Rules apply and a "call off contract" means an order made or call off contract entered into under a Framework Agreement.

## Contractors

See suppliers.

## Contract Management

The process of ensuring the contract results in the benefits and outcomes envisaged and that the advantages secured during the tendering phase are realised and improved through further proactive performance management during its term.

### Contract Management System

The IT system and associated processes used to support supplier and contract management, providing visibility and a single view of all Council contracts. It includes the Council's contract register.

### Contract Procedure Rules

The part of the Constitution that sets out the procedures to be followed when seeking to establish a contract with an external supplier.

### Council

The term often used to refer to the whole organisation (i.e. members and officers); but see full Council below. The Council is led by councillors who are elected by the public. They set the priorities and the budget for the organisation. Staff working for the Council (officers) deliver the day to day operations. The word Council is used to refer both to the organisation as a whole and specifically to the decision-making body.

### Council Body

May include any Committee, Board or Panel.

### Council Tax

The income collected from residents based on banded property values and which funds a significant proportion of Council services.

### Councillor

A councillor is elected and is a member of the Council. Councillors stand for election normally every four years and are accountable to the residents of a specific area (their electoral ward) but are responsible for making decisions for the entire Council area.

Councillors do not have to be a member of a political party, but most do; those who do not are known as 'un-grouped' or 'independent' councillors.

### Councillor Call for Action

The Councillor Call for Action allows councillors to refer matters of concern within the community to the relevant Board or Committee. The aim of this opportunity is to provide councillors with additional powers that enable them to respond to local community concerns which have proved difficult to resolve.

### Debt Management Strategy

The Council's strategy to manage and recover the sums of money it is owed.

### Decisions

The choices and agreements made on a particular issue. The Council's Constitution sets out the rules on how formal decisions are to be taken in compliance with the law. The Constitution also sets out that decisions are to be recorded and published. (see also Key Decisions)

### Director

The Council's most senior officers report directly to the Chief Executive and are accountable to Members and the Cabinet. These posts include the statutory Director of Adult Social Services (DASS) and the Director of Childrens Services (DCS).

## Disclosable Pecuniary Interest

Means a financial interest as defined in [‘The Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#)

### Division

A division is an electoral area. Somerset County Council has 55 divisions.

## **Elected Member**

See Councillor

## **Executive**

See Cabinet

## Exempt Information

In relation to meetings and reports this means information which can be withheld from the public. It must pass one of seven tests in order for it to be exempt and it must also be in the public interest to do so. If an item is deemed to be exempt during a public meeting, then members of the public and any press have to leave the meeting while exempt information is being discussed.

## External Auditors

An independent auditor appointed to review the Council’s financial and management arrangements.

## Financial Year

The financial year for the Council is not the same as the calendar year. Our financial year starts on 1st April and ends on 31<sup>st</sup> March.

## Financial Regulations

The rules which set out how the Council will manage its financial affairs

## Forward Plan

A list of the ‘key decisions’ the Council will make over the next one to four months. The forward plan also includes a summary of any reports which will be presented to the Cabinet. You can see the forward plan for the Council on the website.

## Framework

A term used in different ways which refers to the way that the Council operates, for example, policy framework, commissioning framework, governance framework.

## Full Council

The full Council is all the 110 councillors who make up Somerset County Council. Full Council meets throughout the year with the meeting being chaired by the Chair. Full Council takes specific decisions, including setting the budget. It also appoints committees to make decisions about specific issues such as planning and licensing.

## Function

Within the Council, a function is a service which the Council provides or an activity which it undertakes, or which it has a duty to deliver; for example housing and education.

### Head of Paid Service

The Head of Paid Service is a 'statutory officer' with overall responsibility for the employment of Council Officers (currently the Chief Executive).

### Independent Person

The Council has to have at least one designated independent person who is not a councillor or a member of staff. The independent person is consulted about complaints made against councillors and also about the dismissal of one of the council's statutory officers.

### Key Decision

Key decisions are executive decisions (not those made by committee) and are defined in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) (Regulations) 2012 and are decisions which:-

- Result in the Council incurring expenditure which is, or making savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
- Are deemed significant in terms of their effect on communities living or working within the area of the Council.

The Council has decided that other significant decisions will be treated as key decisions, described in the Constitution. Key decisions are taken by the Leader, the Cabinet, Cabinet Members or Officers under delegated authority.

### Leader (of the Council)

Councillors elect a person who will be the leader of the council. Usually this is the leader of the largest political group on the whole council. The Leader of the Council is also the Leader of the Cabinet and will appoint up to nine other councillors to form the Cabinet to take Executive decisions on behalf of the Council. The Leader can appoint up to two Deputy Leaders from the councillors appointed to the Cabinet.

### Legal Professional Privilege

Confidential communications between lawyers and their clients can be withheld from a court or from a third party using legal professional privilege.

### Legislation

The Law which can be made by Parliament which takes the form of an Act of Parliament (a statute) or Statutory Regulations or By-laws which can be made by the Council.

### Medium Term Financial Plan

Sets out the Council's budget (revenue and capital) over a period of more than one year; is linked to the Corporate Plan and Service Plans.

### Member

See Councillor.

### Minutes

The formal written record of a meeting. Minutes of Council meetings are available on the Council's website.

### Monitoring Officer

The Monitoring Officer is a 'statutory officer' responsible for the lawful and good governance of the Council, in particular the Constitution, decision-making and the conduct of councillors and officers.

### Motion

A proposal for a discussion or debate.

### Municipal Year

The period between annual meetings of the Council. The municipal year is not the same as the council's financial year, which starts on 1 April. The municipal year usually starts in May but is not a fixed date and as such the number of days in a municipal year varies slightly.

### Officer

Someone employed by the council.

### Planning Applications

Means planning applications for consent as well as applications for reserved matters approvals.

### Planning Officer

Means an employee of the Council tasked with processing and evaluating planning applications

### Policy

A policy sets out a strategic objective for the Council and provides a framework of principles and guidelines which officers must follow to achieve those objectives.

### Policy Framework

Refers to the Council's strategies and policies.

### Point of Order

Where a councillor considers that a breach of the Procedure Rules or legislation has occurred within a debate

### Portfolio

Within the Council, a portfolio is a specific area of responsibility, for example housing. You can see the portfolios and who is responsible for each area (the Portfolio Holders) on the website.

### Procedure

The means by which a strategy or policy will be implemented or a process which must be followed.

### Procurement

How the Council identifies, sources, selects and manages the resources which it needs to buy in to deliver services or meet its strategic objectives.

### Proper Officer

A term used to refer to the Council's lead Officer for a particular function.

## Quorum

The minimum number of attendees who have to be present at a meeting of the Council, a Committee or Sub-Committee etc to begin and / or conduct its business. If at any time a meeting is not quorate, its decisions at that time are not valid.

## Representations

Members of the public can give their views on any Cabinet or Cabinet Member reports or on proposed decision by informing Democratic Services by the deadline outlined in the report

## Reserves

Sums of money set aside on the Council's balance sheet. The Council has 'general reserves' and 'earmarked reserves' which are set aside for a specific purpose.

## Scheme of Delegation

The Scheme of Delegation sets out how the Council and the Cabinet have delegated authority to a committee or another body or to an individual councillor or senior officer to exercise their powers or perform their functions. The officer Scheme of Delegation concerns those powers and functions delegated to officers. The Scheme of Delegation will also specify any limits on the delegated authority.

## Section 151 Officer (S151 Officer)

See Chief Finance Officer.

## Standards Complaint

Refers to a complaint made against an elected or co-opted member that the member concerned has failed to comply with the relevant Members' Code of Conduct.

## Statement of Accounts

A document required by law which sets out the Council's financial position at 31<sup>st</sup> March each year and includes the Council's income and expenditure for a given financial year.

## Statute

An Act of Parliament – the law.

## Statutory

Required by law. Councils have statutory duties including preventing homelessness, managing community safety and determining planning applications.

## Statutory Officers

The Council is required by law to appoint officers in certain key roles. The Statutory Officers are the Head of Paid Service; the Monitoring Officer and the Section 151 Officer. The Council must also appoint other officers including a Director for Children's Services and the Director for Adult Social Services, a Director of Public Health and a Scrutiny Officer. For full details see the website.



This document is not a part of the constitution, but is guidance provided for the assistance of members

### Sub-Committee

A group of elected councillors from the committee in question convened to undertake a particular task or perform a particular function. The sub-committee then reports back and is accountable to the committee.

### Suppliers

Also known as 'contractors' suppliers are those parties which enter into a contract with the Council to provide goods or services.

### Trading Account

Services which are funded by generating income from internal and external sources.

### Treasury Management Strategy

The way in which the Council manages its cash, borrowing, lending and investments, and associated risks.

### Virement

The movement of money from one budget heading to another.

### Vires (intra vires / ultra vires)

A Latin word which means 'powers'. Within the Council vires concerns the power or lawful authority to make a decision, perform a function or undertake an action. A decision made, function performed or action undertaken will be 'intra vires' if the Council has the power and lawful authority to do it and 'ultra vires' if it does not.

This page is intentionally left blank

## **Somerset Council Guidance for Councillors on Gifts and Hospitality**

### **Introduction**

This guidance is for members of the Council and independent and co-opted members (voting and non-voting) and is to help protect your position and the reputation of the local authority. The relevant provisions from the Code of Conduct are set out in the Appendix.

### **General Guidance**

You should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult for example if it is seen as rudeness, in which case you could accept it but must ensure it is publicly registered.

You should not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on your part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.

You must register:

- (i) any gift or hospitality with an estimated value of at least **£50**; or
- (ii) any gift or hospitality with an estimated value of at least **£50** that has been offered to you that you have refused to accept;

with the Monitoring Officer within 28 days of that offer or receipt.

The acceptance of gifts and hospitality is not always unlawful or inappropriate. The decision for you in every case is whether or not it is appropriate to accept any gift or hospitality that might be offered to you, having regard to how it might be perceived. No hard and fast rules can be laid down to cover every circumstance as to what is appropriate or inappropriate. This guidance is intended to enable you to make your own decision.

### **Limits of Guidance**

This guidance does not apply to:

- Gifts and hospitality you receive from family and friends (e.g. as birthday or Christmas presents) that are not related to your position as a member.
- The acceptance of facilities or hospitality provided by the Council.
- Gifts given to the Council that you accept formally on the Council's behalf which are retained by the Council and not by you personally.

### **Appropriate Gifts and Hospitality**

There are some circumstances where you may accept gifts and hospitality in the normal course of your duties as a member such as:

This document is not a part of the constitution, but is guidance provided for the assistance of members

- Civic hospitality provided by another public authority.
- Normal and modest refreshment or modest meals in connection with any meeting as a member.
- Tickets for sporting, cultural and entertainment events which are sponsored or promoted by the Council or bodies to which you have been appointed by the Council, if the tickets are offered in relation to that sponsorship or promotion.
- Small low value gifts (such as pens, calendars, diaries, flowers and other mementos and tokens).
- Drinks or other modest refreshment in the normal course of socialising arising consequentially from Council business (e.g. inclusion in a round of drinks after a meeting).

### **Principles to apply in relation to Gifts and Hospitality**

You should ask yourself whether you would have received the gift or hospitality if you were not a member of the Council. If you are in any doubt as to the motive behind an offer of a gift or hospitality, you should consider speaking to the Monitoring Officer before deciding whether to accept it.

In deciding whether it is appropriate to accept any gifts or hospitality you must apply the following principles:

- If you have any suspicion that the motive behind the gift or hospitality is an inducement or reward you must decline it.
- “Reward” includes remuneration, reimbursement or fee.
- Do not accept a gift or hospitality of significant value or whose value is excessive in the circumstances.
- Do not accept a gift or hospitality if acceptance might be open to misinterpretation or if you believe it will put you under any obligation to the provider as a consequence.
- Do not solicit any gift or hospitality and avoid giving any perception of doing so.
- Even if you only accept part, it is the total value of the gift or hospitality that is on offer that you should use in calculating whether it exceeds the **£50** threshold.

### **Registration of Gifts and Hospitality**

The Code of Conduct provides that you must register the offer or acceptance of any gift or hospitality with an estimated value of at least **£50**. Registration in the register of members’ interests should take place as soon as possible after the offer or acceptance of the gift or hospitality and must be made within 28 days. The registration details should include the source and nature of the gift or hospitality.

Although the registration requirement in the Code of Conduct is limited to the offer or acceptance of gifts or hospitality over the value of **£50**, you are encouraged to register any gift or hospitality you are offered or accept below this value. There is however no obligation in relation to gifts and hospitality which are below **£50** in value.

It is also a requirement of the Code of Conduct that members register gifts or hospitality of at least £50 in value which they refuse to accept and include the details of the source and the nature of the gift or hospitality that has been refused.

This document is not a part of the constitution, but is guidance provided for the assistance of members

## **Enforcement**

It is a criminal offence for a person corruptly to give or offer any gift, reward or advantage as an inducement or reward to you for doing or forbearing to do anything as a member of the Council.

You must immediately report to the Monitoring Officer any circumstances where an inappropriate offer of gift(s) or hospitality has been made to you. You may thereafter be required to assist the Police by providing evidence and/or assisting with their investigations. In the event of a prosecution you may be required to give evidence in court.

Allegations of any failure to comply with this guidance must be made in writing to the Monitoring Officer.

Any failure to comply with this guidance could lead to you being accused of breaking the law or breaching the Code of Conduct or your personal reputation and/or that of the Council being seriously jeopardised.

The Council's Standards Committee has responsibility for overseeing compliance with this guidance. This guidance will be subject to annual review by the Standards Committee.

## **Appendix**

### **9 Gifts and hospitality**

As a councillor:

- 9.4 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 9.5 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 9.6 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 that I have been offered but have refused to accept within 28 days of the offer.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

This page is intentionally left blank

# Somerset County Council

## Social media guidance for Members

### **Introduction**

Social media is the term used for online tools, websites and interactive media that enable users to interact with each other by sharing information, opinions, knowledge and interests. This guidance covers social media issues over the internet and by email, smart phones, social networking sites, blogging, and tweeting.

Social media increases our access to audiences and improves the accessibility of our communication. It enables us to be more active in our relationships with citizens, partners and stakeholders and encourages people to be involved in local decision making, enabling better engagement and feedback, ultimately helping to improve the services we provide.

For the purposes of this guidance, the term 'social media' covers sites and applications including but not restricted to Facebook, Twitter, MySpace, Flickr, YouTube, LinkedIn, blogs, discussion forums, wikis and any sites which may emerge after the creation of this guidance.

Somerset County Council acknowledges social media as a useful tool however, clear guidelines are needed for the use of social media sites to ensure they are used effectively as part of a wider communications mix and that their use does not expose the council to security risks or breach the Data Protection Act.

### **Purpose**

This guidance applies to councillors in respect of their personal use of social media. It sets out how to use social media, how to effectively manage social media usage and indicates how any risks or pitfalls can be minimised or mitigated. The following risks have been identified with social media use (this is not an exhaustive list):

- Virus or other malware (malicious software) infection from infected sites.
- Disclosure of confidential information.
- Social engineering attacks (also known as 'phishing').
- Discrimination, bullying, harassment or witch-hunting.
- Civil or criminal action relating to breaches of legislation.
- Breach of safeguarding through the use of images or personal details leading to the exploitation of vulnerable individuals.

This document is not a part of the constitution, but is guidance provided for the assistance of members

- Breach of the County Council's Members Code of Conduct through inappropriate use.

In light of these risks, the use of social media sites should be regulated to ensure that such use does not damage the council's employees, partners and the people it serves. As such this guidance aims to ensure:

- Council information and computer systems/networks remain secure and are not compromised through the use of social media.
- Users operate within existing policies, guidelines and relevant legislation..

Members must ensure that they use social media sensibly and responsibly and that their use will not adversely affect the council or its business.

### **Responsibilities of councillors**

You are personally responsible for the content you publish on any form of social media, in the same way that you are responsible for letters or emails you send. Publishing or allowing to be published (in the form of a comment) an untrue statement about a person which is damaging to their reputation may incur a libel action.

Social media sites are in the public domain and it is important to ensure you are confident of the nature of the information you publish. Once published, content is almost impossible to control and may be manipulated without your consent, used in different contexts, or further distributed.

Make use of stringent privacy settings if you don't want your social media to be accessed by the press or public. Read the terms of service of any social media site accessed and make sure you understand their confidentiality/privacy settings.

Do not disclose personal details such as home addresses and telephone numbers. Ensure that you handle any personal or sensitive information in line with the council's Data Protection Policy Statement.



This document is not a part of the constitution, but is guidance provided for the assistance of members

Safeguarding issues are paramount because social media sites are often misused by offenders. Everyone has a responsibility for protecting and safeguarding children and adults who may be vulnerable. If you have concerns that a child or adult is suffering or is likely to suffer from any form of maltreatment (whether financial, physical, sexual, emotional or neglect) this should be reported in the following ways:

- (a) if a child or vulnerable adult is in immediate danger or left alone, contact the police or call an ambulance on 999;
- (b) in all other cases involving children, referrals should be made to the County Council's social care services on 0300 123 2224;
- (c) in all other cases involving adults, referrals should be made to the Council's Adult Social Care on 0300 123 2224.

Do not publish or report on meetings which are private or internal (where no members of the public are present or it is of a confidential nature) or are Part 2 reports (which contain confidential information or matters which are exempt under the provision of the Local Government (Access to Information) Act 1985).

Copyright laws still apply online. Placing images or text from a copyrighted source (e.g. extracts from publications or photos) without permission is likely to breach copyright. Avoid publishing anything you are unsure about or seek permission from the copyright holder in advance.

Don't send or post inappropriate, abusive, bullying, racist or defamatory messages to members of the public, other councillors or officers either in or outside the work environment.

The council will not promote councillors' social media accounts during the pre-election period.

In any biography, the account should state the views are those of the councillor in question and may not represent the views of the council.

Do not use the council's logo, or any other council related material on a personal account or website.

Social media must not be used for actions that would put councillors in breach of the County Council's Members Code of Conduct For example, don't publish on social media something you wouldn't say face to face, or at a public meeting.

Be aware of your own safety when placing information on the internet and do not publish information which could leave you vulnerable.

This document is not a part of the constitution, but is guidance provided for the assistance of members

Anyone receiving threats, abuse or harassment via their use of social media should report it to their political group leader, Monitoring Officer and/or the police.

It is recommended that in the case of Facebook, councillors wishing to keep their personal life and role as a councillor separate create a Facebook page which members of the public can like rather than using their personal profiles.

### **Conduct**

Members are reminded that in respect of social media, they are governed by the County Council's Members Code of Conduct and relevant law.

This guidance is not exhaustive and if you have any queries you should contact the monitoring officer.

Breaches of this guidance may amount to a breach of the County Council's Members Code of Conduct. Other violations of this guidance, such as breaching the Data Protection Act, could lead to fines being issued and possible criminal or civil action being taken against the council or the individual(s) involved.

The council reserves the right to request the removal of any content that is deemed to be in breach of the County Council's Members Code of Conduct.

### **Principles for using social media**

You should follow these five guiding principles for any social media activities:

**Be respectful** – set the tone for online conversations by being polite, open and respectful. Use familiar language, be cordial, honest and professional at all times. Make sure that you respect people's confidentiality – do not disclose non-public information or the personal information of others.

**Be credible and consistent** – be accurate, fair, thorough and transparent. Encourage constructive criticism and deliberation. Make sure that what you say online is consistent with your other communications.

**Be honest about who you are** – it's important that any accounts or profiles that you set up are clearly and easily identifiable. Be clear about your own personal role.

**Be responsive** – make an effort to share what you know. Offer insights where appropriate and put people in touch with someone who can help if you can't. Respond to questions and comments in a timely manner.

This document is not a part of the constitution, but is guidance provided for the assistance of members

**Be confident** – don't be scared of participating. Follow this advice and seek further guidance if you need it. If you're about to publish something that makes you even the slightest bit uncomfortable, pause to think about it. Feel confident in what you say before you say it – and say it as clearly as you can.

### **Guidance on capturing social media posts**

Posts made using third party sites such as Facebook or Twitter are not held or within the control of the council - posts can be deleted by site administrators without knowledge or consent of the council. In exceptional circumstances, copies of posts may be made and retained by the council, (e.g. as evidence of inappropriate posts) in line with relevant council procedures, (depending on the nature of the allegation). These copies will be held for a period dependent on the type of investigation they are subject to, (e.g. disciplinary, audit, criminal, etc).

Where inappropriate use is suspected, it is suggested that you should pro-actively attempt to capture any inappropriate posts (before they might be deleted). Copies should be made (press, 'alt+Prt Scrn,' and copy into MS Word) and reported to both the relevant authority within the council as well as following the social media sites own reporting procedures where appropriate. Please note that this is just one means of gathering evidence of inappropriate use; it does not preclude the gathering of other types of evidence, e.g. witness statements.

### **Relationship with other council information**

This guidance should be read in conjunction with:

- County Council's Constitution
- Information Governance Social Media Policy
- Members Code of Conduct
- Data Protection Policy Statement
- Information Assurance Acceptable Usage Policy for email, internet and computer use

This page is intentionally left blank

# Somerset County Council

## Whistleblowing Policy guidance

### **1. What is Whistleblowing?**

1.1 The term whistleblowing is generally used only with reference to workers (referred to in Law as making a protected disclosure) and has a specific legal definition under the Public Interest Disclosure Act 1998, i.e., a disclosure of information which, in the reasonable belief of the worker, is made in the public interest and tends to show serious misconduct. In a non-legal context, the term might also be used to describe a similar disclosure of information, by anyone who is not a worker. The Council recognises that as a public body, it might receive a disclosure of information, not just from its workers, but from members of the public as well.

The term 'worker' includes an employee of the Council, agency staff, contractor or consultant doing work for the Council, collectively referred to in this policy as "employees". A member of the public will be anybody not falling within the definition of 'employees', which could include a Governor in a school maintained by the Council, the parent of a child at a school, or any person who uses Council services.

This policy applies to disclosures from employees, but also sets out the Council's commitment to deal with disclosures from members of the public in the same way. To this end, where this policy makes reference to a "whistleblower", it refers to both employees and members of the public who make a disclosure.

1.2 Whistleblowing is a positive act that can make a valuable contribution to the Council's efficiency and success. It is not viewed as disloyal to colleagues or to the Council to speak up in respect of concerns.

1.3 To be considered as whistleblowing, the person making the disclosure must reasonably believe two things;

- a) They are acting in the public interest
- b) That the whistleblowing tends to show past, present or likely future wrongdoing falling into one of the following categories;

- Criminal offences
- Failure to comply with an obligation set out in law
- Miscarriages of justice
- Endangering of someone's health and safety
- Damage to the environment

This document is not a part of the constitution, but is guidance provided for the assistance of members

- Possible fraud and corruption
- Covering up wrongdoing in any of the above categories

## **2. What is the aim of the policy and this initial quick guide?**

2.1 This quick guide sets out the key elements of the full policy which can be found on the Council's website and staff intranet pages. The intention is that you can raise a concern under 1.3 b) above without fear of victimisation, discrimination, disadvantage or dismissal. The Whistleblowing Policy is a reassurance to individuals that there is a safe alternative to silence.

2.2 If you are concerned about your treatment as an employee, you should raise this under the Council's grievance procedures. These can be found under the HR section of the intranet.

## **3. What protection is there for the whistleblower?**

3.1 The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the alleged malpractice. The Council will not tolerate harassment or victimisation and will take action to protect you when you raise a concern. 3.2 All concerns will be treated in confidence and every effort will be made not to reveal your identity, if this is your wish. In certain matters you may be asked to come forward as a witness, if you agree to this you will receive support and advice. In certain circumstances, such as serious safeguarding disclosures or criminal matters, it may not be possible to protect your anonymity or avoid you being called as a witness.

## **4. How do I raise a concern?**

4.1 If you are an employee who has a concern, we hope you will feel able to raise it first with your line manager or to a Director in writing. To assist you, the concern should be copied to the whistleblowing generic email address: confidential@swapaudit.co.uk (the confidential phone number is 020 8142 8462).

If you feel unable to raise the matter with your Line Manager or Director, for whatever reason, please raise the matter through the confidential phone number on 020 8142 8462 or email to confidential@swapaudit.co.uk. This line and email are monitored by our Internal Audit provider, South West Audit Partnership (SWAP). SWAP is independent of the County Council.

This document is not a part of the constitution, but is guidance provided for the assistance of members

If you are a member of the public, please raise your matter directly with SWAP on the contact details above.

4.2 If the above channels have been followed but you continue to have concerns or believe that those listed above are implicated, then you should approach one of the following Council senior officers:

- The Chief Executive.
- The Head of Governance and Democratic Services (who is also the Council's Monitoring Officer).

4.3 You can raise a concern by telephone, in person or in writing. A written record is recommended in order that you can fully reflect the nature of your concern and why you believe it to be true and to give a background and history of the concern with relevant dates if possible.

## **5. How the Council will respond to your concern?**

5.1 The Council (or SWAP) will respond to your concerns as quickly as possible. The overriding principle for the Council is that of the public interest. Initial inquiries will lead to a decision as to whether an investigation is appropriate and if so, what form it should take. The amount of contact between you and the officers considering the issues in the matter will depend on the nature of the issues involved. Within ten working days, the officer with whom you raised the concern will write to you:

- acknowledging that the concern has been received
- indicating how they propose to deal with the matter
- giving an estimate of how long it will take to provide a final response
- telling you whether any initial enquiries have been made
- supplying you with information on staff support mechanisms, and
- telling you whether further investigations will take place, and if not, why not.

5.2 The Council will obviously do what it can to minimise any difficulties that you may experience. You can expect that the Council will feedback the results of its inquiries and any subsequent investigation, subject to any legal limitations on disclosing any information or outcome.

## **6. What if I am not satisfied following the above?**

This policy is intended to help you raise concerns you may have. Hopefully, you will be satisfied with any action taken. If you are not, there are other people you can contact and these are:

- the External Auditor;

This document is not a part of the constitution, but is guidance provided for the assistance of members

- your trade union/professional association;
- relevant professional bodies or regulatory organisations (for example Health and Safety Executive) there is a list of prescribed persons and bodies on the HR Extranet site;
- Public Concern at Work;
- an elected Member of the Council;
- the Police;
- the ombudsman;
- your own solicitor.

If you do take the matter outside the Council, you should ensure that you do not misuse confidential information. The person you contact should be able to advise you on this.