

## SWT Audit and Governance Committee

Monday, 13th December, 2021,  
6.15 pm



Somerset West  
and Taunton

The John Meikle Room - The Deane  
House

[SWT MEETING WEBCAST LINK](#)

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**Members:** Lee Baker (Chair), Ed Firmin (Vice-Chair), Simon Coles, Hugh Davies, Dawn Johnson, Janet Lloyd, Andy Milne, Martin Peters, Steven Pugsley, Terry Venner and Sarah Wakefield

### Agenda

**1. Apologies**

To receive any apologies for absence.

**2. Minutes of the previous meetings of the Audit and Governance Committee**

To approve the minutes of the previous meetings of the Committee.

**3. Declarations of Interest**

To receive and note any declarations of disclosable pecuniary or prejudicial or personal interests in respect of any matters included on the agenda for consideration at this meeting.

(The personal interests of Councillors and Clerks of Somerset County Council, Town or Parish Councils and other Local Authorities will automatically be recorded in the minutes.)

**4. Public Participation**

The Chair to advise the Committee of any items on which members of the public have requested to speak and advise those members of the public present of the details of the Council's public participation scheme.

For those members of the public who have submitted any questions or statements, please note, a three minute time

(Pages 7 - 16)

limit applies to each speaker and you will be asked to speak before Councillors debate the issue.

### **Temporary measures during the Coronavirus Pandemic**

Due to the temporary legislation (within the Coronavirus Act 2020, which allowed for use of virtual meetings) coming to an end on 6 May 2021, the council's committee meetings will now take place in the office buildings within the John Meikle Meeting Room at the Deane House, Belvedere Road, Taunton. Unfortunately due to capacity requirements, the Chamber at West Somerset House is not able to be used at this current moment.

Following the Government guidance on measures to reduce the transmission of coronavirus (COVID-19), the council meeting rooms will have very limited capacity. With this in mind, we will only be allowing those members of the public who have registered to speak to attend the meetings in person in the office buildings, if they wish (we will still be offering to those members of the public that are not comfortable in attending, for their statements to be read out by a Governance and Democracy Case Manager). Please can we urge all members of the public who are only interested in listening to the debate to view our live webcasts from the safety of their own home to help prevent the transmission of coronavirus (COVID-19).

#### **5. Audit and Governance Committee Forward Plan**

(Pages 17 - 18)

To receive items and review the Forward Plan.

#### **6. External Auditor's Annual Report 2020/21**

(Pages 19 - 58)

This short covering report introduces the second stage of annual reporting by our External Auditor, Grant Thornton UK LLP, following completion of the Statement of Accounts for 2020/21. The Auditor's report, attached as Appendix 1, is comprehensive and primarily details the Auditor's findings on arrangements in place at SWTC to secure Value for Money. It reports on whether all aspects of the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources are operating effectively.

The Auditor's report includes a summary of findings and a hierarchy of recommendations to the Council which, in turn, are accompanied by the Council's management comments. The Auditor will present the report verbally at this meeting of the Committee.

#### **7. SWAP Internal Audit – Progress Report 2021-22**

(Pages 59 - 82)

The Internal Audit function plays a central role in corporate

governance by providing assurance to the Audit, Governance and Standards Committee, looking over financial controls and checking on the probity of the organisation.

The 2021-22 Annual Internal Audit Plan is to provide independent and objective assurance on SWT Internal Control Environment. This work will support the Annual Governance Statement.

**8. Summary of Level 1 and 2 Audit Actions Progress**

(Pages 83 - 90)

The purpose of this report is to update the Committee on progress against level 1 and 2 Internal Audit Actions as at the end of October 2021.

**9. Treasury Management 2021/22 Mid-Year Report**

(Pages 91 - 120)

To provide Members with an update on the Treasury Management activity of Somerset West and Taunton Council and performance against the Prudential Indicators in respect of the first six months of 2021/22.

**10. External Auditor Appointment Procurement Process**

(Pages 121 - 136)

This report sets out proposals for appointing the external auditor to the Council for the accounts for the five-year period from 2023/24.

**11. Health and Safety Management System – Performance Framework and Improvement Programme**

(Pages 137 - 154)

The purpose of this report is to provide the Audit and Governance committee with:

- A) an introduction to the Health and Safety (H & S) Performance Framework – the approach for how the Audit and Governance Committee will be kept updated on Health and Safety (H & S) Performance, and
- B) an introduction to, and progress against delivery of the H & S Management System (HSMS) Improvement Programme.

**12. Changes to the Constitution**

(Pages 155 - 334)

The matters set out in this report amount to modest changes to the SWT Constitution. This is to achieve, better clarity, the updating of minor changes and procedural refinement. This will ease the interpretation and effectiveness of the Constitution.

A handwritten signature in black ink, appearing to read 'A Pritchard', with a horizontal line underneath.

**ANDREW PRITCHARD**  
**CHIEF EXECUTIVE**



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Following Government guidance on measures to reduce the transmission of coronavirus (COVID-19), we will be live webcasting our committee meetings and you are welcome to view and listen to the discussion. The link to each webcast will be available on the meeting webpage, but you can also access them on the [Somerset West and Taunton webcasting website](#).

If you would like to ask a question or speak at a meeting, you will need to submit your request to a member of the Governance Team in advance of the meeting. You can request to speak at a Council meeting by emailing your full name, the agenda item and your question to the Governance Team using [governance@somersetwestandtaunton.gov.uk](mailto:governance@somersetwestandtaunton.gov.uk)

Any requests need to be received by 4pm on the day that provides 2 clear working days before the meeting (excluding the day of the meeting itself). For example, if the meeting is due to take place on a Tuesday, requests need to be received by 4pm on the Thursday prior to the meeting.

The Governance and Democracy Case Manager will take the details of your question or speech and will distribute them to the Committee prior to the meeting. The Chair will then invite you to speak at the beginning of the meeting under the agenda item Public Question Time, but speaking is limited to three minutes per person in an overall period of 15 minutes and you can only speak to the Committee once. If there are a group of people attending to speak about a particular item then a representative should be chosen to speak on behalf of the group.

Please see below for Temporary Measures during Coronavirus Pandemic and the changes we are making to public participation:-

Due to the temporary legislation (within the Coronavirus Act 2020, which allowed for use of virtual meetings) coming to an end on 6 May 2021, the council's committee meetings will now take place in the office buildings within the John Meikle Meeting Room at the Deane House, Belvedere Road, Taunton. Unfortunately due to capacity requirements, the Chamber at West Somerset House is not able to be used at this current moment.

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Full Council, Executive, and Committee agendas, reports and minutes are available on our website: [www.somersetwestandtaunton.gov.uk](http://www.somersetwestandtaunton.gov.uk)

For further information about the meeting, please contact the Governance and Democracy Team via email: [governance@somersetwestandtaunton.gov.uk](mailto:governance@somersetwestandtaunton.gov.uk)

If you would like an agenda, a report or the minutes of a meeting translated into another language or into Braille, large print, audio tape or CD, please email: [governance@somersetwestandtaunton.gov.uk](mailto:governance@somersetwestandtaunton.gov.uk)



**SWT Audit and Governance Committee - 13 September 2021**

Present: Councillor Lee Baker (Chair)

Councillors Ed Firmin, Simon Coles, Dawn Johnson, Janet Lloyd, Martin Peters and Terry Venner

Officers: James Barrah, Ian Candlish, John Dyson, Paul Harding, Alison North, Clare Rendell, Richard Sealy, Amy Tregellas, David Warren and Alastair Woodland

(The meeting commenced at 6.15 pm)

23. **Apologies**

Apologies were received from Councillors Steven Pugsley and Sarah Wakefield.

24. **Minutes of the previous meeting of the Audit and Governance Committee held on 26 July 2021.**

(Minutes of the meeting of the Audit and Governance Committee held on 27 July 2021 circulated with the agenda)

**Resolved** that the minutes of the Audit and Governance Committee held on 27 July 2021 be confirmed as a correct record.

25. **Declarations of Interest**

Members present at the meeting declared the following personal interests in their capacity as a Councillor or Clerk of a County, Town or Parish Council or any other Local Authority:-

Name	Minute No.	Description of Interest	Reason	Action Taken
Cllr L Baker	All Items	Cheddon Fitzpaine & Taunton Charter Trustee	Personal	Spoke and Voted
Cllr C Booth	All Items	Wellington and Taunton Charter Trustee	Personal	Spoke
Cllr N Cavill	All Items	West Monkton	Personal	Spoke and Voted
Cllr S Coles	All Items	SCC & Taunton Charter Trustee	Personal	Spoke and Voted
Cllr J Lloyd	All Items	Wellington & Sampford Arundel	Personal	Spoke and Voted
Cllr M Peters	All Items	Taunton Charter Trustee	Personal	Spoke and Voted

Cllr T Venner	All Items	Minehead	Personal	Spoke and Voted
Cllr B Weston	All Items	Taunton Charter Trustee	Personal	Spoke

26. **Public Participation**

No members of the public had requested to speak on any item on the agenda.

27. **Audit and Governance Committee Forward Plan**

(Copy of the Audit and Governance Committee Forward Plan, circulated with the agenda).

Councillors were reminded that if they had an item they wanted to add to the agenda, that they should send their requests to the Governance Team.

**Resolved** that the Audit and Governance Committee Forward Plan be noted.

28. **Corporate Equalities Action Plan Update**

During the discussion, the following points were raised:-

- Councillors were pleased to see that there was a member briefing set up to discuss Black Lives Matter, as the same training provider had delivered a very informative session for the Working Group.
- Councillors thanked the officers and councillors that had been involved in the work on the action plan.
- Councillors agreed that it was an important piece of work which had a lot of legal implications for the Council.
- Councillors had enjoyed being part of the Working Group and believed the composition was well represented.
- Councillors stated that as we moved towards a new Unitary Authority, they wanted to ensure that the objectives were carried forward into the New Council.
- Concern was raised that the objectives needed to be updated before the New Council was formed.

*The Strategy Specialist advised that it was always healthy to review the objectives and that work would be taken to the Working Group to carry out. The objectives were flexible and could be amended, he wanted to ensure that they benefited the whole community.*

- Concern was raised on how accessible the democratic process was for those in protected character groups.
- Councillors queried whether any progress had been made on finding a permanent site for gypsies and travellers.  
*The Strategy Specialist advised that work was still in progress across the county on finding a site.*
- Councillors highlighted the training that had been offered to officers and wondered if all councillors would be offered the same training.

*The Strategy Specialist advised that training would be offered to councillors, but they were aware there were already a lot of sessions being offered to councillors at present.*

- Councillors requested that the mental health training offered to officers should be rolled out as soon as possible.
- The Strategy Specialist agreed.

**Resolved** that the Audit and Governance Committee reviewed the Action Plan and noted the progress made to date.

## 29. **Landlord Health and Safety Property Compliance Update Report**

During the discussion, the following points were raised:-

- Councillors requested clarification on whether the 18 extra electricians being brought in to assist with workload, were existing officers that would be retrained or were they new employees.  
*The Assistant Director for Housing Property advised they were new employees.*
- Councillors queried who would monitor the quality and quantity of the work carried out.  
*The Assistant Director for Housing Property advised that there was a manager, supervisor and other officers who worked together as part of a risk audit and monitored the quantity and quality of the work carried out.*
- Councillors queried whether the 18 extra electricians were being employed on a short-term contract.  
*The Assistant Director for Housing Property advised that they were being employed through a contractor so not directly with the Council.*
- Councillors queried when the meeting halls would reopen.  
*The Assistant Director for Housing Property advised that there was a rolling programme to reopen all the meeting halls as they require a deep clean along with PAT testing and water testing at each premises.*
- Councillors requested reassurance that the remedial actions listed under water testing were not related to anything that would cause concern.  
*The Assistant Director for Housing Property gave councillors reassurance.*

**Resolved** that the contents of the report and progress being made in relation to landlord property safety compliance be noted.

## 30. **Internal Audit Plan Progress Update 2021-22 Q1**

During the discussion, the following points were raised:-

- Councillors were pleased to see that action had been taken to rectify the previous issues raised relating to the Deane DLO.
- Concern was raised on the limited assurance that had been given to the Health and Safety section, which mentioned lack of knowledge at member level.  
*The Director of SWAP advised that a Health and Safety update should be presented to the Audit and Governance Committee, which would improve knowledge at member level.*

- Concern was raised on the number of advisories in the report.  
*The Director of SWAP gave clarification on the advisories that had been given.*

**Resolved** that the Audit and Governance Committee noted progress made in delivery of the 2021-22 internal audit plan and significant findings since the previous update in June 2021.

### 31. **SWAP Internal Audit - Baseline Assessment of Maturity in relation to Fraud**

During the discussion, the following points were raised:-

- Councillors welcomed the push to ensure that the risk of fraud was reduced.
- Councillors queried how success was measured.  
*The Internal Auditor advised that measuring success was difficult, however a structure had been implemented to monitor the activity and a robust policy had been put in place to ensure the number of fraud cases were lowered.*
- Councillors queried when the next progress update report would be presented to the Committee.  
*The Internal Auditor and Monitoring Officer advised that the next report would be brought to the Committee in 3-6 months' time.*
- Councillors queried whether there were any whistleblowing investigations currently underway.  
*The Monitoring Officer advised that there were a couple being investigated.*
- Councillors queried how Somerset West and Taunton Council (SWT) compared to other councils in the audit.  
*The Internal Auditor advised that a baseline exercise had been completed and SWT had proved to be 'mature', however, there was still a little more work that needed to be carried out which could reduce the risk of fraud.*
- Concern was raised on the amber indicator next to the committee related risk and queried whether this was because councillors were not asking the correct type of questions at committee meetings.  
*The Internal Auditor advised that lack of training on fraud risk was the main reason, along with lack of reporting the fraud activity to committee. He further advised that it was the committee role to oversee the process and not that the committee had committed fraud.*
- Councillors requested to have some examples of cases added to the next report so they could understand what types of fraud were being detected.  
*The Internal Auditor would include the information in a confidential appendix.*

**Resolved** that the Audit and Governance Committee noted further information provided on the Baseline Assessment of Maturity in relation to Fraud.

### 32. **Summary of Level 1 and 2 Internal Audit Actions**

During the discussion, the following points were raised:-

- Concern was raised on the Procurement Strategy and that it was still marked as 'in progress'. Councillors were aware of a lot of procurement activity and wanted assurance that the process was secure.  
*The Corporate Finance Manager advised that there had been resourcing issues, which they were trying to rectify and were in the recruitment stages.*
- Councillors queried when the corporate training would take place on DLO invoicing and Street Scene procedures.  
*The Assistant Director for Customer would report back on this once the processes had been put in pace.*
- The Director of SWAP reassured councillors that since the report had been written, a lot of actions had been completed and that he was happy with the outcomes.

**Resolved** that the Audit and Governance Committee reviewed the overdue actions contained in the report and noted progress to date.

(The Meeting ended at 7.50 pm)





## SWT Audit and Governance Committee - 27 September 2021

Present: Councillor Lee Baker (Chair)

Councillors Ed Firmin, Simon Coles, Hugh Davies, Dawn Johnson, Andy Milne, Martin Peters, Steven Pugsley, Terry Venner and Sarah Wakefield

Officers: Paul Fitzgerald, Sian Hedger, Jackson Murray, Steve Plenty, Clare Rendell and Amy Tregellas

Also Present: Councillors Vivienne Stock-Williams, Loretta Whetlor, Alison North and John Dyson

(The meeting commenced at 6.15 pm)

### 33. Apologies

An apology was received from Councillor Janet Lloyd.

### 34. Declarations of Interest

Members present at the meeting declared the following personal interests in their capacity as a Councillor or Clerk of a County, Town or Parish Council or any other Local Authority:-

Name	Minute No.	Description of Interest	Reason	Action Taken
Cllr L Baker	All Items	Cheddon Fitzpaine & Taunton Charter Trustee	Personal	Spoke and Voted
Cllr S Coles	All Items	SCC & Taunton Charter Trustee	Personal	Spoke and Voted
Cllr H Davies	All Items	SCC	Personal	Spoke and Voted
Cllr A Milne	All Items	Porlock	Personal	Spoke and Voted
Cllr M Peters	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr T Venner	All Items	Minehead	Personal	Spoke and Voted

### 35. Public Participation

No members of the public had requested to speak on any item on the agenda.

### 36. Financial Management Code Compliance and Self-Assessment

During the discussion, the following points were raised:-

- Councillors queried whether a yearly update would be added to the Forward Plan.

*Officers advised that the report would be added to the Forward Plan.*

- Councillors requested clarification on some of the wording used within the report.

*The Interim Strategic Finance Advisor stated that the wording used was guidance from the Prudential Code which was published by the Chartered Institute of Public Finance and Accountancy (CIPFA) and that the document set out good practice for public body activities and that if the Council decided to disregard any guidance, a statement would have to be made with the reasons why.*

**Resolved** that the Audit and Governance Committee noted:

- a) The requirement to implement the Financial Management Code from 1st April 2021.
- b) The findings of the Financial Code Self-Assessment as compliant.
- c) The findings and evidence provided in the assessment and future enhancements proposed.

### 37. **Annual Governance Statement 2020/21**

During the discussion, the following points were raised:-

- Councillors queried why the new Standards Committee had not held a meeting yet.  
*The Monitoring Officer advised that there had not been any need to hold a meeting of the Standards Committee. However, a meeting would be needed in the New Year, as there were some constitutional issues that required debate.*
- Councillors queried what progress had been made on implementing a committee structure, as debated at the Special Full Council meeting on 29 April 2021.  
*The Monitoring Officer advised that the resolution was to recommend that a committee structure would be suggested to the Shadow Council.*
- Concern was raised on the outstanding action for data quality and councillors wanted reassurance that this was not related to General Data Protection Regulations (GDPR) and that action was being taken.  
*The Monitoring Officer advised that the action was on data quality and not GDPR. The data related to committee reports and that the quality levels were upheld.*

**Resolved** that the Audit and Governance Committee approved the Annual Governance Statement and Action Plan for 2020/21.

### 38. **Somerset West and Taunton Council Audit Findings Report 2020/21**

During the discussion, the following points were raised:-

- The External Auditor updated the Committee on several points that had changed since the publication of the agenda and an addendum would be distributed along with the Statement of Accounts for councillors.
- Councillors queried the list of assets included within the report and that there were potentially some missing.

*The External Auditor advised that officers were carrying out checks on old leases and that some information was not clear on the assets that were owned by the predecessor councils, which were then transferred to the SWT.*

- Councillors queried if the amount levels that had been set for asset checks could be challenged, as £99,000 seemed quite high.  
*The External Auditor advised that it was a national standard but understood their concern.*
- Concern was raised on missing forms for register of interest which was mentioned in the report.  
*The Monitoring Officer advised that the missing forms were for related party transactions and not register of interests.*
- Councillors requested clarification on the part constructed builds which had been included within the accounts.  
*The Section 151 Officer explained that the costs had been included in the last years accounts under construction and not inventory.*
- Councillors queried who chose the valuers.  
*The Section 151 Officer advised that the decision should have gone through the procurement process.*

**Resolved** that the Audit and Governance Committee:-

- 2.1 Noted the Audit Findings Report in respect of Somerset West and Taunton Council's Statement of Accounts 2020/21.
- 2.2 Approved management's proposed treatment of unadjusted misstatements, as set out in Appendix C of the Audit Findings Report.
- 2.3 Noted the Auditor's Opinion in relation to the Statement of Accounts and interim findings in respect of Value for Money arrangements.

### 39. **Assessment of Going Concern for 2020/21 Accounts**

**Resolved** that the Audit and Governance Committee reviewed and noted the assessment made of the Council's status as a "going concern" as a basis for preparing their 2020/21 Statement of Accounts.

### 40. **Somerset West and Taunton Council Statement of Accounts 2020-21**

During the discussion, the following points were raised:-

- Concern was raised on whether SWT had enough reserves in case another Non-Domestic Rates challenge was submitted by Hinkley Point.  
*The Section 151 Officer advised that yes there were enough reserves to cover that type of risk, as he was aware that this had happened in the past.*
- Councillors queried why there had been an increase in members expenses during a time of lockdown.  
*The Finance Specialist would need to check the figures.*
- Councillors queried why there were no bonds or deposits included in the accounts.  
*The Finance Specialist advised that on page 77, for Strategic Investments, the deposit fund had been reclassified elsewhere.*

- Councillors queried the deficit for Non-Domestic Rates and how it was going to be off set.  
*The Finance Specialist advised that it related to timings and the differences between rate reliefs, non-domestic rate refunds and covid grants. The Government were liable for 50% and that the figures should be corrected in the following financial year.*
- Councillors queried why the total financial liability had increased.  
*The Finance Specialist advised that it related to the long-term and short-term borrowing and that there were more external loans in the commercial investment.*
- Councillors queried what other checks were carried out on the Council's borrowing.  
*The Section 151 Officer advised that information was provided in other reports that went through the democratic pathway.*
- Councillors reminded their colleagues to complete their related party transaction forms.
- Councillors thanked officers for all their hard work.

**Resolved** that the Audit and Governance Committee:-

- a) Noted the Auditor's unqualified opinion on the Statement of Accounts.
- b) Approved the 2020/21 Statement of Accounts as attached to this report.
- c) Endorsed the Chairman of the Committee to sign the Management Letter of Representation in respect of the financial statements for the year ended 31 March 2021.

(The Meeting ended at 8.00 pm)

	<b>AUDIT AND GOVERNANCE COMMITTEE</b>	
<b>Meeting Date</b>	<b>Draft Agenda Items</b>	<b>Lead Officer</b>
<b>13 December 2021</b>	External Auditor's Annual Report 2020/21	Grant Thornton LLP (Jackson Murray)
Report Deadline	Internal Audit Progress Report 2021/22 Q2	SWAP (Alastair Woodland)
01 December 2021	Summary of Level 1 and 2 Audit Actions Progress	Malcolm Riches
	Treasury Management 2021/22 Mid-Year Report	John Dyson
	External Audit Arrangements	Paul Fitzgerald
	Constitutional Update	Kevin Williams
	H&S Update	Dan Webb & Kate Lusty
<b>14 March 2022</b>	External Audit Plan for 2021/22 Accounts	Grant Thornton LLP (Jackson Murray)
Report Deadline	External Audit Informing the Risk Assessment 2021/22	Grant Thornton LLP (Jackson Murray)
02 March 2022	External Audit Progress Report	Grant Thornton LLP (Jackson Murray)
	Internal Audit Plan Progress Update 2021-22 Q3	SWAP (Alastair Woodland)
	Internal Audit Plan and Charter 2022/23	SWAP (Alastair Woodland)
Page 17	Internal Audit Progress Report 2021/22 Q3	SWAP (Alastair Woodland)
	Summary of Level 1 and 2 Audit Actions Progress	Malcolm Riches
	Capital Investment and Treasury Strategy 2022/23	John Dyson
	Counter-Fraud Update Report <input type="checkbox"/>	Amy Tregellas
	Local Code of Corporate Governance (or would this go to Standards Committee?)	Amy Tregellas
	H&S Update	James Barra
	Landlord Compliance update	Ian Candlish
	Audit and Governance Chair's Annual Report 2021/22	Cllr Baker
<b>TBC - June 2022</b>	External Audit - Progress Report	Grant Thornton LLP (Jackson Murray)
	External Audit Fees 2022/23	Paul Fitzgerald
	Internal Audit - Audit Plan 2021/22 Outturn	SWAP (Alastair Woodland)
	Internal Audit - Annual Audit Opinion 2021/22	SWAP (Alastair Woodland)
	Summary of Level 1 and 2 Audit Actions Progress	Malcolm Riches
<b>TBC - September 2022</b>	External Audit - Progress Report	Grant Thornton LLP (Jackson Murray)
	Internal Audit - Progress Report 2022-23	SWAP (Alastair Woodland)
	Annual Governance Statement 2022/23 (Draft)	Amy Tregellas

	Summary of Level 1 and 2 Audit Actions Progress	Malcolm Riches
	Treasury Management 2022/23 Annual Report	Steve Plenty
	Local Government Ombudsman Summary of Complaints	Amy Tregellas
	Landlord Compliance Update	Ian Candlish
<b>TBC - September 2022</b>	External Audit Findings Report 2021/22	Grant Thornton LLP (Jackson Murray)
<b>SOA Special Meeting</b>	External Audit Auditor's Annual Report 2021/22	Grant Thornton LLP (Jackson Murray)
	Assessment of Going Concern Status	John Dyson
	Approval of Statement of Accounts 2021/22	John Dyson
<b>TBC - December 2022</b>	External Audit Progress Report and Sector Update	Grant Thornton LLP (Jackson Murray)
	Internal Audit - Progress Report 2022/23	SWAP (Alastair Woodland)
	Financial Control and Reporting Procedures	Emily Collacott
	Treasury Management 2022/23 Mid Year Review	Steve Plenty/John Dyson
	Counter-Fraud Update Report	Amy Tregellas
	Summary of Level 1 and 2 Audit Actions Progress	Malcolm Riches
	H&S Update	James Barra
<b>TBC - March 2023</b>	External Audit Progress Report and Sector Update	Grant Thornton LLP (Jackson Murray)
	External Audit Plan 2022/23	Grant Thornton LLP (Jackson Murray)
	Internal Audit - Progress Report 2022/23	SWAP (Alastair Woodland)
	Internal Audit - Audit Plan and Charter 2022/23	SWAP (Alastair Woodland)
	Summary of Level 1 and 2 Audit Actions Progress	Malcolm Riches
	H&S Update	James Barra
	Landlord Compliance Report	Ian Candlish
	Audit and Governance Chair's Annual Report 2022/23	Chair of Committee

*Report Number: SWT 112/21*

## **Somerset West and Taunton Council**

### **Audit and Governance Committee – 13 December 2021**

#### **Auditor's Annual Report on Somerset West and Taunton District Council 2020/21**

**This matter is the responsibility of Executive Councillor Henley, Corporate Resources**

**Report Author: John Dyson, Corporate Finance Manager (Interim)**

#### **1 Executive Summary**

- 1.1 This short covering report introduces the second stage of annual reporting by our External Auditor, Grant Thornton UK LLP, following completion of the Statement of Accounts for 2020/21. The Auditor's report, attached as Appendix 1, is comprehensive and primarily details the Auditor's findings on arrangements in place at SWTC to secure Value for Money. It reports on whether all aspects of the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources are operating effectively.
- 1.2 The Auditor's report includes a summary of findings and a hierarchy of recommendations to the Council which, in turn, are accompanied by the Council's management comments. The Auditor will present the report verbally at this meeting of the Committee.

#### **2 Recommendations**

- 2.1 The Committee is recommended to note the Auditor's Annual Report in respect of 2020/21 and the recommendations recorded therein.
- 2.2 The Committee is recommended to note and endorse management's proposed responses and actions in adopting the recommendations made by the Auditor.
- 2.3 The Committee is recommended to note the Auditor's confirmation of his Unqualified Opinion on the Statement of Accounts for the year ended 31 March 2021.

#### **3 Background and Full details of the Report**

- 3.1 The Local Audit and Accountability Act 2014 makes the Comptroller and Auditor General responsible for the preparation, publication, and maintenance of the Code of Audit Practice. The Code sets out what local auditors are required to do to fulfil their statutory responsibilities under the Act. For audits of financial years from 2020/21 onwards, a revised 2020 Code of Audit Practice applies. The new Code makes changes to the way local auditors report on arrangements to secure Value

for Money (VFM). For this reason, the report of the Auditor on VFM is substantially more comprehensive than in earlier years. It follows considerable work by the External Audit team involving research, high-level interviews and evidence gathering to support the Council's position in respect of:

- Ensuring financial sustainability,
- Managing governance arrangements,
- Securing economy, efficiency, and effectiveness in its use of resources.

3.2 The National Audit Office permitted auditors an extension for this piece of work because of the ongoing pandemic, which has added to the greater extent of work required to conclude this aspect of reporting. For this reason, the Annual Report on VFM can be brought to the December meeting of this Committee.

3.3 Recommendations made by the Auditor are classified into a hierarchy of levels:

- Statutory Recommendations – there are none reported
- Key Recommendations – there is one such recommendation
- Improvement Recommendations – the report contains five such recommendations.

3.4 Details of the hierarchy of recommendations are contained in Appendix C to the Auditor's report.

3.5 SWTC's Statement of Accounts for 2020/21 were considered by this Committee on 27 September 2021. The Committee Approved the 2020/21 Statement of Accounts, as reported, endorsing the Chairman of the Committee to sign the Management Letter of Representation. The Chairman and Assistant Director, Finance (s151 Officer) both signed the Statement of Accounts for 2020/21 on 30 September, achieving the deadline set by the Accounts and Audit Regulations. Two minor corrections were necessary to the accounting statements that had been presented. The first resulted from a compensating difference within the Comprehensive Income and Expenditure Statement, for which there was a net nil impact on the financial position. The second required a change to a disclosure note (Note 7a, Expenditure and Funding Analysis), again with nil impact.

3.6 Consequently, the Auditor's Annual Report confirms that, on 30 September 2021, Grant Thornton issued an "unqualified opinion" for the 2020/21 Statement of Accounts for SWTC.

#### **4 Links to Corporate Aims / Priorities**

4.1 The report supports the transparent accountability for the Council's financial sustainability, good governance, and delivery of value for money with public funds.

#### **5 Finance / Resource Implications**

5.1 There are no direct resource implications related to this report. However, Members should note the external auditor's opinion and recommendations, together with management response, in respect of commercial strategy and the Prudential Code.



- 5.2 The Chartered Institute of Public Finance and Accountancy (CIPFA) and central Government continue to update the regulatory environment related to local government investment and borrowing activity. Updates to CIPFA's Prudential Code and Treasury Management Code are expected to be published late December. The anticipated changes and salient points from the new Codes (based on drafts previously issued for consultation) are explained in some depth in the Mid-Year Treasury Management Report to this Committee on the same agenda (13 December 2021).
- 5.3 The Commercial Property Investment Strategy (CPIS) has currently one of the key elements of the Council's financial strategy since the CPIS was approved at Full Council in December 2019. The Committee is advised to note the management response as set out within the external auditor's report which summarises the key purpose of this approach and the various measures in place to manage risk.
- 5.4 The Committee is also advised that an update report will be presented to Members in January 2022 providing the annual update on the CPIS and the 6-monthly performance review of the investment fund. In the meantime, a Members Briefing is scheduled on 14 December 2021 to provide early engagement regarding these reports.

## 6 Legal Implications

- 6.1 The Council has a statutory duty to report on the Auditor's findings in relation to securing economy, efficiency, and effectiveness in its use of resources.

### Democratic Path:

- Audit and Governance Committee – 13 December 2021

**Reporting Frequency:** Annually

### List of Appendices

Appendix 1	SWT Auditor's Annual Report
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# Auditor's Annual Report on Somerset West and Taunton Council

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2020-21

1 December 2021



# Contents



We are required under Section 20(1)(c) of the Local Audit and Accountability Act 2014 to satisfy ourselves that the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources. The Code of Audit Practice issued by the National Audit Office (NAO) requires us to report to you our commentary relating to proper arrangements.

We report if significant matters have come to our attention. We are not required to consider, nor have we considered, whether all aspects of the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources are operating effectively.



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Opinion on the financial statements	29

## Appendices

- A – The responsibilities of the Council
- B – Risks of significant weaknesses – our procedures and findings
- C – An explanatory note on recommendations
- D – Use of formal auditors' powers

The contents of this report relate only to the matters which have come to our attention, which we believe need to be reported to you. It is not a comprehensive record of all the relevant matters, which may be subject to change, and in particular we cannot be held responsible to you for reporting all of the risks which may affect the Council or all weaknesses in your internal controls. This report has been prepared solely for your benefit and should not be quoted in whole or in part without our prior written consent. We do not accept any responsibility for any loss occasioned to any third party acting, or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.

# Executive summary



## Value for money arrangements and key recommendation

Under the National Audit Office (NAO) Code of Audit Practice ('the Code'), we are required to consider whether the Council has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources. We are required to report in more detail on the Council's overall arrangements, as well as key recommendations on any significant weaknesses in arrangements identified during the audit.

2020/21 was an unprecedented year in which the Council operated with the majority of its staff home working whilst supporting local businesses and residents through the pandemic. The Council approved a revised budget in October 2020 which responded to the financial challenges of Covid-19. By the year end the pandemic resulted in £7.3m of cost and income pressures for the Council, with a net cost after government support of £1.6m.

We have identified one significant weakness in arrangements relating to the Commercial Property Investment Strategy. While the governance arrangements relating to the strategy are sound we consider that it is a departure from the principles of prudent activity that will be reinforced by the revised CIPFA Prudential Code and have made a key recommendation in relation to this. We have also identified five opportunities for improvement which are set out in our report.

Our work relating to the governance arrangements around significant partnerships that the Council participates in is not yet complete. Once this work is complete we will update the Audit and Governance Committee should any further weaknesses in arrangements or recommendations be identified.

Criteria	Risk assessment	Finding
Financial Sustainability	No risks of significant weakness identified	No significant weaknesses in arrangements identified, but two improvement recommendations made.
Governance	A significant weakness has been identified relating to the Commercial Strategy.	A key recommendation has been made that the Council should develop a clear plan to address the risks it is exposed to in relation to commercial activity.  We have also made one improvement recommendation.
Improving economy, efficiency and effectiveness	No risks of significant weakness identified	No significant weaknesses in arrangements identified, but two improvement recommendations made.

	No significant weaknesses in arrangements identified.
	No significant weaknesses in arrangements identified, but improvement recommendations made.
	Significant weakness in arrangements identified and key recommendations made

# Executive summary



## Financial sustainability

Overall we are satisfied that the Council had appropriate arrangements in place to manage the financial resilience risks it faced with regard to budget setting and the medium term financial plan. We have not identified any risks of significant weakness in these areas but have identified opportunities for improvement relating to the production of budget books and the level of information available to Members when approving capital programme carry forwards.

We have identified a significant weakness with regard to the Council's Commercial Strategy which is reported under the Governance Section of the Auditor's Annual Report.

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## Governance

We have identified a significant weakness with regard to the Commercial Property Investment Strategy. While we judge the strategy's governance arrangements to be sound, and have not concluded that the Council is acting unlawfully, our view is that the strategy represents a departure from prudent activity that will be reinforced in the revised CIPFA Prudential Code. We have concerns around the scale of the commercial investment programme and risks associated with the level of commercial income, borrowing costs and refinancing. We have made a key recommendation that the Council should develop a clear plan to address these risks.

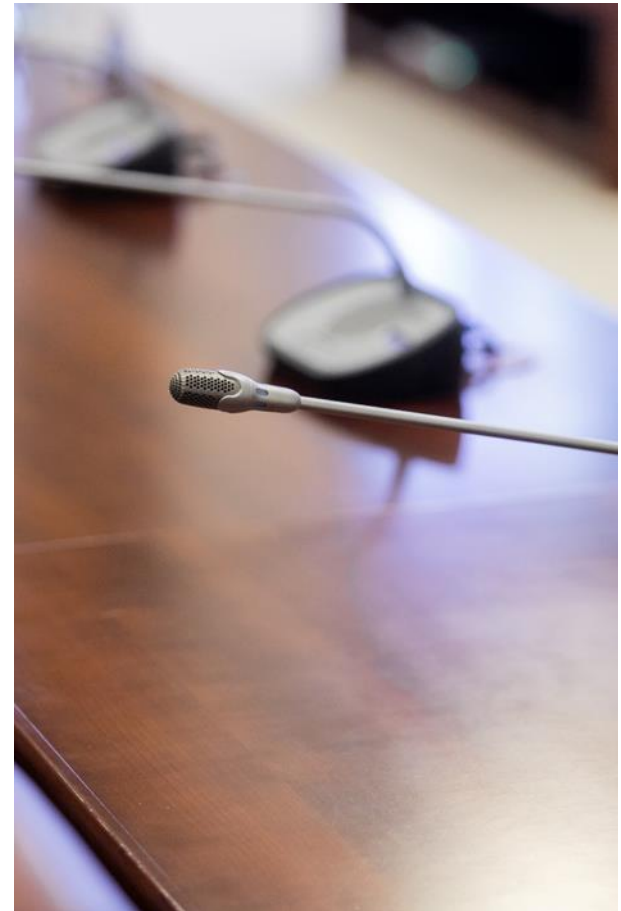
The Council has worked to improve governance arrangements during the year where weaknesses were identified. These relate to managing risk, internal control and budget monitoring. The Council has plans to implement further improvements during 2021/22 as set out in the Annual Governance Statement (AGS) Action Plan which also includes improving ethical awareness. We have identified an opportunity for improvement relating to reporting mitigating actions for key risks.



## Improving economy, efficiency and effectiveness

We have not identified any areas of significant weaknesses in arrangements with regard to improving economy, efficiency and effectiveness.

The Council has approved its revised Procurement Strategy in March 2021 to address weaknesses in arrangements and should now roll out training to officers as set out in the AGS Action Plan. The Council does not have a Partnership Register and we have made an improvement recommendation that this should be addressed as an important tool in ensuring significant partnerships are considered during decision making. This is particularly pertinent in the run up to the proposed local government reorganisation in Somerset.







## Opinion on the financial statements

We gave an unqualified opinion on the Council's financial statements on 30 September 2021, with our detailed findings reported to the Audit and Governance Committee on 27 September 2021.

Further information relating to the opinion on the financial statements is included on page 29.

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# Key recommendations



## Governance

**1 Recommendation** The Council should develop a clear plan to address and mitigate the risks that it is exposed to as a result of the Commercial Property Investment Strategy.

### Why/impact

The scale of the commercial strategy potentially exposes the Council to significant financial risk and is a key departure from key regulatory standards. The Council needs a clear plan to manage the following risks:

- securing long term non-PWLB financing;
- managing the impact on the General Fund if investment performance is below the budgeted targets;
- ensuring prudent debt repayment costs are reflected in the budget, with the Council fully providing for the debt taken out to acquire these assets over the lifetime of the debt;
- ensuring that the risks are understood by the Shadow Council in the run up to local government reorganisation; and
- achieving full compliance with the revised CIPFA Prudential Code when it is implemented.

### Summary findings

The Council is acquiring a £100m commercial property portfolio over two years which is funded from borrowing, with £44m invested in 2020/21. From our review of the Council's Commercial Property Investment Strategy we consider that it is a departure from the principles of prudent activity that will be reinforced in the revised CIPFA Prudential Code. We have concerns around the scale of the commercial investment and the risks that it exposes the Council to. The General Fund will be dependent upon £7.1m commercial investment income by 2023/24. Regardless of the performance of the investment portfolio, the General Fund will have to pay the MRP costs associated with the commercial acquisitions, which is forecast as £2.0m for 2023/24. HM Treasury and CIPFA have continued to comment on commercial investment activity and it's prudence, with access to PWLB borrowing to finance investment activity of this nature stopped from November 2020 with a view to curtail this activity by Local Authorities.



The range of recommendations that external auditors can make is explained in Appendix C.



# Key recommendations



## Governance

- 1 Recommendation** The Council should develop a clear plan to address and mitigate the risks that it is exposed to as a result of the Commercial Property Investment Strategy.

### Management Comment

The Council has been very robust in its identification and management of risk regarding the commercial strategy and related financing approach. This is clearly set out in the Commercial Strategy, Financial Strategy and Capital, Investment and Treasury Strategies. The Council has been open and transparent in its regard to the Prudential Code and the reasons for pursuing commercial investment as a means of diversifying its income streams to mitigate significant reductions in government funding and to support investment in local council services. We have complied with reporting requirements in respect of the Prudential Code and Capital Investment statutory guidance, and carefully considered aspects such as proportionality. The treasury approach to borrowing has been considered in view of advice from our treasury management advisors, medium term forecasts in respect of interest rates and volatility, the nature of investment and also with consideration to local government restructuring expected in April 2023.

**Securing long term borrowing:** In view of the nature of the portfolio, preserving flexibility to scale down the portfolio and/or debt level, and balancing costs and risks, it is regarded as prudent to avoid 'locking in' to long term debt at this point. The refinancing risk is carefully monitored and is currently considered low. The Council's overall debt portfolio contains a blend of long term and short term borrowing. It is proposed to review total financing structures as part of the transition to the new unitary and taking into account its future policy in respect of commercial investment.

**Managing impact on the General Fund and Prudent Debt Repayments:** Robust arrangements are already in place to manage risk to the General Fund. This includes: realistic budgeting for income and costs including: an optimism bias adjustment, budgeted annual MRP charges to the revenue account to reduce debt, a significant up-front Investment Risk and Volatility reserve balance of £3.7m with a strategy to increase year on year, Investment Financing Reserve of £2m; underpinned by strong governance and thorough due diligence to minimise risk. The MRP policy includes prudent provision for debt repayment annually which is reflected in the budget and MTFP. It is anticipated that in the longer term there will also be options to trade the portfolio and realise capital growth to further reduce debt.



The range of recommendations that external auditors can make is explained in Appendix C.

# Key recommendations



## Governance

- 1 Recommendation** The Council should develop a clear plan to address and mitigate the risks that it is exposed to as a result of the Commercial Property Investment Strategy.

### Management Comment (cont)

Shadow Council risk awareness: Commercial Investment is included within the Finance Workstream as part of the LGR Implementation Programme, which will be the platform to enable the Shadow / Transition Council's appointed S151 Officer (when appointed) to inform and advise the successor authority.

Full compliance with the revised Prudential Code: It is proposed to consider this through the transition to unitary and taking into account the new Prudential Code when published (expected late December 2021). There is no plan for SWTC to increase investment beyond the existing approved level which is expected to be completed by December 2021. Our understanding is that CIPFA does not intend local authorities to rapidly dispose of existing commercial properties and create a 'cliff edge' in councils' income, but require a halt to further capital investment purely for yield and a measured consideration of future opportunities for disposal of investment properties to reduce risk. It is anticipated this will require the unitary Council's financial strategy to consider risk and future options to mitigate the significant reduction in net income this investment currently provides if asset investment is reduced.

As a general point, a comprehensive coverage of anticipated changes to the Codes and related risks is included in the mid-year Treasury Management report to the Audit and Governance Committee 13 December 2021, ensuring transparency and public accountability.



The range of recommendations that external auditors can make is explained in Appendix C.

# Commentary on the Council's arrangements to secure economy, efficiency and effectiveness in its use of resources

All Councils are responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness from their resources. This includes taking properly informed decisions and managing key operational and financial risks so that they can deliver their objectives and safeguard public money. The Council's responsibilities are set out in Appendix A.

Councils report on their arrangements, and the effectiveness of these arrangements as part of their Annual Governance Statement.

Under the Local Audit and Accountability Act 2014, we are required to be satisfied whether the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

The National Audit Office's (NAO) Auditor Guidance Note (AGN) 03, requires us to assess arrangements under three areas:



## Financial sustainability

Arrangements for ensuring the Council can continue to deliver services. This includes planning resources to ensure adequate finances and maintain sustainable levels of spending over the medium term (3-5 years).



## Governance

Arrangements for ensuring that the Council makes appropriate decisions in the right way. This includes arrangements for budget setting and management, risk management, and ensuring the Council makes decisions based on appropriate information.



## Improving economy, efficiency and effectiveness

Arrangements for improving the way the Council delivers its services. This includes arrangements for understanding costs and delivering efficiencies and improving outcomes for service users.



Our commentary on each of these three areas, as well as the impact of Covid-19, is set out on pages 10 to 28. Further detail on how we approached our work is included in Appendix B.

# Financial sustainability



## We considered how the Council:

- responded to the financial challenges posed by the Covid-19 pandemic
- identifies all the significant financial pressures it is facing and builds these into its plans
- plans to bridge its funding gaps and identify achievable savings
- plans its finances to support the sustainable delivery of services in accordance with strategic and statutory priorities
- ensures its financial plan is consistent with other plans such as workforce, capital, investment and other operational planning
- identifies and manages risk to financial resilience, such as unplanned changes in demand and assumptions underlying its plans.

## Outturn 2020/21

The 2020/21 General Fund outturn position was a £1.25m underspend against the revised budget, after taking into account approved carry forward requests of £2.1m that reflected delayed activity largely as a result of the Covid-19 pandemic. This outturn position includes £4.5m in lost car parking income, which was partially offset by the national sales, fees and charges reimbursement scheme. The Housing Revenue Account (HRA) outturn position was a £0.02m overspend against a gross income budget of £26.8m.

General Fund capital expenditure was £63.3m against the £112.5m budget for 2020/21, with £41.6m carried forward for ongoing schemes. HRA capital expenditure totalled £9.1m against a budget of £113.8m, with £104.3m carried forward to future years, mainly relating to social housing developments. We have made an improvement recommendation that capital monitoring and outturn reports should include explanations for slippage when Members are asked to approve carry forwards into future years.

## Covid-19 arrangements

Covid-19 posed a significant financial challenge to the Council's financial sustainability, resulting in additional cost and income pressures of £7.3m that were partly offset by government funding of £5.7m, to give a net cost of £1.6m which was met from reserves.

The Council responded to the financial challenges of the pandemic by setting a revised budget in October 2020 which realigned budgets to reflect the forecast impact of Covid-19, with particular pressures noted for supporting leisure operations and carparking income as were seen around the country. At this point total forecast pressures of £4.9m were balanced through a combination of £3.2m in government funding and a £1.7m contribution from reserves.

## Budget 2021/22

The 2021/22 budget was set based on the funding announced in the local government finance settlement. This froze the Council's funding assessment at current levels but introduced additional measures to support councils through their recovery from the pandemic, such as additional tranches of general Covid-19 funding and sales, fees and charges (SFC) compensation grant. The Council's strategy with regard to these additional funding streams was prudent in allocating the £0.8m general grant to fund one-off budget pressures relating to Covid-19 and by not including the SFC compensation grant in the base budget, so that it was available to offset potential reductions in income.

The 2021/22 budget did not rely heavily on achieving service savings to balance the overall financial position, rather it included a £2.5m increase in commercial property income and a £1.2m contribution from general fund reserves. The most significant service savings related to the removal of £0.4m of one-off items relating to 2020/21 from the budget and leisure contract savings of £0.3m. Within this context there was no public consultation as part of the 2021/22 budget setting process nor detailed consideration of alternative proposals. The budget also included a £5 or 3.04% increase in council tax in accordance with referendum limits, which achieved £0.2m additional income after taking into account a 0.9% reduction in the tax base due to Covid-19.

The 2021/22 carparking budget was rolled forward at historic pre-pandemic levels. However, carparking income has not recovered due to new working and shopping habits that developed during the pandemic and further lockdown periods in the new financial year. The Quarter One 2021/22 budget monitoring position forecasts a net overspend of £2.0m for carparking income. This risk was recognised in the S151 Officer's Section 25 statement that accompanied the budget, and mitigation measures were included within the risk based calculation for general fund balances, and the budget volatility and risk reserve. There was also a strategy to leave budgets at the 2020/21 levels in the knowledge that the quarter one SFC compensation grant could be used to offset any adverse variances.

Therefore, while the assumption in the budget for carparking fees now appears over-optimistic, it is not considered an indicator of significant weakness in arrangements due to these mitigating actions.

Our work has confirmed that the budget is informed by the MTFP and that there is adequate engagement from the Scrutiny Committee during the process.

The Council could not provide evidence that the £1.97m MRP charge per the Capital Strategy was accurately reflected in the 2021/22 budget as the relevant working paper was not available. There is however a working paper setting out the calculation of the revised 2021/22 budget MRP charge of £1.58m, and so we have not made any recommendations in relation to this.

We have made an improvement recommendation that the Council should consider whether there would be benefit in producing and publishing budget books as a single accessible source of detailed budget information for Members, officers and the public. It would enable interested parties to drill down to more detailed service cost information and would contribute to a better understanding of the budget and potential for improved challenge during the year. The budget book could include relevant non-financial information such as employee data and service performance information.

Overall we found no evidence of significant weaknesses in the Council's budget setting arrangements, although we have identified an opportunity to improve the information available to stakeholders.

### Medium term financial plan (MTFP)

Review of the Council's Financial Strategy confirms that financial planning is based on realistic assumptions and that these are clearly set out in reports to Members. The Financial

Strategy includes assumptions around council tax increases, including sensitivity analysis of the impact of different council tax increase strategies. Business rates income is modelled taking into account the impact of the business rate reset, now deferred until 2022/23, and also the impact of local issues such as Hinkley Point.

The Council has relied heavily on commercial property income to balance the financial position, increasing the budget by £2.5m in 2021/22 to a total net income figure of £3.4m. The Council's Commercial Property Investment Strategy is considered separately in the next section of this report.

The Council's financial planning usually covers the current year plus five in accordance with best practice. We note that due to local government reorganisation and the proposed creation of a unitary council in Somerset, that the latest financial strategy approved in July 2021 covers a three year period, with detailed projections for 2021/22 and 2022/23 along with an indicative budget gap of £5.0m for 2023/24 by which time the new council is expected to be in place.

The Council's strategy is to balance the financial position, protect services and maintain capacity to implement local government reorganisation, rather than achieve savings through reductions in service, which appears to be appropriate in the circumstances. The 2022/23 budget gap was estimated as £3.9m in the July 2021 Financial Strategy with the proposal to bridge this through £1.0m of general reserves, £2.0m investment financing reserve and £0.7m business rate reserves. The only saving built into the Financial Strategy for 2022/23 is £0.2m for modernisation, which is significantly less than the £2.5m target set for 2022/23 when the previous strategy was approved in October 2020.

While the use of one off funding from reserves is not sustainable in the long term, the Council is utilising this method in order to protect services and capacity while local government reorganisation is delivered, with longer term savings realised through the design of the new unitary council. Again, this seems a sensible approach.

We have found no evidence of significant weakness in the Council's financial planning arrangements.

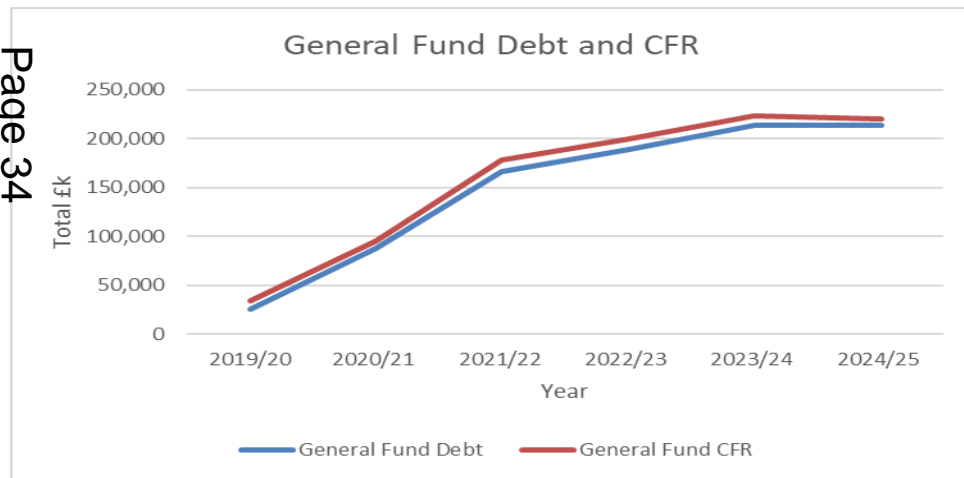
### Commercial property investment strategy

In accordance with the Commercial Property Investment Strategy, the Council is actively investing in commercial properties in order to secure revenue income with the aim of balancing the financial position and protecting services as government grant funding is



reduced. The Council acquired £44.1m of investment property in 2020/21 and intends to complete the £100m portfolio in 2021/22. The Council's commercial property portfolio is made up from existing commercial office, retail, business and manufacturing investments that are not confined to the Council's administrative area.

This investment is funded from debt and so is contributing to an increase in the General Fund capital financing requirement (CFR) and forecast levels of debt as set out in the Capital Strategy approved in March 2021 and summarised in the graph below.



General Fund debt levels are forecast to increase from £25.5m as at 31 March 2020 to £166.9m in 2021/22 over the period when the commercial investment property portfolio is acquired, a significant increase.

The Council's financial planning forecasts significant increases in net commercial property income, and the table overleaf sets out the position in the MTFP update that accompanied the 2021/22 budget report. The 2021/22 budget as approved in February 2021 included a £3.4m net investment property income forecast, which is a £2.5m increase from the revised

2020/21 budget. Gross commercial investment income is forecast to reach £7.1m by 2023/24.

Net Commercial Property Income Projections				
	2020/21	2021/22	2022/23	2023/24
	£k	£k	£k	£k
<b>Net commercial property income</b>	947	3,407	3,407	3,827

The Council mitigates the risk associated with these commercial property investments through reducing the annual income budgets for optimism bias, and through the investment risk reserve which had a £3.7m balance as at 31 March 2021, equivalent to 50% of the anticipated gross income from commercial property. The Council also has strong governance arrangements in the form of the Investment Panel and Investment Board and regular reporting to Executive and Council. Thorough due diligence is undertaken before investments are acquired.

From our review of the Council's Commercial Property Investment Strategy we consider that it is a departure from the principles of prudent activity that will be reinforced in the revised CIPFA Prudential Code. The types of investment that the Council is acquiring are existing commercial enterprises, often some distance outside of the Council's administrative area. They are not regeneration projects and the Council's Capital Strategy confirms that financial return is their main objective. CIPFA have recently consulted on the revised Prudential Code that will clarify that local authorities must not borrow to fund primarily yield generating investments and that this is not prudent activity. The revised Prudential Code will support the new lending terms that HM Treasury implemented in November 2020 where councils must confirm they do not have investments primarily for yield in their capital programmes in order to access PWLB loan funding.

We have concerns around the scale of the commercial investment and the potential risks that it exposes the Council to. The General Fund will be dependent upon £7.1m commercial investment income by 2023/24. Regardless of the performance of the investment portfolio, the General Fund will have to pay the MRP costs associated with the commercial acquisitions, which is forecast as £2.0m for 2023/24. The Council is currently financing these long term acquisitions through short term debt which creates additional risk around the availability of non-PWLB funding to refinance in the future, and the impact if interest rates

rise. There are also the implications for the proposed new unitary council that will be created through local government reorganisation in March 2023 to consider, as they will inherit the commercial portfolio and its associated risks and costs.

It should be noted that we have not concluded that the Council is acting unlawfully. The Council also has in place good governance arrangements around the appraisal of investments and has implemented some risk mitigation strategies through reserves. The strategy was also approved in December 2019, before the CIPFA Prudential Code consultation and new HM Treasury borrowing rules.

Within the Governance section of this Auditor's Annual Report we are therefore identifying a significant weakness with regard to decision making that could lead to significant loss or exposure to significant financial risk, and which is a significant departure from key regulatory standards.

### Capital strategy and treasury management

The Council approves the Capital Strategy, Investment Strategy and Treasury Management Strategy annually. These reports set out the risks associated with the different types of investment held by the Council, how the capital programme will be funded over the period of the MTFP, including the amount of borrowing required.

The Council approved a General Fund five year capital programme of £218.4m in February 2021, of which £92.2m is forecast to be spent in 2021/22. A ten year HRA capital programme was approved for a total £190.2m, with forecast spend of £32.7m in 2021/22.

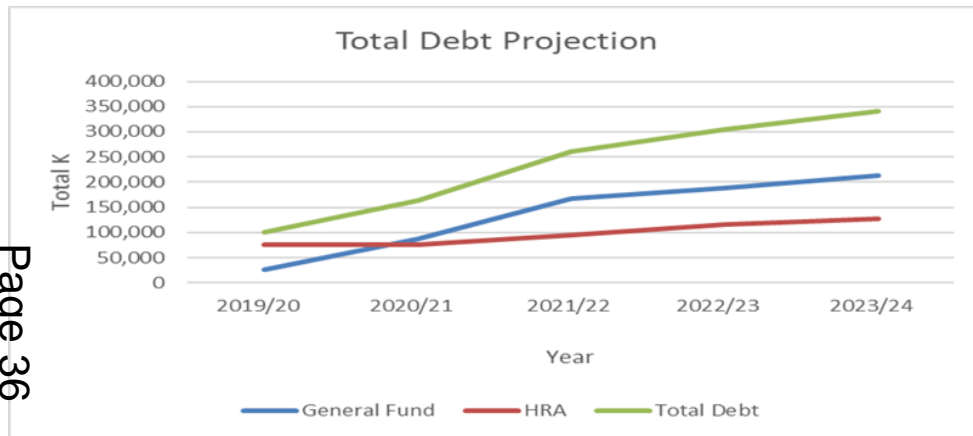
The 2021/22 General Fund capital programme contains bids of £5.2m, including employment land (£0.6m), disabled facility grants (£0.8m), asset compliance (£0.6m), car park improvements (£0.7m) and housing grants (£1.0m). The funding strategy for these bids is not dependent on borrowing but seeks to utilise capital receipts, with schemes only progressing once income has been received to finance them.

The Capital Strategy approved in March 2021 reflects the level of spend in the capital programme. The majority of spend is financed from borrowing as demonstrated in the table overleaf where 75% of capital spend is funded from debt for the period to 2023/24.

Capital Financing Summary					
	2021/22 £k	2022/23 £k	2023/24 £k	Total £k	%
External sources	8,918	3,900	3,708	16,526	7%
Capital receipts	9,133	6,763	1,076	16,972	7%
Revenue and reserves	9,969	7,642	7,942	25,553	11%
Debt:					
HRA	17,684	22,449	11,118	51,251	
GF	79,231	21,892	24,522	125,645	
Total debt	96,915	44,341	35,640	176,896	75%
<b>Total funding</b>	<b>124,935</b>	<b>62,646</b>	<b>48,366</b>	<b>235,947</b>	<b>100%</b>

The graph overleaf is based on the projections in the Capital Strategy and show that the Council plans to increase its total debt position significantly over the period to 2023/24. The projection is that total debt will increase from £101.0m in 2019/20 to £340.9m in 2023/24, with the Commercial Property Investment Strategy accounting for £100.0m of additional General Fund debt. The revenue costs of this borrowing are reflected in the minimum revenue payment projections within the MTFP and the Capital Strategy. Total MRP is forecast to increase from £2.6m in 2019/20 to £6.6m by 2023/24, with the General Fund charge increasing by £3.3m over this period.

We note that the General Fund summaries included in the 2021/22 budget setting report net off investment property income and MRP as one figure, but that from July 2021 the Financial Strategy summary reports total MRP payable for the General Fund and gross investment income separately. This improves the transparency of reporting and enables a better understanding of the impact of both borrowing and commercial investments on the revenue budget.



The 2020/21 outturn position was £63.3m of expenditure for the General Fund capital programme against a budget of £112.5m, resulting in £41.6m being carried forward. The HRA capital spend for the year was £9.1m out of an approved budget of £113.7m, with £104.3m carried forward to future years. Members were asked to approve these carry forwards of the approved capital budgets and were provided detailed analysis of the schemes that make up the capital programmes, but were not provided with detailed explanations as to why the slippage occurred. We have made an improvement recommendation that capital monitoring should include detailed reasons for slippage as this would increase accountability for the delivery of the capital programme and give the opportunity for timely Member challenge.

From our value for money work we have not found any significant weaknesses in the Council's arrangements for managing capital and treasury activity.

### Reserves

As part of the 2021/22 budget a risk based approach was used to calculate the £2.4m minimum prudent level of General Fund reserves plus a £2.4m Budget Volatility Reserve. The

risk based calculation recognises the significant exposure within the Council's budgets to additional Covid-19 related costs and reductions in carparking income. The calculation for the minimum General Fund balance represents 12.8% of the £18.7m net revenue budget for 2021/22 and so exceeds the minimum CIPFA benchmark of 5-10%, recognising the specific risks within the budget.

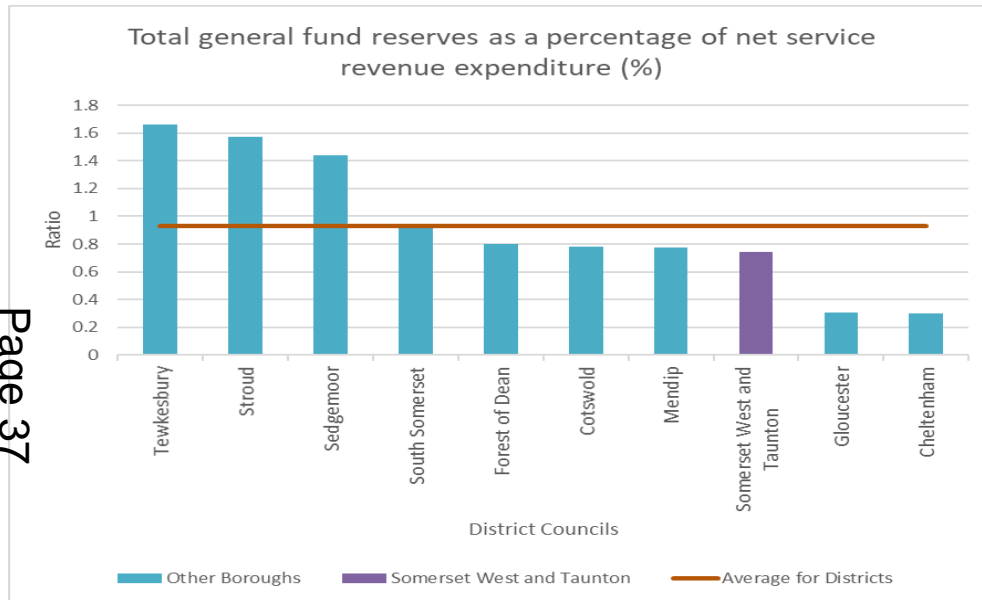
Unallocated General Fund reserves exceeded the minimum prudent balance as at 31 March 2021. After accounting for planned movements in the reserve to support the 2021/22 and 2022/23 budgets, the forecast balance as at 31 March 2023 is £4.9m, or 26.2% of the net revenue budget.

The Council also had £33.8m in earmarked General Fund reserves as at 31 March 2021, although this includes £14.8m business rate S31 grant that will be used to fund the collection fund deficit which will be applied from 2021/22. Included in this balance are other earmarked reserves that are available to manage unforeseen budget variances such as the budget volatility, business rate volatility and investment risk reserves.

The graph overleaf compares the Council's total General Fund reserves as a percentage of net service spend to the other authorities in Somerset and Gloucestershire. The Council has a ratio of 74.3% compared to an average of 93.0% for these councils, but as can be seen from the analysis is not a significant outlier in the level of reserves it holds. The data used is for 2019/20 as reserve levels in 2020/21 are skewed by the S31 business rate grant to fund the collection fund deficit. A mitigating factor is also the level of unearmarked General Fund balances held by the Council in addition to the budget volatility reserve.

The Council will need to consider how it will allocate resources from reserves in order to fund the implementation costs relating to local government reorganisation during the period to March 2023.





### Managing financial risk

The Council has appropriate arrangements for incorporating risks into its financial plans, with all budget reports including a financial risk assessment section. As part of the budget setting process for 2021/22, the Section 25 Statement provided a detailed commentary on the assumptions and risks relevant to the budget. In consideration of the increased financial risk associated with the 2021/22 budget, a £2.4m Budget Volatility and Risk Reserve was approved in addition to the £2.4m minimum prudent level of General Fund Reserves.

Other risk mitigation strategies included in the 2021/22 budget include:

- allocating the £0.8m Covid-19 grant to fund a one-off Covid-19 pressures budget;
- not budgeting for the SFC compensation grant, enabling it to be used to offset reductions in income;
- the business rate volatility reserve with a £5.4m balance as at 31 March 2021;
- The investment risk reserve with a balance of £3.7m as at 31 March 2021.

Cash flow forecasting has been undertaken during 2020/21 and no projected gaps were identified. The cash position was eased by the various sources of government funding and support to businesses that were paid through the Council.

We have found no evidence of significant weakness in the Council's arrangements for managing financial risk.

### Sustainable delivery of services

The priority of the Council as a relatively new organisation has been to stabilise rather than to seek savings through reducing service levels. The local government reorganisation planned for Somerset in 2023 has led to a strategy of protecting services and capacity rather than reducing services for the interim period to the proposed new organisation being formed.

Discretionary spend is prioritised to support the corporate strategy. This can be seen in the agreed budget growth for 2021/22 relating to climate change, the local plan, tree planting and the community enhancement fund which can be linked to corporate priorities of environment and economy, and homes and communities. The growth for landlord asset compliance addresses a strategic risk within the risk register.

Therefore we see a coherent link between corporate priorities and the design of the budget, particularly in regard to investment in services. We found no evidence that the council has been unable to deliver its financial plans, other than the impact of Covid-19.

### Consistency between financial and other corporate plans

Once the realignment of staff and management structures to the new Council Directorates was completed by April 2020, budgets were mapped to reflect this. The October 2020 Financial Strategy was updated to reflect the 632 posts included in the establishment.

The Council does not have a People or Workforce Strategy that aligns with the Corporate strategy or MTFP. This is recognised in the AGS Action Plan and whilst we agree that this is an important strategy, have not raised an improvement recommendation given the Council already recognises it's need. Under the current circumstances a Workforce Strategy will be developed through a local government reorganisation workstream to ensure it meets the requirements of the new unitary council.

We have found no evidence of inconsistencies between financial and other corporate plans.

# Improvement recommendations



## Financial Sustainability

<b>1 Recommendation</b>	The Council should consider whether there would be benefit in producing and publishing budget books as a single accessible source of detailed budget information for Members, officers and the public.
<b>Why/impact</b>	Budget books would enable interested parties to drill down to more detailed service cost information and would contribute to a better understanding of the budget and potential for improved challenge during the year. The budget book could include relevant non financial information such as employee data and service performance information.
<b>Summary findings</b>	The Council does not produce budget books and information provided in public reports is on a high level summary basis, although there is a breakdown of service spend by cost centre included as an appendix to the budget setting report.
<b>Management comment</b>	The Council's predecessor councils stopped producing Budget Books many years ago due to time and cost implications, prioritising access to the full and detailed access to budget information in the finance system for those responsible for managing budgets. The auditor's recommendation will be considered for the 2022/23 Budget and shared with the Finance Workstream for consideration by the unitary council.



The range of recommendations that external auditors can make is explained in Appendix C.

# Improvement recommendations



## Financial sustainability

<b>2 Recommendation</b>	Capital monitoring and outturn reports should include explanations for slippage and amounts recommended for carrying forward to future years.
<b>Why/impact</b>	There was significant slippage in year for the general fund and HRA capital programmes. Providing more information during the year and at outturn regarding the reasons for slippage would increase accountability for the delivery of the capital programme and give the opportunity for timely Member challenge.
<b>Summary findings</b>	Explanations for slippage are not included when Members are asked to approve capital carry forwards.
<b>Management comment</b>	Management will provide greater clarity in the 2021/22 outturn report.

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The range of recommendations that external auditors can make is explained in Appendix C.

# Governance



## We considered how the Council:

- monitors and assesses risk and gains assurance over the effective operation of internal controls, including arrangements to prevent and detect fraud
- approaches and carries out its annual budget setting process
- ensures effectiveness processes and systems are in place to ensure budgetary control
- ensures it makes properly informed decisions, supported by appropriate evidence and allowing for challenge and transparency
- monitors and ensures appropriate standards
- considered the impact of Covid-19 on the governance arrangements.

## Covid-19 arrangements

During the 2020/21 financial year the Council supported the community, businesses and the delivery of critical services through the pandemic, implementing emergency response measures as appropriate. Daily Gold meetings were held, scaled up to twice a day at the start of the pandemic, in order to ensure timely decision making. These meetings were minuted and provide a record of the agreed actions and decisions. Silver meetings were also held to manage more detailed service level risks and actions.

Full Council approved changes to the Constitution in April 2020 to give delegated authority to the Chief Executive to take decisions that would usually be made by the Executive or Planning, Licencing and Audit, Governance and Standards Committees, in consultation with the Leader and relevant portfolio holder. This was to come into effect if quorate virtual meetings were not able to be held. The Council was able to hold virtual meetings for all committees during the year, thus ensuring that the democratic process could continue. Members of the public could participate in these virtual meetings and the meetings were also webcast live.

Regular reports were taken to Full Council during the year regarding decisions taken by the Chief Executive under existing urgency provisions in the Constitution. These included decisions relating to the Discretionary Business Grants, Test and Trace Payments, and Local Restrictions Grants.

The Council distributed £65m of business support grants during the year. The Internal Audit plan was reprioritised to reflect financial risk, and additional assurance work was carried out on the business grant process controls.

All of the above provides evidence of appropriate actions being taken to address the risks and challenges presented by the Covid-19 pandemic.

## Managing risk

The Audit, Governance and Standards Committee approved the updated Risk and Opportunity Strategy in February 2021. This incorporated suggested amendments as a result of the internal audit review of the January 2020 strategy, including risk identification and scoring. Following the approval of the Risk and Opportunity Strategy, the Executive received a corporate risk management update in May 2021. This was the first risk management update that the Executive received and included the entire corporate risk register. The intention going forward is that quarterly risk updates will be submitted as part of the performance monitoring reports to Scrutiny Committee and Executive and these will only include key business risks.

The AGS Action Plan recognises that there have been weaknesses in the arrangements to manage risk during 2020/21 and includes the following actions for completion in 2021:

- quarterly risk management reporting was not undertaken during 2020/21 and that quarterly reports will be taken to the Scrutiny Committee and Executive from June 2021;
- the level and detail of risks captured at service level is weak. Once the service risk register pilot is complete the process will be rolled out across the whole organisation; and
- staff will receive risk management training.

The Council has a Corporate Risk Register and Corporate issues Log, and from 2021/22 these are supported by registers for each Directorate.

The senior management team Corporate Performance Management Board met monthly during 2020/21. Part of the standing agenda for these meetings is consideration of the corporate risk and issues register.

We note that the risk register was reported to Corporate Scrutiny Committee and the Executive in July 2021 and included only key business risks with a score of 15 or more. The risks identified are referenced to corporate objectives, contain impact and probability scores and are assigned a risk owner. An improvement recommendation has been made that reporting on and understanding of risks would benefit by including information on mitigating actions, timescales to implement mitigations and gross compared to residual risk scores.

The lack of risk management reporting to Members during 2020/21 is a weakness in governance arrangements, but has been recognised and addressed in the AGS Action Plan. We have made a recommendation to further improve the reporting and management of risk within the Council with regard to mitigating actions.

## Internal control

Internal audit is undertaken by South West Audit Partnership (SWAP), who revised their work programme to address specific risks relating to the pandemic. By May 2021 some 92% of the revised audit plan was at final, draft or discussion stage. The quality of SWAP's work was scored at 98% through customer satisfaction questionnaires and an independent assessment reported to the Audit, Governance and Standards Committee in August 2020 confirmed that "SWAP is a high performing and well managed internal audit partnership, delivering professional and high quality services".

SWAP issued a "reasonable" assurance opinion for 2020/21, concluding that "there is generally a sound system of governance, risk management and control in place".

The Audit, Governance and Standards Committee receives regular updates concerning the progress made implementing high priority audit recommendations. In December 2020 the Committee received an update on financial control and reporting procedures and the progress made in addressing the recommendations from key control audits in 2019/20. Partial assurance had been given for several financial system audits, including payroll, banking, treasury and main accounting. Good progress was noted in addressing the issues and the majority of high priority actions were complete.

From our work we have found no areas of significant weakness in the management and reporting on internal control, and note the progress made during the year in improving financial control and reporting procedures.

## Monitoring standards

Ethical governance and culture was given a limited assurance audit opinion during the year. Weaknesses related to staff understanding of and access to key information and a lack of training. Key documents such as the Anti-Money Laundering and Fraud Reporting Policy were found to be out of date. The Executive approved the Anti-Fraud and Corruption Strategy, Anti-Bribery Policy, Anti-Money Laundering Policy and Whistle Blowing Policy in April 2021 and hence we have not identified an improvement recommendation.

We have reviewed the Members register of gifts and hospitality and note there was only one declaration in 2020/21. To date in 2021/22 there have been five Member declarations. Review of the officer register of gifts and hospitality confirmed no declarations were made in 2020/21 with five made in the current year. The Council should ensure that Members and officers are aware of the policies for recording gifts and hospitality as set out in their respective Codes of Conduct.

Member's registers of interests are available on the Council's website. While there is evidence that some have been updated during the pandemic through email correspondence appended to the declarations, the Council should ensure that Members are aware of the requirement to keep registers of interest up to date. Internal audit reported in the year that only six officer interests have been recorded since 2016, which appears to be low.

The AGS Action Plan recognises ethical awareness needs to be improved and contains the following actions:

- ethical training to be rolled out for Members and staff induction process to be reviewed; and
- reminders to be sent to Members and officers relating to declaring interests and gifts and hospitality.

The Council has a range of officers who are responsible for ensuring and monitoring compliance with statutory standards, such as the Monitoring Officer and the Section 151 Officer. Through our review we are not aware of any instances where officers or elected members have not complied with the necessary standards.

The weaknesses during the year in relation to ethical governance have been recognised by the Council and are in the process of being addressed. The Council should ensure that there is a formal process in place for Members and officers to declare interests, and that regular reminders and training are conducted regarding the requirements of the respective Codes of Conduct.

## Budgetary control 2020/21

We have considered the Council's processes for monitoring the 2020/21 budget during what was a difficult year to accurately forecast costs and income due to the effects of the pandemic, periods of lockdown, and incremental announcements of government funding. The Council faced additional challenges as budgets were aligned to Directorate structures.

Budget monitoring reports were submitted quarterly during the year to the Scrutiny Committee and the Executive. These contain detailed forecasts of spend by Directorate and narrative explaining the risks and uncertainties associated with the budget forecasts.

As the financial year progressed the overall forecast outturn position improved as the costs of the pandemic and associated government funding became more certain. When the revised budget was agreed in October 2020 the General Fund was forecast to overspend by £1.0m, the position improving to an underspend of £1.5m at Quarter Three, and with a final outturn position of £3.3m underspent before carry forwards.

The Council introduced arrangements to identify and monitor the additional costs arising from the pandemic through setting up a bespoke project code in the finance system to which related spend was allocated.

The internal audit review of the progress made implementing high priority budget monitoring recommendations from 2019/20 confirms that processes have been reviewed and improvements made during 2020/21. New monitoring reports have been developed and monthly forecasting undertaken from June 2020. Monthly performance reports are taken to the Corporate Performance Board which include financial monitoring, and budget managers have self service access to budget reports from the finance system with monthly meetings held with the finance team.

We have reviewed the arrangements in place to monitor major capital scheme spend against budget and progress against expected delivery. Detailed monitoring takes place monthly at a programme level and key issues are reported to the Directorate Board and Senior Management Team. We note that there were significant capital budget carry forwards into the 2021/22 financial year and have made an improvement recommendation that capital monitoring and outturn reports should include explanations for slippage and amounts recommended for carrying forward to future years.

We have not identified any significant weaknesses with regard to the Council's arrangements for budget monitoring. The Council should continue to work on refining its budget monitoring processes to ensure forecasts are as accurate as possible.

## Commercial property investment strategy

As set out in the Financial Sustainability section of the Auditor's Annual Report we consider that the Council's Commercial Property Investment Strategy is a departure from the principles of prudent activity that will be reinforced in the revised CIPFA Prudential Code. We have not concluded that the Council is acting unlawfully and judge the governance arrangements relating to the strategy to be sound, but we do have concerns around the scale of the commercial investment and the risks that it exposes the Council to.

We are therefore identifying a significant weakness with regard to decision making that could lead to significant loss or exposure to significant financial risk, and which is a significant departure from key regulatory standards.

The Council needs to develop a clear plan to mitigate the risks that they have incurred as a result of the Commercial Property investment Strategy. The plan should address the following:

- securing long term non-PWLB financing for the commercial portfolio;
- managing the impact on the General Fund if investment performance is below the target;
- ensuring prudent debt repayment costs are reflected in the budget with the Council fully providing for the debt taken out to acquire these assets over the life time of the debt;
- ensuring that the risks are understood by the Shadow Council in the run up to local government reorganisation; and
- ensuring that the Council fully complies with the revised CIPFA Prudential Code when it is implemented in 2023/24.

## Local referendum on the future of local government in Somerset

In May 2020 the Council, in collaboration with the other district councils in Somerset, conducted a local referendum on the two proposals for unitary local government in the county. In response to concerns raised by the Secretary of State as to the lawfulness and value of the exercise, the Council obtained independent legal advice and satisfied itself that it had the powers to conduct the referendum, and that its results would have value and would need to be taken account of.



### Annual governance statement action plan

The Council has an ambitious Annual Governance Statement Action Plan that seeks to address identified weaknesses in arrangements including risk management, ethical awareness, data quality and procurement. The Council should ensure that actions are implemented as planned, or where appropriate are considered as part of local government workstreams.



# Improvement recommendations

## Governance

<b>3 Recommendation</b>	Risk management reporting to Corporate Scrutiny Committee and the Executive should include details of mitigating actions, timescales for implementation, and gross compared to residual risk scores.
<b>Why/impact</b>	The risk management reporting does not give enough information to allow Members to understand how risks are being managed and mitigated, over what period the actions are to be implemented, and what the risk score is after mitigating action has been taken.
<b>Summary findings</b>	The risk register reported to Corporate Scrutiny Committee and the Executive in July 2021 contained the key business risks and their corresponding impact and probability scores. Risks are cross referenced to the corporate objectives and assigned a risk owner.
<b>Management comment</b>	The recommendation is noted and will be fully considered to determine if actions already taken are sufficient. The reporting of risk to Scrutiny Committee and Executive has already been further developed during the 2021/22 financial year which largely addresses the recommendation. For each risk and issue, the report now contains further information about the development and implementation of the mitigation plan. A RAG status is included for the mitigation plan development, and another RAG status for the mitigation plan implementation. Given that many of the risks and issues contain elements that are confidential and/or commercially sensitive, it was felt that this was the most appropriate way to provide further updates on the mitigation. Portfolio Holders are briefed on the details and other members can be updated as required.

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The range of recommendations that external auditors can make is explained in Appendix C.

# Improving economy, efficiency and effectiveness



## We considered how the Council:

- responded to the changes required as a result of Covid-19
- uses financial and performance information to assess performance to identify areas for improvement
- evaluates the services it provides to assess performance and identify areas for improvement
- ensures it delivers its role within significant partnerships, engages with stakeholders, monitors performance against expectations and ensures action is taken where necessary to improve
- ensures that it commissions or procures services in accordance with relevant legislation, professional standards and internal policies, and assesses whether it is realising the expected benefits.

## Performance management

The Corporate Strategy 2020–2024 was approved in October 2019 and sets out the Council’s strategic themes, objectives and desired outcomes for the period. The Annual Plan 2020/21 sets out the focus areas for achieving Corporate Strategy objectives for the year as well as a review of the achievements made in 2019/20.

The Council has a Performance Management Framework which describes the golden thread that links performance management processes to strategic aims and objectives; linking the Corporate Strategy to the Annual Plan, Directorate Plans and personal objectives. A tiered approach to performance reporting operated during the year with the Corporate Performance Board receiving detailed monthly reports, and with quarterly reporting of key performance indicators to the Scrutiny Committee and Executive. From 2021/22 each Directorate has a Programme Board that meets monthly to monitor performance and key projects. Throughout the year the performance reports were submitted to Scrutiny Committee and Executive at the same meeting that considered quarterly financial monitoring thus giving Members the opportunity to consider financial and non-financial aspects of service delivery at the same time.

The 2020/21 performance outturn report was considered by the Executive in July 2021. The majority of performance indicators were met or exceeded during the year. Indicators that were flagged as red or amber related to complaint and freedom of information (FOI) response times, licencing application processing times, and the collection rates for council tax and business rates. The response times for complaints and FOIs were identified during the year as underperforming and action was taken to improve processes. Improvements in performance were noted for complaints, FOI and licencing application response times during the last quarter of the financial year. The reduced collection rates for council tax and business rates reflect the impact of the pandemic on residents, businesses and the level of recovery action that could be undertaken.

The progress update on the 28 commitments in the Annual Plan 2020/21 confirmed that 23 were rated green as progress was on track. There were 5 amber rated commitments relating to slippage and the impact of Covid-19.

The Performance Management Framework recognises the importance of data quality and transparency to performance management. The Council does not currently have a Data Quality Policy and the AGS Action Plan sets a target for this to be drafted by 31 December 2021, although we understand from discussions with officers that it is likely to be considered as part of a local government reorganisation workstream.

Our review of the Council’s arrangements for managing performance has not identified any significant areas of weakness other than the requirement to draft a Data Quality Policy which is already recognised by the Council. Therefore we have not made any improvement recommendations in this area.

## Learning from others

Benchmarking is an effective tool that enables an organisation to compare and analyse its performance with others. It can provide a basis for collaboration and identify areas for improvement.

The Council does not routinely undertake financial comparisons or benchmarking of service performance with other local authorities.

The benchmarking that we undertook using our management tool 'CFO Insights' compared the units costs for a range of services and identified the following areas where the unit costs were very high in comparison to other district councils:

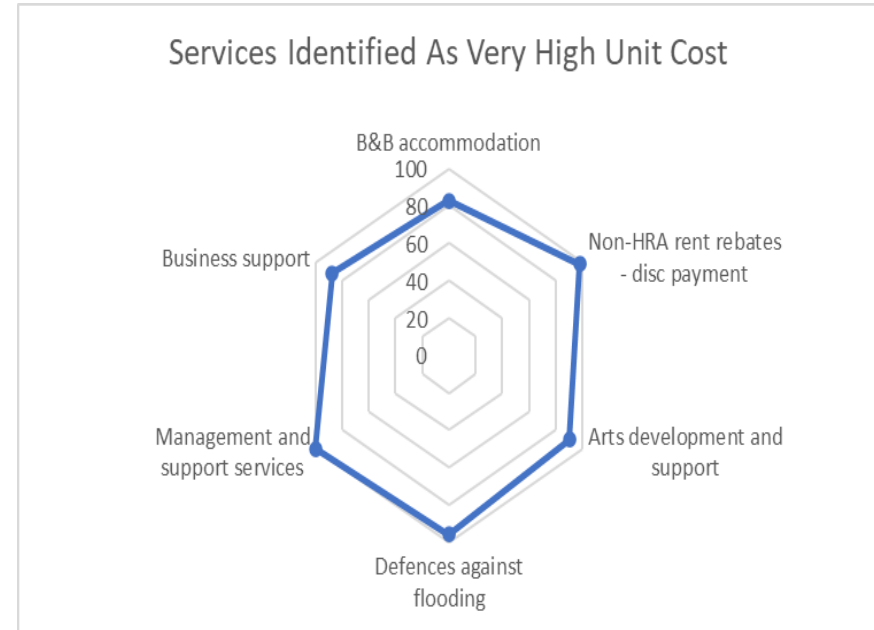
- Bed and breakfast accommodation - reflecting the impact of the Homeless Reduction Act and associated increase in caseload;
- Non HRA rent rebate discretionary payments - the spend reflecting agreed funding from the Department of Work and Pensions;
- Arts Development - due to the cost of grant funding local theatres;
- Defences against flooding - reflecting the cost of levies and payments to the Environment Agency and Rivers Authority;
- Business Support - which includes consultancy and feasibility costs relating to regeneration projects.

A difficulty in using the 2019/20 data for benchmarking was identified when reviewing the very high unit costs for management and support service costs. Following the establishment of the Council and transformation programme, all pay costs were allocated to this service line in the data return rather than being allocated to services. Following the budget mapping exercise in 2020/21 employee costs are now allocated to services and will allow for more meaningful benchmarking to be undertaken.

While the charts opposite are only able to provide an indication of where costs are high, we consider that the Council should be routinely benchmarking service costs in order to identify areas where efficiencies could be achieved. While we recognise that during the first two years of its existence, the focus of the new Council has been stabilisation and bringing services together, we have made an improvement recommendation that the Council should undertake corporate benchmarking going forward.

On the spider chart a rank of 50 represents the group median. The group in this case is all district councils. If a measure is closer to the outside of the chart it would be classed as 'very high cost', whereas if the line is closer to zero, then it would be classed as 'very low cost' in comparison to the group.

The data is based on the 2019/20 Revenue Outturn submissions to the government.



## Significant partnerships

Our work relating to the governance arrangements around significant partnerships that the Council participates in is not yet complete. Once this work is complete we will update the Audit and Governance Committee should any further weaknesses in arrangements or recommendations be identified.

The draft business plan 2021/26 for the Somerset Waste Partnership (SWP) was approved by the Executive in January 2021 prior to approval by the SWP Board. The Council has Member representation on the quarterly SWP Board which considered performance, the roll out of key schemes such as Recycle More, and the financial position of the SWP during the year.

The Council recognises that there are improvements it could make with respect to partnership working. The Council does not currently have a partnership register although the target date to develop one in the AGS Action Plan is 30 September 2021. The development of a register would help ensure that significant partnerships are considered during decision making and that significant partnership risks are identified and managed. The existence of a partnership register would therefore be particularly pertinent in the lead up to local government reorganisation.

We are making an improvement recommendation that the Council could improve the governance arrangements for significant partnerships by ensuring that a partnership register is developed.

## Procurement

In order to support businesses during the pandemic, the Council's terms for paying suppliers were changed to enable much quicker payments. During April and May 2020 the Council paid £6.4m to suppliers with an average turnaround time for processing invoices of 4.8 days.

Internal audit reported a limited assurance opinion in relation to strategic procurement in December 2020 due to the lack of an up to date procurement strategy, no detailed published operational guidance and a lack of procurement training. Executive has since approved the revised Procurement Strategy in March 2021 to ensure compliance with the latest procurement legislation. There is an action in the AGS to roll out procurement training to officers, although from our enquiries we understand that this has not yet been implemented.

The absence of a procurement strategy and training during the year is a weakness in arrangements, but has been identified by the Council and actions to improve arrangements have already been implemented, with further improvements planned. As such we have not raised an improvement recommendation.



# Improvement recommendations



## Improving economy, efficiency and effectiveness

<b>4 Recommendation</b>	The Council should undertake corporate benchmarking of service cost and performance.
<b>Why/impact</b>	Benchmarking is an effective tool that enables an organisation to compare and analyse its performance with others. It can provide a basis for collaboration and identify areas for improvement.
<b>Summary findings</b>	The Council does not routinely undertake financial comparisons or benchmarking of service performance with other local authorities.
<b>Management comment</b>	The recommendation is noted. In view of local government restructuring it is proposed to highlight this recommendation for consideration by the successor unitary council through the Implementation Programme

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The range of recommendations that external auditors can make is explained in Appendix C.

# Improvement recommendations



## Improving economy, efficiency and effectiveness

<b>5 Recommendation</b>	The Council should develop a partnership register in accordance with the AGS Action Plan.
<b>Why/impact</b>	The development of a partnership register would help ensure that significant partnerships are considered during decision making and that significant partnership risks identified and managed.
<b>Summary findings</b>	The Council does not have a partnership register in place.
<b>Management comment</b>	Agreed. This will be done.

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The range of recommendations that external auditors can make is explained in Appendix C.



# Opinion on the financial statements



## Audit opinion on the financial statements

We gave an unqualified opinion on the Council's financial statements on 30 September 2021.

## Audit Findings Report

More detailed findings can be found in our Audit Findings Report, which was published and reported to the Council's Audit and Governance Committee on 27 September 2021.

## Whole of Government Accounts

To support the audit of the Whole of Government Accounts (WGA), we are required to review and report on the WGA return prepared by the Council. This work includes performing specified procedures under group audit instructions issued by the National Audit Office.

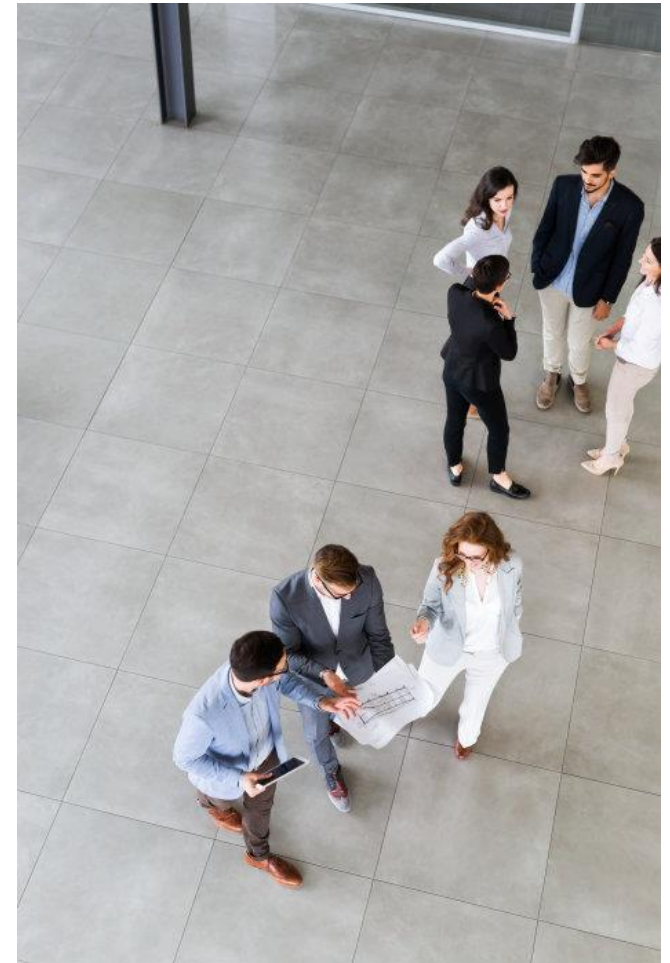
These instructions have yet to be issued and as such we cannot complete this work or formally certify the closure of our audit.

## Preparation of the accounts

The Council provided draft accounts in line with the national deadline. Whilst progress has been made on the prior year, we experienced some challenges in the audit and identified a significant number of amendments to the draft financial statements. More detail is included in our Audit Findings Report.

## Grant Thornton provides an independent opinion on whether the accounts are:

- True and fair
- Prepared in accordance with relevant accounting standards
- Prepared in accordance with relevant UK legislation.



# Appendices



# Appendix A - Responsibilities of the Council



## Role of the Chief Financial Officer (or equivalent):

- Preparation of the statement of accounts
- Assessing the Council's ability to continue to operate as a going concern

Public bodies spending taxpayers' money are accountable for their stewardship of the resources entrusted to them. They should account properly for their use of resources and manage themselves well so that the public can be confident.

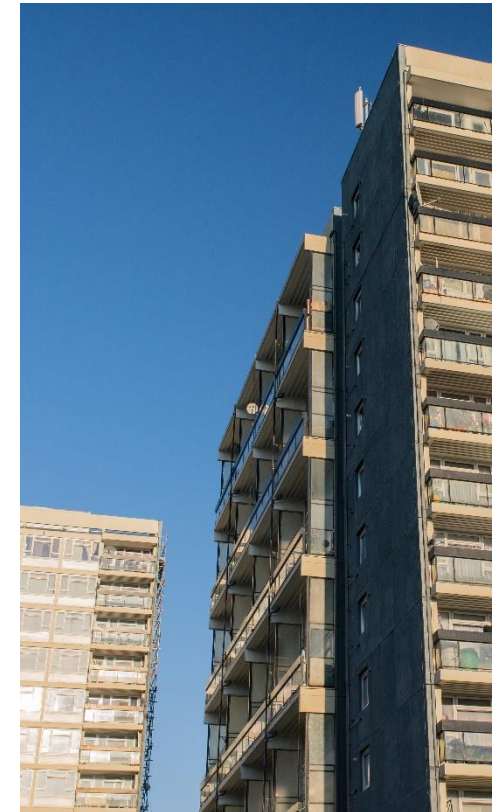
Financial statements are the main way in which local public bodies account for how they use their resources. Local public bodies are required to prepare and publish financial statements setting out their financial performance for the year. To do this, bodies need to maintain proper accounting records and ensure they have effective systems of internal control.

All local public bodies are responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness from their resources. This includes taking properly informed decisions and managing key operational and financial risks so that they can deliver their objectives and safeguard public money. Local public bodies report on their arrangements, and the effectiveness with which the arrangements are operating, as part of their annual governance statement.

The Chief Financial Officer (or equivalent) is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view, and for such internal control as the Chief Financial Officer (or equivalent) determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

The Chief Financial Officer (or equivalent) or equivalent is required to prepare the financial statements in accordance with proper practices as set out in the CIPFA/LASAAC code of practice on local authority accounting in the United Kingdom. In preparing the financial statements, the Chief Financial Officer (or equivalent) is responsible for assessing the Council's ability to continue as a going concern and use the going concern basis of accounting unless there is an intention by government that the services provided by the Council will no longer be provided.

The Council is responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources, to ensure proper stewardship and governance, and to review regularly the adequacy and effectiveness of these arrangements.



# Appendix B - Risks of significant weaknesses - our procedures and findings

As part of our planning and assessment work, we considered whether there were any risks of significant weakness in the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources that we needed to perform further procedures on. The risks we identified are detailed in the table below, along with the further procedures we performed, our findings and the final outcome of our work:

Risk of significant weakness	Procedures undertaken	Findings	Outcome
Financial sustainability was not identified as a potential significant weakness, see pages 10 to 18 for more details	No additional procedures undertaken	No significant weaknesses identified	Appropriate arrangements were in place, two improvement recommendations raised.
Governance was not identified as a potential significant weakness, see pages 19 to 23 for more details.	No additional procedures undertaken	A significant weaknesses was identified in relation to the Commercial Strategy	One key recommendation and one improvement recommendation raised.
Improving economy, efficiency and effectiveness was not identified as a potential significant weakness, see pages 24 to 28 for more details.	No additional procedures undertaken	No significant weaknesses identified	Appropriate arrangements were in place, two improvement recommendations raised.

# Appendix C - An explanatory note on recommendations

A range of different recommendations can be raised by the Council's auditors as follows:

Type of recommendation	Background	Raised within this report	Page reference
Statutory Page 55	Written recommendations to the Council under Section 24 (Schedule 7) of the Local Audit and Accountability Act 2014. A recommendation under schedule 7 requires the Council to discuss and respond publicly to the report.	No	N/A
	The NAO Code of Audit Practice requires that where auditors identify significant weaknesses as part of their arrangements to secure value for money they should make recommendations setting out the actions that should be taken by the Council. We have defined these recommendations as 'key recommendations'.	Yes	P6
Improvement	These recommendations, if implemented should improve the arrangements in place at the Council, but are not a result of identifying significant weaknesses in the Council's arrangements.	Yes	P17 – P18 P23 P27 – P28

# Appendix D - Use of formal auditor's powers

We bring the following matters to your attention:

## Statutory recommendations

Under Schedule 7 of the Local Audit and Accountability Act 2014, auditors can make written recommendations to the audited body which need to be considered by the body and responded to publicly

We have not issued any statutory recommendations.

## Public interest report

Under Schedule 7 of the Local Audit and Accountability Act 2014, auditors have the power to make a report if they consider a matter is sufficiently important to be brought to the attention of the audited body or the public as a matter of urgency, including matters which may already be known to the public, but where it is in the public interest for the auditor to publish their independent view.

We have not issued a public interest report.

## Application to the Court

Under Section 28 of the Local Audit and Accountability Act 2014, if auditors think that an item of account is contrary to law, they may apply to the court for a declaration to that effect.

We have not made an application to the Courts.

## Advisory notice

Under Section 29 of the Local Audit and Accountability Act 2014, auditors may issue an advisory notice if the auditor thinks that the authority or an officer of the authority:

- is about to make or has made a decision which involves or would involve the authority incurring unlawful expenditure,
- is about to take or has begun to take a course of action which, if followed to its conclusion, would be unlawful and likely to cause a loss or deficiency, or
- is about to enter an item of account, the entry of which is unlawful.

We have not issued any advisory notices.

## Judicial review

Under Section 31 of the Local Audit and Accountability Act 2014, auditors may make an application for judicial review of a decision of an authority, or of a failure by an authority to act, which it is reasonable to believe would have an effect on the accounts of that body.

We have not applied for a judicial review.





*Report Number: SWT 110/21*

## **Somerset West and Taunton**

### **Audit and Governance Committee – 13 December 2021**

#### **SWAP Internal Audit – Progress Report 2021-22**

**This matter is the responsibility of Executive Councillor Ross Henley**

**Report Author: Alastair Woodland, Assistant Director, SWAP**

#### **1 Executive Summary / Purpose of the Report**

- 1.1 The Internal Audit function plays a central role in corporate governance by providing assurance to the Audit, Governance and Standards Committee, looking over financial controls and checking on the probity of the organisation.
- 1.2 The 2021-22 Annual Internal Audit Plan is to provide independent and objective assurance on SWT Internal Control Environment. This work will support the Annual Governance Statement.

#### **2 Recommendations**

- 2.1 Members are asked to note progress made in delivery of the 2021-22 internal audit plan and significant findings since the previous update in September 2021.

#### **3 Risk Assessment (if appropriate)**

- 3.1 Any large organisation needs to have a well-established and systematic risk management framework in place to identify and mitigate the risks it may face. SWT has a risk management framework, and within that, individual internal audit reports deal with the specific risk issues that arise from the findings. These are translated into mitigating actions and timetables for management to implement.

#### **4 Background and Full details of the Report**

- 4.1 This report summarises the work of the Council's Internal Audit Service and provides:
  - Details of any new significant weaknesses identified during internal audit work completed since the last report to the committee in September 2021.
  - A schedule of audits completed during the period, detailing their respective assurance opinion rating, the number of recommendations and the respective

priority rankings of these.

4.2 The Internal Audit Progress Report for 2021-22 is contained within the attached SWAP Report.

## **5 Links to Corporate Strategy**

5.1 Delivery of the corporate objectives requires strong internal control. The attached report provides a summary of the audit work carried out to date this year by the Council's internal auditors, SWAP Internal Audit Services.

## **6 Finance / Resource Implications**

6.1 There are no specific finance issues relating to this report.

## **7 Legal Implications (if any)**

7.1 There are no specific legal issues relating to this report.

## **8 Climate and Sustainability Implications (if any)**

8.1 There are no direct implications from this report.

## **9 Safeguarding and/or Community Safety Implications (if any)**

9.1 There are no direct implications from this report.

## **10 Equality and Diversity Implications (if any)**

10.1 There are no direct implications from this report.

## **11 Social Value Implications (if any)**

11.1 There are no direct implications from this report.

## **12 Partnership Implications (if any)**

12.1 There are no direct implications from this report.

## **13 Health and Wellbeing Implications (if any)**

13.1 There are no direct implications from this report.

## **14 Asset Management Implications (if any)**

14.1 There are no direct implications from this report.

## **15 Data Protection Implications (if any)**

15.1 There are no direct implications from this report.

## **16 Consultation Implications (if any)**



16.1 There are no direct implications from this report.

**17 Scrutiny Comments / Recommendation(s)** (if any)

N/A

**Democratic Path:**

- **Audit, Governance and Standards Committee – Yes**
- **Cabinet/Executive – No**
- **Full Council – No**

**Reporting Frequency:** Quarterly

**List of Appendices**

Appendix A	SWAP Internal Audit - Progress Report 2021-22
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# Somerset West and Taunton

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# Internal Audit Plan Progress 2021-22

## Our audit activity is split between:

- **Operational Audit**
- **Governance Audit**
- **Key Control Audit**
- **IT Audit**
- **Grants**
- **Other Reviews**



## Role of Internal Audit

The Internal Audit service for Somerset West and Taunton Council is provided by SWAP Internal Audit Services Limited (SWAP). SWAP is a Local Authority controlled Company. SWAP has adopted and works to the Standards of the Institute of Internal Auditors, further guided by interpretation provided by the Public Sector Internal Audit Standards (PSIAS) and also follows the CIPFA Code of Practice for Internal Audit. The Partnership is also guided by the Internal Audit Charter approved by the Audit, Governance and Standards Committee at its meeting in March 2021.

Internal Audit provides an independent and objective opinion on the Authority's control environment by evaluating its effectiveness. Primarily the work includes:

- Operational Audit Reviews
- Cross Cutting Governance Audits
- Annual Review of Key Financial System Controls
- IT Audits
- Grants
- Other Special or Unplanned Review

Internal Audit work is largely driven by an Annual Audit Plan. This is approved by the Section 151 Officer, following consultation with the Senior Leadership Team. The 2021-22 Audit Plan was reported to the Audit, Governance and Standards Committee and approved at its meeting in March 2021. Audit assignments are undertaken in accordance with this Plan to assess current levels of governance, control and risk.

# Internal Audit Plan Progress 2021-22

## Outturn to Date:

We rank our recommendations on a scale of 1 to 3, with 3 being minor or administrative concerns to 1 being areas of major concern requiring immediate corrective action.



## Internal Audit Work programme

The schedule provided at **Appendix B** contains a list of all audits as agreed in the Annual Audit Plan 2021/22. It is important that Members are aware of the status of all audits and that this information helps them place reliance on the work of Internal Audit and its ability to complete the plan as agreed. Each completed assignment includes its respective “assurance opinion” rating together with the number and relative ranking of recommendations that have been raised with management.

In such cases, the Committee can take assurance that improvement actions have been agreed with management to address these. The assurance opinion ratings have been determined in accordance with the Internal Audit “Audit Framework Definitions” as detailed in **Appendix A**.

The following table summarised Audits finalised since the previous update in September 2021.

Audit Area	Opinion
Fraud Risk Assessment	Advisory
Grounds and Open Spaces - External Work – Income ‘Follow Up Audit’	Advisory (Follow Up)
Open Contractor – Revised Grounds Maintenance Arrangements	Reasonable
Data Centre Review	Limited
Performance Management	Substantial
Risk Management	Reasonable
Exploratory Work – Tenancy	Advisory
Procurement – ‘Follow Up Audit’	Advisory (Follow Up)

Please see the Limited/No Assurance section below for further information on the Limited Assurance review.

# Internal Audit Plan Progress 2021-22

## Significant Corporate Risks

Identified Significant Corporate Risks should be brought to the attention of the Audit Committee.

## Completed Assignments:

Summary of work completed with a focus on the high priority issues that we believe should be brought to the attention of the Audit Committee.

- Limited or No Assurance Opinions
- Follow-ups



## Significant Corporate Risks

We provide a definition of the 3 Risk Levels applied within audit reports and these are detailed in **Appendix A**. For those audits which have reached report stage through the year, I will report risks we have assessed as 'High'.

There are no significant (High) corporate risks identified through our work since your previous update in September.



## Summary of Work Completed – Limited or No Assurance Opinions

### Data Centre – Limited Assurance

The objective that the audit concluded against was to ensure that, *the data centre facilities for SWT are managed appropriately to prevent loss and corruption of data and communications.*

The scope of this review covered both the Primary Data Centre (PDC) at Deane House and the Secondary Data Centre (SDC) at West Somerset House. We assessed the effectiveness of each individual data centre's arrangements to ensure the on-going security of the Council's information assets and support of those Council business activities that depend upon technology to function. We also reviewed all supporting policies and procedures to identify any instances of non-compliance with the Council's own established policies and procedures.

The Council has only recently refurbished its data centres and arrangements to support their safe and efficient operation were still being embedded at the time of this review. Whilst our audit has identified where improvements were needed to better safeguard these facilities going forward, these improvements have been acknowledged by management with assurances provided that the majority would be addressed before the end of December 2021.

The main priority findings are listed below and will be followed up by SWAP in 2022-23 to provide assurance that agreed actions have been implemented.

## Internal Audit Plan Progress 2021-22

P1 or P2	Issue Found	Managers Agreed Action	Agreed Date of Action
P2	There was no formal process for testing resilience but through operational tasks, such as performing updates or maintenance to the primary lines, the resilient lines were used at regular intervals. While resilient equipment was routinely serviced or used as part of other operational tasks, there has been no formal testing of these to ensure that in a continuity or recovery situation that they will function as intended. As such we have been unable to completely evidence this activity.	To support ICT management oversight of resilience testing, it was agreed that a formal program would be introduced to detail the periodic tests undertaken and results recorded. The frequency of these tests would be determined by management according to the risk arising. These tests would be designed to ensure that all resilient equipment was able to function as expected in the event of a recovery or continuity event arising.	31.3.22
P2	Staff contacted as part of this review did have an awareness of how to respond to an emergency at the Primary Data Centre (PDC) and the Secondary Data Centre (SDC). However, this stemmed from their own skills and experience on how they should proceed rather than because of any Health and Safety training offered by the Council to ensure a safe and consistent response. No formal training has been offered to such staff and there were no formal emergency procedures related to the individual Data Centres themselves.	It was agreed to formally document emergency procedures relating to the data centres and that training would be provided to the appropriate staff according to their roles and responsibilities. This would support the Council's compliance with Health and Safety legislation.	31.12.21
P2	There was alternative power supplies (Uninterruptable Power Supplies (UPS)) maintained and installed at both the PDC and SDC at the time of our review. These are specialist items that help to ensure a sufficient power supply to data centre facilities in the event of a disruption occurring. However, at our visit to the PDC, we noted that the UPS systems did not appear to be load balanced.	It was agreed that an examination of the PDC's UPS would be undertaken to confirm that load balancing was in place, and additionally to replace the SDC UPS. The Head of ICT will liaise with Facilities Management to ensure these actions are completed.	31.3.22
P2	We were informed that access to the Council's data centres were restricted to authorised staff only via swipe card and we noted that visitor details were also recorded in a log. However, there was no formal policy that stated that access should be strictly restricted to authorised staff only on a need's must basis, nor how such access should be first requested and then granted, or from whom such authorisation should be sought.	To improve physical security at the Council's data centre facilities it was agreed to: a) Document the process required to gain entry to the data centres along with details of those that would be required to authorise access. <i>This process could be documented as a distinct policy or absorbed by existing Information Security Policies used by the Council.</i> b) Review and reduce where practicable the number of cards that allow access to the data centres.	31.12.21

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## Internal Audit Plan Progress 2021-22

P1 or P2	Issue Found	Managers Agreed Action	Agreed Date of Action
P2	<p>Information asset inventories should record all assets, including data centre equipment for maintenance and insurance purposes. We were unable to evidence the completeness and accuracy of the equipment held in the data centres owing to a lack of a detailed inventory at the time of this review.</p> <p>We were informed that since an extensive refurbishment at both data centres had only recently been completed, data centre equipment for maintenance and insurance purposes, was known.</p>	<p>It was agreed to conduct an inspection of both data centres to confirm the inventory details of all equipment located in these facilities and to apply any updates to the Council's inventory records where necessary.</p>	<p>31.12.21</p>

# Internal Audit Plan Progress 2021-22

## Completed Assignments:

Summary of work completed with a focus on the high priority issues that we believe should be brought to the attention of the Audit Committee.

- Limited or No Assurance Opinions
- Follow-ups

## Summary of Work Completed – Follow Up Audits

### Procurement – Follow up Audit

The original Procurement audit was completed in October 2020 and received a Limited assurance opinion. The objective of the audit was to assess the effectiveness of the Procurement unit's strategic direction, legislative compliance, fraud prevention and delivery of value for money at Somerset West and Taunton Council.

The follow up audit has found the majority of actions are in progress but are not yet complete. The main reasons for the non-completion are due to limited resourcing due to staff absence, other priorities, recruitment difficulties, and upcoming Unitary arrangements which has hampered progress with the actions to update documentation, and monitoring.

Key findings from the audit follow up have been summarised below.

Follow Up Progress Summary				
Priority	Complete	In Progress	Not Started	Summary
Priority 1	0	0	0	0
Priority 2	1	4	0	5
Priority 3	1	0	1	2
Total	2	4	1	7

Further details can be found in the table below on progress against each of the Priority 2 (P2) findings raised in the original review.

## Internal Audit Plan Progress 2021-22

	Issue from October 2020 Review	Agreed Action October 2020	Current Position October 2021	Revised Date	Status
P2	There is not an up-to-date Procurement Strategy currently in place for the council.	<p>A) The creation of a new strategy is in progress and will be delivered as planned in line with the Finance and Procurement Operational Plan. This is a recognised priority prior to the audit. All bullet points will be considered in the draft strategy, and the strategy will be taken to the Executive for approval. This is currently anticipated to be in January 2021, subject to SMT agreement on the delivery timetable.</p> <p>B) Provision of CPR's to be reviewed by AD Finance with changes likely to be approved by the Monitoring Officer under delegated responsibility.</p>	<p>A) A new Procurement Strategy was created and received approval by SMT in March 2021.</p> <p>B) This action has been delayed due to staff absence and other priorities. The revised Contract Procedure Rules (CPRs) were completed in July 2021 have been reviewed and verbally accepted; they will be further reviewed and formally signed off by the Deputy Monitoring Officer / Lawyer, now in post.</p>	<p>A) Complete</p> <p>B) 31 December 2021</p>	In Progress
P2	There is no published, detailed operational Procurement guidance or training in place for Procuring Officers or others with responsibility for Procurement, other than the high-level guidance documented in the Contract Procedure Rules (CPRs).	AD Finance and Strategic Procurement Specialist to review training and agree timeframes for implementation.	Initial work was undertaken to create online e-training however the source system was withdrawn and therefore work was re-started to establish training and guidance for Procurement Officers and others. The alternative options considered include group sessions delivered as part of the directorate service team meetings. The delivery of this is expected to be in a face-to-face environment subject to COVID restrictions.	<p>Training Framework – 31<sup>st</sup> March 2022</p> <p>Implementation starting Q1 2022</p>	In Progress

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## Internal Audit Plan Progress 2021-22

	Issue from October 2020 Review	Agreed Action October 2020	Current Position October 2021	Revised Date	Status
P2	Expenditure made through the exemption procedure has not been processed in accordance with the threshold limits and authorisation levels within the CPRs, and there is no monitoring of the process by the Procurement team or senior management.	<p>Whilst we agree with the recommendations, these reflect what is already being implemented, and as such it is management's view that this is a Priority 3 finding that requires attention. The Strategic Procurement Specialist plans to have addressed the points within the recommendation (below) by January 2021.</p> <p>A) Review the CPRs to bring them up to speed with the current exemption process being used and ensure that the end-to-end process is designed to fully protect the council's interests. Any changes to the CPRs to reflect the current exemption process should be approved by the Monitoring Officer.</p> <p>B) Ensure that the PO reference(s) relevant to each register entry are obtained and entered into the waiver register, and that the Specialist implements a procedure to monitor and ensure that spending through exemption is in line with the authorised waiver value, or that further authorisation is obtained where an originally authorised waiver value is to be exceeded.</p> <p>C) Implement a process to report regularly to the Senior Management Team on the type and value of expenditure being processed through exemption. This report should also highlight any issues identified through waiver monitoring completed by the Procurement team, to enable oversight and escalation of any issues as required.</p>	<p>A) The CPRs have been updated (but yet to be formally approved) however, the Measuring Performance section of the Procurement Strategy includes reference to exemption threshold compliance.</p> <p>B) PO numbers against waivers are recorded on the Waiver Register and overall spend against estimated waver values with interrogation of overspend. Stricter interrogation by procurement of requests for waiver to CSOs has been introduced.</p> <p>C) A standard quarterly report of Waivers is being introduced. This will include reporting on number of requests, the service requesting, value, and supplier. The quarterly report will be presented to Finance AD (151 Officer) each quarter, commencing Q4 2021/2022.</p>	March 2022	In Progress

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## Internal Audit Plan Progress 2021-22

	Issue from October 2020 Review	Agreed Action October 2020	Current Position October 2021	Revised Date	Status
P2	We identified expenditure with suppliers who do not appear in the council's public contract register in line with Transparency Code legislation.	The Contract Register is under review to ensure compliance and completeness. It is agreed to review and establish regular reconciliations, however there is a dependency of filling the currently vacant Procurement Officer role to provide the necessary capacity to ensure continuation of the process is compliant.	<p>The council is using ProContract for new procurement activity and the contract register function forms part of this process.</p> <p>Existing contracts remain on the contract register held on SharePoint and as these come up for renewal, they will be added to ProContract where appropriate. Whilst reconciliations of the existing register (and ProContract) will become the responsibility of the Procurement Officer, existing contracts will be RAG rated to identify priorities for action.</p>	Complete	Complete
P2	There is no regular monitoring of contracts reaching the end of their term by the Procurement team to ensure that another Procurement exercise is initiated where necessary, or to actively monitor whether the council's expenditure is supported as required by a Purchase Order (PO).	Processes and regular reporting will be put in place, with the activity to be responsibility of the currently vacant Procurement Officer post.	<p>The contract register is reviewed on a weekly basis by SPS &amp; SP Case Manager. Contracts that require further detailed review are identified and necessary steps to resolve are taken.</p> <p>Recruitment has proved difficult which means this action has not progressed as intended and therefore monitoring has been on a reactive basis. The current vacant post is subject to review as part of 2022/2023 budget setting and recruitment is therefore currently on hold. In the meantime, RAG rating the contracts will help to identify the priorities for some pro-active monitoring. Whilst Somerset County Council are providing some procurement support, this does not extend to monitoring.</p> <p>Development of further reporting is subject to further resourcing becoming available.</p>	30 April 2022	In Progress

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## Completed Assignments:

Summary of work completed with a focus on the high priority issues that we believe should be brought to the attention of the Audit Committee.

- Limited or No Assurance Opinions
- Follow-ups



## Summary of Work Completed – Follow Up Audits

### Grounds & Open Spaces – External Income

The original audit of Grounds and Open Spaces External Work Income was completed in October 2020 and received a Limited assurance opinion. The follow up audit has found that all 10 actions have now been completed. Key findings from the audit follow up have been summarised below.

Follow Up Progress Summary				
Priority	Complete	In Progress	Not Started	Summary
Priority 1	1	0	0	1
Priority 2	6	0	0	6
Priority 3	3	0	0	3
<b>Total</b>	<b>10</b>	<b>0</b>	<b>0</b>	<b>10</b>

The current year has been focused on ensuring current work is resourced correctly and on getting the service right. Now that this is in place, the service is able to focus on getting the processes refined and documented. All actions from the original audit review have been implemented. The new processes that have been introduced, replacing Open Contractor, have demonstrated that external works are correctly invoiced and accounted for within the financial management system.

Further details can be found in the table below on progress against each of the Priority 2 (P2) findings raised in the original review.

## Internal Audit Plan Progress 2021-22

	Issue from October 2020 Review	Agreed Action October 2020	Current Position October 2021	Revised Date	Status
P1	Invoices are not being raised as soon as a job is closed.	All invoices raised when closed and a monthly reconciliation completed on payment of invoices and open jobs. Zero based budgeting introduced for 2021/22 to ensure income budgets are correct.	The service no longer uses Open Contractor. The previous issue was the invoices were not being raised upon completion of the job, but after the job had been closed. This could be several months after the job had been completed and evidence to support the reason for the invoice was not always retained. All invoices are now raised as soon as the job is completed, or in line with contracted arrangements. Income figures are reviewed on a fortnightly basis to ensure all expected income has been received. Budgeted income figure has been forecast based on the contract arrangements in place. For any ad-hoc external work, the job is recorded within the 'job spreadsheet' and, when this is completed, an invoice is raised.	N/A	Complete
P2	Reconciliations are not being performed.	Agreed	As stated above, Open Contractor is no longer used; however, reconciliations are undertaken where contracts have been renewed to ensure all invoices are raised in line with the contract arrangements. Reconciliations are also undertaken to ensure invoices are raised for accepted quotes and that income is received.	N/A	Complete
P2	There is no Grounds and Open Spaces Strategy for generating income from external works.	That income generation and bidding is done in an agreed way to ensure that the team has capacity and agreed controls to deliver extra work or that the work can be won and generates a profit. Items detailed above will be included in the annual service plan. 2021/22 will be focused on ensuring current work is resourced correctly and performing well before extra work is bid for or a strategy written. Zero based budgeting introduced for 2021/22.	The three-year plan for generating income from external works is currently in draft. We have received a copy of this plan setting out the actions to be delivered over the next three years. The agreed action from the original audit stated: '2021/22 will be focused on ensuring current work is resourced correctly and performing well before extra work is bid for or a strategy written.' This is still the case. The three-year plan sets out the actions to be undertaken to allow the service to be in a position to bid for extra work. The Open Spaces Manager has confirmed that the Assistant Director Commercial Services will have to sign off the three-year plan; however, the actions within the plan will be monitored through the service's business plan and individual objectives set.	N/A	Complete

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## Internal Audit Plan Progress 2021-22

	Issue from October 2020 Review	Agreed Action October 2020	Current Position October 2021	Revised Date	Status
P2	There are no detailed Schedules of Works which inform a Financial Forecast.	Agreed - Produce a schedule of works for Housing Revenue Fund and General Fund – March 2021. Produce a schedule of works for all other work – Sept 2021.	There is a list of all contracts that have been signed. The Council is not looking to bid for any external work at present. For this financial year, income has been forecast based on the contracts in place.	N/A	Complete
P2	There was little evidence of detailed procedure notes and guides for key areas.	Agreed - List of procedures needed – Dec 2021. Produce work plan to complete procedures including resource requirement.	We have been provided with evidence to show that procedure notes for key tasks have been reviewed and updated. Flowcharts have been created for the internal and external quote process. Version control is now in place for all procedures. The procedures are held within SharePoint so all relevant staff have access; however, there are restrictions in place so that changes can only be made by authorised officers.	N/A	Complete
P2	Quotes templates do not make costs clear.	Agreed – template to be updated	A copy of the Quote template has been provided. This will be used for both internal and external quotes and has been updated to ensure costs are clear.	N/A	Complete
P2	Staff need more support and training to carry out their roles effectively.	We will agree to ensure that key Members of staff responsible for the grounds and open spaces service receive appropriate training to achieve these roles.	Not all officers require financial management training. Only the budget holders require this. The Open Spaces Manager is the budget holder and, through the appropriate training received, is confident and competent in this role. Other officers do, however, require knowledge relevant to their role, e.g., pricing jobs. The quoting of work is based on experience in grounds maintenance rather than training. All staff that quote for work are experienced grounds maintenance professionals, with the knowledge required to work out a cost to deliver works. In addition, the Case Manager – Parks and Open Spaces is the main focal point for financial matters. She is fully competent in this role. A second Case Manager has also been appointed on a full-time, permanent basis, to support the administration of the service. Whilst no specific financial management training has been given since the original audit review, all key Members of staff, whose role has some kind of financial element to it, have the competencies and skills to perform that role.	N/A	Complete

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# Internal Audit Plan Progress 2021-22

The Assistant Director for SWAP reports performance on a regular basis to the SWAP Management and Partnership Boards.



## SWAP Performance

SWAP now provides the Internal Audit service for 24 public sector bodies. SWAP performance is subject to regular monitoring review by both the Board and the Member Meetings. The respective outturn performance results for Somerset West and Taunton for quarters 1, 2 and 3 of 2021-22 (as of end November 2021) were as follows:

Performance Target	Target Year End	Average Performance (Q1, Q2 & Q3 only)
<p><b><u>Audit Plan – Percentage Progress</u></b>                      Final, Draft and Discussion                      In progress                      Yet to complete</p>	>90%	62% 29% 10%
<p><b><u>Quality of Audit Work</u></b>                      Customer Satisfaction Questionnaire</p>	>95%	100%
<p><b><u>Outcomes from Audit Work</u></b>                      Value to the Organisation  <i>(client view of whether our audit work met or exceeded expectations, in terms of value to their area)</i></p>	>95%	Year end

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# Internal Audit Plan Progress 2021-22

We keep our audit plans under regular review so as to ensure that we are auditing the right things at the right time. Audit Plans are undertaken on a rolling quarterly basis.



## Approved Changes to the Plan

The audit plan for 2021/22 is detailed in **Appendix B**. Inevitably changes to the plan will be required during the year to reflect changing risks and ensure the audit plan remains relevant to Somerset West and Taunton Council. Our rolling plans are agreed with the Senior Leadership Team quarterly from the list of unscheduled audit areas (brought to this Committee in March 2021) that constitutes the rolling Audit Plan. Members of the Audit Committee are welcome to identify area where they need assurance for priority work.

Original Audit Plan	Revised Audit Plan	Agreed Change
Data Centre – Q4	Data Centre – Q2	Request from Head of ICT.
ICT Infrastructure	Incident Management	ICT Infrastructure added to rolling plan list for future allocation. Change request agreed with Head of ICT.
One audit to be reduced from quarter 4 allocation	Exploratory work - Tenancy	

Assurance Definitions	
<b>No</b>	Immediate action is required to address fundamental gaps, weaknesses or non-compliance identified. The system of governance, risk management and control are inadequate to effectively manage risks to the achievement of objectives in the area audited.
<b>Limited</b>	Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.
<b>Reasonable</b>	There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of objectives in the area audited.
<b>Substantial</b>	A sound system of governance, risk management and control exist, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited.
<b>Non-Opinion/Advisory</b>	In addition to our opinion-based work we will provide consultancy services. The “advice” offered by Internal Audit in its consultancy role may include risk analysis and evaluation, developing potential solutions to problems and providing controls assurance.

Definition of Corporate Risks	
Risk	Reporting Implications
<b>High</b>	Issues that we consider need to be brought to the attention of both senior management and the Audit Committee.
<b>Medium</b>	Issues which should be addressed by management in their areas of responsibility.
<b>Low</b>	Issues of a minor nature or best practice where some improvement can be made.

Categorisation of Recommendations	
In addition to the corporate risk assessment it is important that management know how important the recommendation is to their service. Each recommendation has been given a priority rating at service level with the following definitions:	
<b>Priority 1</b>	Findings that are fundamental to the integrity of the service’s business processes and require the immediate attention of management.
<b>Priority 2</b>	Important findings that need to be resolved by management.
<b>Priority 3</b>	Finding that requires attention.

Audit Type	Audit Area	Quarter	Status	Opinion	No of Rec	1 - Major 3 - Minor			Comments
						1	2	3	
<b>FINAL</b>									
Assurance	Commercial Investment	1	Final	Substantial	2	0	0	2	
Assurance	Health and Safety	1	Final	Limited	11	0	3	8	Reported September 2021
Assurance	North Taunton Woolaway Regeneration	1	Final	Substantial	0	0	0	0	
Advisory	Fraud Risk Assessment	2	Final	Advisory	0	0	0	0	
Follow Up	DLO External Work – Income Follow Up	2	Final	Advisory (follow up)	0	0	0	0	Reported December 2021
Assurance	Open Contractor – Revised Grounds Maintenance Arrangements	2	Final	Reasonable	3	0	0	3	
Assurance	Performance Management	2	Final	Substantial	3	0	0	3	
Assurance	Risk Management	2	Final	Reasonable	6	0	2	4	
Assurance - ICT	Data Centre Review	2	Final	Limited	7	0	5	2	Reported December 2021
Advisory	Exploratory Work – Tenancy	3	Final	Advisory	0	0	0	0	
Follow Up	Procurement Follow-Up	2	Final	Advisory (follow up)	5	0	4	1	Reported December 2021

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Audit Type	Audit Area	Quarter	Status	Opinion	No of Rec	1 - Major 3 - Minor			Comments
						1	2	3	
<b>DRAFT</b>									
Assurance	Post payment assurance on COVID-19 grants (ARG & Restart)	2							
Assurance	Business Improvement – Tracking benefits	2							
<b>IN PROGRESS</b>									
Assurance	Data Protection Compliance (GDPR)	1							Delayed due to Key officer absence
Assurance - ICT	ICT Security Policy & Awareness Audit	2							
Assurance	Carbon Net Zero	2							
Advisory	Open Contractor – Revised Housing Arrangements	2							
Assurance	Housing Benefit	3							
Assurance	Council Tax & Business Rates	3							
<b>NOT STARTED</b>									
Assurance	Housing Rents	3	Scoping						

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Audit Type	Audit Area	Quarter	Status	Opinion	No of Rec	1 - Major 3 - Minor			Comments
						1	2	3	
Follow Up	Ethical Governance and Culture	3							

The list below constitutes the rolling 'unscheduled' audits for consideration for the next quarters work and beyond. Audit Committee Members are encouraged to provide a view on priority areas for Internal Audit Assurance work at any point throughout the year. We will be fully refreshing this list in quarter 4 and will be asking for Audit Committee Members input to help shape 2022-23 priority areas.

Audit Type	Audit Area	Audit Type	Audit Area	Audit Type	Audit Area
Assurance	Homelessness	Assurance	The measurement of phosphates	Assurance	Recruitment and On-boarding/Staff Retention
Assurance	Unitary Council Programme and Governance	Advisory	Impact of Covid-19 – Recovery to BAU and lessons learned	Assurance - ICT	ICT infrastructure improvement review
Assurance	Programme and Project Management	Assurance	People Strategy	Assurance	Sea Level Rises
Assurance	Creditors	Follow Up	Health and Safety Governance	Assurance - ICT	Digital Strategy
Assurance	Debtors	Follow Up	Data Centres	Assurance	Firepool SPV
Assurance	Main Accounting	Assurance	Regeneration Projects – Governance	Assurance	Landlord Housing Compliance (Part of rolling assurance plan)
Advisory	Baseline Assessment for Maturity of Fraud	Assurance	North Taunton Woolway Delivery and Budget	Assurance	Procurement Cards

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Report Number: SWT 115/21

## **Somerset West and Taunton Council**

### **Audit and Governance Committee – 13<sup>th</sup> December 2021**

#### **Summary of Level 1 and 2 Internal Audit Actions**

**This matter is the responsibility of the Portfolio Holder for Corporate Resources**

**Report Author: Malcolm Riches, Business Intelligence & Performance Manager**

#### **1.0 Executive Summary / Purpose of the Report**

1.1 The purpose of this report is to update the Committee on progress against level 1 and 2 Internal Audit Actions **as at the end of October 2021**.

#### **2.0 Recommendation**

2.1 The Committee reviews the overdue actions contained in the report and notes progress to date.

#### **3.0 Risk Assessment**

3.1 It is important to ensure that the Council has actioned the high priority actions that come out of Internal Audit reports in order to strengthen governance arrangements.

#### **4.0 Background and Full details of the Report**

4.1 The Council has engaged the South West Audit Partnership (SWAP) to carry out its Internal Audit functions; checking the adequacy of controls and procedures across the whole range of Council services.

4.2 At the start of each financial year an audit plan is agreed between SWAP and the Council which identifies the areas of highest potential organisational and operational risk within the Council.

4.3 When an audit takes place a report is provided to the service manager concerned which gives an audit conclusion and opinion.

4.4 Any control or procedural weaknesses are identified within an action plan appended to the audit report.

4.5 All findings will be allocated one of 3 priority ratings as follows:

Priority 1	Findings that are fundamental to the integrity of the service's business processes and require the immediate attention of management
Priority 2	Important findings that need to be resolved by management
Priority 3	Finding that requires attention

- 4.6 Each finding within the action plan contains a target implementation date which has been agreed between SWAP and the service manager concerned.
- 4.7 All priority 1 and 2 recommendations are captured in a register to ensure progress against the recommendations can be tracked and progress reported to the Audit, Governance and Standards Committee.
- 4.8 This report gives the Committee a progress update on all priority 1 and 2 audit actions, including those where the agreed remedial action is overdue. A summary of the priority 1 and 2 actions is provided in Appendix 1.
- 4.9 The current position as at 31<sup>st</sup> October
- 12 audit actions currently open. Appendix 2 contains details of the 7 actions which are completed, overdue, or have an imminent due date. There are a further 8 actions whose due date is further ahead and detailed updates will be reported nearer the time.
  - 1 audit report with all Priority 1 and 2 actions completed since the last report (see appendix 1)
  - 3 audit actions completed since the last report in September (see Appendix 2)
  - There are currently 4 audit actions overdue as at 31/10/21, the details are in Appendix 2 with a RAG status for progress being made.

## **5.0 Links to Corporate Strategy**

- 5.1 There are no direct links to corporate aims/priorities although good governance and robust controls form part of the overarching Governance Framework within which the Council operates.

## **6.0 Finance / Resource Implications**

- 6.1 Unmitigated risks identified by SWAP could expose the Council to unanticipated claims, expenditure or exposure to fraud.

## **7.0 Legal Implications**

- 7.1 There are no direct legal implications within this report although unmitigated risks could expose the Council to unanticipated claims.

### **Democratic Path:**

- **Audit and Governance Committee – Yes**
- **Executive – No**



- **Full Council – No**

**Reporting Frequency: Quarterly**

**Contact Officers**

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## APPENDIX 1

### Summary/Status of Audit Reports

Report	Status	Date	Judgement	Priority 1 and 2's identified	Position at 31 <sup>st</sup> October 2021	
					Priority 1/2 actions still open	Overdue (at 31/10/21)
Procurement	Final	26/10/2020	Limited	5	1	1
Housing Compliance - Governance & Reporting	Final	04/03/2021	Reasonable	2	1	0
Health and Safety	Final	02/08/2021	Limited	3	3	3
Risk Management	Final	Oct 2021	Reasonable	2	2	0
Data Centre	Final	Oct 2021	Limited	5	5	0
				<b>17</b>	<b>12</b>	<b>4</b>

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### Audit Reports with 1 & 2 Actions Completed (Since Sept Report)

Report	Status	Date	Judgement	Priority 1 and 2's identified	Priority 1/2 actions still open	All 1/2 actions complete
Grounds and Open Spaces	Final	04/06/2020	Reasonable	7	0	YES



**Appendix 2 – Update on Priority 1 and 2 Audit Recommendations at 31 October 2021**

Audit Report	Recommendation	Priority Scoring	Responsible Officer	Target Date	Progress	Progress RAG Status
Procurement (26/10/20)	We recommend that the Strategic Procurement Specialist finalises the draft Procurement Strategy as per the Finance and Procurement team's Operational Plan, to ensure the council can be held accountable for the Strategy's adoption and progression. The progress of implementing the Procurement Strategy, together with the adaptation of the CPRs, should continue to be closely monitored by the Assistant Director Finance, to ensure its timely progression in accordance with agreed implementation timeframes.	2	Strategic Procurement Specialist  AD for Finance/S151 Officer	Revised target 31/7/21 (previous 31/1/21)	<b>Procurement Strategy: COMPLETE</b> A new Procurement Strategy approved by Executive Committee in March 2021. <b>Contract Procedure Rules: COMPLETE PENDING FORMAL GOVERNANCE APPROVAL</b> – Approval in progress. Updated CPRs agreed by S151 Officer in July 2021. Formal approval by Council now being incorporated into proposed wider constitution updates report to AG Committee (Dec 2021) and Full Council (Feb 2022).	In Progress  (Complete Subject to Committee Approval)
Procurement (26/10/20)  Page 89	<ul style="list-style-type: none"> <li>• Completes a review of the contract register to ensure that all existing contracts are identified within, and that any spending off-contract is challenged with the relevant Officers as required.</li> <li>• Ensures the reconciliation of the internal and external contract registers, to ensure they agree. This exercise should be performed at regular intervals going forward, to ensure the registers are maintained and up to date.</li> </ul>	2	Strategic Procurement Specialist	30/6/21	Contract Registers have been reviewed and updated. Ongoing maintenance of the registers is undertaken, requiring additional support from Ops Support team as procurement support officer post remains vacant. <b>COMPLETE</b>	COMPLETED
Procurement (26/10/20)	We recommend that the Strategic Procurement Specialist liaises with the wider finance management team as intended, to develop and implement a proportionate suite of performance measures and reporting mechanisms that enable accountability and governance over the procurement function. Once developed, these should be documented, and this work should consider, but not be limited to, development of performance measures and monitoring in the following areas: <ul style="list-style-type: none"> <li>• Regular monitoring of, and reporting to the Senior Management Team on, the achievement of the Procurement cost savings stipulated in the MTFP</li> <li>• The achievement of the value for money, sustainable Procurement, and the social equality commitments within the draft Procurement Strategy</li> <li>• Analysis of spending against approved, contracted, and uncontracted suppliers</li> <li>• The achievement and benefit of collaboration in procurement (e.g. through use of procurement frameworks, or other procurement initiatives)</li> </ul>	2	Strategic Procurement Specialist	Revised target 31/7/21 (Previous 31/03/21)	Financial Strategy now incorporates limited procurement savings for a small number of contracts, therefore detailed procurement savings monitoring process not required. <b>CLOSED</b>  Resource capacity constraints have prevented development of additional reporting. This action is now closed with management accepting that risk is mitigated and managed through ongoing procurement processes and monitoring by the Strategic Procurement Specialist. <b>CLOSED</b>	COMPLETED

Audit Report	Recommendation	Priority Scoring	Responsible Officer	Target Date	Progress	Progress RAG Status
Ethical Governance & Culture (4/2/21)	The Governance Manager/AD – Corporate will ensure that the induction and training process includes all the key policies that establish a strong ethical culture within the organisation including: • Whistleblowing procedures • Conflicts of interest • Money Laundering and Fraud"	2	Governance Manager to liaise with AD – Corporate.	Revised target 02/07/21 (Previous 31/03/21)	Whistleblowing & Money Laundering & Fraud - eLearning packages have been added to the mandatory section of the learning management system (LMS), the updated policies need to be added in addition to this, which the People Business Partner (L & D) is working to complete (all staff will then need to affirm they have read and understood the policy alongside the training - this will be monitored by PBP over the coming months to ensure all required mandatory training is completed). Conflicts of interest currently sits in the induction section of the LMS. The People Business Partner and team are reviewing the induction material and required policies and will adjust the Induction vs Mandatory elements of the LMS to ensure suitable coverage. <b>COMPLETE.</b>	COMPLETED
Health & Safety (2/8/21)	Agreed. In the short term we will request that an existing Portfolio Holder accepts the responsibility of championing health and safety. In the medium to long term we will look into health and safety being a specific responsibility of Portfolio Holder. We will endeavour to provide an overview of the Health and Safety Management System to Members to enable them to understand the health and safety risks within the organisation and help them to act in their capacity as critical friends. This may be done by video that can be reviewed remotely. We will also provide a quarterly update to Members on the Health and Safety work carried out to keep everyone safe, including performance against key targets set.	2	Health and Safety Specialist	31/8/21	New H & S Committee structure being launched in Nov 2021 - consisting of 3 tiers (tier 1 = Members & SMT). Overarching action plan will be maintaining for all H & S actions and this will be visible to all 3 tiers. TOR will span all 3 tiers and 4 new Directorate Groups will be developed at tier 3 level. Work continues to develop Directorate Scorecards	In Progress
Health & Safety (2/8/21)	Risk Management Scoping Sessions have been delayed by a Health and Safety Partner leaving. They should now be completed by the end of July 2021. We are continuing with recruitment to fill the vacant post.	2	Health and Safety Specialist	31/8/21	Links via new Intranet page now allow Directorate/Teams to access individual action plans and progress stats. Scoping exercise complete but further work required to deliver action plans. This will be linked into the new H & S Committee corporate structure being launched in Nov 2021	In Progress
Health & Safety (2/8/21)	We will investigate the potential of iTrent to record the Training Needs Analysis, Learning and Development Records, develop training plans and produce detailed analysis on the training delivered.	2	Health and Safety Specialist	31/8/21	Essential 'Must Have' compliance training is collated centrally but there is still a gap to identify individual training requirements for roles (to be progressed with the L & D Team).	In Progress

There are a further 8 actions where the due date is further ahead and detailed updates will be reported nearer the time.

Report Number: SWT 113/21

# **Somerset West and Taunton Council**

## **Audit and Governance Committee – 13<sup>th</sup> December 2021**

### **Treasury Management Mid-Year Update Report 2021/22**

**This matter is the responsibility of Cllr Ross Henley, Portfolio Holder for Corporate Resources**

**Report Authors: John Dyson, Corporate Finance Manager (Interim)  
Steve Plenty, Finance Specialist**

#### **1 Executive Summary / Purpose of the Report**

- 1.1 To provide Members with an update on the Treasury Management activity of Somerset West and Taunton Council and performance against the Prudential Indicators in respect of the first six months of 2021/22.
- 1.2 It focuses on a review of the Council's borrowing and investment activities and incorporate a range of new charts that summarise the Council's treasury in-year treasury activities.

#### **2 Recommendations**

- 2.1 To note the Treasury Management position as at 30<sup>th</sup> September 2021 and compliance with the Prudential Indicators.
- 2.2 To recommend to Full Council that an amendment (effective forthwith) be made to paragraph 5.16 of the Treasury Management Strategy, which was approved on 30 March 2021 as part of the report covering the Council's Capital, Investment and Treasury Strategies 2021/22 to 2025/26 (details of the amendment are set out in paragraph 6.56 of this report).

#### **3 Risk Assessment**

- 3.1 The Council has an agreed Treasury Management Strategy (TMS) and effective management practices to ensure compliance and risks are monitored and managed.

#### **4 Background and Full details of the Report**

- 4.1 The Council invests substantial sums of money and is therefore exposed to financial risks including the loss of invested funds and the revenue effect of changing interest rates and investment returns. The successful identification, monitoring and control of risk remains central to the Council's treasury management strategy.
- 4.2 Treasury risk management at the Council is conducted within the framework of the Chartered Institute of Public Finance and Accountancy's Treasury Management in the Public Services: Code of Practice 2017 Edition (the CIPFA Code) which requires the Council to approve a treasury management strategy before the start of each

financial year and, as a minimum, a half-year and annual treasury outturn report. This report fulfils the Council’s legal obligation under the Local Government Act 2003 to have regard to the CIPFA Code.

4.3 These reports are required to be adequately scrutinised by committee before being recommended to the Council. This role is undertaken by the Audit and Governance Committee.

4.4 The 2017 Prudential Code includes a requirement for local Councils to provide a Capital Strategy, a summary document approved by Full Council covering capital expenditure and financing, treasury management and non-treasury investments. This Council’s combined Capital, Investment and Treasury Strategies for 2021/22, complying with CIPFA’s requirement, were approved by Full Council on 30<sup>th</sup> March 2021.

4.5 Treasury management is defined as:

“The management of the local Council’s cash flows, its borrowings and its investments, the management of the associated risks, and the pursuit of the optimum performance or return consistent with those risks”.

4.6 Overall responsibility for treasury management remains with the Council with operational responsibility delegated to the S151 Officer. No treasury management activity is without risk; the effective identification and management of risk are integral to the Council’s treasury management objectives.

## 5 External Context – Analysis by Arlingclose

5.1 Commentary relating to the external context and economic analysis by Arlingclose, the Council’s treasury management advisors, can be found in Appendix A to this report.

## 6 Local Context

6.1 On 31<sup>st</sup> March 2021, the Council had net cash investments of £47.736m arising from its revenue and capital income and expenditure. The underlying need to borrow for capital purposes is measured by the Capital Financing Requirement (CFR), while usable reserves and working capital are the underlying resources available for investment. These factors are summarised in Table 1 below.

**Table 1: Balance Sheet Summary**

	<b>31.3.21 Actual £m</b>
General Fund CFR	83.203
HRA CFR	109.717
<b>Total CFR</b>	<b>192.920</b>
External borrowing	-162.500
<b>Internal borrowing</b>	<b>30.420</b>
Less: Usable reserves	-85.578
Add: Working capital	7.422



<b>Net Investments</b>	<b>-47.736</b>
------------------------	----------------

- 6.2 The Council pursued its strategy of keeping borrowing and investments below their underlying levels, sometimes known as internal borrowing, in order to reduce risk and keep interest costs low.
- 6.3 The treasury management position as at the mid-point of the financial year, 30 September 2021, alongside the movements over the preceding six months is shown in Table 2, below:

**Table 2: Treasury Management Summary**

	<b>31.3.21 Balance £m</b>	<b>Movement £m</b>	<b>30.9.21 Balance £m</b>
Long-term borrowing	-105.500	0	-105.500
Short-term borrowing	-57.000	-1.000	-58.000
<b>Total borrowing</b>	<b>-162.500</b>	<b>-1.000</b>	<b>-163.500</b>
Long-term investments	3	0	3
Short-term investments	3.254	-3.254	0
Cash and cash equivalents	41.641	12.327	53.968
<b>Total investments</b>	<b>44.898</b>	<b>9.073</b>	<b>53.971</b>
<b>Net Borrowing</b>	<b>-117.602</b>	<b>8.073</b>	<b>-109.529</b>

### **Borrowing Update**

- 6.4 Historically, local councils have predominantly met their borrowing needs by using the Government's Public Works Loan Board (PWLB). PWLB has usually provided better value loans than available in the Money Market. However, a National Audit Office report in 2016 indicated a rapid expansion in authorities' acquisition of commercial property outside their areas for the purposes of generating yield, also usually financed by PWLB borrowing. Following multiple authorities adopting such property investments in more-recent years, in November 2020 new borrowing from PWLB was ceased as a source of financing such investments. The only exceptions are to refinance existing loans or to externalise internal borrowing. The exception benefits this Council as PWLB borrowing taken out for HRA Self-Financing reaches maturity and needs to be refinanced.
- 6.5 Competitive market alternatives may be available in the open Money Market for authorities with or without access to the PWLB. However, the financial strength of the individual authority and borrowing purpose will be scrutinised by commercial lenders. Furthermore, changes to the CIPFA Prudential Code and Treasury Management Code, expected to be re-published in December 2021, are anticipated to extend to prohibiting borrowing for the primary purpose of commercial return, even where the source of borrowing is not the PWLB.
- 6.6 As part of its development of a sound capital investment strategy and budget sustainability, this Council has pursued a modest programme of property investment assets to generate yield. The programme to purchase property (at the time of writing this report in mid-November 2021) is planned to have been completed by mid-December 2021. Whilst the Council has been unable to access PWLB borrowing to finance these purchases, it has been successful in obtaining new borrowing from

other Local Councils and similar public service organisations, securing low interest, short-term loans. It is anticipated that the availability of PWLB loans will reopen again after a three-year period, although further clarity on this is expected as the new Codes are published.

- 6.7 **Revised PWLB Guidance:** Meanwhile, HM Treasury published further guidance on PWLB borrowing in August 2021 providing additional detail and clarifications predominantly around the definition of an ‘investment asset primarily for yield’. The principal aspects of the new guidance are:
- Capital expenditure incurred or committed to before 26 November 2020 is allowable even for an ‘investment asset primarily for yield’.
  - Capital plans should be submitted by local councils via a DELTA return. These open for the new financial year on 1st March and remain open all year. Returns must be updated if there is a change of more than 10%.
  - An asset held primarily to generate yield that serves no direct policy purpose should not be categorised as service delivery.
  - Further detail on how local councils purchasing investment assets primarily for yield can access the PWLB for the purposes of refinancing existing loans or externalising internal borrowing.
  - Additional detail on the sanctions which can be imposed for inappropriate use of the PWLB loan. These can include a request to cancel projects, restrictions to accessing the PWLB and requests for information on further plans.
- 6.8 **Changes to PWLB Terms and Conditions from 8<sup>th</sup> September 2021:** The settlement time for a PWLB loan has been extended from two working days (T+2) to five working days (T+5). In a move to protect the PWLB against negative interest rates, the minimum interest rate for PWLB loans has also been set at 0.01% and the interest charged on late repayments will be the higher of Bank of England Base Rate or 0.1%.
- 6.9 **Municipal Bonds Agency (MBA):** The MBA is working to deliver a new short-term loan solution, available in the first instance to principal local councils in England, allowing them access to short-dated, low rate, flexible debt. The minimum loan size is expected to be £25 million. Importantly, local councils will borrow in their own name and will not cross guarantee any other councils.
- 6.10 If the Council intends future borrowing through the MBA, it will first ensure that it has thoroughly scrutinised the legal terms and conditions of the arrangement and is satisfied with them.
- 6.11 **UK Infrastructure Bank:** £4bn has been earmarked for lending to local authorities by the UK Infrastructure Bank which is wholly owned and backed by HM Treasury. The availability of this lending to local authorities, for which there will be a bidding process, is yet to commence. Loans will be available for qualifying projects at gilt yields plus 0.6%, which is 0.2% lower than the PWLB certainty rate.

### **Borrowing Strategy during the period**

- 6.12 At the mid-point of the financial year, 30 September 2021, the Council held £163.5m of loans, an increase of £1.0m compared to 31 March 2021, as part of its strategy for funding previous and current years' capital programmes. Outstanding loans on 30 September are summarised in Table 3, below:

**Table 3: Overall Borrowing Position with movement during the first half-year**

	<b>31.3.21 Balance £m</b>	<b>Net Movement £m</b>	<b>30.9.21 Balance £m</b>
Public Works Loan Board (Long-term)	92.500	0	92.500
Public Works Loan Board (Short-term)	10.000	0	10.000
Banks (Long Term)	3.000	0	3.000
Local Councils (Long-term)	10.000	0	10.000
Local Councils (Short-term)	47.000	1.000	48.000
<b>Total borrowing</b>	<b>162.500</b>	<b>1.000</b>	<b>163.500</b>

- 6.13 The Council's chief objective when borrowing has been to strike an appropriately low risk balance between securing low interest costs and achieving cost certainty over the period for which funds are required. The flexibility to renegotiate loans, should the Council's long-term plans change, is a secondary objective.
- 6.14 With short-term interest rates remaining much lower than long-term rates and with surplus of liquidity continuing to feature in the LA to LA market, the Council considered it to be more cost effective in the near-term to use internal resources alongside borrowing through rolling temporary / short-term loans. Thus, as relayed in paragraph 6.6, above, this strategy of short-term borrowing has been adopted during the current year-to-date. Alongside this, internal borrowing (principally using cashflow balances) has also been used as far as possible so that investment risk may be minimised and to protect longer-term investments, which generate favourable levels of yield for the Council.
- 6.15 The Council has an increasing Capital Financing Requirement (CFR) due to the requirements of new projects in the capital programme. From this, an estimated borrowing requirement is determined by the Liability Benchmark, which also considers usable reserves and working capital. Turning to the Council's complete borrowing portfolio and, having considered the appropriate duration and structure of the borrowing need based on realistic projections, it has been decided over the course of time to take a mixture of short-term and long-term borrowing. The Council currently has £105.50m of longer-term borrowings (over one-year to maturity) in respect of the Housing Revenue Account and General Fund, details of which are shown in Table 4, overleaf. These loans provide some longer-term certainty and stability to the debt portfolio, having taken advantage of historically low longer-term interest rates that will remain secure for longer-term resource planning.

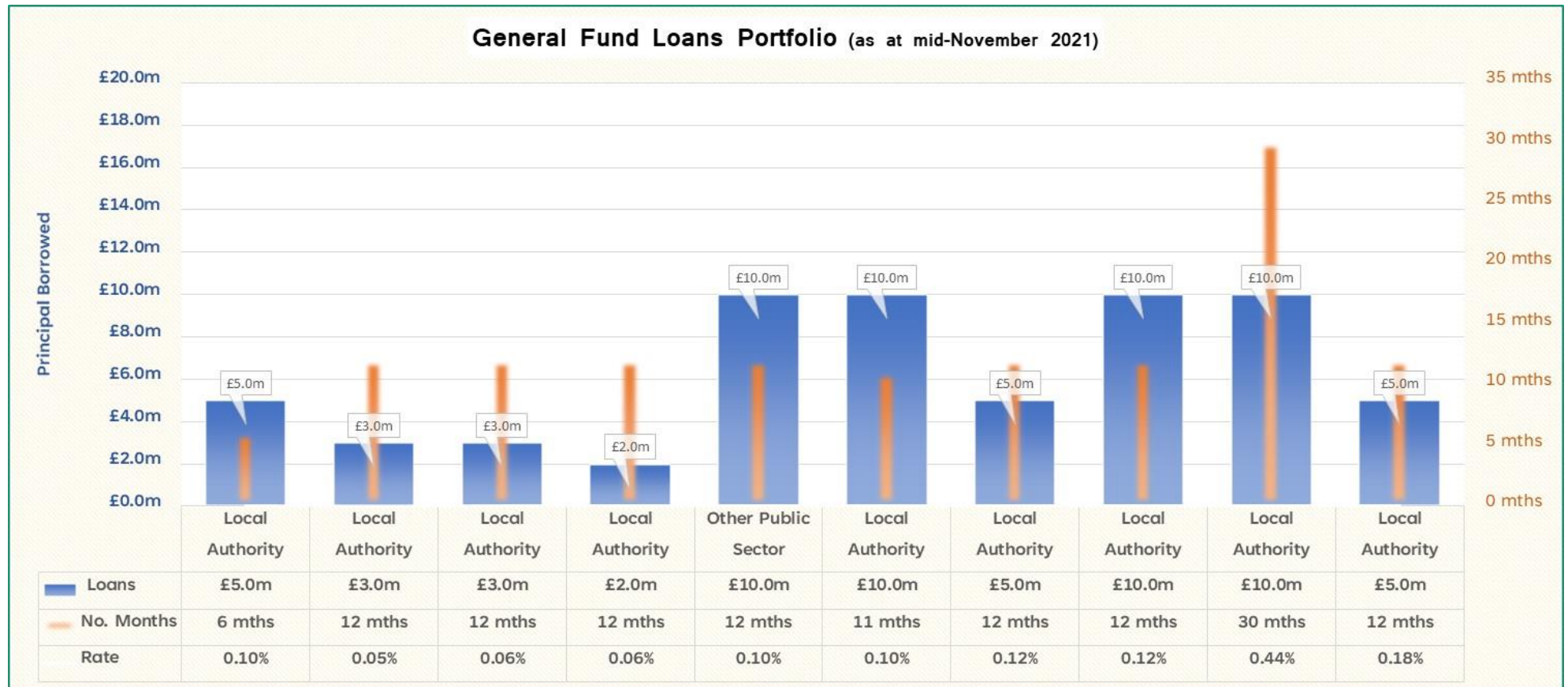
**Table 4: Long-term Borrowing Position**

Long-dated Loans borrowed	Amount £m	Rate %	Start Date	Maturity Date
<u>General Fund</u>				
Buckinghamshire Council	10.000	0.44	22 Feb 2021	22 Aug 2023
<u>HRA</u>				
Public Works Loan Board	5.000	2.56	28 Mar 2012	28 Mar 2023
Public Works Loan Board	7.000	2.70	28 Mar 2012	28 Mar 2024
Public Works Loan Board	6.000	2.82	28 Mar 2012	28 Mar 2025
Public Works Loan Board	7.000	2.92	28 Mar 2012	28 Mar 2026
Public Works Loan Board	16.000	3.01	28 Mar 2012	28 Mar 2027
Public Works Loan Board	7.000	3.08	28 Mar 2012	28 Mar 2028
Public Works Loan Board	5.000	3.15	28 Mar 2012	28 Mar 2029
Public Works Loan Board	5.500	3.21	28 Mar 2012	28 Mar 2030
Public Works Loan Board	1.000	8.38	26 Sep 1996	03 Aug 2056
Public Works Loan Board	1.000	7.38	28 May 1997	06 May 2057
Public Works Loan Board	2.000	6.63	22 Oct 1997	05 Sep 2057
Public Works Loan Board	10.000	1.64	12 Nov 2020	12 Nov 2070
Public Works Loan Board	20.000	1.89	26 Mar 2021	26 Mar 2071
Barclays	3.000	4.25	14 Jun 2007	14 Jun 2077
<b>Total borrowing</b>	<b>105.500</b>			

- 6.16 The Council's borrowing decisions are not predicated on any one outcome for interest rates and a balanced portfolio of short-term and long-term borrowing was maintained. The bulk of longer-term loans were taken when the Housing Revenue Account was required to adopt the process of Self-Financing by the Government. At that time, the best value option for local authorities was the PWLB. More-recent borrowing has been short-term, in line with the Council's more-recent borrowing strategies. These have been taken out to finance the General Fund borrowing requirements. Local authorities have provided the best value opportunities in the short-term loan market and the aim has been to develop a spread of dates to spread risk and meet liquidity requirements.
- 6.17 The graphics that follow on the next pages (Graphics A to C) are a new addition to the Treasury Management report. They are intended to provide an at-a-glance view of recent developments in the Council's borrowing portfolios for the General Fund and HRA.
- 6.18 PWLB funding margins have lurched quite substantially and there remains a strong argument for diversifying funding sources, particularly if rates can be achieved on alternatives which are below gilt yields plus 0.80%. The Council will continue to evaluate and pursue these lower cost solutions and opportunities with its advisor Arlingclose.

## Graphic A

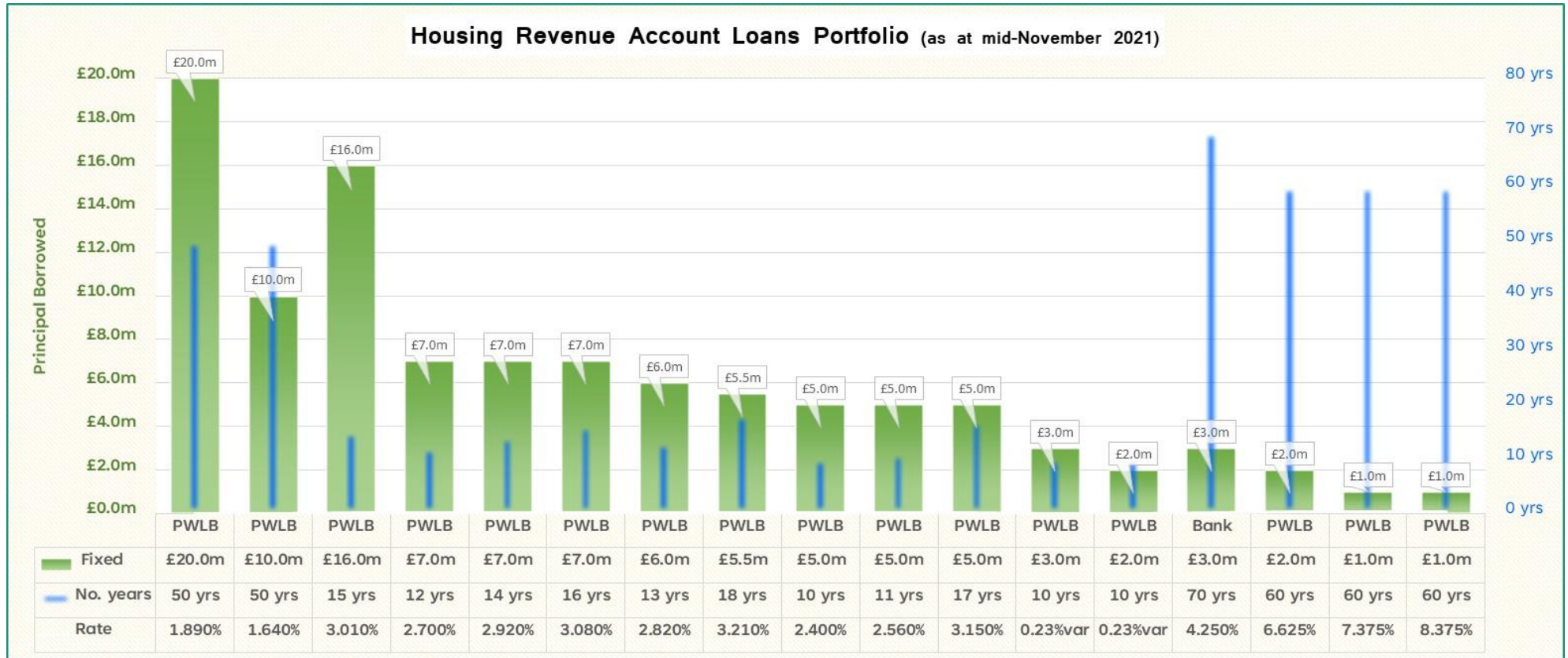
The following graph illustrates the General Fund borrowing portfolio as at the time of writing this report (mid-November 2021). It identifies sums borrowed, the term of each loan (from date of advance to maturity) and the rates secured. All but one loans were advanced by other local authorities, the exception being from a public sector housing authority.



The wide blue bars indicate amounts borrowed, measured against the vertical left-hand axis, whilst the faint orange lines indicate the duration of each loan, measurable against the right-hand vertical axis.

**Graphic B.**

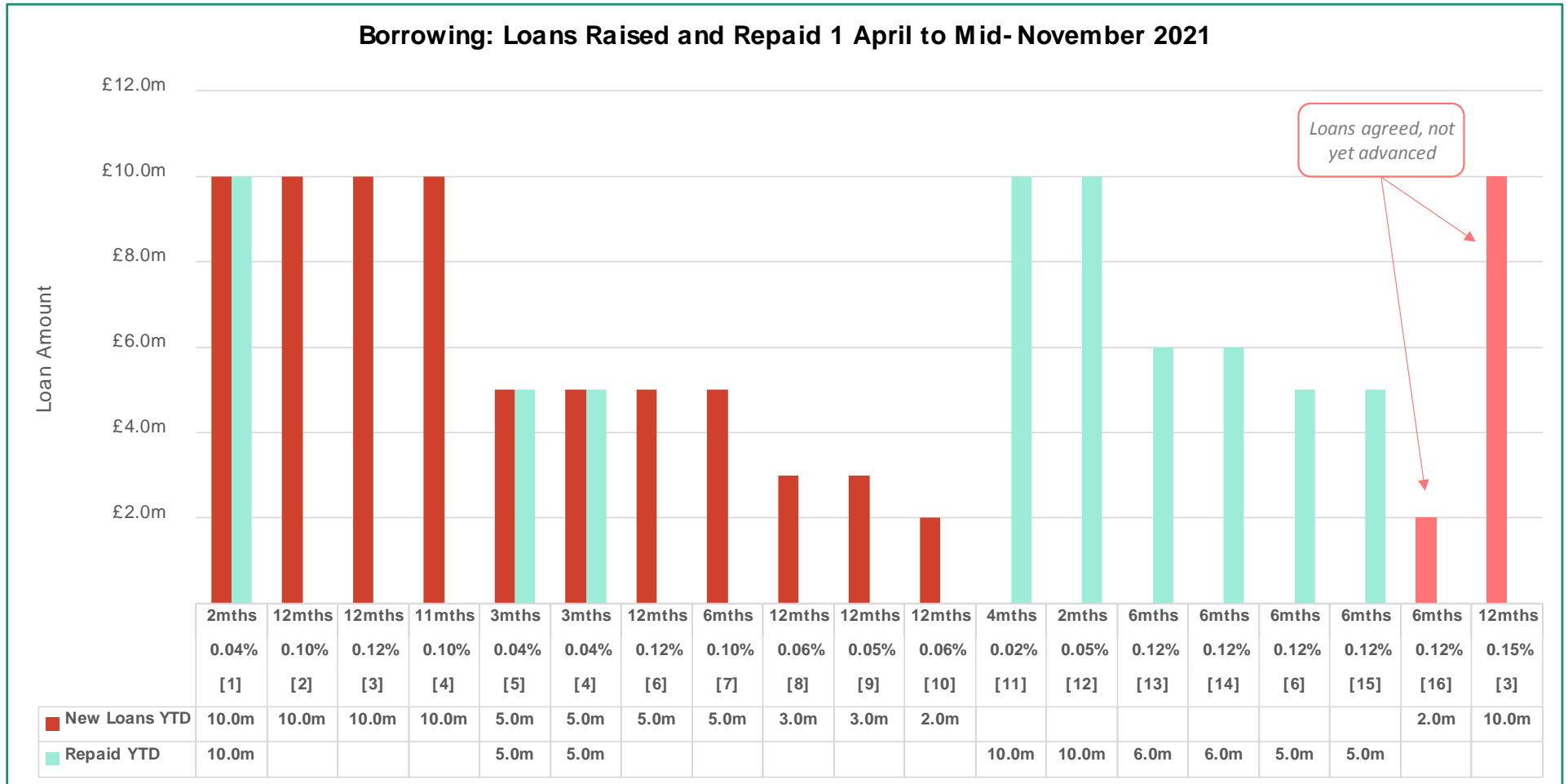
As with Graphic A, above, the following graph illustrates the borrowing portfolio of the Housing Revenue Account as at mid-November 2021. Showing sums borrowed, the term of each loan and the interest rates on those, we can clearly see that advantage was taken of long-term borrowing when Self-Financing was brought in for the HRA. All but one loans were advanced by the Public Works Loan Board, the exception being from a UK Bank.



The wider green bars indicate amounts borrowed whilst the blue lines indicate the duration of each loan.

**Graphic C**, overleaf, highlights all new borrowing (red bars) and all borrowing repaid (green bars) during the financial year to date (mid-November 2021). Two further loans (light red) had been agreed but not advanced at the time of writing this report.

Graphic C.



#### Key to Lenders

- |   |                                  |                                  |
|---|----------------------------------|----------------------------------|
| [1] Gtr Manchester Combined Auth'                                     | [7] Nottingham CCC               | [12] Tameside Met' BC            |
| [2] Northern Ireland Hsg Executive                                    | [8] Barrow BC                    | [13] Isle of Wight Council       |
| [3] West of England Combined Auth'                                    | [9] Vale of Glamorgan Council    | [14] Northern Ireland Hsg Exec'  |
| [4] West Yorkshire Combined Auth'                                     | [10] Ryedale District Council    | [15] London Borough of Redbridge |
| [5] Bridgend County BC  | [11] Gtr Manchester Pension Fund | [16] Tendering DC                |
| [6] Halton, Knowsley, Liverpool, St Helens, Sefton and Wirral Council |                                  |                                  |



## Treasury Investment Activity

6.19 The Council holds significant invested funds, representing income received in advance of expenditure plus balances and reserves held. During the six months to 30<sup>th</sup> September 2021, the Council's investment balances ranged between £30.157m and £73.287m, due to timing differences between income and expenditure flows. The investment position is shown in table 5 below.

**Table 5: Treasury Investment Position**

	<b>31.03.21 Balance £m</b>	<b>Net Movement</b>	<b>30.09.21 Balance £m</b>
Banks and Building Societies (unsecured)	0.867	-0.656	0.211
Government (including local authorities)	14.042	-3.850	10.192
Money Market Funds	13.150	13.550	26.700
Cash Plus Funds	1.010	-0.013	0.997
Strategic Bond Funds	2.080	-0.002	2.078
Equity Income Funds	2.011	-0.003	2.008
Property Funds	4.898	0.179	5.007
Multi Asset Income Fund	6.706	-0.001	6.705
<b>Total Investments</b>	<b>44.764</b>	<b>9.204</b>	<b>53.968</b>

6.20 Both the CIPFA Code and government guidance require the Council to invest its funds prudently, and to have regard to the security and liquidity of its treasury investments before seeking the optimum rate of return, or yield. The Council's objective when investing money is to strike an appropriate balance between risk and return, minimising the risk of incurring losses from defaults and the risk of receiving unsuitably low investment income.

6.21 Ultra-low short-dated cash rates, which have been a feature since March 2020 when Bank Rate was cut to 0.1%, have resulted in the return on sterling low volatility net asset value money market funds (LVNAV MMFs) being close to zero even after some managers have temporarily waived or lowered their fees. At this stage net negative returns are not the central case of most MMF managers over the short-term, and fee cuts or waivers should result in MMF net yields having a floor of zero, but the possibility cannot be ruled out.

6.22 Deposit rates with the Debt Management Account Deposit Facility (DMADF) are also largely around zero.

6.23 The progression of risk and return metrics are shown in the extracts from Arlingclose quarterly investment benchmarking in Table 6 below.

**Table 6: Investment Benchmarking – Treasury investments managed in-house**

	<b>Credit Score</b>	<b>Credit Rating</b>	<b>Bail-in Exposure</b>	<b>Weighted Average Maturity (days)</b>	<b>Rate of Return %</b>
31.03.2021	4.37	AA-	49%	7	4.36%
<b>30.09.2021</b>	<b>4.48</b>	<b>AA-</b>	<b>73%</b>	<b>5</b>	<b>3.62%</b>
Similar Local Authorities	4.66	A+	69%	32	3.65%
All Local Authorities	4.69	A+	69%	10	2.35%



- 6.24 Arlingclose provided the Council with a report as at 30<sup>th</sup> September 2021 which shows that £13.90m of the Council's investments are held in externally managed strategic pooled funds where short-term security and liquidity are lesser considerations, and the objectives instead are regular revenue income and long-term price stability. These funds generated dividends of £591k in the six months to 30<sup>th</sup> September 2021, an annualised income return of 4.60% which is used to support services in year, and an unrealised capital loss of £108k since purchase.
- 6.25 The Council is invested in bond, equity, multi-asset and property funds. The improved market sentiment in the past 6 months is reflected in equity, property and multi-asset fund valuations and, in turn, in the capital values of the Council's equity and multi-asset income funds in the Council's portfolio. The prospect of higher inflation and rising bond yields resulted in muted bond fund performance. The capital values of these funds are shown in Table 5, above.
- 6.26 Because these funds have no defined maturity date, but are available for withdrawal after a notice period, their performance and continued suitability in meeting the Authority's medium- to long-term investment objectives are regularly reviewed. Strategic fund investments are made in the knowledge that capital values will move both up and down on months, quarters and even years; but with the confidence that, over a three- to five-year period, total returns will exceed cash interest rates. Investments within these funds have been maintained during the six months to 30<sup>th</sup> September 2021.

### **Non-Treasury Investments**

- 6.27 The definition of investments in CIPFA's current Treasury Management Code now covers all the financial assets of the Council as well as other non-financial assets which the Council holds primarily for financial return. This is replicated in the Investment Guidance issued by the (previously) Ministry of Housing, Communities and Local Government (MHCLG), in which the definition of investments is further broadened to also include all such assets held partially for financial return.
- 6.28 The Council also holds £68.625m as investments in directly owned property and £5.567m as loans to local businesses, charities, partnerships and sports clubs as at 30<sup>th</sup> September 2021. The investments in directly owned property have generated £5.105m in annual rental income, with a net yield of 7.44%. The loans to local businesses, charities, partnerships and sports clubs have generated £91,289 of investment income for the Council, representing an average rate of return of 3.28% in the six months to 30<sup>th</sup> September 2021.

### **Treasury Performance**

- 6.29 The Council measures the financial performance of its treasury management activities in terms of its impact on the revenue budget, combining investment and borrowing portfolios for both the General Fund and Housing Revenue Account. The mid- year projections are shown in Table 7 overleaf, which also plots how the budget has moved in-year on the back of new borrowing expectations.

**Table 7: Performance**

<b>2021/22 Interest</b>	<b>Original Budget</b>	<b>Revised Budget</b>	<b>Forecast (mid-year)</b>	<b>Variance (Forecast v Revised Budget)</b>
	£m	£m	£m	£m
Interest Payable on Borrowing	2.981	3.506	3.262	-0.244 (favourable)
Interest Receivable on Investments	-0.515	-0.595	-0.719	-0.124 (favourable)

- 6.30 Some movements have occurred in interest on borrowing, the budget for which has been revised from £2.9m to £3.5m in 2021/22. This was in anticipation of the need for new borrowing to finance the Council's property purchases. The Treasury Team has been particularly successful in using internal borrowing (i.e. cashflow availability from its bank and investment balances) in place of external borrowing. This has been partly helped by utilising COVID grant balances not yet applied or returned to the Government, as well as other sources of liquidity. It has proven to be advantageous because, not only have borrowing costs been delayed and therefore reduced, but the security of the Council's balances has also been optimised (i.e. lower investments result in a reduced risk of losses from the potential failure of financial institutions). Hence, the forecast outturn cost of borrowing is currently £244k below the revised budget for the current financial year. With rising interest rates, this forecast is subject to change as the year progresses.
- 6.31 The Treasury Team has been active in forecasting and optimising its timing to take advantage of favourable interest rates when opportunities have arisen. Whilst officers are mindful that there is currently a high risk of increases in interest rates, borrowing to finance investment properties is currently planned to comprise short-term loans, and an interest rate rise has been built into the current year's forecast.
- 6.32 Forecast interest estimates will continue to be closely monitored, especially given the growing pressure on Money Market rate rises.
- 6.33 With investment rates extremely low and substantial cashflow movements to finance the capital programme, the favourable forecast variance on investments remains modest; it has been maintained at expected levels by high-performing longer-term investments and delays in property transactions having generated some additional investment returns.

### **Compliance**

- 6.34 The Section 151 Officer reports that all treasury management activities undertaken during the year fully complied with the CIPFA Code of Practice, and all except one of the Council's approved Treasury Management Strategy parameters – see Table 8 and paragraphs 6.35 to 6.37, below.

**Table 8: Investment Limits**

	<b>2021/22 Maximum</b>	<b>30.9.21 Actual</b>	<b>2021/22 Limit</b>	<b>Complied</b>
Any single organisation, except the UK Government	£1.000m	£0.211m	£7m	Yes
UK Government	£31.624m	£10.192m	Unlimited	Yes

	<b>2021/22 Maximum</b>	<b>30.9.21 Actual</b>	<b>2021/22 Limit</b>	<b>Complied</b>
Any group of organisations under the same ownership	£0.000m	£0.000m	£7m per Group	Yes
Any group of pooled funds under the same management	£16.926m	£16.866m	£21m per Manager	Yes
Negotiable instruments held in a broker's nominee account	£0.000m	£0.000m	£21m per Broker	Yes
Foreign Countries	£0.000m	£0.000m	£7m per Country	Yes
Registered providers and registered social landlords	£0.000m	£0.000m	£21m in Total	Yes
Unsecured investments with building societies	£0.000m	£0.000m	£7m in Total	Yes
Loans to unrated corporates	£0.000m	£0.000m	£7m in Total	Yes
Money Market Funds	£28.000m	£26.000m	£42m in Total	Yes
Real Estate Investment Trusts	£0.000m	£0.000m	£21m in Total	Yes

- 6.35 During the first six months to 30 September 2021, there were 5 occasions when the Council exceeded its overnight limit of £500k with NatWest due to unexpected monies being received late in the day; when monies are received after the cut-off time for remitting funds to other investment institutions, the Council is unable to take corrective action hence, on this occasion the markets had ceased trading for the day. Meanwhile, between 30<sup>th</sup> September and the date on which this report was finalised (end November 2021), three other occasions arose where the current limit was exceeded. In each of the total of eight events, no monies were lost, and corrective action took place the working day following each occurrence.
- 6.36 The impact of exceeding the overnight limit on these occasions has been carefully reviewed. It has been found to have presented only very negligible risk to the Council. As a result, this report includes a recommendation that the limit for overnight balances, as contained within the Treasury Management Strategy Statement, be amended. Details of the review findings and the subsequent recommendation are set out towards the end of this report, starting at paragraph 6.52.
- 6.37 There was also one occasion in the six-month period to 30<sup>th</sup> September 2021 when the Council went into an unforeseen overnight overdraft position. This event was due to settlement information on a property purchase becoming available after the cut-off time for drawing down from Money Market Funds (the key source of daily cashflow requirements at that time). Corrective action was taken the next day to restore the overdrawn balance. Further processes have subsequently been put in place to mitigate against similar instances arising, especially given the substantial activity in property purchases during this financial year. A weekly property transaction briefing is supplied to the Treasury Team that is updated on the back of purchase negotiations as well as legal and settlement processes.
- 6.38 Compliance with the authorised limit and the operational boundary for external debt is demonstrated in Table 9 overleaf:

**Table 9: Debt Limits**

	<b>2021/22 Maximum £000</b>	<b>30.9.21 Actual £000</b>	<b>2021/22 Operational Boundary £000</b>	<b>2021/2022 Authorised Limit £000</b>	<b>Complied</b>
Borrowing	163,500	163,500	300,000	340,000	Yes
<b>Total debt</b>	<b>163,500</b>	<b>163,500</b>	<b>300,000</b>	<b>340,000</b>	

**Treasury Management Indicators**

6.39 The Council measures and manages its exposures to treasury management risks using the following indicators.

6.40 **Security:** The Council has adopted a voluntary measure of its exposure to credit risk by monitoring the value-weighted average credit rating of its investment portfolio. This is calculated by applying a score to each investment (AAA=1, AA+=2, etc.) and taking the arithmetic average, weighted by the size of each investment. Unrated investments are assigned a score based on their perceived risk.

	<b>30.9.21 Actual</b>	<b>2021/22 Target</b>	<b>Complied</b>
Portfolio average credit rating	AA-	A-	Yes

6.41 **Liquidity:** The Council has adopted a voluntary measure of its exposure to liquidity risk by monitoring the amount of cash available to meet unexpected payments within a rolling three-month period, without additional borrowing.

	<b>30.9.21 Actual</b>	<b>2021/22 Target</b>	<b>Complied</b>
Total cash available within 3 months	£53.97m	£20.00m	Yes

6.42 **Interest Rate Exposures:** This indicator is set to control the Council's exposure to interest rate risk in the General Fund. The upper limits on the one-year revenue impact of a 1% rise or fall in interest were:

<b>Interest rate risk indicator</b>	<b>30.9.21 Actual</b>	<b>2021/22 Limit</b>	<b>Complied</b>
Upper limit on one-year revenue impact of a 1% rise/ fall in interest rates	£47,648	£50,000	Yes

6.43 The impact of a change in interest rates is calculated on the assumption that maturing loans and investments will be replaced at current market rates. It is also assumed, for the purpose of this indicator, that there is no impact from the business cases for commercial properties (costs and income) and that borrowing, and returns are absorbed within the financial structures aligned with those properties.

6.44 **Maturity Structure of Borrowing:** This indicator is set to control the Council's exposure to refinancing risk. The upper and lower limits on the maturity structure of all borrowing were (see overleaf):

	<b>30.9.21 Actual</b>	<b>Upper Limit</b>	<b>Lower Limit</b>	<b>Complied</b>
Under 12 months	35.47%	100%	0%	Yes
12 months and within 24 months	9.17%	100%	0%	Yes
24 months and within 5 years	12.23%	100%	0%	Yes
5 years and within 10 years	20.49%	100%	0%	Yes
10 years and above	22.64%	100%	0%	Yes

6.45 Time periods start on the first day of each financial year. The maturity date of borrowing is the earliest date on which the lender can demand repayment.

6.46 **Principal Sums Invested for Periods Longer than a year:** The purpose of this indicator is to control the Council's exposure to the risk of incurring losses by seeking early repayment of its investments. The limits on the long-term principal sum invested to final maturities beyond the period-end were as follows:

	<b>2021/22</b>	<b>2022/23</b>	<b>2023/24</b>
Actual principal invested beyond year end	£0m	£0m	£0m
Limit on principal invested beyond year end	£30m	£25m	£25m
Complied	Yes	Yes	Yes

### **Other Matters**

6.47 **Revisions to CIPFA Codes:** In February 2021 CIPFA launched two consultations on changes to its Prudential Code and Treasury Management Code of Practice. These followed the Public Accounts Committee's recommendation that the prudential framework should be further tightened following continued borrowing by some authorities for investment purposes. In June, CIPFA provided feedback from this consultation to be applied to the Codes that it is revising.

6.48 Thus, in September, CIPFA issued the revised Codes and Guidance Notes in draft form and opened the latest consultation process on their proposed changes. The changes include:

- Clarification that:
  - a) local councils must not borrow to invest primarily for financial return
  - b) it is not prudent for councils to make any investment or spending decision that will increase the Capital Financing Requirement, and so may lead to new borrowing, unless directly and primarily related to the functions of the council.
- Categorising investments as those for:
  - a) treasury management purposes,
  - b) service purposes and
  - c) commercial purposes.
- Defining acceptable reasons to borrow money, being:
  - (i) financing capital expenditure primarily related to delivering a local authority's functions,

- (ii) temporary management of cash flow within the context of a balanced budget,
- (iii) securing affordability by removing exposure to future interest rate rises and
- (iv) refinancing current borrowing, including replacing internal borrowing.
- For service and commercial investments, in addition to assessments of affordability and prudence, an assessment of proportionality in respect of the authority's overall financial capacity (i.e. whether plausible losses could be absorbed in budgets or reserves without unmanageable detriment to local services).
- Prudential Indicators
  - New indicator for net income from commercial and service investments to the budgeted net revenue stream.
  - Inclusion of the liability benchmark as a mandatory treasury management prudential indicator that informs about the authority's funding requirement for the near, medium, and long term. CIPFA recommends this covers at least 10 years and ideally covers the authority's full debt maturity profile, and is presented as a chart of four balances setting out:
    - existing loan debt outstanding,
    - loans CFR,
    - net loans requirement (being the authority's gross loan debt, less treasury management investments, at the last financial year-end, projected into the future based on its approved debt funded capital expenditure, planned MRP and any other forecasts of major cash flows),
    - liability benchmark (being the Net Borrowing Requirement of a local authority plus a liquidity allowance).
  - Excluding investment income from the definition of financing costs.
- Incorporating Environmental, Social and Governance (ESG) issues as a consideration within the Treasury Management Practices (TMP 13, ESG Risk Management).
- Additional focus on the knowledge and skills of officers and elected Members involved in decision making.

6.49 **MHCLG Improvements to the Capital Finance Network:** MHCLG (before the department was renamed Department for Levelling Up, Housing and Communities) published a brief policy paper in July outlining the ways it feels that the current framework is failing and potential changes that could be made. The paper found that "while many authorities are compliant with the framework, there remain some authorities that continue to engage in practices that push the bounds of compliance and expose themselves to excessive risk".

6.50 The actions announced include greater scrutiny of local authorities and particularly those engaged in commercial practices; an assessment of governance and training; a consideration of statutory caps on borrowing; further regulations around Minimum Revenue Provision (MRP) and ensuring that MHCLG regulations enforce guidance from CIPFA and the new PWLB lending arrangements.

6.51 These matters are part of a consultation process.

6.52 **Review of maximum balance held in Operational bank accounts:** Paragraph 5.16 of the current Treasury Management Strategy (TMS) states:

**“Operational bank accounts:** The Council may incur operational exposures, for example through current accounts, collection accounts and merchant acquiring services, to any UK bank with credit ratings no lower than BBB- and with assets greater than £25 billion. These are not classed as investments but are still subject to the risk of a bank bail-in, and balances will therefore be kept below £500,000 per bank. The Bank of England has stated that in the event of failure, banks with assets greater than £25 billion are more likely to be bailed-in than made insolvent, increasing the chance of the Council maintaining operational continuity.”

6.53 The TMS was approved by Full Council on 30 March 2021 as part of a wider report covering the Council’s Capital, Investment and Treasury Strategies 2021/22 to 2025/26.

6.54 As reported in paragraph 6.35 of this report, further above, the TMS operational limit was exceeded on five occasions during the first half of this financial year.

6.55 The circumstances and risks posed by these events have been carefully examined. The conclusions of the review are set out as follows:

- The nature of income transactions to the Council’s bank account are such that large remittances received on any given business day can result in breaching the current bank deposit threshold of £500,000 with no scope for correction. The early cut-off time for the Council to register and transfer monies from its bank to other facilities (e.g. Money Market Funds) prevents the transfer of late remittances. Whilst every endeavour is made to obtain information of forthcoming remittances in advance so that appropriate cashflow forecasting can be made, the Council cannot control the timing of all remittances, particularly in view of the number and nature of remitting organisations; effectively these receipts remain out of the Council’s control.
- Given the significant number of occasions on which the threshold has been breached, this is indicative that the current threshold is not adequate. This being the case, it is necessary to identify an increased threshold that will service operational needs, yet which presents minimal risk of financial loss to the Council.
- The relevant section of the TMS appears to have (rightly) been composed when the Council’s bank (NatWest, being part of the Royal Bank of Scotland Group) had faced a substantial downgrading of its credit rating.
- The Royal Bank of Scotland Group underwent a substantial restructuring in 2017, with NatWest reverting back to being the Group’s primary bank in England, Wales and Western Europe; it was, effectively, ringfenced from RBS with RBS’s core business focussing on Scotland. Subsequently, the financial standing of NatWest has improved substantially. The NatWest credit rating is now typically “A” rated, comfortably above “BBB-“ rating cited in the existing TMS.
- Officers have consulted the Council’s Treasury Management advisors, Arlingclose, who have raised no concerns and have reviewed data, routinely supplied by Arlingclose, which recommends maximum investment parameters.

- As a result of the above actions and applying a conservative approach to recommending a more-appropriate threshold, it is now proposed to amend the TMS to allow a maximum balance of £1,200,000 at the Council's own operational bank before a breach is considered to have occurred. It is also considered best practice to review this limit each year and mid-year to capture any issues that may give rise to adjusting this threshold.
- The calculation for the recommended new threshold of £1.2m remains substantially below the investment limits and investment duration recommended by Arlingclose. It is also important to recognise that balances held in the Council's bank account effectively represent an overnight deposit, which may be moved to a safer deposit-taker on the next working day in the event of any risks of catastrophic bank failure becoming apparent.
- This recommendation does have the added advantage of providing capacity for the Council's banking arrangements over the Christmas break, when it is usual to minimise banking transactions.
- On a practical day-to-day basis, the requirement for an "operational target" of between nil and £500k would remain as being most appropriate, although the higher threshold of £1.2m presents increased efficiency in daily treasury dealings and would form the ultimate control threshold.

6.56 Therefore, it is recommended to amend paragraph 5.16 of the TMS to read as follows:

**“Operational bank accounts:** The Council may incur operational exposures, for example through current accounts, collection accounts and merchant acquiring services, to the UK bank appointed to supply the Council with its main banking service. Whilst balances held at the appointed bank are not classed as investments, they remain subject to the risk of a bank bail-in. Nevertheless, in order to provide a suitable platform for the Council to conduct its day-to-day banking transactions and receive remittances, a threshold of £1,200,000 will be applied to the daily bank balance, above which balances should not be held after concluding each day's treasury and dealing activities. This threshold will be the subject of review at least twice each year, to coincide with annual Treasury Management reporting to Members. At his/her discretion, the Assistant Director Finance (S151 Officer) may introduce a reduction to this threshold if circumstances in the banking sector indicate the need.

## 7 Links to Corporate Aims / Priorities

7.1 The Capital, Investment and Treasury Management Strategies support the delivery of the Corporate Aims.

## 8 Finance / Resource Implications

8.1 The Treasury Management function has been well-managed during the year in compliance with the Treasury Management Strategy. As interest rates remain low the opportunities to generate significant income through short-term investments has been limited; however, the use of cashflow balances to provide internal borrowing as an alternative to external borrowing is envisaged to be beneficial in reducing borrowing costs during 2021/22.



8.2 This report provides full details of the Treasury Management activity during the year. A summary of the key points follows:

- As at 31<sup>st</sup> March 2021, Somerset West and Taunton Council's underlying need to borrow for capital purposes as measured by the Capital Financing Requirement (CFR) was £192.920m; usable reserves and working capital, which were the underlying resources available for investment, were £85.578m and £7.422m respectively.
- As at 30<sup>th</sup> September 2021, Somerset West and Taunton Council had external borrowing of £163.5m, with £105.5m attributable to the Housing Revenue Account and £58.0m attributable to the General Fund.
- Somerset West and Taunton Council also had £53.968m of investments as at 30<sup>th</sup> September 2021.
- The Council's current strategy was to maintain borrowing and investments below their underlying levels, referred to as internal borrowing.
- The forecast for interest on borrowing and investment income in 2021/22 indicates a favourable variation of approximately £600k; however, the market for borrowing and investments has recently become more volatile with rising inflation and UK domestic and international trading concerns.
- An amendment to the Treasury Management Strategy is recommended to accommodate operational requirements when large deposits are posted to the Council's bank account without prior notice being supplied to the Treasury Team.

## **9 Legal Implications**

9.1 The S151 Officer has a statutory responsibility to ensure appropriate arrangements are in place to adequately control the Council's resources. The Council is required to have regard to the Prudential Code, Treasury Management Code and relevant statutory guidance.

## **10 Climate and Sustainability, Safeguarding and/or Community Safety, Equality and Diversity, Social Value, Partnership, Health and Wellbeing, Asset Management, Data Protection and Consultation Implications**

10.1 None in respect of this report.

### **Democratic Path:**

- **Audit and Governance Committee – Yes**
- **Full Council – Yes**

**Reporting Frequency: Annually**

## List of Appendices

Appendix A	External Context – Analysis by Arlingclose
Appendix B	List of Investments as at 31 March 2021
Appendix C	Arlingclose's Economic Outlook for the remainder of 2021/22 (based on the October 2021 interest rate forecast)

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### External Context – Analysis by Arlingclose

#### External Context

**Economic background:** The economic recovery from coronavirus pandemic continued to dominate the first half of the financial year. By the end of the period over 48 million people in the UK had received their first dose of a COVID-19 vaccine and almost 45 million their second dose.

The Bank of England (BoE) held Bank Rate at 0.1% throughout the period and maintained its Quantitative Easing programme at £895 billion, unchanged since the November 2020 meeting. In its September 2021 policy announcement, the BoE noted it now expected the UK economy to grow at a slower pace than was predicted in August, as the pace of the global recovery had shown signs of slowing and there were concerns inflationary pressures may be more persistent. Within the announcement, Bank expectations for GDP growth for the third (calendar) quarter were revised down to 2.1% (from 2.9%), in part reflecting tighter supply conditions. The path of CPI inflation is now expected to rise slightly above 4% in the last three months of 2021, due to higher energy prices and core goods inflation. While the Monetary Policy Committee meeting ended with policy rates unchanged, the tone was more hawkish.

Government initiatives continued to support the economy over the quarter but came to an end on 30th September 2021, with businesses required to either take back the 1.6 million workers on the furlough scheme or make them redundant.

The latest labour market data showed that in the three months to July 2021 the unemployment rate fell to 4.6%. The employment rate increased, and economic activity rates decreased, suggesting an improving labour market picture. Latest data showed growth in average total pay (including bonuses) and regular pay (excluding bonuses) among employees was 8.3% and 6.3% respectively over the period. However, part of the robust growth figures is due to a base effect from a decline in average pay in the spring of last year associated with the furlough scheme.

Annual CPI inflation rose to 3.2% in August, exceeding expectations for 2.9%, with the largest upward contribution coming from restaurants and hotels. The Bank of England now expects inflation to exceed 4% by the end of the calendar year owing largely to developments in energy and goods prices. The Office of National Statistics' (ONS') preferred measure of CPIH which includes owner-occupied housing was 3.0% year/year, marginally higher than expectations for 2.7%.

The easing of restrictions boosted activity in the second quarter of calendar year, helping push GDP up by 5.5% q/q (final estimate vs 4.8% q/q initial estimate). Household consumption was the largest contributor. Within the sector breakdown production contributed 1.0% q/q, construction 3.8% q/q and services 6.5% q/q, taking all of these close to their pre-pandemic levels.

The US economy grew by 6.3% in Q1 2021 (Jan-Mar) and then by an even stronger 6.6% in Q2 as the recovery continued. The Federal Reserve maintained its main interest rate at between 0% and 0.25% over the period but in its most recent meeting made suggestion that monetary policy may start to be tightened soon.

The European Central Bank maintained its base rate at 0%, deposit rate at -0.5%, and asset purchase scheme at €1.85 trillion.

**Financial markets:** Monetary and fiscal stimulus together with rising economic growth and the ongoing vaccine rollout programmes continued to support equity markets over most of the period, albeit with a bumpy ride towards the end. The Dow Jones hit another record high while the UK-focused FTSE 250 index continued making gains over pre-pandemic levels. The more internationally focused FTSE 100 saw more modest gains over the period and remains below its pre-crisis peak.

Inflation worries continued during the period. Declines in bond yields in the first quarter of the financial year suggested bond markets were expecting any general price increases to be less severe, or more transitory, that was previously thought. However, an increase in gas prices in the UK and EU, supply shortages and a dearth of HGV and lorry drivers with companies willing to pay more to secure their services, has caused problems for a range of industries and, in some instance, lead to higher prices.

The 5-year UK benchmark gilt yield began the financial year at 0.36% before declining to 0.33% by the end of June 2021 and then climbing to 0.64% on 30th September. Over the same period the 10-year gilt yield fell from 0.80% to 0.71% before rising to 1.03% and the 20-year yield declined from 1.31% to 1.21% and then increased to 1.37%.

The Sterling Overnight Rate (SONIA) averaged 0.05% over the quarter.

**Credit review:** Credit default swap spreads were flat over most of period and are broadly in line with their pre-pandemic levels. In late September spreads rose by a few basis points due to concerns around Chinese property developer Evergrande defaulting but are now falling back. The gap in spreads between UK ringfenced and non-ringfenced entities continued to narrow, but Santander UK remained an outlier compared to the other ringfenced/retail banks. At the end of the period Santander UK was trading the highest at 53bps and Lloyds Banks Plc the lowest at 32bps. The other ringfenced banks were trading between 37-39bps and Nationwide Building Society was 39bps.

Over the period Fitch and Moody's upwardly revised to stable the outlook on a number of UK banks and building societies on our counterparty list, recognising their improved capital positions compared to last year and better economic growth prospects in the UK.

Fitch also revised the outlooks for Nordea, Svenska Handelsbanken and Handelsbanken plc to stable from negative. The rating agency considered the

improved economic prospects in the Nordic region to have reduced the baseline downside risks it previously assigned to the lenders.

The successful vaccine rollout programme is credit positive for the financial services sector in general and the improved economic outlook has meant some institutions have been able to reduce provisions for bad loans. While there is still uncertainty around the full extent of the losses banks and building societies will suffer due to the pandemic-related economic slowdown, the sector is in a generally better position now compared to earlier this year and 2020.

At the end of the period Arlingclose had completed its full review of its credit advice on unsecured deposits. The outcome of this review included the addition of NatWest Markets plc to the counterparty list together with the removal of the suspension of Handelsbanken plc. In addition, the maximum duration for all recommended counterparties was extended to 100 days.

As ever, the institutions and durations on the Authority's counterparty list recommended by treasury management advisors Arlingclose remain under constant review.





## Appendix B

### Investments as at 30<sup>th</sup> September 2021

<b>Borrower</b>	<b>Amount £</b>	<b>Rate of Interest %</b>	<b>Date of Investment</b>	<b>Date of Maturity</b>
NatWest	210,552	0.00	N/A	On Demand
Aberdeen Standard Liquidity MMF	6,000,000	Variable	N/A	On Demand
Federated MMF	6,700,000	Variable	N/A	On Demand
Aviva Government MMF	7,000,000	Variable	N/A	On Demand
CCLA Public Sector Deposit Fund MMF	7,000,000	Variable	N/A	On Demand
CCLA Local Authority Property Fund	1,159,942	Variable	29/05/2014	On Demand
CCLA Local Authority Property Fund	1,026,631	Variable	28/04/2015	On Demand
CCLA Local Authority Property Fund	2,890,486	Variable	30/09/2017	On Demand
Columbia Threadneedle Strategic Bond Fund	2,078,431	Variable	09/10/2017	On Demand
Ninety-One Diversified Income Fund	2,922,485	Variable	09/07/2017	On Demand
Aegon Diversified Monthly Income Fund	1,883,026	Variable	21/01/2020	On Demand
Payden and Rygel Sterling Reserve Fund	2,008,473	Variable	N/A	On Demand
Royal London Enhanced Cash Plus Fund	997,283	Variable	25/10/2017	On Demand
Schroder Income Maximiser Fund	1,898,812	Variable	06/09/2019	On Demand
Debt Management Office	1,700,000	0.01	24/09/2021	08/10/2021
Debt Management Office	2,800,000	0.01	27/09/2021	18/10/2021
Debt Management Office	5,692,000	0.01	13/09/2021	18/10/2021
<b>TOTAL</b>	<b>53,968,121</b>			



## Arlingclose's Economic Outlook for the remainder of 2021/22 (based on the October 2021 interest rate forecast)

	Dec-21	Mar-22	Jun-22	Sep-22	Dec-22	Mar-23	Jun-23	Sep-23	Dec-23	Mar-24	Jun-24	Sep-24	Dec-24
Official Bank Rate													
Upside risk	0.00	0.15	0.00	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25
Arlingclose Central Case	0.10	0.10	0.25	0.25	0.25	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50
Downside risk	0.00	0.00	0.15	0.15	0.15	0.40	0.40	0.40	0.40	0.40	0.40	0.40	0.40

Arlingclose expects Bank Rate to rise in Q2 2022. We believe this is driven as much by the Bank of England's desire to move from emergency levels as by fears of inflationary pressure.

Investors have priced in multiple rises in Bank Rate to 1% by 2024. While Arlingclose believes Bank Rate will rise, it is by a lesser extent than expected by markets.

The global economy continues to recover from the pandemic but has entered a more challenging phase. The resurgence of demand has led to the expected rise in inflationary pressure, but disrupted factors of supply are amplifying the effects, increasing the likelihood of lower growth rates ahead. This is particularly apparent in the UK due to the impact of Brexit.

While Q2 UK GDP expanded more quickly than initially thought, the 'pingdemic' and more latterly supply disruption will leave Q3 GDP broadly stagnant. The outlook also appears weaker. Household spending, the driver of the recovery to date, is under pressure from a combination of retail energy price rises, the end of government support programmes and soon, tax rises. Government spending, the other driver of recovery, will slow considerably as the economy is taken off life support.

Inflation rose to 3.2% in August. A combination of factors will drive this to over 4% in the near term. While the transitory factors affecting inflation, including the low base effect of 2020, are expected to unwind over time, the MPC has recently communicated fears that these transitory factors will feed longer-term inflation expectations that require tighter monetary policy to control. This has driven interest rate expectations substantially higher.

The supply imbalances are apparent in the labour market. While wage growth is currently elevated due to compositional and base factors, stories abound of higher wages for certain sectors, driving inflation expectations. It is uncertain whether a broad-based increased in wages is possible given the pressures on businesses.

Government bond yields increased sharply following the September FOMC and MPC minutes, in which both central banks communicated a lower tolerance for higher inflation than previously thought. The MPC in particular has doubled down on these signals in spite of softer economic data. Bond investors expect higher near-term interest rates but are also clearly uncertain about central bank policy.

The MPC appears to be playing both sides, but has made clear its intentions to tighten policy, possibly driven by a desire to move away from emergency levels. While the economic outlook will be challenging, the signals from policymakers suggest Bank Rate will rise unless data indicates a more severe slowdown.



# Somerset West and Taunton Council

## Audit and Governance Committee – 13<sup>th</sup> December 2021

### External Auditor Appointment Procurement Process

This matter is the responsibility of Executive Councillor Henley, Corporate Resources Portfolio Holder

Report Author: Paul Fitzgerald, Assistant Director – Finance and S151 Officer

#### 1 Executive Summary / Purpose of the Report

- 1.1 This report sets out proposals for appointing the external auditor to the Council for the accounts for the five-year period from 2023/24.
- 1.2 The current auditor appointment arrangements cover the period up to and including the audit of the 2022/23 accounts. The Council (initially through decisions of its two predecessor district councils for 2018/19) opted into the ‘appointing person’ national auditor appointment arrangements established by Public Sector Audit Appointments (PSAA) for the period covering the accounts for 2018/19 to 2022/23.
- 1.3 PSAA is now undertaking a procurement for the next appointing period, covering audits for 2023/24 to 2027/28. During Autumn 2021 all local government bodies need to make important decisions about their external audit arrangements from 2023/24. They have options to arrange their own procurement and make the appointment themselves or in conjunction with other bodies, or they can join and take advantage of the national collective scheme administered by PSAA.
- 1.4 The report concludes that the sector-wide procurement conducted by PSAA will produce better outcomes and will be less burdensome for the Council than a procurement undertaken locally because:
  - Collective procurement reduces costs for the sector and for individual authorities compared to a multiplicity of smaller local procurements.
  - If it does not use the national appointment arrangements, the Council (and its successor) will need to establish its own auditor panel with an independent chair and independent members to oversee a local auditor procurement and ongoing management of an audit contract.
  - It is the best opportunity to secure the appointment of a qualified, registered auditor - there are only nine accredited local audit firms, and a local procurement would be drawing from the same limited supply of auditor resources as PSAA’s national procurement.

- Supporting the sector-led body offers the best way of ensuring there is a continuing and sustainable public audit market into the medium and long term.

1.5 If the Council wishes to take advantage of the national auditor appointment arrangements, it is required under the local audit regulations to make the decision at full Council. The opt-in period starts on 22 September 2021 and closes on 11 March 2022. To opt into the national scheme from 2023/24, the Council needs to return completed opt-in documents to PSAA by 11 March 2022.

1.6 All of the S151 Officers for the five authorities in Somerset have been able to agree to make the recommendation that each Council opts in as the most beneficial option available to the current and future council.

## **2 Recommendations**

2.1 The Council accepts Public Sector Audit Appointments' invitation to opt into the sector-led option for the appointment of external auditors to principal local government and police bodies for five financial years from 1 April 2023.

2.2 Delegate authority to the S151 Officer to sign the Notice of Acceptance of the invitation to opt in.

2.3 The Council notes that newly established local government bodies have the right to opt into PSAA's scheme under Regulation 10 of the Appointing Person Regulations 2015, which will enable the new unitary council (or its Shadow Council) to consider opting in to PSAA scheme or making alternative arrangements when legally constituted.

## **3 Risk Assessment**

3.1 The principal risks are that the Council:

- fails to appoint an auditor in accordance with the requirements and timing specified in local audit legislation; or
- does not achieve value for money in the appointment process.

3.2 These risks are considered best mitigated by opting into the sector-led approach through PSAA.

## **4 Background and Full details of the Report**

### **Procurement of External Audit for the period 2023/24 to 2027/28**

4.1 Under the Local Government Audit & Accountability Act 2014 ("the Act"), the council is required to appoint an auditor to audit its accounts for each financial year. The council has three options:

- To appoint its own auditor, which requires it to follow the procedure set out in the Act.
- To act jointly with other authorities to procure an auditor following the procedures in the Act.

- To opt-in to the national auditor appointment scheme administered by a body designated by the Secretary of State as the 'appointing person'. The body currently designated for this role is Public Sector Audit Appointments Limited (PSAA).

4.2 To opt-in to the national scheme, a council must make a decision at a meeting of the Full Council.

### **The Appointed Auditor**

4.3 The auditor appointed at the end of the procurement process will undertake the statutory audit of accounts and Best Value assessment of the council in each financial year, in accordance with all relevant codes of practice and guidance. The appointed auditor is also responsible for investigating questions raised by electors and has powers and responsibilities in relation to Public Interest Reports and statutory recommendations.

4.4 The auditor must act independently of the council and the main purpose of the procurement legislation is to ensure that the appointed auditor is sufficiently qualified and independent.

4.5 The auditor must be registered to undertake local audits by the Financial Reporting Council (FRC) employ authorised Key Audit Partners to oversee the work. As the report below sets out there is a currently a shortage of registered firms and Key Audit Partners.

4.6 Auditors are regulated by the FRC, which will be replaced by a new body with wider powers, the Audit, Reporting and Governance Authority (ARGA) during the course of the next audit contract.

4.7 Councils therefore have very limited influence over the nature of the audit services they are procuring, the nature and quality of which are determined or overseen by third parties.

### **Appointment by the council/Authority itself or jointly**

4.8 The Council may elect to appoint its own external auditor under the Act, which would require the council to:

- Establish an independent auditor panel to make a stand-alone appointment. The auditor panel would need to be set up by the Council itself, and the members of the panel must be wholly or a majority of independent members as defined by the Act. Independent members for this purpose are independent appointees, excluding current and former elected members (or officers) and their close families and friends. This means that elected members will not have a majority input to assessing bids and choosing to which audit firm to award a contract for the Council's external audit.
- Manage the contract for its duration, overseen by the Auditor Panel.

4.9 Alternatively, the Act enables the Council to join with other authorities to establish a joint auditor panel. Again, this will need to be constituted of wholly or a majority of independent appointees. Further legal advice would be required on the exact constitution of such a panel having regard to the obligations of each Council under the Act and the Council would need to liaise with other local authorities to assess the appetite for such an arrangement.

## **The national auditor appointment scheme**

4.10 PSAA is specified as the 'appointing person' for principal local government under the provisions of the Act and the Local Audit (Appointing Person) Regulations 2015. PSAA let five-year audit services contracts in 2017 for the first appointing period, covering audits of the accounts from 2018/19 to 2022/23. It is now undertaking the work needed to invite eligible bodies to opt in for the next appointing period, from the 2023/24 audit onwards, and to complete a procurement for audit services. PSAA is a not-for-profit organisation whose costs are around 4% of the scheme with any surplus distributed back to scheme members.

4.11 In summary the national opt-in scheme provides the following:

- The appointment of a suitably qualified audit firm to conduct audits for each of the five financial years commencing 1 April 2023.
- Appointing the same auditor to other opted-in bodies that are involved in formal collaboration or joint working initiatives to the extent this is possible with other constraints.
- Managing the procurement process to ensure both quality and price criteria are satisfied. PSAA has sought views from the sector to help inform its detailed procurement strategy.
- Ensuring suitable independence of the auditors from the bodies they audit and managing any potential conflicts as they arise during the appointment period.
- Minimising the scheme management costs and returning any surpluses to scheme members.
- Consulting with authorities on auditor appointments, giving the Council/Authority the opportunity to influence which auditor is appointed.
- Consulting with authorities on the scale of audit fees and ensuring these reflect scale, complexity, and audit risk.
- Ongoing contract and performance management of the contracts once these have been let.

### **Pressures in the current local audit market and delays in issuing opinions**

4.12 Much has changed in the local audit market since audit contracts were last awarded in 2017. At that time the audit market was relatively stable, there had been few changes in audit requirements, and local audit fees had been reducing over a long period. 98% of those bodies eligible opted into the national scheme and attracted very competitive bids from audit firms. The resulting audit contracts took effect from 1 April 2018.

4.13 During 2018 a series of financial crises and failures in the private sector year led to questioning about the role of auditors and the focus and value of their work. Four independent reviews were commissioned by Government: Sir John Kingman's review of the Financial Reporting Council (FRC), the audit regulator; the Competition and Markets Authority review of the audit market; Sir Donald Brydon's review of the quality and



effectiveness of audit; and Sir Tony Redmond's review of local authority financial reporting and external audit. The recommendations are now under consideration by Government, with the clear implication that significant reforms will follow. A new audit regulator (ARGA) is to be established, and arrangements for system leadership in local audit are to be introduced. Further change will follow as other recommendations are implemented.

- 4.14 The Kingman review has led to an urgent drive for the FRC to deliver rapid, measurable improvements in audit quality. This has created a major pressure for audit firms to ensure full compliance with regulatory requirements and expectations in every audit they undertake. By the time firms were conducting 2018/19 local audits during 2019, the measures they were putting in place to respond to a more focused regulator were clearly visible. To deliver the necessary improvements in audit quality, firms were requiring their audit teams to undertake additional work to gain deeper levels of assurance. However, additional work requires more time, posing a threat to the firms' ability to complete all their audits by the target date for publication of audited accounts. Delayed opinions are not the only consequence of the FRC's drive to improve audit quality. Additional audit work must also be paid for. As a result, many more fee variation claims have been needed than in prior years.
- 4.15 This situation has been accentuated by growing auditor recruitment and retention challenges, the complexity of local government financial statements and increasing levels of technical challenges as bodies explore innovative ways of developing new or enhanced income streams to help fund services for local people. These challenges have increased in subsequent audit years, with Covid-19 creating further significant pressure for finance and audit teams.
- 4.16 None of these problems is unique to local government audit. Similar challenges have played out in other sectors, where increased fees and disappointing responses to tender invitations have been experienced during the past two years.

### **The invitation**

- 4.17 PSAA is now inviting the Council to opt in for the second appointing period, for 2023/24 to 2027/28, along with all other eligible authorities. Based on the level of opt-ins it will enter into contracts with appropriately qualified audit firms and appoint a suitable firm to be the Council's auditor. Details relating to PSAA's invitation are provided in an Appendix to this report.

### **The next audit procurement**

- 4.18 The prices submitted by bidders through the procurement will be the key determinant of the value of audit fees paid by opted-in bodies. PSAA will:
- Seek to encourage realistic fee levels and to benefit from the economies of scale associated with procuring on behalf of a significant number of bodies.
  - Continue to pool scheme costs and charge fees to opted-in bodies in accordance with the published fee scale as amended following consultations with scheme members and other interested parties (pooling means that everyone within the scheme will benefit from the prices secured via a competitive procurement process – a key tenet of the national collective scheme).

- Continue to minimise its own costs, around 4% of scheme costs, and as a not-for-profit company will return any surplus funds to scheme members. In 2019 it returned a total £3.5million to relevant bodies and in 2021 a further £5.6million was returned.
- 4.19 PSAA will seek to encourage market sustainability in its procurement. Firms will be able to bid for a variety of differently sized contracts so that they can match their available resources and risk appetite to the contract for which they bid. They will be required to meet appropriate quality standards and to reflect realistic market prices in their tenders, informed by the scale fees and the supporting information provided about each audit. Where regulatory changes are in train which affect the amount of audit work suppliers must undertake, firms will be informed as to which developments should be priced into their bids.
- 4.20 The scope of a local audit is fixed. It is determined by the Code of Audit Practice (currently published by the National Audit Office), the format of the financial statements (specified by CIPFA) and the application of auditing standards regulated by the FRC. These factors apply to all local audits irrespective of whether an eligible body decides to opt into PSAA's national scheme or chooses to make its own separate arrangements. The requirements are mandatory; they shape the work auditors undertake and have a bearing on the actual fees required.
- 4.21 There are currently nine audit providers eligible to audit local authorities and other relevant bodies under local audit legislation. This means that a local procurement exercise would seek tenders from the same firms as the national procurement exercise, subject to the need to manage any local independence issues. Local firms cannot be invited to bid. Local procurements must deliver the same audit scope and requirements as a national procurement, reflecting the auditor's statutory responsibilities.

#### **Assessment of options and officer recommendation**

- 4.22 If the Council did not opt in there would be a need to establish an independent auditor panel to make a stand-alone appointment. The auditor panel would need to be set up by the Council itself, and the members of the panel must be wholly or a majority of independent members as defined by the Act. Independent members for this purpose are independent appointees, excluding current and former elected members (or officers) and their close families and friends. This means that elected members will not have a majority input to assessing bids and choosing to which audit firm to award a contract for the Council's external audit.
- 4.23 Alternatively, the Act enables the Council to join with other authorities to establish a joint auditor panel. Again, this will need to be constituted of wholly or a majority of independent appointees. Further legal advice would be required on the exact constitution of such a panel having regard to the obligations of each Council under the Act and the Council would need to liaise with other local authorities to assess the appetite for such an arrangement.
- 4.24 These would be more resource-intensive processes to implement for the Council, and without the bulk buying power of the sector-led procurement would be likely to result in a more costly service. It would also be more difficult to manage quality and independence requirements through a local appointment process. The Council is unable to influence the scope of the audit and the regulatory regime inhibits the Council's ability to affect

quality.

- 4.25 The Council and its auditor panel would need to maintain ongoing oversight of the contract. Local contract management cannot, however, influence the scope or delivery of an audit.
- 4.26 The national offer provides the appointment of an independent auditor with limited administrative cost to the Council. By joining the scheme, the Council would be acting with other councils to optimise the opportunity to influence the market that a national procurement provides.
- 4.27 The recommended approach is therefore to opt-in to the national auditor appointment scheme.

### **The way forward**

- 4.28 Regulation 19 of the Local Audit (Appointing Person) Regulations 2015 requires that a decision to opt in must be made by a meeting of the Council (meeting as a whole), except where the authority is a corporation sole.
- 4.29 The Council then needs to respond formally to PSAA's invitation in the form specified by PSAA by the close of the opt-in period (11 March 2022).
- 4.30 PSAA will commence the formal procurement process in early February 2022. It expects to award contracts in August 2022 and will then consult with authorities on the appointment of auditors so that it can make appointments by the statutory deadline of 31 December 2022.

### **Local Government Reorganisation in Somerset**

- 4.31 PSAA is aware that reorganisations in the local government areas of Cumbria, Somerset and North Yorkshire were announced in July 2021. Subject to parliamentary approval shadow elections will take place in May 2022 for the new Councils to become established from 1 April 2023. Newly established local government bodies have the right to opt into PSAA's scheme under Regulation 10 of the Appointing Person Regulations 2015. These regulations also set out that a local government body that ceases to exist is automatically removed from the scheme.
- 4.32 If for any reason there is uncertainty that reorganisations will take place or meet the current timetable, PSAA has suggested that the current eligible bodies confirm their acceptance to opt in to avoid the requirement to have to make local arrangements should the reorganisation be delayed.
- 4.33 All of the S151 Officers for the five authorities in Somerset have been able to agree to make the recommendation that each Council opts in as the most beneficial option available to the current and future council.

## **5 Links to Corporate Strategy**

- 5.1 This report addresses a statutory requirement to appoint an external auditor and is not directly linked to the Council's Corporate Strategy.

## **6 Finance / Resource Implications**

- 6.1 There is a risk that current external audit fee levels could increase when the current contracts end. It is clear that the scope of audit has increased, requiring more audit work. There are also concerns about capacity and sustainability in the local audit market.
- 6.2 Opting into a national scheme provides maximum opportunity to ensure fees are as realistic as possible, while ensuring the quality of audit is maintained, by entering into a large scale collective procurement arrangement.
- 6.3 If the national scheme is not used some additional resource may be needed to establish an auditor panel and conduct a local procurement. Until a procurement exercise is completed it is not possible to state what, if any, additional resource may be required for audit fees from 2023/24.

## **7 Legal Implications (if any – delete if not applicable)**

- 7.1 Section 7 of the Local Audit and Accountability Act 2014 requires a relevant Council to appoint a local auditor to audit its accounts for a financial year not later than 31 December in the preceding year.
- 7.2 Section 8 governs the procedure for appointment including that the Council must consult and take account of the advice of its auditor panel on the selection and appointment of a local auditor. Section 8 provides that where a relevant Council is a local Council operating executive arrangements, the function of appointing a local auditor to audit its accounts is not the responsibility of an executive of the Council under those arrangements.
- 7.3 Section 12 makes provision for the failure to appoint a local auditor. The Council must immediately inform the Secretary of State, who may direct the Council to appoint the auditor named in the direction or appoint a local auditor on behalf of the Council.
- 7.4 Section 17 gives the Secretary of State the power to make regulations in relation to an ‘appointing person’ specified by the Secretary of State. This power has been exercised in the Local Audit (Appointing Person) Regulations 2015 (SI 192) and this gives the Secretary of State the ability to enable a sector-led body to become the appointing person. In July 2016 the Secretary of State specified PSAA as the appointing person.

### **Democratic Path:**

- **Audit and Governance Committee – Yes (13 December 2021)**
- **Executive – No**
- **Full Council – Yes (8 February 2022)**

**Reporting Frequency: Once only**

### **List of Appendices**

Appendix	Invitation to opt into the national scheme for auditor appointments from April 2023
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## Contact Officers

Name	Paul Fitzgerald
Direct Dial	01823 217557
Email	S151@somersetwestandtaunton.gov.uk



22 September 2021

To: Mr Hassett, Chief Executive  
Somerset West and Taunton District Council

Copied to: Mr Fitzgerald, S151 Officer  
Councillor Baker, Chair of Audit Committee or equivalent

Dear Mr Hassett,

### **Invitation to opt into the national scheme for auditor appointments from April 2023**

I want to ensure that you are aware the external auditor for the audit of your accounts for 2023/24 has to be appointed before the end of December 2022. That may seem a long way away but, as your organisation has a choice about how to make that appointment, your decision-making process needs to begin soon.

We are pleased that the Secretary of State has confirmed PSAA in the role of the appointing person for eligible principal bodies for the period commencing April 2023. Joining PSAA's national scheme for auditor appointments is one of the choices available to your organisation.

In June 2021 we issued a draft prospectus and invited your views and comments on our early thinking on the development of the national scheme for the next period. Feedback from the sector has been extremely helpful and has enabled us to refine our proposals which are now set out in the [scheme prospectus](#) and our [procurement strategy](#). Both documents can be downloaded from our website which also contains a range of useful information that you may find helpful.

The national scheme timetable for appointing auditors from 2023/24 means we now need to issue a formal invitation to you to opt into these arrangements. In order to meet the requirements of the relevant regulations, we also attach a form of acceptance of our invitation which you must use if your organisation decides to join the national scheme. We have specified the five consecutive financial years beginning 1 April 2023 as the compulsory appointing period for the purposes of the regulations which govern the national scheme.

Given the very challenging local audit market, we believe that eligible bodies will be best served by opting to join the scheme and have attached a short summary of why we believe that is the best solution both for individual bodies and the sector as a whole.

I would like to highlight three matters to you:

1. if you opt to join the national scheme, we need to receive your formal acceptance of this invitation by Friday 11 March 2022;

2. the relevant regulations require that, except for a body that is a corporation sole (e.g. a police and crime commissioner), the decision to accept our invitation and to opt in must be made by the members of the authority meeting as a whole e.g. Full Council or equivalent. We appreciate this will need to be built into your decision-making timetable. We have deliberately set a generous timescale for bodies to make opt in decisions (24 weeks compared to the statutory minimum of 8 weeks) to ensure that all eligible bodies have sufficient time to comply with this requirement; and
3. if you decide not to accept the invitation to opt in by the closing date, you may subsequently make a request to opt in, but only after 1 April 2023. We are required to consider such requests and agree to them unless there are reasonable grounds for their refusal. PSAA must consider a request as the appointing person in accordance with the Regulations. The Regulations allow us to recover our reasonable costs for making arrangements to appoint a local auditor in these circumstances, for example if we need to embark on a further procurement or enter into further discussions with our contracted firms.

If you have any other questions not covered by our information, do not hesitate to contact us by email at [ap2@psaa.co.uk](mailto:ap2@psaa.co.uk). We also publish answers to [frequently asked questions](#) on our website.

If you would like to discuss a particular issue with us, please send an email also to [ap2@psaa.co.uk](mailto:ap2@psaa.co.uk), and we will respond to you.

Yours sincerely

Tony Crawley  
Chief Executive

Encl: Summary of the national scheme



## Why accepting the national scheme opt-in invitation is the best solution

### Public Sector Audit Appointments Limited (PSAA)

We are a not-for-profit, independent company limited by guarantee incorporated by the Local Government Association in August 2014.

We have the support of the LGA, which in 2014 worked to secure the option for principal local government and police bodies to appoint auditors through a dedicated sector-led national body.

We have the support of Government; MHCLG's Spring statement confirmed our appointment because of our "strong technical expertise and the proactive work they have done to help to identify improvements that can be made to the process".

We are an active member of the new Local Audit Liaison Committee, chaired by MHCLG and attended by key local audit stakeholders, enabling us to feed in body and audit perspectives to decisions about changes to the local audit framework, and the need to address timeliness through actions across the system.

We conduct research to raise awareness of local audit issues, and work with MHCLG and other stakeholders to enable changes arising from Sir Tony Redmond's review, such as more flexible fee setting and a timelier basis to set scale fees.

We have established an advisory panel, which meets three times per year. Its membership is drawn from relevant representative groups of local government and police bodies, to act as a sounding board for our scheme and to enable us to hear your views on the design and operation of the scheme.

### The national scheme for appointing local auditors

In July 2016, the Secretary of State specified PSAA as an appointing person for principal local government and police bodies for audits from 2018/19, under the provisions of the Local Audit and Accountability Act 2014 and the Local Audit (Appointing Person) Regulations 2015. Acting in accordance with this role PSAA is responsible for appointing an auditor and setting scales of fees for relevant principal authorities that have chosen to opt into its national scheme. 98% of eligible bodies made the choice to opt-in for the five-year period commencing in April 2018.

We will appoint an auditor for all opted-in bodies for each of the five financial years beginning from 1 April 2023.

We aim for all opted-in bodies to receive an audit service of the required quality at a realistic market price and to support the drive towards a long term competitive and more sustainable market for local audit. The focus of our quality assessment will include resourcing capacity and capability including sector knowledge, and client relationship management and communication.

### What the appointing person scheme from 2023 will offer

We believe that a sector-led, collaborative, national scheme stands out as the best option for all eligible bodies, offering the best value for money and assuring the independence of the auditor appointment.

The national scheme from 2023 will build on the range of benefits already available for members:

- transparent and independent auditor appointment via a third party;
- the best opportunity to secure the appointment of a qualified, registered auditor;
- appointment, if possible, of the same auditors to bodies involved in significant collaboration/joint working initiatives, if the parties believe that it will enhance efficiency;
- on-going management of any independence issues which may arise;
- access to a specialist PSAA team with significant experience of working within the context of the relevant regulations to appoint auditors, managing contracts with audit firms, and setting and determining audit fees;
- a value for money offer based on minimising PSAA costs and distribution of any surpluses to scheme members - in 2019 we returned a total £3.5million to relevant bodies and more recently we announced a further distribution of £5.6m in August 2021;
- collective efficiency savings for the sector through undertaking one major procurement as opposed to a multiplicity of smaller procurements;
- avoids the necessity for local bodies to establish an auditor panel and undertake an auditor procurement, enabling time and resources to be deployed on other pressing priorities;
- updates from PSAA to Section 151 officers and Audit Committee Chairs on a range of local audit related matters to inform and support effective auditor-audited body relationships; and
- concerted efforts to work with other stakeholders to develop a more sustainable local audit market.

We are committed to keep developing our scheme, taking into account feedback from scheme members, suppliers and other stakeholders, and learning from the collective post-2018 experience. This work is ongoing, and we have taken a number of initiatives to improve the operation of the scheme for the benefit of all parties.

Importantly we have listened to your feedback to our recent consultation, and our response is reflected in [the scheme prospectus](#).

## **Opting in**

The closing date for opting in is 11 March 2022. We have allowed more than the minimum eight-week notice period required, because the formal approval process for most eligible bodies is a decision made by the members of the authority meeting as a whole [Full Council or equivalent], except police and crime commissioners who are able to make their own decision.

We will confirm receipt of all opt-in notices. A full list of eligible bodies that opt in will be published on our website. Once we have received an opt-in notice, we will write to you to request information on any joint working arrangements relevant to your auditor appointment, and any potential independence matters which may need to be taken into consideration when appointing your auditor.

## **Local Government Reorganisation**

We are aware that reorganisations in the local government areas of Cumbria, Somerset, and North Yorkshire were announced in July 2021. Subject to parliamentary approval shadow elections will take place in May 2022 for the new Councils to become established from 1 April 2023. Newly established local government bodies have the right to opt into PSAA's scheme under Regulation 10 of the Appointing Person Regulations 2015. These Regulations also set out that a local government body that ceases to exist is automatically removed from the scheme.

If for any reason there is any uncertainty that reorganisations will take place or meet the current timetable, we would suggest that the current eligible bodies confirm their acceptance to opt in to avoid the requirement to have to make local arrangements should the reorganisation be delayed.

## **Next Steps**

We expect to formally commence the procurement of audit services in early February 2022. At that time our procurement documentation will be available for opted-in bodies to view through our e-tendering platform.

Our recent webinars to support our consultation proved to be popular, and we will be running a series of webinars covering specific areas of our work and our progress to prepare for the second appointing period. Details can be found on [our website](#) and in [the scheme prospectus](#).



*Report Number: SWT 111/21*

## **Somerset West and Taunton Council**

### **Audit and Governance Committee – 13th December 2021**

#### **Health and Safety Management System – Performance framework and Improvement Programme**

**Report Authors:**

**Kate Lusty – Health & Safety Specialist**

**Dan Webb – Health & Safety Improvement Programme Manager (temp)**

#### **1. Executive Summary / Purpose of the Report**

**1.1** The purpose of this report is to provide the Audit and Governance committee with:  
A) an introduction to the Health & Safety (H & S) Performance Framework – the approach for how the Audit & Governance Committee will be kept updated on Health & Safety (H & S) Performance, and  
B) an introduction to, and progress against delivery of the H & S Management System (HSMS) Improvement Programme.

**1.2** In future meetings, the Audit & Governance Committee will be asked to review the HSMS Scorecard data together with the observations / recommendations / conclusion summary. The reporting categories have been identified as key deliverables under the requirement of a H & S Committee.

**1.3** The HSMS Improvement Programme Brief (appendix B) sets out the various workstreams within the programme, including a new H & S Committee governance structure. All Improvement delivery activity will be tracked within a single consolidated action plan (implemented November 2021) and through the established Corporate Programme Management Office (PMO) arrangements and processes (monthly reporting to the Internal Operations Directorate Board, and Senior Management Team - SMT).

#### **2. Recommendations**

**2.1** The committee is asked to note and endorse:  
A) the H & S Performance Framework  
B) the HSMS Improvement Programme - as the approach to improving the Health & Safety Management System and culture.

#### **3. Risk Assessment**

**3.1** An efficient and effective H & S Management System helps the council comply with its duties under the Health & Safety at Work Act (1974) and the Management of Health & Safety Regulations 1999. This will thereby mitigate the legal, financial, and reputational risks associated with non-compliance of these key legal requirements and associated legislation, based on operational activity.

**3.2** Subsequently, effective measurement of the performance of Health & Safety systems will galvanise the continuous improvement of risk mitigation controls.

**3.3** During Quarter 1 (2021/22) an audit on Health & Safety was carried out by SWAP – this was reported to the Audit & Governance committee 13<sup>th</sup> September 2021, with an audit opinion reported as ‘limited assurance’.

**3.3.1** A significant corporate risk was identified (as defined below):

“The Council does not have sufficient arrangements in place to identify, monitor and mitigate against health and safety risks that could cause staff, stakeholders and public harm – leading to subsequent legal, financial and reputational damage”.

**3.3.2** A summary of the work completed and findings by SWAP is as follows:

- “The Council has a statutory duty to keep its employees, members, customers, contractors and anyone else who uses its services safe from risks to their health and safety under the Health and Safety at Work Act 1974. The failure to adhere to relevant health and safety legislation and regulations puts health and safety at risk and exposes the Council to legal, finance and reputational damage.
- The Council had not received an audit of corporate health and safety since 2014 and therefore assurance was sought by senior management that the Council was adhering to health and safety legislation and regulation and the risks in these areas were minimised. Despite the absence of a recent audit the Council has been developing its approach to health and safety and this continues to be work in progress. The audit scope was designed around the Health and Safety Executive’s HSG65 framework”. (please see para 4.2 for further details of HSG65)
- The Council is currently at the ‘PLAN’ and ‘DO’ stages of HSG65 and therefore only limited testing could be done under ‘CHECK’ and ‘ACT’. Our audit focussed on the high priority areas the Council need to address and therefore contractors were only looked at briefly. When looking at accidents and incidents we relied upon second line of defence controls. Landlord Health and Safety was considered out of scope for this audit. This area has been covered by previous audit work.
- Our reason for providing limited assurance was because there is inadequate oversight of health and safety matters at Member level, this coupled with an incomplete risk scoping exercise, the audit framework not being developed or implemented and a lack of clarity with regards to who has received health and safety training and who has not.
- There were three Priority 2 recommendations - *“Important findings that need to be resolved by management”* (and eight Priority 3 recommendations) made within this review. The three priority 2 recommendations raised in our report are detailed below. Health and Safety is on the Senior Management Issue log to monitor improvements. The recommendation made in this review will be followed up to ensure they have been implemented and reported back to the Audit Committee.

- **SWAP recommendation 1)** Corporate Governance matters need to be strengthened, including raising the profile of health and safety through a Member Champion and reporting of health and safety work to Members. Sub-Committees would be advisable for all Directorates, as currently they only exist for Housing & Communities and External Operations.
- **SWAP recommendation 2)** While the Risk Assessment Scoping sessions have been scheduled and are underway, they are not complete, therefore the Council does not have a complete record of the health and safety risks it needs to manage. To date the Audit Framework has not been developed.
- **SWAP recommendation 3)** Health and Safety training is being carried out upon induction and refresher training is also being delivered, however Members have not received any. Reports can also be run from Learning Management System (LMS), but analysis in this area could be better and this would provide greater assurance that staff and Members know to manage health and safety.

**3.4** Subsequent to the SWAP audit (outlined above), together with an additional External Audit report (August 2021) - commissioned by the Director of Housing & Communities - on some of our operational / trade services by the Building Safety Group (BSG), plus internal reviews by the H & S team, it was decided by SMT to include H & S on the Corporate Issues Register.

- The summary Issue description is - "Low maturity health and safety management systems"
- The key impacts of this issue are stated as - "To date we have seen the impact through personal injury and associated insurance claims. We have continued risk of further injury, financial and reputational damage".

### **3.5 Actions in Response to Audit recommendations (SWAP & BSG)**

Further information detailing the recommendation response to date can be found in 4

## **4. Background and Full details of the Report**

**4.1** The Health & Safety at Work Act 1974 contains general and specific duties with which all workplace environments (public authorities such as the Council) must comply.

**4.2** The general duty requires a robust HSMS structure to deliver to the requirements of the Act, within a framework recommended by The Health & Safety Executive (this is known as the HSG65 framework). This constitutes implementing process controls for:

- H & S Policy and Procedure
- Risk Management and Risk Assessment
- Safe Systems of Work/Safe Work Procedures
- Audit Framework
- Mechanisms for continuous improvement

**4.3** Under Section 2 (4-7) of The Health & Safety at Work Act (H&SaWA), law also stipulates a link to the Safety Committee and Safety Representatives Regulation 1977. This outlines the legal requirement to ensure that a suitable safety committee is in

place (where necessary) and that key H & S Performance indicators are monitored, to measure the effectiveness and efficiency of the HSMS. These areas are namely:

- Changes to workforce that could affect H & S
- Accidents/Incidents/Near Miss
- Risk Management & Risk Assessment
- Occupational Health/Sickness/Wellbeing
- H & S Training
- Emergency Arrangements (Evacuation/First Aid/Emergency Response)
- Audit/Inspection – conclusive reporting

**4.3.1** The Audit & Governance committee should note that the ‘Safety committee’ referred to above in 4.3 is what is in place through the ‘Tier 2’ H & S Committee (Officers) - which is specifically to comply with H&SaWA obligations. As part of the ‘Tier 1’ governance arrangements, however, Elected Members are involved through the Audit & Governance committee.

**4.4** As part of the response to the corporate risk and issue (as outlined in the Risk assessment – section 3 above), a new governance structure for H & S Committee was launched in November 2021, implementing a 3-tier approach:

- **Tier 1** – Senior Management Team
- **Tier 1** – Elected Members and Executive Portfolio Holder, Audit & Governance Committee
- **Tier 2** – H & S Committee (Consultative & Reporting)
- **Tier 2** – H & S Committee (Corporate Management Group) – steering and decision making
- **Tier 3** – Directorate Groups (x4)

#### **4.5 H & S Performance Framework**

**4.5.1** Focusing on the key reporting requirements (4.3), Tiers 1 & 2 have reporting mechanisms to measure these categories of performance and future reporting will follow these categories.

**4.5.2** Scorecard – the content of the scorecard reporting categories is outlined in Appendix A. Reporting will also include a summary of observation/recommendation and conclusive actions. Scorecard reporting is reflected from Tier 3 up to Tier 1.

**4.5.3** Risk Management & Risk Assessment - risk action plan progress will be reported and split by Directorate via statistical data, including statements of risk assessment reviews,

**4.5.4** Emergency Arrangements – reporting will include an update SWT’s Emergency Response Officer.

#### **4.7 HSMS Improvement Programme**

##### **Introduction and background**



**4.7.1** In addition to the implementation of the new governance arrangements described in 4.4 above, the response to the corporate risk and issue (as outlined in the Risk assessment – section 3 above) has also been to implement a robust programme management approach.

**4.7.2** Several improvement activities have already been delivered, or are currently in progress, however, the new HSMS Improvement Programme has also been approved by SMT. This programme has been formed to manage a series of projects and initiatives that will ensure the organisation transforms to a new improved operational state. A Programme Brief provides an overview, and can be found in Appendix B.

**4.7.3** Subsequent response to recommendations made within SWAP & BSG Audit  
All recommendations have been tracked in a centralised H & S Action Plan, progress to date includes:-

- Development of Policy Catalogue
- Delivery of new corporate governance structure for H & S Committee, including new Directorate Groups and a new intranet page
- Improved Risk Management processes, risk action plans and progress statistics
- Delivery of emergency training (mandatory compliance)
- Implementation of a new H & S Intranet page and links to bespoke Directorate areas for risk management and scorecard
- Statutory equipment checks and the development of PUWER (Provision and Use of Working Regulation 1998) Register
- Improved H & S Team structure with H & S Partners assigned to Directorates, to improve bespoke elements of HSMS.

**4.7.4** This document is a high-level summary, including:

- The programme description and vision: ***a strong H & S culture is embedded, and effective management system is integrated across the organisation.***
- The work-streams, that make up the programme are (initially):
  - H & S Policy
  - Governance and control
  - People / HR
  - Contractor management
  - Construction Design management (CDM)
  - Risk management and audit framework
  - H & S support and systems
  - In addition - 'Culture' change / development, and communications & engagement will be treated as cross-cutting themes throughout the programme and all work-streams / projects & activities (rather than work-streams in their own right)
- Scope and dependencies
- Key outcomes and benefits
- Budget and resource
- Programme governance
- Issues and risks

**4.7.5** The Audit & Governance committee will receive high-level updates on progress of the HSMS Improvement programme as part of quarterly H & S reports.

## **5. Links to Corporate Strategy**

**5.1** Paragraphs 4.1, 4.2 and 4.3 above outline legal and statutory responsibilities for Health and Safety, for which of course the Council must comply in the delivery of all its operations.

**5.2** In addition, the delivery of a robust H & S function – both internally, and externally (e.g. to contractors and partners), with transparent monitoring and reporting – relates to the corporate aim of being ‘a transparent and customer-focussed council’.

## **6. Finance / Resource Implications**

**6.1** There are no financial / resource implications directly as a result of this report.

**6.2** The Health & Safety Management System provides a vehicle for the avoidance of detrimental financial risks and may even present opportunities for cost savings (e.g., reductions in insurance premiums and claim payments).

**6.3** There are approved operational budgets in 2021/22 to enable the delivery and improvement of the H & S function (as referred to within the HSMS Improvement Programme brief – Appendix B

## **7. Legal Implications**

**7.1** There are no legal implications directly as a result of this report.

**7.2** The Health & Safety at Work Act 1974 places duties and obligations upon the Council. The Health & Safety Management System provides a vehicle to meet those obligations to ensure compliancy, and therefore for the avoidance of detrimental legal risks, and may even present opportunities for cost savings (e.g., reductions in insurance claim payments).

## **8. Climate and Sustainability Implications**

**8.1** There are no Climate and Sustainability implications directly as a result of this report.

## **9. Safeguarding and/or Community Safety Implications**

**9.1** There are no Safeguarding and/or Community Safety implications directly as a result of this report.

**9.2** Improved Health & Safety processes and effective risk management assist the mitigation of risk and promote the welfare of vulnerable children and adults. Operational procedure is strengthened by Integrated Health & Safety and Safeguarding

processes, in turn providing the necessary protection for vulnerable groups and individuals delivering the services.

## **10. Equality and Diversity Implications**

**10.1** There are no Equality and Diversity implications directly as a result of this report.

**10.2** The Health & Safety at Work Act 1974 places duties and obligations upon the Council. The Health & Safety Management System provides a vehicle to meet those obligations to ensure compliancy, and therefore for the avoidance of detrimental Equality and Diversity risks (e.g., disability / pregnancy & maternity risk assessments).

## **11. Social Value Implications**

**11.1** There are no Social Value implications directly as a result of this report.

## **12. Partnership Implications**

**12.1** There are no partnership implications directly as a result of this report.

**12.2** The HSMS Improvement Programme is made of actions that are deliverable within the H & S Committee Corporate Structure at all three 'tiers'. Various specialist Workstream Leads have been identified within the Committee Management Group (Tier 2) therefore all partnerships at the present time are associated to internal services.

## **13. Health and Wellbeing Implications**

**13.1** There are no Health and Wellbeing implications directly as a result of this report.

**13.2** The Health & Safety at Work Act 1974 places duties and obligations upon the Council. The Health & Safety Management System provides a vehicle to meet those obligations to ensure compliancy, and therefore for the avoidance of detrimental Health & Wellbeing risks, and may even present opportunities for improved Health and Wellbeing (e.g. reduced staff sickness levels).

## **14. Asset Management Implications**

**14.1** There are no Asset Management implications directly as a result of this report.

**14.2** The Health & Safety at Work Act 1974 places duties and obligations upon the Council. The Health & Safety Management System provides a vehicle to meet those obligations to ensure compliancy, and therefore for the avoidance of detrimental Asset Management risks, and may even present opportunities for improved asset management (e.g., through robust 'FABRIC' assessments – buildings / assets / locations / places)

## **15. Data Protection Implications**

15.1 There are no Data Protection implications directly as a result of this report.

## 16. Consultation Implications

16.1 There are no Consultation implications directly as a result of this report.

16.2 The introduction of the new 3-tier governance arrangement provides significant opportunities for consultation on Health & Safety matters with all levels and areas of the Council.

## 17. Scrutiny/Executive Comments / Recommendation(s) - N/A

### Democratic Path:

- **Scrutiny / Corporate Governance or Audit Committees – Yes**
- **Cabinet/Executive – No**
- **Full Council – No**

Reporting Frequency: **Quarterly**

### List of Appendices (delete if not applicable)

Appendix A	Scorecard Summary – H & S Key indicators
Appendix B	HSMS Improvement Programme Brief

### Contact Officers

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**Health & Safety Committee (Tier 1 Reporting)- Scorecard Contents**

Data Type	Analysis Required
Accidents	<ul style="list-style-type: none"> <li>• <b>Total number</b> of accidents by month for current year and comparison for last three years (high level trend)</li> <li>• Current Year – Accidents split by employee, contractor, member of public</li> <li>• Current Year - Accidents split by <b>type</b> and comparison for last three years (high level trend)</li> <li>• Current Year - Accidents split <b>by Directorates</b> with monthly figures</li> <li>• Current Year - number of <b>RIDDOR (Reporting of Injuries, Diseases and Dangerous Occurrences Regulation) reported events</b>, by RIDDOR reason, by month – split by employee, contractors, members of public (grouped into Directorates)</li> <li>• <i>Work in Progress (WIP) - conversion of accidents to claims</i></li> </ul>
Incidents	<ul style="list-style-type: none"> <li>• <b>Total number</b> of incidents by month for current year and comparison for last three years (high level trend)</li> <li>• Current Year – Incidents split by employee, contractor, member of public</li> <li>• Current Year - Incidents split by <b>type</b> and comparison for last three years (high level trend)</li> <li>• Current Year – Incidents split <b>by Directorates</b> with monthly figures</li> <li>• Current Year - number of <b>RIDDOR reported events</b>, by RIDDOR reason, by month – split by employee, contractors, members of public (grouped into Directorates)</li> <li>• <i>WIP - conversion of incidents to claims</i></li> </ul>
Near Miss	<p><b><u>Summary level</u></b></p> <ul style="list-style-type: none"> <li>• <b>Total number</b> of Near Miss by month for current year and comparison for last three years (high level trend)</li> <li>• Current Year – Near Miss split by employee, contractor, member of public</li> <li>• Current Year - Near Miss split by <b>type</b> and comparison for last three year (high level trend)</li> <li>• Current Year – Near Miss split <b>by Directorates</b> with monthly figures</li> <li>• Current Year - number of <b>RIDDOR reported events</b>, by RIDDOR reason, by month – split by employee, contractors, members of public (grouped into Directorates)</li> </ul>
H & S Inductions	<p><b>Current Year Only: -</b></p> <ul style="list-style-type: none"> <li>• <b>Total number of inductions</b> delivered across Directorates</li> </ul>
H & S mandatory training	<p><b>This information is extracted from Learning Management System (LMS) and iTrent (internal HR Software Product)</b></p>

	<p><b>Current Year Only: -</b></p> <ul style="list-style-type: none"> <li>Total number of mandatory training events, by type and split by Directorate.</li> <li><i>WIP - Eventually split by % planned % delivered</i></li> </ul>
Sickness	<p><b><u>Summary Level</u></b></p> <ul style="list-style-type: none"> <li>Current Year - total number of days lost, broken down into sickness reason (split by Directorate and month)</li> </ul>
Occupational Health (OH)	<p><b>This information is extracted from H &amp; S and HR systems</b></p> <p><b>Current Year Only: -</b></p> <ul style="list-style-type: none"> <li>Total number of OH referrals (by month) split by Directorate and type</li> </ul>
Risk Management	<p><b>Current Year Only: -</b></p> <ul style="list-style-type: none"> <li>Risk Management action plans, split by Directorate, analysing the number of risk assessment reviews completed</li> </ul>
Executor Risk Assessment (ERA)	<p><b>Executor Risk Assessments are personalised risk assessments completed for employees with health conditions, disabilities, Expectant Mothers, Young Persons</b></p> <p><b>Current Year Only: -</b></p> <ul style="list-style-type: none"> <li>Total number of ERA's (by month) split by Directorate and type</li> </ul>
Safety Action Notices (SAN's) issued	<p><b>Safety Action Notice Policy is a RED/YELLOW card system that mirrors the Health and Safety Executive's prohibition and improvement notice process. SAN Policy is SWT's internal process to manage H &amp; S consequence</b></p> <p><b>Current Year Only: -</b></p> <ul style="list-style-type: none"> <li>Total number of SAN's issued (by month) split by Directorate and type</li> </ul>
HSE (Health and Safety Executive) Interventions	<p><b>Current Year Only: -</b></p> <ul style="list-style-type: none"> <li>Total number of HSE Interventions (by month), split by Directorate</li> </ul>
Audit & Inspection	<p><b>Current Year Only: -</b></p> <ul style="list-style-type: none"> <li>Number and type of audits/inspections completed, split by month and Directorate</li> <li>This will also include a summary of observations/recommendations/conclusive actions</li> </ul>

## Programme & Project Brief

### Basis Details

<b>Number</b>	
<b>Title*</b>	<b>Health &amp; Safety Improvement Programme</b>
<b>Date</b>	November 2021
<b>Author*</b>	Dan Webb / Kate Lusty
<b>Originator-Requestor*</b>	Sean Papworth / James Barrah

### 1. Programme, Project Description

#### Outline Summary\*

#### Introduction and background

An internal review followed by an audit by SWAP (and Building Services Group report) of the current Health & Safety Management System (H & SMS) was undertaken in early summer 2021. This identified major improvement requirements within the existing H & SMS and the existing H & S Committee structure.

Also, as a result of a workplace accident in April 2021, it was evident that the current H & S processes were not effective or adequate to provide sufficient protection to the workforce, therefore urgent improvement is necessary.

SMT has identified Health & Safety – “Low maturity health and safety management systems” – as a key corporate issue.

In response to this, a new improved Corporate Governance H & S Committee structure has been introduced, to:

- galvanise and improve the H & S Management System
- strengthen decision making
- strengthen reporting mechanisms and scorecards
- achieve the overall H & S Objective – ‘**SAFER PEOPLE, SAFER PLACES**’

This 3 tier system is as follows:

- **Tier 1 - Governance Leaders (Members/SMT/PFH)** – to steer BAU H & S compliance, ensure deliver of SWT’s H & S

Objectives and development action plans, ensure resource and budget

- **Tier 2 - H & S Committee** (*Existing* – consultative / reporting)
- **Tier 2 - Corporate Management Group** (*new*) - to steer decision making and action planning. To ensure actions are delivered within the Directorate Groups and H & S is integrated across the organisation.
- **Tier 3 - H & S Directorate Groups** (*new* - Directors/AD/s Operational Leads/H & S) – steer day-to-day operational H & S, monitor scorecard, address proactive pipeline for H & S.

### **Health & Safety Improvement Programme**

A number of improvement activities have already been delivered, or are currently in progress, however, a programme has been formed to manage a series of projects and initiatives that will ensure the organisation transforms to a new operational state.

The programme vision is that:

***a strong H & S culture is embedded, and effective management system is integrated across the organisation.***

The priority work-streams, projects and initiatives included (initially) in the programme are:

- **Policy** - overall SWT H & S Policy updated to meet the requirements of HSG65 (plus all sub-policies) - the 'H & S management system'
- **Governance & control**
  - To maintain the function of the existing H & S Committee, on a Consultative and Reporting basis
  - To implement a new '3 tier' approach to steer H & S improvements and deliver the over-arching H & S objectives
  - Effective monitoring and reporting (data, scorecards, leading & lagging KPIs)
  - Effective action planning / proactive pipeline management (all activity captured, tracked – and linked to the improvement programme / corporate risks & issues registers)
- **People / HR**
  - Overall 'Duty of care' responsibility
  - Recruitment / new staff (on-boarding & induction)
  - Health / medical conditions / sickness
  - Training / learning & development / records
  - Compliancy - role profiles



	<ul style="list-style-type: none"> <li>• <b>Contractor management</b> - Refine Contractor Management processes, including:             <ul style="list-style-type: none"> <li>○ development of over-arching Procurement (&amp; CDM) policy</li> <li>○ Centralised contractor database</li> <li>○ H &amp; S checks / vetting / audits &amp; reviews / contractor induction / compliance monitoring</li> </ul> </li> <li>• <b>Construction Design Management (CDM)</b> <ul style="list-style-type: none"> <li>○ Identify CDM Duty Holder (and define policy &amp; procedure)</li> <li>○ Processes for issuing Construction Phase Plans/PCI and supporting contractors to maintain H &amp; S files (inc handover)</li> </ul> </li> <li>• <b>Risk Management and Audit framework</b> <ul style="list-style-type: none"> <li>○ Risk assessment scoping, catalogue, gap analysis, risk profiling</li> <li>○ Develop &amp; implement audit framework</li> </ul> </li> <li>• <b>H &amp; S support and systems</b> (H &amp; S function 'BaU')             <ul style="list-style-type: none"> <li>○ Provide H &amp; S consultation and support, guidance on legislation and compliance</li> <li>○ Information management (sharepoint / intranet)</li> <li>○ Explore best options to automate processes (possible new software – see 'key risks' section)</li> </ul> </li> </ul> <p>The detail of these work-streams, projects and activities sits within the programme plan, and H &amp; S action plan.</p> <p><b>'Culture' change / development, and communications &amp; engagement</b> will be treated as cross-cutting themes throughout the programme and all work-streams / projects &amp; activities (rather than work-streams in their own right).</p>
<p><b>Not in Scope</b></p>	<ul style="list-style-type: none"> <li>• Local Government Reorganisation (LGR) programme – however it is important that H &amp; S is integrated within the LGR programme, and fully considered within the relevant work-stream(s) or as a 'cross-cutting' theme</li> <li>• <i>ICT – new software solution (to be confirmed)</i></li> <li>• ISO Quality assurance accreditation – however the principles will be applied throughout the programme</li> </ul>
<p><b>Dependencies</b></p>	<ul style="list-style-type: none"> <li>• Successful implementation of 3 tiers of governance – leadership, engagement and 'buy-in' of all levels of</li> </ul>

	<p>Directors/ADs, Elected Members, Managers and Officers involved.</p> <ul style="list-style-type: none"> <li>• Inter-dependencies exist between many of the workstreams within the programme – need to be identified and managed throughout the programme (eg CDM and contractor management)</li> <li>• Continued delivery and progress of this improvement programme into 2022/23 is dependent on assurance that the H &amp; S team staff resourcing levels will be carried through (ie approval of revenue budget for 2022/23)</li> </ul>
<p><b>Key Outcomes*</b></p>	<p>The risks and issues identified through the SWAP audit and internal H &amp; S review are all addressed successfully through the implementation of recommended effective control measures</p> <ul style="list-style-type: none"> <li>• H &amp; S Policy - an updated, fit for purpose SWT H &amp; S Policy, with relevant sub-policies in a standardised format readily available to all employees</li> <li>• Corporate oversight and a strong ‘tone’ is set from ‘the top’</li> <li>• Corporate governance – effective coverage and consultation, and clarity of responsibility</li> <li>• Risk management is embedded throughout the organisation – the council has a complete view of all H &amp; S risks, and all risk assessments complete, with good awareness and resulting action plans delivered</li> <li>• Effective and robust Contractor and Construction Design Management policy and procedures – all contractors are sufficiently vetted and are aware of / implementing H &amp; S policy &amp; procedures</li> <li>• Everyone (staff, Members, contractors etc) is fully trained in H &amp; S (relevant to roles)</li> <li>• All H &amp; S information is readily and easily accessible</li> <li>• The H &amp; S team / function provides a consistently excellent service with high levels of support and guidance</li> <li>• Accidents, incidents and near misses are minimised / prevented</li> <li>•</li> </ul>
<p><b>Key Preliminary Benefits Targets and measures*</b></p>	<ul style="list-style-type: none"> <li>• Low / reduced accidents, incidents and near misses</li> <li>• High level of H &amp; S awareness (all levels), induction, learning &amp; development</li> <li>• Low / reduced sickness levels</li> <li>• Audit assessment moves to full assurance</li> <li>• Insurance cost savings as a result of H &amp; S improvements through a Joint Service Review</li> </ul>

## 2. Business Driver for Change\*

Select the link to the corporate strategic aim*	X	How this project supports the delivery of this aim
1.Our Environment and Economy: A low-carbon, clean, green and prosperous district that attracts high quality employment opportunities and encourages healthy lifestyles.		
2.A transparent and customer-focused Council: A Council which informs and engages openly with our stakeholders and which consistently delivers excellent customer services.	X	Delivery of an excellent H & S function – internally (SWT) and externally (eg contractors & partners). Robust and transparent H & S monitoring and reporting.
3.Homes and Communities: A district which offers a choice of good quality homes for our residents, whatever their age and income, in communities where support is available for those who need it.		
4.An Enterprising Council: A financially self-sufficient Council which has expanded its commercial activity and generated more income in order to support service provision.		
5.Other	X	An effective and fit for purpose H & S Management System, with strong compliance and management of risk – overall H & S objective ‘Safer People, Safer Places’

## 3. Budget & Resource Estimation Forecast

<b>Timescale</b>	From November 2021
<b>Targeted End Date</b>	April 2022 (programme activity moves to ‘business as usual’)
<b>Budget</b>	Approved budget of c£40k for a H & S software solution (NB - decision pending on whether to proceed – ref Risk Register). Staff resourcing plan 2021/22 approved (H & S team, + Programme Manager 6 months) – but 2022/23 pending budget-setting.
<b>Resources - Internal</b>	<ul style="list-style-type: none"> <li>• H &amp; S team</li> <li>• Programme Manager (4 days per week x 6 months from Nov 2021)</li> <li>• SMT (ref Governance section below)</li> </ul>

	<ul style="list-style-type: none"> <li>Work-stream / Project Leads (ref Governance section below / Programme Plan)</li> </ul>
<b>Resources - Other</b>	

**4. Governance\*** (Who is responsible to deliver? Who this project or programme report to? Who is accountable for the benefits delivery? Who will approve the process steps?)

<b>Project Manager</b>	Various – H & S team, and other Work-stream / project leads (refer to Programme Plan)
<b>Programme Manager</b>	Dan Webb
<b>Directorate</b>	Internal Operations (Corporate Services - Assistant Director – Sean Papworth) SP also nominated by SMT as the Corporate ‘Issue Manager’, (with James Barrah as the Corporate Issue Director)
<b>First Board Member Name</b>	<b>Tier 1 – SMT / Programme Board</b> - Strategic Lead / Champion – James Barrah <b>Tier 1 – Member lead / Champion</b> - TBC (+ Chair – Audit & Governance Committee – Cllr Lee Baker) (+ Executive Portfolio Holder – Corporate Resources – Cllr Ross Henley)
<b>Second Board Member Name</b>	Tier 2 – Corporate Management Group – Chair – JB Tier 2 – H & S committee – Chair – JB/KL Tier 3 – Directorate H & S groups – Chairs - nominated AD (see separate H & S committee new governance structure for full list of named attendees)

**5. Quality Control, Issues and Risks**

**Key Issues/Causes for Concern** (already exist)

No	Description	Mitigations and Actions
1	Low maturity health and safety management systems (as identified in H & S audit)	H & S Improvement programme SMT Corporate Issue management
2	H & S team currently under resourced (one H & S Partner post unfilled)	
3		
4		

**Key Risks** (are possible but haven’t happened yet)

No	Description	Mitigations and Actions
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1	New ICT software solution – risks depending on whether this is implemented or not	
2	Failure to manage inter-dependencies	Programme management arrangements
3		
4		

**6. Approval to Progress\***

**Board comments and actions to be considered for next gate review**

No	Open Comment/ Action / Decision	Action owner
1	SMT / James Barraah approval of Programme Brief (24 Nov)	Sean Papworth
2		
3		
4		

**Launch approval gate approved by the board\*** (a board need to be nominated to approve major gates/milestones. By approving this brief, the board give the authorisation to start the analysis)

Name	Function	Approval Date	Reference to approval (signatures, meeting minutes, e-mail)

**Document Template Version Control For PMO**

<b>Name</b>	Programme Project Brief Template
<b>Owner</b>	Sophie Morvany
<b>Classification</b>	Non-Classify

<b>Version</b>	<b>Date</b>	<b>Status (Draft, Approved, Shared)</b>	<b>Author</b>	<b>Change Description</b>
V1.0	07/2020	Shared	Trudi Cox	Initial template
V2.0	01/2021	Draft	Sophie Morvany	Clarification of cost vs benefits realisation, link to business driver for change, governance with approval, version control)

# Somerset West and Taunton Council

## Audit and Governance Committee – 13 December 2021

### Changes to the Constitution

This matter is the responsibility of the Leader of the Council, Cllr F Smith-Roberts

**Report Author: Kevin Williams – Deputy Monitoring Officer, Lesley Dolan Deputy Monitoring Officer & Marcus Prouse – Governance Specialist.**

#### 1 Executive Summary / Purpose of the Report

1.1 The matters set out in this report amount to modest changes to the SWT Constitution. This is to achieve, better clarity, the updating of minor changes and procedural refinement. This will ease the interpretation and effectiveness of the Constitution.

#### 2 Recommendations

2.1 Full Council resolves to accept the proposals from the Deputy Monitoring Officers (DMOs) and delegates to the DMOs the amendments to give effect to the proposals.

#### 3 Risk Assessment

3.1 Failure to update the Constitution could lead to an impact on the way Council operates and makes decisions.

#### 4 Background and Full details of the Report

4.1 The Constitution is required to be reviewed on an ongoing basis. It is proposed to make the following changes to the Articles and Chapters of the Constitution.

##### 4.2 SECTION 1 – Terms of Reference for Planning Committee

4.3 Appendix A is the current Constitution text. Appendix A1 is the Constitution text with the track changes visible and Appendix A2 is the revised document as is proposed.

4.4 The purposes of these changes are as follows:

- To reflect changes in Officer designations
- To provide better clarity within the text by clearer drafting. So, for example, the explanation as to why a Planning Application is referred to the Committee, has been amended.

##### 4.5 Terms of Reference for the Phosphates Planning Sub-Committee

4.6 Full Council on October 5<sup>th</sup> 2021 approved the governance and delegated authority

arrangements for managing and setting up the subcommittee of Planning Committee to manage the interim strategy to meet the needs of affected development.

4.7 Appendix B sets out terms of reference for the Sub-Committee which will be inserted into the Constitution at Appendix A1 and A2 (subject to Full Council approval).

#### 4.8 **SECTION 2 – Council Procedure Rules**

4.9 These rules provide a framework for the management of Full Council. Various changes are proposed as follows:

- Clarity on definitions of Extraordinary and Special Council meetings.
- Notices of Motion
- Procedure for the consideration of motions and amendments (with and without notice) and rules of debate
- Notification of substitutes
- Addition of a Petitions Scheme

4.10 There are a series of alterations to the rules for members at the Audit and Governance Committee to consider and make such recommendations to Full Council as may be appropriate. The purpose of these amendments is to clarify and improve upon the practical procedures at Full Council, whilst maintaining appropriate Chairperson's discretion.

#### 4.11 Council Petition Scheme

4.12 Information on the procedure for lodging a petition and the Petition Scheme is set out at Article 16 in the Council Procedure Rules (Appendix C)

4.13 This is not up to date and does not provide a detailed facility for the submission of e-petitions. Rather than make small amendments it is easier to insert an up to date Petitions Scheme and appropriate fresh recital in the Constitution (Appendix F).

4.14 Members have a discretion to determine the thresholds in relation to petitions as follows:

4.15 The discretion is underpinned by the Local Democracy, Economic Development and Construction Act 2009. It is proposed to set the threshold at 1 percent of the population of the District, which is the same criterion as currently applied by the County Council. This is a matter for Members to consider.

4.16 Members are referred to:

4.17 Appendix C (current Council Procedure Rules), Appendix C1 (Council Procedure Rules with track changes), and Appendix C2 (Council Procedure Rules as proposed).

#### 4.18 **SECTION 3 – Revision of Key Decisions Financial Threshold**

4.19 The current constitution defines Key Decisions in Article 13 in the Articles of the Constitution (Appendix G). This is set out in the following text:

4.20 13.3 Types of Decision

*a) Decisions reserved to full Council: Decisions relating to the functions listed in Article*



4.1 will be made by the Council and not delegated.

b) *Key Decisions: A key decision is an Executive decision, which is likely:*

*i. to be significant in terms of its effects on communities living or working in an area comprising one or more wards in the District; and / or*

*ii. to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or functions to which the decision relates.*

*Key decisions can generally be considered to be decisions which involve one or more of the following:*

- Decisions involving significant expenditure as set out in the Financial Thresholds in the Executive Procedure Rules;*

- Decisions having a "significant impact" on people in one or more wards; and/or*

- Decisions which are politically sensitive and which the Executive wishes to take rather than delegate to officers. A decision maker may only make a Key Decision in accordance with the requirements of the Executive Procedure Rules of this Constitution (and therefore should follow the Access to Information Rules).*

4.21 On Page 89 – Thresholds are defined at 3.3 in the Executive Procedure Rules of the Constitution – (see following page);

Heading	Area	Threshold
Revenue	Supplementary Revenue Budget	Allocations between £150,001 and £250,000.  (Allocations £250,001 and above to be approved by Full Council).
	Revenue Virements	£150,001 and above (in consultation with the Section 151 Officer).
Capital	Supplementary Capital Budget	Allocations between £150,001 and £250,000.  Approval must also be given by the Section 151 Officer.



		(Allocations £250,001 and above to be approved by Full Council).
	Capital Virements	£150,001 and above (in consultation with the Section 151 Officer).

- 4.23 A report to Full Council on 7<sup>th</sup> December 2021 provided for a Local Government Reform (LGR) Joint Scrutiny Committee. The Terms of Reference included that the Call-In thresholds for potential Key Decisions of the Joint Scrutiny Committee (of the County Council and the four Somerset Districts) will be fixed for the financial threshold at £500,000. Subject to the establishment of the LGR Joint Committee the consequence would mean that there were two sets of criteria to assess Key Decisions which were not aligned; one for the LGR Joint Committee and Joint Scrutiny Committee and one for the SWT Executive and SWT Scrutiny Committee(s)
- 4.24 It would be sensible at this stage to align the thresholds for Key Decisions for both the Joint Committee(s) and the SWT Executive. This would provide consistency and avoid varying thresholds having to be applied. Also, it would mean that there were varying call-in thresholds for the Joint Committee(s) and the two SWT Scrutiny Committees.
- 4.25 It is therefore proposed that a Key Decision of the SWT Executive shall be amended to bring it into line with the Joint Committee as follows:
- 4.26 Decisions involving significant expenditure as set out in the Financial Thresholds in the Executive Procedure Rules and this shall be £500,000.
- 4.27 13.3b) will thus read that a Key Decision is – *i) Significant in terms of its effects on communities living or working in an area comprising one or more wards in the District; and/or ii) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council’s budget for the service or functions to which the decision relates.*
- 4.28 *In determining the meaning of “significant” for the purposes of paragraphs (b) above, regard shall be had to any guidance for the time being issued by the Secretary of State in accordance with section 38 of the 2000 Act. Following such guidance, the Council has decided that, so far as financial considerations are concerned, for the purposes of (b)i and ii) above, a “key decision” will be those decisions of £500,000 in value or more.*
- 4.29 This is the financial threshold going forward and is expected to be the figure used for the unitary authority. This is to be confirmed by members subject to the approval of the new unitary authority’s Constitution. These amendments will bring alignment to the statutory requirements.
- 4.30 Subject to the approval of this change, the Monitoring Officer will make consequent amendments to the Executive Procedure Rules, Financial Procedure Rules and Contract Procedure Rules to reflect the change.
- 4.31 **SECTION 4 – Revision of Contract and Financial Procedure Rules**
- 4.32 These documents are attached at Appendix D and E and are minor revisions reflecting role title changes.

## **5 Links to Corporate Strategy**

- 5.1 Having an up to date and effective Constitution is a fundamental element of being a well managed Council.

## 6 Finance / Resource Implications

6.1 None arising from this report.

## 7 Legal Implications

7.1 None arising from this report.

### Democratic Path:

- Audit and Governance Committee – Yes
- Executive – No
- Full Council – Yes

Reporting Frequency: Ad-hoc

### List of Appendices

Appendix A	Terms of Reference for Planning Committee (current version)
Appendix A1	Revised Terms of Reference for Planning Committee (with Track Changes)
Appendix A2	Revised Terms of Reference (as amended)
Appendix B	Terms of Reference of Phosphates Planning Sub-Committee
Appendix C	Council Procedure Rules (current version)
Appendix C1	Council Procedure Rules (with Track Changes)
Appendix C2	Council Procedure Rules (as amended)
Appendix D	Financial Procedure Rules (as amended)
Appendix E	Contract Procedure Rules (as amended)
Appendix F	SWT Petition Scheme
Appendix G	Articles of the Constitution (as amended)

### Contact Officers

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# Planning Committee

## 1. Membership and Meetings

- 1.1 Fifteen Members (politically balanced) to be appointed by Full Council. Meetings to normally be held at intervals of at least every 3 weeks.
- 1.2 Members of the Executive will not be eligible to sit on the Planning Committee.
- 1.3 The Quorum for the Planning Committee shall be 4 voting members of the Committee.
- 1.4 Planning Committee meetings should be 4 hours maximum (with the Chair having discretion to conclude an agenda item if part way through).
- 1.5 The Planning Committee shall take regular breaks for 15 minutes every two hours (to be taken off the duration of the Planning Committee meeting).
- 1.6 Where there is a controversial planning application going before the Planning Committee that a single item agenda meeting is held.
- 1.7 Site visits for the Planning Committee will take place for specific reasons only, held prior to the Planning Committee meeting taking place, and will follow the guidance set out in the revised Planning Committee Member's Code of Good Practice (Chapter 21 of the Constitution).

## 2. Scope

2.1 Neither the Planning Committee nor the Service Lead – Development Management has delegated power to:

- a) approve or adopt Development Plan Documents or the Plans and alterations that comprise the Development Plan; or,
- b) approve or adopt Local Development Orders;

as these are Full Council functions as set out in Article 4 of this Constitution.

2.2 The Council has delegated its responsibility for the following functions:

- a) all functions relating to town and country planning and development control as specified in Section A of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000; and,

- b) functions relating to the stopping up or diversion of footpaths; the extinguishing of rights of way over land held for planning purposes; the preservation of trees; and complaints about high hedges as specified at items 31, 32, 47 and 47a of Section I Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000;

to the Planning Committee and the Service Lead – Development Management, and other officers, as set out below.

### **3. Terms of Reference – Planning Committee**

3.1 Where a proposal meets any of the following criteria, it shall be reserved to the Planning Committee for determination:

Criterion 1: In the opinion of the Service Lead – Development Management or the Chair of the Planning Committee, the application is considered to be of a significant, controversial or sensitive nature.

Criterion 2: The application is from an elected Councillor (or partner thereof) or member of Council staff (or partner thereof) and is recommended for approval.

Criterion 3: The application is accompanied by an Environmental Impact Statement (EIA).

Criterion 4: The application is a significant departure from the Council's statutory Development Plan and is recommended for approval.

Criterion 5: Where there are conflicting views (giving clear planning reasons) from a Town/Parish Council or a Parish Meeting or a Ward Member as well as from not less than 4 individuals.

3.2 Any application which is not referred to Committee by virtue of the criteria listed above, but where conflicting representations have been received (including from statutory consultees), is referred to the Chair or Vice Chair of the Planning Committee before a

decision is made. The Chair or Vice Chair may decide to refer any such application to the Planning Committee.

3.3 In addition, the Planning Committee shall authorise all prosecutions for breach of planning control, except in cases of expediency where authority is delegated to the Chair of Planning Committee and the Service Lead – Development Management.

#### **4. Delegation to Officers**

4.1 The Director of Development and Place, or his/her representative is authorised to undertake all other decisions in relation to the above matters and functions that are not reserved to Full Council or Planning Committee. This includes matters relating to Local Development Orders.

4.2 The Director of Development and Place is authorised to delegate any of the above functions delegated to her/him in this Constitution to other officers. However, the Director of Development and Place must keep a register of any such delegations.

#### **5. Delegation to Parish Council**

5.1 Where the Council has delegated its powers to determine planning matters to a Parish Council, those matters so delegated shall not be dealt with by the Planning Committee whilst such arrangements remain in place.





# Planning Committee

## a) Membership and Meetings

### a.1 The Full Committee

a.2 Fifteen Members (politically balanced) to be appointed by Full Council. Meetings to normally be held at intervals of 4 weeks or as required. Members of the Executive will not be eligible to sit on the Planning Committee.

a.3 The Quorum for the Planning Committee shall be 4 voting members of the Committee.

### a.4 The Phosphates Sub-Committee

a.5 No more than 5 Councillors to be appointed from the Planning Committee.

## b) Scope

b.1 Neither the Planning Committee nor the Assistant Director, Strategic Place and Planning or Service Manager – Development Management or Service Manager Planning Policy and Implementation has delegated power to:

- a) approve or adopt Development Plan Documents or the Plans and alterations that comprise the Development Plan; or,
- b) approve or adopt Local Development Orders;

as these are Full Council functions as set out in Article 4 of this Constitution.

b.2 The Council has delegated its responsibility for the following functions:

- a) all functions relating to town and country planning and development control as specified in Section A of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000; and,
- b) functions relating to the stopping up or diversion of footpaths; the extinguishing of rights of way over land held for planning purposes; the preservation of trees; and complaints about high hedges as specified at items 31, 32, 47 and 47a of Section I Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000;

to the Planning Committee, the Assistant Director Strategic Place and Planning and Service Manager – Development Management and other officers as set out below.

## c) Terms of Reference – Planning Committee

c.1 Where a proposal meets any of the following criteria, it shall be reserved to the Planning Committee for determination:

Criterion 1: In the opinion of the Service Manager - Development Management or the Chair of the Planning Committee, the application is considered to be of a significant, controversial or sensitive nature.

Criterion 2: The application is made by or on behalf of an elected Councillor (or partner thereof) or member of Council staff (or partner thereof) and is recommended for approval.

Criterion 3: The application is accompanied by an Environmental Impact Statement (EIA).

Criterion 4: The application proposes a development which if permitted would represent a significant departure from the Council's statutory Development Plan and is recommended for approval.

Criterion 5:

*The application is the subject of representations contrary to the officer recommendation (with planning reasons) submitted to the Council by*

*(a) not less than four individuals; and*

*(b) at least one of the following:*

- i) a Town/Parish Council;*
- ii) a Parish Meeting;*
- iii) a Ward Member*

c.2 Any application which is not referred to Committee by virtue of paragraph 3.1 above, but where representations which are contrary to the officer recommendation have been received (including from statutory consultees), is referred to the Chair or Vice Chair of the Planning Committee before a decision is made, following which the Chair or Vice Chair may decide to refer the application to the Planning Committee for determination.

c.3 The arrangements set out in paragraphs 3.1 and 3.2 above for the referral of applications to the Planning Committee for determination do not apply to

- a) applications which seek prior approval which will receive deemed consent after 28 or 56 days; and
- b) applications for certificates of lawful development made under Section 191 or 192 of the Town and Country Planning Act 1990 (as amended) as the determination of such applications is based on the assessment and evaluation of facts as opposed to planning policies and material planning considerations

c.4 In addition, the Planning Committee shall authorise all criminal proceedings in relation to alleged offences under planning legislation including but not limited to offences under the Town and Country Planning Act 1990 (as amended) and the Planning (Listed Buildings and Conservation Areas) Act 1990 except in cases of expediency where authority is delegated to the Chair of Planning Committee, and either the Assistant Director Strategic Place and Planning or the Service Manager - Development Management.

d) In addition to the delegation arrangements referred to in paragraphs 2 and 3 above, the Assistant Director – Strategic Place and Planning and the Service Manager – Development Management or Service Manager Planning Policy and Implementation may authorise the Council's entry into agreements with

d.1 Town/Parish Councils ,

d.2 Parish Meetings or

d.3 any other third party

where the effect of such an agreement is the allocation to such a party for the purposes of expenditure of financial contributions or other sums received by the Council as local planning authority pursuant to planning obligations under the Town and Country Planning Act 1990 Section 106

PROVIDED THAT (a) such agreement shall ensure that any funds so allocated are only to be expended in accordance with the purpose of such contributions or funds as identified in the relevant Section 106 Agreement/s ; and (b) the agreement shall include arrangements for the reimbursement to the Council of any funds which are unspent or uncommitted so that the Council may meet its own obligations for reimbursement of unspent or uncommitted contributions as contained in the relevant Section 106 Agreement/s

AND PROVIDED FURTHER THAT notwithstanding any other arrangements set out in this Constitution for the signing of documents on behalf of the Council, such agreements may

be signed by the Director of Development and– Place

### a) Terms of Reference – Phosphates Planning Sub-Committee

This will be a Phosphates Planning Sub Committee of the Planning Committee.

The Sub Committee will consist of no more than 5 councillors from the Planning Committee.

The Phosphates Planning Sub Committee will have the following responsibilities on behalf of the Local Planning Authority:

- a. To have oversight of the programme and delivery of projects to support a series of interim measures to offset additional phosphates resulting from affected new developments within the River Tone catchment area affecting the Somerset Levels and Moors Ramsar site (as approved by Full Council on 5 October 2021);
- b. To have oversight of the monitoring of the performance of the above interim projects once delivered;
- c. To provide performance reports on (a) and (b) to Planning Committee on a quarterly basis;
- d. To agree the criteria to be used for the allocation of any phosphate credits generated from the above interim projects and the creation of a legally robust and transparent process for such allocation (including the terms of any S106 obligations with developers/landowners);
- e. To review the terms of the draft Supplemental Planning Document (SPD) on the strategic solution to the nutrient enrichment issue (to be reported to Full Council for prior to consultation and for adoption).

**Note:** for the avoidance of doubt the role of the Phosphates Planning Sub Committee does not include the determination of any planning applications

These terms of reference fall within the Planning Committee's delegated powers i.e. functions relating to town and country planning and development control as specified in Section A of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

## b) Delegation to Officers

b.1 The Assistant Director Strategic Place and Planning is authorised to undertake all other decisions in relation to the above matters and functions that are not reserved to Full Council or Planning Committee. This includes matters relating to Local Development Orders.

b.2 The Assistant Director Strategic Place and Planning is authorised to delegate any of the above functions delegated to her/him in this Constitution to other officers. However, the Assistant Director Strategic Place and Planning must keep a register of any such delegations.

c) In consultation with the relevant portfolio holder to respond to consultations and processes under the Planning Act 2008 concerning nationally significant infrastructure projects, including draft statements of community consultation, draft scoping reports, draft development consent orders and draft s106 planning obligations received from developers and promoters, other local authorities and other statutory and public bodies.

d) Respond to proposed non-material and material changes to Development Consent Orders including the discharge of requirements and obligations as appropriate

## e) **To approve the terms of any proposed Planning Performance Agreement (including those for Nationally Significant Infrastructure projects) which include the provision of financial resources by the Developer to this Council** Delegation to Parish Council

e.1 Where the Council has delegated its powers to determine planning matters to a Town Council or Parish Council, those matters so delegated shall not be dealt with by the Planning Committee whilst such arrangements remain in place.



# Planning Committee

## a) Membership and Meetings

a.1 The Full Committee

a.2 Fifteen Members (politically balanced) to be appointed by Full Council. Meetings to normally be held at intervals of 4 weeks or as required Members of the Executive will not be eligible to sit on the Planning Committee.

a.3 The Quorum for the Planning Committee shall be 4 voting members of the Committee.

a.4 The Phosphates Sub-Committee

a.5 No more than 5 Councillors to be appointed from the Planning Committee.

## b) Scope

b.1 Neither the Planning Committee nor the Assistant Director, Strategic Place and Planning or Service Manager – Development Management or Service Manager Planning Policy and Implementation has delegated power to:

- a) approve or adopt Development Plan Documents or the Plans and alterations that comprise the Development Plan; or,
- b) approve or adopt Local Development Orders;

as these are Full Council functions as set out in Article 4 of this Constitution.

b.2 The Council has delegated its responsibility for the following functions:

- a) all functions relating to town and country planning and development control as specified in Section A of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000; and,
- b) functions relating to the stopping up or diversion of footpaths; the extinguishing of rights of way over land held for planning purposes; the preservation of trees; and complaints about high hedges as specified at items 31, 32, 47 and 47a of Section I Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000;

to the Planning Committee, the Assistant Director Strategic Place and Planning and Service Manager – Development Management and other officers as set out below.

### c) Terms of Reference – Planning Committee

c.1 Where a proposal meets any of the following criteria, it shall be reserved to the Planning Committee for determination:

Criterion 1: In the opinion of the Service Manager - Development Management or the Chair of the Planning Committee, the application is considered to be of a significant, controversial or sensitive nature.

Criterion 2: The application is made by or on behalf of an elected Councillor (or partner thereof) or member of Council staff (or partner thereof) and is recommended for approval.

Criterion 3: The application is accompanied by an Environmental Impact Statement (EIA).

Criterion 4: The application proposes a development which if permitted would represent a significant departure from the Council's statutory Development Plan and is recommended for approval.

Criterion 5:

*The application is the subject of representations contrary to the officer recommendation (with planning reasons) submitted to the Council by*

*(a) not less than four individuals; and*

*(b) at least one of the following:*

- i) a Town/Parish Council;*
- ii) a Parish Meeting;*
- iii) a Ward Member*

c.2 Any application which is not referred to Committee by virtue of paragraph 3.1 above, but where representations which are contrary to the officer recommendation have been received (including from statutory consultees), is referred to the Chair or Vice Chair of the Planning Committee before a decision is made, following which the Chair or Vice Chair may decide to refer the application to the Planning Committee for determination.

c.3 *The arrangements set out in paragraphs 3.1 and 3.2 above for the referral of applications to the Planning Committee for determination do not apply to*



*a) applications which seek prior approval which will receive deemed consent after 28 or 56 days; and*  
*b) applications for certificates of lawful development made under Section 191 or 192 of the Town and Country Planning Act 1990 (as amended)*  
*as the determination of such applications is based on the assessment and evaluation of facts as opposed to planning policies and material planning considerations*

c.4 In addition, the Planning Committee shall authorise all criminal proceedings in relation to alleged offences under planning legislation including but not limited to offences under the Town and Country Planning Act 1990 (as amended) and the Planning (Listed Buildings and Conservation Areas) Act 1990 except in cases of expediency where authority is delegated to the Chair of Planning Committee, and either the Assistant Director Strategic Place and Planning or the Service Manager - Development Management.

d) In addition to the delegation arrangements referred to in paragraphs 2 and 3 above, the Assistant Director – Strategic Place and Planning and the Service Manager – Development Management or Service Manager Planning Policy and Implementation may authorise the Council's entry into agreements with

d.1 Town/Parish Councils ,

d.2 Parish Meetings or

d.3 any other third party

where the effect of such an agreement is the allocation to such a party for the purposes of expenditure of financial contributions or other sums received by the Council as local planning authority pursuant to planning obligations under the Town and Country Planning Act 1990 Section 106

PROVIDED THAT (a) such agreement shall ensure that any funds so allocated are only to be expended in accordance with the purpose of such contributions or funds as identified in the relevant Section 106 Agreement/s ; and (b) the agreement shall include arrangements for the reimbursement to the Council of any funds which are unspent or uncommitted so that the Council may meet its own obligations for reimbursement of unspent or uncommitted contributions as contained in the relevant Section 106 Agreement/s

AND PROVIDED FURTHER THAT notwithstanding any other arrangements set out in this Constitution for the signing of documents on behalf of the Council, such agreements may

be signed by the Director of Development and– Place

#### **d) Terms of Reference – Phosphates Planning Sub-Committee**

This will be a Phosphates Planning Sub Committee of the Planning Committee.

The Sub Committee will consist of no more than 5 councillors from the Planning Committee.

The Phosphates Planning Sub Committee will have the following responsibilities on behalf of the Local Planning Authority:

- a. To have oversight of the programme and delivery of projects to support a series of interim measures to offset additional phosphates resulting from affected new developments within the River Tone catchment area affecting the Somerset Levels and Moors Ramsar site (as approved by Full Council on 5 October 2021);
- b. To have oversight of the monitoring of the performance of the above interim projects once delivered;
- c. To provide performance reports on (a) and (b) to Planning Committee on a quarterly basis;
- d. To agree the criteria to be used for the allocation of any phosphate credits generated from the above interim projects and the creation of a legally robust and transparent process for such allocation (including the terms of any S106 obligations with developers/landowners);
- e. To review the terms of the draft Supplemental Planning Document (SPD) on the strategic solution to the nutrient enrichment issue (to be reported to Full Council for prior to consultation and for adoption).

**Note:** for the avoidance of doubt the role of the Phosphates Planning Sub Committee does not include the determination of any planning applications

These terms of reference fall within the Planning Committee's delegated powers i.e. functions relating to town and country planning and development control as specified in Section A of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

## **e) Delegation to Officers**

e.1 The Assistant Director Strategic Place and Planning is authorised to undertake all other decisions in relation to the above matters and functions that are not reserved to Full Council or Planning Committee. This includes matters relating to Local Development Orders.

e.2 The Assistant Director Strategic Place and Planning is authorised to delegate any of the above functions delegated to her/him in this Constitution to other officers. However, the Assistant Director Strategic Place and Planning must keep a register of any such delegations.

- In consultation with the relevant portfolio holder to respond to consultations and processes under the Planning Act 2008 concerning nationally significant infrastructure projects, including draft statements of community consultation, draft scoping reports, draft development consent orders and draft s106 planning obligations received from developers and promoters, other local authorities and other statutory and public bodies.
- Respond to proposed non-material and material changes to Development Consent Orders including the discharge of requirements and obligations as appropriate
- To approve the terms of any proposed Planning Performance Agreement (including those for Nationally Significant Infrastructure projects) which include the provision of financial resources by the Developer to this Council

## **f) Delegation to Parish Council**

f.1 Where the Council has delegated its powers to determine planning matters to a Town Council or Parish Council, those matters so delegated shall not be dealt with by the Planning Committee whilst such arrangements remain in place.



## **Terms of reference of Phosphates Planning Sub Committee**

This will be a Phosphates Planning Sub Committee of the Planning Committee.

The Sub Committee will consist of no more than 5 councillors from the Planning Committee.

The Phosphates Planning Sub Committee will have the following responsibilities on behalf of the Local Planning Authority:

- (a) To have oversight of the programme and delivery of projects to support a series of interim measures to offset additional phosphates resulting from affected new developments within the River Tone catchment area affecting the Somerset Levels and Moors Ramsar site (as approved by Full Council on 5 October 2021);
- (b) To have oversight of the monitoring of the performance of the above interim projects once delivered;
- (c) To provide performance reports on (a) and (b) to Planning Committee on a quarterly basis;
- (d) To agree the criteria to be used for the allocation of any phosphate credits generated from the above interim projects and the creation of a legally robust and transparent process for such allocation (including the terms of any S106 obligations with developers/landowners);
- (e) To review the terms of the draft Supplemental Planning Document (SPD) on the strategic solution to the nutrient enrichment issue (to be reported to Full Council for prior to consultation and for adoption).

**Note:** for the avoidance of doubt the role of the Phosphates Planning Sub Committee does not include the determination of any planning applications

The view of SWT Legal Services and Governance is that, these terms of reference fall within the Planning Committee's delegated powers i.e. functions relating to town and country planning and development control as specified in Section A of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.



# **Procedure Rules for Full Council (Standing Orders)**

Those rules marked \* apply to Council and to the Committees

# Rules of Procedure

## Meetings of the Council

### 1. Annual Meeting of the Council

#### Order of Business

At Annual Meetings of the Council, the Order of Business shall be as follows:

- a) To choose a Councillor to preside if the Chair and Vice Chair of the Council\* are absent;
- b) To elect the Chair of the Council;
- c) To appoint the Vice-Chair of the Council;
- d) To receive any apologies for absence;
- e) To approve the minutes of the last Ordinary Meeting;
- f) To receive any communications or announcements from the Chair of the Council;
- g) To elect a Leader for a 4-year term of office;
- h) To receive any communications or announcements from the Leader of the Council;
- i) To receive any questions, statements or petitions from the public in accordance With Council Procedure Rules 14, 15 and 16;
- j) To receive any questions from Councillors in accordance with Council Procedure Rule 13;
- k) To elect the Chairs of the Scrutiny Committees
- l) To decide which Committees to establish for the municipal year;
- m) To decide the size and terms of reference of those Committees;
- n) To decide the numerical allocation of seats to political groups on Committees in accordance with the political balance rules;
- o) To make appointments to Committees;
- p) To make appointments to outside organisations, except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive. In an election year, such appointments may be deferred to the first Ordinary Meeting of the Council in the municipal year;
- q) To consider any other business set out in the summons;



- r) To authorise the sealing or signing of documents to give effect to any decisions taken.

1.2 Other than items a) to c) above, the Chair of the Council may, with the consent of the Council, vary the Order of Business.

## **2. Extraordinary Council Meetings and Special Council Meetings**

2.1 Extraordinary Meetings shall be held on such days as may be determined by the Council or the Chief Executive, in consultation with the Chair of the Council and political group leaders.

## **3. Calling Extraordinary Meetings**

3.2 An Extraordinary Meeting of the Council may be called at any time by:

- a) The Council by resolution;
- b) The Chair of the Council;
- c) The Monitoring Officer; or,
- d) Any 5 Councillors by written requisition presented to the Chair of the Council where he or she has refused to call a meeting or has failed to call a meeting within 7 days of the presentation of the requisition.

### **Order of Business**

3.3 At Extraordinary Meetings of the Council, the Order of Business shall be as follows

- a) To choose a Councillor to preside if the Chair and Vice Chair are absent;
- b) To receive any apologies for absence;
- c) To receive and note any disclosable pecuniary, prejudicial and/or personal interests from Councillors;
- d) To receive any communications or announcements from the Chair;
- e) To receive any communications or announcements from the Leader of the Council;
- f) To receive only in relation to the business for which the Extraordinary Meeting has been called any questions, statements or petitions from the public in accordance with Council Procedure Rules 14, 15 and 16;
- g) To receive only in relation to the business for which the Extraordinary Meeting has been called any questions from Councillors in accordance with Council Procedure Rule 13;

- h) To consider the business for which the Extraordinary Meeting has been called. The Chair may at his or her absolute discretion permit other items of business to be conducted for the efficient discharge of the Council's business;
- i) To authorise the sealing or signing of documents to give effect to any decisions taken.

3.3 Other than items (a) to (c) above, the Chair of the Council may, with the consent of the Council, vary the Order of Business.

### **Special Council Meetings**

3.4 During the course of the municipal year there will be a special meeting solely for the purpose of setting the Council Budget.

## **4. Ordinary Meeting of the Council**

### **Order of Business**

4.1 At Ordinary Meetings of the Council, the Order of Business shall be as follows:

- a) To choose a Councillor to preside if the Chair and Vice-Chair of the Council are absent;
- b) To receive any apologies for absence;
- c) To receive and note any disclosable pecuniary, prejudicial and/or personal interests from Councillors;
- d) To approve the minutes of the last meeting;
- e) To receive any communications or announcements from the Chair of the Council;
- f) To receive any communications or announcements from the Leader of the Council;
- g) To receive any questions, statements or petitions from the public in accordance with Council Procedure Rules 14, 15 and 16;
- h) To receive any questions from Councillors in accordance with Council Procedure Rule 13;
- i) To consider any other business set out in the summons;
- j) To consider any motions in accordance with Council Procedure Rule 4;
- k) To authorise the sealing or signing of documents to give effect to any decisions taken;
- l) To consider reports from Executive Councillors.

### **Variation of Order of Business\***

4.2 The Chair of the Council may, with the consent of the Council, vary the Order of Business.

### **Minutes\***

4.3 At the next Ordinary Meeting, the Chair of the Council shall, with the Council's assent, sign the minutes of the business transacted at the previous meeting as a correct record.

4.4 The only discussion allowed upon the Minutes shall be as to their accuracy, and any objection upon that ground shall be made by motion. A question may be put to the Chair of the Council as to the accuracy of the Minutes.

### **Notices of Motion**

4.5 If a Councillor wishes to move a motion at a meeting of the Council, then notice in writing shall be given to the Governance Manager or his/her nominee of its terms and the name of a Councillor who has agreed to second it. Such notices shall be dated, numbered as received and available for the inspection of Councillors.

4.6 Seven clear working days' notice is needed in order to have a notice of motion included in the summons. This means that written notice must be delivered to the Governance Manager or his/her nominee by 4pm on the day that provides 7 clear working days before the Council meeting (excluding the day of the meeting itself).

4.7 The motion shall relate to the work of the Council or the interests of people living in the Council Area.

4.8 A motion shall not be taken if its proposer is not present, unless another Councillor has been asked to propose it and the Council so agree.

4.9 A motion or amendment to rescind a decision within 6 months of it being approved should be made in accordance with Rule 23 of these Procedure Rules.

## **5. Motions During a Debate\***

5.1 A Councillor may at the conclusion of a speech of another Councillor, move without debate one of the following motions:

- a) To amend the motion;
- b) To defer consideration of the motion;
- c) To adjourn the meeting;
- d) To adjourn the debate;
- e) To proceed to the next item of business;
- f) That the question be now put;

- g) To request a Recorded Vote; see Procedure Rule 18;
- h) That Councillor \_\_\_\_\_ be not further heard;
- i) That Councillor \_\_\_\_\_ do leave the meeting;
- j) That the (identified) recommendation be referred back for further Consideration (a deferral);
- k) That the press and public be excluded;
- l) To suspend any one or more Procedure Rules during all or part of the meeting;
- m) To refer a petition which has been presented to a meeting of the Council to a Committee for consideration;

5.2 If the motion is seconded then (subject to the proviso set out in (c) below) the Chair of the Council shall proceed as follows:

- a) The motion shall be put to the vote forthwith and without discussion;
- b) Then - subject only to the right of reply of the Councillor who either presented the report or who proposed the original motion - the motion shall be immediately acted upon;
- c) The Chair of the Council shall have the discretion not to accept such a motion when of the opinion that the matter before the meeting has not yet been sufficiently discussed.

5.3 If the Planning Committee votes against an Officer recommendation, it must either give reasons if it is a refusal or conditions in the case of permitting development:

- a) The Committee must vote on the reasons/conditions which will then form part of the substantive motion;
- b) The substantive motion must then be voted upon;
- c) If the Committee fails to agree the reasons/conditions, then the motion fails.

## 6. Amendments\*

6.1 An amendment shall be either:

- a) To leave out words;
- b) To leave out words and insert or add others; or
- c) To insert or add words;

but shall not have the effect of introducing a significantly different proposal or of negating the motion.

6.2 Before moving an amendment a Councillor shall ensure that there is likely to be a seconder for that amendment.

6.3 When an amendment has been moved and seconded, no further amendments shall be moved until the first amendment has been voted upon.

6.4 If an amendment is carried, it shall be incorporated into the motion which shall become the substantive motion upon which further amendments may be moved. If an amendment is voted down, further amendments may then be moved on the motion.

6.5 With the agreement of any seconder and with the assent of the Council, given without comment, a Councillor proposing a motion or amendment may:

- a) Withdraw that proposal; or
- b) Alter its wording; or
- c) Accept an amendment.

6.6 If there is to be an amendment to the proposed budget, then it must be received by the Governance Manager or his/her nominee by 4pm on the day that provides 2 clear working days before the Council meeting (excluding the day of the meeting itself).

## **7. Points of Order or Personal Explanation\***

7.1 A Councillor may rise on a Point of Order or in personal explanation and shall be allowed by the Chair of the Council to be heard forthwith.

7.2 A Point of Order shall relate only to an alleged breach of a specified Procedure Rule or statutory provision and the Councillor raising it shall immediately identify how it has been broken.

7.3 A personal explanation shall be confined solely to a brief explanation of how a speech in the current debate by that Councillor appears to have been factually misunderstood. It shall not be used to introduce new material.

## **8. Reports of Executive Councillors**

8.1 An Executive Councillor shall submit a report to an Ordinary Meeting of the Council as to current and future business of their portfolio for the information of and comment from the Council. Such reports are for discussion and comment only and no motion shall be put to the meeting as to any such item other than those closure motions described in Standing Order 5.

## 9. Proposers and Seconders

9.1 If the mover of a motion or of an amendment sits down without speaking to it, the right to speak shall be lost but the mover of a motion shall retain the right of reply.

9.2 The seconder of a motion or of an amendment may declare that the Councillor is reserving the right to speak:

- a) Until later in the debate; or
- b) Until it appears to the Chair of the Council that - at that point - there are no more speakers to be called and before the mover of the motion exercises the right of reply.

## 10. Rights to Speak During Debates

10.1 A Councillor who has spoken once on any motion or amendment may not speak again. The exceptions to this Rule are that a Councillor who has already thus spoken may also:

- a) Speak once to an amendment moved by another Councillor;
- b) Move a subsequent amendment. If a Councillor wishes to exercise this right, then the Councillor shall immediately make the purpose of this second speech clear to the Chair of the Council;
- c) Exercise a right of reply under Council Procedure Rule 11; or,
- d) Make a Point of Order or personal explanation.

## 11. Rights of Reply

11.1 The mover of a motion shall have a right of reply to any debate on that motion. This right shall be in addition to that Councillor's speech introducing the motion or the report.

11.2 The mover of a motion shall also have a right of reply to any debate:

- a) On any amendment to that motion;
- b) On a reference back to the Executive of that recommendation; and
- c) Immediately before the following closure motions are put to the vote:
  - i. To postpone consideration of the motion;
  - ii. To adjourn the debate;
  - iii. That the question be now put.

11.3 The Councillor presenting a report shall also have a right of reply to the following closure motions immediately before they are put to the vote:

- a) That the Council proceed to the next business;
- b) To adjourn the debate; or
- c) That the question be now put.

11.4 A Councillor who has moved a motion or introduced a report shall only have the further rights to speak which are defined in this Council Procedure Rule but shall not otherwise speak during that debate.

11.5 A Councillor exercising a right of reply shall not introduce new factual material.

11.6 The mover of an amendment or of any of the procedural motions referred to in Council Procedure Rule 85 shall not have a right of reply.

## 12. Speeches

12.1 A Councillor shall not speak on a motion or amendment for longer than 3 minutes.

12.2 The exceptions to this Rule shall be that:

- a) The mover of a recommendation (or of a motion of which notice has been given in accordance with Council Procedure Rule 4) may speak for not more than 10 minutes when moving such recommendation or motion;
- b) A Councillor exercising a right of reply may speak for 5 minutes; and
- c) The mover of an amendment may speak for 5 minutes.

12.3 A Councillor shall normally stand when speaking and shall address the Chair of the Council. When the Chair of the Council rises all Councillors shall be silent. No-one else shall speak until the Chair has been resumed.

## 13. Questions from Councillors

### Questions on Notice

13.1 At a Full Council meeting, any Councillor, upon giving 5 working days' written notice, specifying the question to the Governance Manager or his/her nominee, may ask the Leader of the Council a question on a matter which concerns the Council's functions, powers, duties and which affects the Council Area.

13.2 Any Councillor, upon giving written notice, specifying the question, to the Governance Manager or his/her nominee by 4pm on the day that provides 2 clear working days before the Council meeting (excluding the day of the meeting itself), may ask the Leader of the Council, a Lead Councillor, Chair of a Committee or another Councillor who has been appointed to an outside body, a question which concerns the Executive's or Committee's functions, powers and duties or the work of the outside body and which affects the Council Area.

## **Urgent Questions**

13.3 Any Councillor may put to the Leader, a Lead Councillor, or Chair of any Committee, any question relating to urgent business of which notice has not been given. A copy of any such question shall be delivered to the Governance Manager or his/her nominee not later than 12 noon on the day of the meeting.

13.4 The Leader, portfolio holder, or Committee Chair may decline to answer or may direct the question to be answered by the Chair of the appointed sub-committee which has been delegated the subject matter of the question.

13.5 The Councillor asking the question may ask a supplementary question related to the question or arising from the answer to seek further clarification.

13.6 Questions are to be asked and answered without further discussion by other members present. The Leader of the Council, Executive Councillor, or a Committee Chair to whom the question has been addressed may ask another Councillor or Officer to answer it if they are of the opinion that a discussion is required, or they may refer it to another relevant meeting of the Executive or Committee.

13.7 Where it is not possible to provide an answer to a question during the meeting, the person responsible for answering shall provide a written answer within 5 working days of the meeting.

## **14. Public Question Time\***

### **Questions**

14.1 At meetings of the Council, up to 15 minutes shall be allocated to receiving questions from members of the public.

14.2 Members of the public may ask the Leader of the Council, a Lead Councillor or a Chair of a committee questions relevant to any item on the agenda for the meeting or to the functions, powers or duties of the Council at Ordinary Meetings of the Council.

14.3 In relation to each meeting at which a member of the public wishes to ask a question, notice specifying the question should be given in writing by the person and received by the Governance Manager or his/her nominee by 4pm on the day that provides 2 clear working days before the Council meeting (excluding the day of the meeting itself).

14.4 In cases where there is any doubt as to whether a question is relevant to the functions, powers or duties of the Council, the Council Solicitor and Monitoring Officer shall determine whether they are accepted.

14.5 The Governance Manager or his/her nominee, in consultation with the Chair of the Council, appropriate Lead Councillor or Chair of the Committee (in relation to a Committee meeting appropriate) and questioner, may re-word any question to bring it into proper form and to secure brevity.



14.6 If a question relates to a ward-based issue, the Chair of the Council or Chair of the Committee meeting (as appropriate) shall invite a contribution from any Councillor representing that ward before calling for the formal reply.

14.7 In response to a question, the Councillor to whom the question has been put will normally provide and circulate to the questioner and all Councillors at the meeting a written answer which, together with the question, shall also be recorded in the minutes.

14.8 The questioner may, (subject to the time limits in paragraph (1) above) ask one supplementary question if such a question arises from the answer given.

14.9 If the questioner is unable to attend the meeting due to unforeseen circumstances then they may, with the consent of the Chair of the Council or Chair of the Committee (as appropriate) nominate a spokesperson to ask the supplementary question.

14.10 Questions, including any supplementary questions, will be asked and answered without discussion.

14.11 The Leader of the Council, Lead Councillor or Chair may decline to answer a question or nominate another Councillor or Officer to answer it on their behalf. In the case of a Committee meeting, if appropriate, the Chair may nominate the most appropriate Councillor or Officer present to provide a response to a question or supplementary question from a member of the public.

14.12 Any question or response under this Council Procedure Rule 4 shall not exceed 3 minutes in length.

14.13 Questions shall not be disallowed merely because advance notice in writing has not been given. Such questions may not be answered immediately but later in writing. However, it is always preferred that questions are put in writing in order to assist Councillors and Officers to be able to give answers at the meeting.

14.14 The procedure for taking questions or statements from members of the public at meetings of the Planning Committee shall follow such pattern as agreed from time to time by the Chair of the Planning Committee to best take account of its needs for public involvement.

## **15. Statements\***

15.1 As an alternative to asking a question, a member of the public may address the Council or any Committee.

15.2 At meetings of the Council up to 15 minutes shall be allocated to receiving statements from members of the public.

15.3 Statements shall be for a period not exceeding 3 minutes on matters relevant to any item on the agenda for the meeting or to the functions, powers, or duties of the Council, subject to the following conditions.

15.4 In relation to each meeting at which a member of the public wishes to speak and following publication of the agenda, notice, including a summary of the subject matter, must be given in writing by the person to the Governance Manager or his/her nominee not later than 12 noon one working day before the day of the meeting.

15.5 If a speaker is unable to attend the meeting due to unforeseen circumstances then, with the consent of the Chair of the Council (or Committee Chair in respect of a Committee meeting), they may nominate a spokesperson to speak for them.

15.6 The Leader of the Council, relevant Lead Councillor or Committee Chair shall be entitled to respond to the statement, and this shall not exceed 3 minutes in length.

## **16. Presentation of Petitions\***

16.1 A petition is a written request signed by the requisite number of people appealing to an authority about a particular cause or issue.

16.2 A petition requiring debate by Full Council is a petition that contains more than 200 signatures and will be debated by Full Council.

16.3 Excluded Matters are matters that are excluded from the scope of the petitions duty and these are:

- a) Any matter relating to a planning decision, including about a development plan document or the community infrastructure levy;
- b) Any matter relating to an alcohol, gambling or sex establishment licensing decision;
- c) Any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
- d) Any matter which the Chair of the Council or relevant Committee believes to be scurrilous, offensive, improper, repetitious, capricious, irrelevant or otherwise objectionable.

16.4 Petitions submitted to the Council must include:

- a) A clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take;
- b) The name and address and signature of any person supporting the petition;
- c) The name and address of the petition organiser.

16.5 All petitions will be acknowledged within 10 working days.

16.6 If a petition contains more than 200 signatures the petition will be debated at the next scheduled meeting of ordinary Council. The normal convention will be to debate no more than one petition at any one Council meeting on a first come basis, subject to the discretion of the Chair of the Council.

16.7 The petition organiser will be given 5 minutes to present the petition to the meeting.

16.8 Councillors will discuss the petition up to a maximum of 15 minutes.

16.9 The Council will decide how to respond to the petition which may include to take the action requested, not to take the action requested for the reasons given in the debate, refer the matter for further investigation, or refer the matter to the Council Executive for final decision.

16.10 A petitioner has the right to request a review of the steps taken in response to the petition if they are unhappy and that request shall be made to the Council's Scrutiny Committee.

## **17. Deputations\***

17.1 Any Somerset West and Taunton elector may ask that a deputation should be received by a meeting which has powers or duties relating to the matter of concern to that deputation. Such a request shall be made by written notice to the Governance Manager or his/her nominee at least 3 working days before the meeting to which it relates unless the Chair of the Council has, because of special circumstances, given approval to a lesser period of notice.

17.2 The person making the request shall indicate in the notice:

- a) The matter to which the request relates;
- b) The number and the names and the addresses of those making up the deputation;  
and
- c) The name of the leader who will speak for them.

17.3 On being called by the Chair of the Council, the leader of the deputation may speak for not more than 5 minutes about the matter described in the notice given.

17.4 For a further period of 5 minutes, Councillors may ask questions of the deputation, which questions shall be asked and answered without discussion.

17.5 Having heard from the deputation, the Chair of the Council (or Councillor chairing the meeting) may either:

- a) Give an immediate oral response to their request, or
- b) Ask that an immediate oral response be given to the deputation by the Leader of the Council (or other Executive Councillor who is present) or by an Officer; or,
- c) Call for a report to be considered at the next meeting of that – or the relevant Committee unless the request relates to business which is already on the Committee's agenda; or
- d) Ask that a written answer be given to the deputation where the necessary information is not readily available.

## 18. Voting\*

18.1 All motions and amendments, unless the law otherwise requires, shall be decided by a simple majority of those Councillors present at the meeting and voting at the time the question was put. The vote will be by affirmation or by a show of hands, as the Chair of the Council shall choose. Councillors must be present in the room for the whole of the item under discussion to be eligible to vote.

18.2 If before the Chair of the Council calls for the vote, either:

- a) The mover and seconder of the motion - or of the amendment, or,
- b) Any Councillor supported by the votes of at least a quarter of the Councillors present, request that a Recorded Vote be taken, then votes shall be publicly declared, and recorded in the minutes.

In addition:

- i. Immediately after any vote is taken at a budget decision meeting there must be a Recorded Vote in the minutes of the proceedings of that meeting given the names of the persons who cast a vote for the decision or against the decision or who abstained from voting;
- ii. 'Budget decision meeting' means the meeting at which the Council makes a calculation (whether originally or by substitute) in accordance with any sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52 of the Local Government Finance Act 1992 or subsequent amendments; or
- iii. 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;

- iv. References to a vote 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.

18.3 In addition to the option under Council Procedure Rule 18 (2), any Councillor may require - immediately after a vote is taken - that the manner in which that Councillor's vote was cast (for, against or abstaining) shall be recorded in the minutes.

18.4 Where a vote is taken upon the choice of more than 2 candidates for an appointment and there is not an absolute majority in favour of one candidate, the candidate receiving the least number of votes shall be excluded and a further vote taken, the procedure being continued until there is an absolute majority in favour of one candidate.

18.5 In the case of an equality of votes, the Chair of the Council shall have a second or casting vote.

18.6 The Chair of the Council shall have unfettered discretion as to its use for or against the proposition.

## **19. Offensive or Disorderly Conduct\***

19.1 If at a meeting a Councillor uses an expression which another Councillor believes is offensive and the latter draws the attention of the Chair to it, the Chair may request the Councillor to withdraw the expression.

19.2 If at a meeting the Chair believes a Councillor to be guilty of persistently disregarding the ruling of the Chair by behaving improperly or offensively, or by deliberately obstructing business, the Chair or any other Councillor may move 'that Councillor \_\_\_\_\_ be not further heard' and the motion, if seconded, shall be put to the vote and voted on without discussion.

19.3 If a Councillor continues to behave improperly after such a motion has been carried, the Chair may either:

- a) Move 'that Councillor \_\_\_\_\_ do leave the meeting'; or
- b) Adjourn the meeting for a specified period.

If seconded the motion shall be put and voted on without discussion.

19.4 If a Councillor does not leave the meeting after a resolution to that effect, the Chief Executive or his/her nominee shall arrange for the removal of the Councillor and shall take such measures as may be necessary to prevent the Councillor from re-entering the meeting.

19.5 In the event of any significant disturbance which makes the due and orderly dispatch of business impossible, the Chair of the Council, in addition to the exercise of any other

power, may, without the need for the Council's approval, adjourn the meeting for such period as s/he thinks necessary.

## **20. Disturbance by Members of the Public\***

20.1 If a member of the public interrupts the proceedings at a meeting, the Chair shall request that there be no further interruptions. If the interruptions continue the Chair shall order the removal of the person interrupting from the room.

20.2 If there should be general disturbance in any part of the room open to the public the Chair may order that part to be cleared.

## **21. Interests of Members and Officers\***

21.1 Where at a meeting any matter is being considered in which a Councillor then present has a '*prejudicial interest*' as defined by the Council's adopted Code of Conduct, that Councillor shall be entitled to make representations, answer questions or give evidence provided that members of the public also have the same right. The Councillor must then leave the meeting immediately thereafter unless:

- a) A dispensation has been granted in accordance with the relevant due process in exercise of its powers under the Local Government Act; or,
- b) The item merely forms part of minutes submitted and is dealt with as 'for information' only.

21.2 Where any matter is being considered in which a Councillor then present has a 'disclosable pecuniary interest' as defined by the Council's adopted Code of Conduct, that Councillor must disclose to that meeting the existence and nature of that interest (except where the matter is considered a sensitive interest and so there is no requirement to disclose the nature of it) and withdraw from the meeting room or chamber as soon as it becomes apparent that the business is being considered at that meeting, unless a dispensation has been granted in accordance with the relevant due process.

21.3 Where a Councillor present at such a meeting has a '*personal interest*' (as defined in the adopted Code) which is not a '*prejudicial interest*' then the Councillor shall immediately draw the attention of the meeting to that personal interest.

21.4 Any Officer of the Council present at a meeting when an item involving a disclosable interest is under consideration shall draw the attention of the meeting to that interest.

21.5 A 'disclosable interest' is an interest which, if the Officer were a Member of the Council, would need to be declared under the Council's adopted Code of Conduct as a '*prejudicial interest*'.

21.6 No such duty shall arise regarding an item which merely relates to the general terms and conditions of employment of all staff employed by the Council.

## **22. Exclusion of Press and Public\***

22.1 Press representatives and public shall withdraw from a meeting if an exclusion resolution is passed.

22.2 On a motion to exclude the public, unless the motion appears on the agenda, the Chair shall ascertain the grounds for the motion and seek the advice of the Council Solicitor and Monitoring Officer or his/her nominee as to whether members of the public may lawfully be excluded.

22.3 Even where an item or report has been marked either 'Exempt' or 'Confidential', it is for the meeting itself to decide whether, taking the wider public interest into account, the item (or part of it) should nevertheless be considered in the presence of the press and public.

22.4 If an issue should arise during a debate as to the appointment, promotion, dismissal, salary, conditions of service or conduct of any identifiable employee of the Council, the Councillor chairing the meeting shall move the exclusion resolution (due to the likelihood that exempt information about a particular employee would be disclosed to the public).

22.5 The motion shall be immediately approved or rejected before the issue is further considered.

22.6 When an exclusion resolution is passed those permitted to remain include all those who are members of the Council, the Officers or consultants serving that meeting and those specifically invited by the meeting to remain for reasons set out in the minutes.

## **23. Rescindment and Variation of Resolutions\***

23.1 A resolution passed within the previous 6 months shall not be rescinded or varied unless either:

- a) There has been a significant change of circumstances (noted in the minutes of the meeting) since the previous resolution was passed and is agreed by 50% of the members; or
- b) By resolution of the Full Council on a motion of which notice has been given under Council Procedure Rule 4 signed by not less than 12 members.

23.2 Where it is intended that such an item should appear on the agenda for a meeting, the agenda item shall say that this '6-month rule' applies.

23.3 This Council Procedure Rule shall not apply in the case of a planning or licensing application.

23.4 Every such notice of motion shall specify the resolution to be rescinded or varied

## **24. Ruling of the Chair of the Council\***

24.1 The ruling of the Chair of the Council on any question under these Procedure Rules, on a Point of Order, or, on the admissibility of a personal explanation shall be final and shall not be open to discussion.

## 25. Quorum\*

25.1 No business shall be transacted at a meeting unless at least the indicated number of its members is present:

Meeting	Quorum
Full Council	15
Planning Committee	4
Licensing Committee	4
Audit and Governance Committee	3
The Executive	3
Scrutiny Committees	4
Standards Committee	3
Any other Member body	1/4 of its members, or 2 (whichever is the greater)

## 26. Agenda and Attendance at Meetings

26.1 A Councillor has the right to receive agenda and papers for all meetings of the Council, the Executive, the Corporate Scrutiny Committee, the Community Scrutiny Committee, the Licensing Committee, the Audit and Governance Committee, Standards Committee and the Planning Committee and to attend and speak at all such meetings, whether the Councillor is a member of the body or not.

26.2 This right to be treated as a participating member of these bodies shall not extend to their sub-groups which have been convened to act:

- a) In a quasi-judicial role on the Council's behalf in relation to such matters as staff disciplinary appeals, licensing hearings, or to deal with staff appointments or other specifically identified matters; or



- b) A Task and Finish Scrutiny Group.

26.3 With those bodies listed in (2) above:

- a) The right to attend shall be the same as for members of the public;
- b) The right to contribute to the discussion shall be at the discretion of the Councillor chairing that meeting.

26.4 In order to avoid any doubt:

- a) The rights under paragraph (1) shall also extend to Exempt items of business;
- b) Councillors attending a meeting by virtue of this Procedure Rule shall not have a right to vote.

## **27. Summoning of Meetings**

27.1 Those listed below may request the Chief Executive to call a Full Council meeting in addition to Ordinary Meetings:

- a) The Council (by resolution);
- b) The Chair of the Council;
- c) The 'Designated Officers';
- d) Any 5 members of the Council - if they have signed a requisition presented to the Chair of the Council and the Chair has either refused to, or has failed to call, such a meeting within 7 days of presenting their requisition;
- e) The notice convening such a requisitioned meeting shall state the names of those Councillors requesting it and the business which they wish to have dealt with.

## **28. Time Limits for All Meetings\***

28.1 A meeting of Full Council or other committees including the Scrutiny Committees shall not exceed 3 hours in duration except in accordance with Council Procedure Rule 29 below.

28.2 If the business of the meeting has not been completed within that time, the Chair of the Council or Chair of the relevant Committee will interrupt the debate to announce the time and call for a vote to be taken immediately on the item under discussion.

28.3 No member will be able to address the meeting after the Chair of the Council's or Chair of the relevant Committee's interruption on any item appearing on the agenda.

28.4 Any items remaining on the agenda, which have not been considered, will be adjourned to the next scheduled meeting or a date to be fixed before the meeting adjourns.

28.5 Any suspension of time for adjournments during the meeting shall not count towards the 3-hour time limit.

## **29. Suspension of Council Procedure Rules\***

29.1 A motion to suspend a particular procedural Rule shall state the particular purpose and require a majority of at least half the total number of members appointed to that Council Meeting or Committee.

29.2 On occasions that Rule 28(1) is being waived, the duration of the suspension shall not exceed 30 minutes and shall, if seconded, be put to the vote without discussion.

29.3 Rule 28(1) can only be suspended once per meeting. However, the Chair of the Council, Chair of Planning Committee (see 29.4) or Chair of the Licensing Committee may decide otherwise in respect of the meeting they are chairing. This will generally only occur in exceptional circumstances.

29.4 Rule 28(1) can only be suspended twice per meeting of the Planning Committee (as per 28(6) above), in accordance with 29.2. Planning Committee meetings shall not exceed 4 hours in duration (with the Chair having discretion to conclude an agenda item if part way through).

29.5 Rules 21 and 25 cannot be suspended.

## **30. Application of Procedure Rules\***

30.1 These Procedure Rules shall apply to meetings of the Full Council. Those Rules marked “\*”, shall also apply to meetings of all Regulatory Committees, the Executive, the Audit and Governance Committee, Standards Committee, Corporate Scrutiny Committee and Community Scrutiny Committee, and any other formal decision making meeting (subject to the necessary changes in wording).

## **31. Withdrawal from Meetings**

31.1 Where a member has a Disclosable Pecuniary Interest in any business of the Council, whether registered under paragraphs 2.2.1 of the Council’s Code of Conduct or not, and you attend any meeting of the Council, its Executive or any Committee, Sub-Committee, Joint Committee at which that business is to be considered you must:

- a) Not seek to influence a decision about that business;
- b) Disclose to that meeting the existence and nature of that interest no later than the start of the consideration of the business in which you have that interest, or (if later) the time at which the interest becomes apparent to you. The exception to the

requirement to disclose an interest is if the matter is a sensitive interest as set out in paragraph 2.11 of the Code of Conduct;

- c) Withdraw from the meeting room or chamber including the public gallery as soon as it becomes apparent that the business is being considered at that meeting;

Unless you have obtained a dispensation from the Council's Monitoring Officer or the Standards Committee.

31.2 Where a member has a prejudicial interest as defined in the Council's Code of Conduct the member must:

- a) Not participate in any discussion of the matter at the meeting;
- b) Not participate in any vote on the matter at the meeting;
- c) Disclose the existence and nature of the interest to the meeting and leave the room where the meeting is being held while any discussion or voting takes place on the matter.

31.3 Where a member has a prejudicial interest in any business of the Council, the member may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business and he/she must leave the meeting immediately after making those representations, answering questions or giving evidence.



# **Procedure Rules for Full Council (Standing Orders)**

Those rules marked \* apply to Council and to the Committees

# Rules of Procedure

## Meetings of the Council

### 1. Annual Meeting of the Council

#### Order of Business

At Annual Meetings of the Council, the Order of Business shall be as follows:

- a) To choose a Councillor to preside if the Chair and Vice Chair of the Council\* are absent;
- b) To elect the Chair of the Council;
- c) To appoint the Vice-Chair of the Council;
- d) To receive any apologies for absence;
- e) To approve the minutes of the last Ordinary Meeting;
- f) To receive any communications or announcements from the Chair of the Council;
- g) To elect a Leader for a 4-year term of office;
- h) To receive any communications or announcements from the Leader of the Council;
- i) To receive any questions, statements or petitions from the public in accordance With Council Procedure Rules 14, 15 and 16;
- j) To receive any questions from Councillors in accordance with Council Procedure Rule 13;
- k) To elect the Chairs of the Scrutiny Committees
- l) To decide which Committees to establish for the municipal year;
- m) To decide the size and terms of reference of those Committees;
- n) To decide the numerical allocation of seats to political groups on Committees in accordance with the political balance rules;
- o) To make appointments to Committees;
- p) To make appointments to outside organisations, except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive. In an election year, such appointments may be deferred to the first Ordinary Meeting of the Council in the municipal year;
- q) To consider any other business set out in the summons;

r) To authorise the sealing or signing of documents to give effect to any decisions taken.

s) Consider any other business specified in the summons to the meeting, including consideration of proposals from the Executive in relation to the Council's Budget and Policy Framework and reports of the Scrutiny Committee(s) for debate.

1.2 Other than items a) to c) above, the Chair of the Council may, with the consent of the Council, vary the Order of Business.

1.3 Ordinary meetings of the full Council will take place in accordance with the programme decided at the Council's Annual Meeting.

## 2. Extraordinary Council Meetings

2.1 Extraordinary Meetings shall be held on such days as may be determined by the Council or the Chief Executive, in consultation with the Chair of the Council and political group leaders.

## 3. Calling Extraordinary Meetings

3.2 An Extraordinary Meeting of the Council may be called at any time by:

- a) The Council by resolution;
- b) The Chair of the Council;
- c) The Monitoring Officer; or,
- d) Any 5 Councillors by written requisition presented to the Chair of the Council where he or she has refused to call a meeting or has failed to call a meeting within 7 days of the presentation of the requisition.

### Order of Business

3.3 At Extraordinary Meetings of the Council, the Order of Business shall be as follows

- a) To choose a Councillor to preside if the Chair and Vice Chair are absent;
- b) To receive any apologies for absence;
- c) To receive and note any disclosable pecuniary, prejudicial and/or personal interests from Councillors;
- d) To receive any communications or announcements from the Chair;
- e) To receive any communications or announcements from the Leader of the Council;

- f) To receive only in relation to the business for which the Extraordinary Meeting has been called any questions, statements or petitions from the public in accordance with Council Procedure Rules 14, 15 and 16;
- g) To receive only in relation to the business for which the Extraordinary Meeting has been called any questions from Councillors in accordance with Council Procedure Rule 13;
- h) To consider the business for which the Extraordinary Meeting has been called. The Chair may at his or her absolute discretion permit other items of business to be conducted for the efficient discharge of the Council's business;
- i) To authorise the sealing or signing of documents to give effect to any decisions taken.

3.3 Other than items (a) to (c) above, the Chair of the Council may, with the consent of the Council, vary the Order of Business.

3.4 During the course of the municipal year there will be a **ordinary** meeting solely for the purpose of setting the Council Budget.

#### **4. Ordinary Meeting of the Council**

##### **Order of Business**

4.1 At Ordinary Meetings of the Council, the Order of Business shall be as follows:

- a) To choose a Councillor to preside if the Chair and Vice-Chair of the Council are absent;
- b) To receive any apologies for absence;
- c) To receive and note any disclosable pecuniary, prejudicial and/or personal interests from Councillors;
- d) To approve the minutes of the last meeting;
- e) To receive any communications or announcements from the Chair of the Council;
- f) To receive any communications or announcements from the Leader of the Council;
- g) To receive any questions, statements or petitions from the public in accordance with Council Procedure Rules 14, 15 and 16;
- h) To receive any questions from Councillors in accordance with Council Procedure Rule 13;
- i) To consider any other business set out in the summons;



- j) To consider any motions in accordance with Council Procedure Rule 4;
- k) To authorise the sealing or signing of documents to give effect to any decisions taken;
- l) To consider reports from Executive Councillors.

### **Variation of Order of Business\***

4.2 The Chair of the Council may, with the consent of the Council, vary the Order of Business.

### **Minutes\***

4.3 At the next Ordinary Meeting, the Chair of the Council shall, with the Council's assent, sign the minutes of the business transacted at the previous meeting as a correct record.

4.4 The only discussion allowed upon the Minutes shall be as to their accuracy, and any objection upon that ground shall be made by motion. A question may be put to the Chair of the Council as to the accuracy of the Minutes.

### **Notices of Motion**

4.5 If a Councillor wishes to move a motion at a meeting of the Council, then notice in writing shall be given to the Governance Manager or his/her nominee of its terms and the name of a Councillor who has agreed to second it. Such notices shall be dated, numbered as received and available for the inspection of Councillors.

4.6 **Seven** clear working days' **written** notice **of the actual motion** is needed in order to have a notice of motion included in the summons. This means that written notice **and the wording of the motion itself** must be delivered to the Governance Manager or his/her nominee by 4pm on the day that provides **7** clear working days before the Council meeting (excluding the day of the meeting itself).

4.7 The motion shall relate to the work of the Council or the interests of people living in the Council Area.

4.8 A motion shall not be taken if its proposer is not present, unless another Councillor has been asked to propose it and the Council so agree.

4.9 A motion or amendment to rescind a decision within 6 months of it being approved should be made in accordance with Rule 23 of these Procedure Rules.

**4.11 A motion will not usually be considered at an Extraordinary meeting of Council without the leave of the Chair.**

**4.12 The proposer of the motion may not exceed 5 minutes subject to the consent of the Chair when presenting the motion to the meeting.**

## 5. Motions During a Debate\*

5.1 A Councillor may at the conclusion of a speech of another Councillor, move without debate one of the following motions:

- a) To amend the motion;
- b) To defer consideration of the motion;
- c) To adjourn the meeting;
- d) To adjourn the debate;
- e) To proceed to the next item of business;
- f) That the question be now put;
- g) To request a Recorded Vote; see Procedure Rule 18;
- h) That Councillor\_\_\_\_\_ be not further heard;
- i) That Councillor\_\_\_\_\_ do leave the meeting;
- j) That the (identified) recommendation be referred back for further Consideration (a deferral);
- k) That the press and public be excluded;
- l) To suspend any one or more Procedure Rules during all or part of the meeting;
- m) To refer a petition which has been presented to a meeting of the Council to a Committee for consideration;

5.2 If the motion is seconded then (subject to the proviso set out in (c) below) the Chair of the Council shall proceed as follows:

- a) The motion shall be put to the vote forthwith and without discussion;
- b) Then - subject only to the right of reply of the Councillor who either presented the report or who proposed the original motion - the motion shall be immediately acted upon;
- c) The Chair of the Council shall have the discretion not to accept such a motion when of the opinion that the matter before the meeting has not yet been sufficiently discussed.

5.3 If the Planning Committee votes against an Officer recommendation, it must either give reasons if it is a refusal or conditions in the case of permitting development:

- a) The Committee must vote on the reasons/conditions which will then form part of the substantive motion;
- b) The substantive motion must then be voted upon;
- c) If the Committee fails to agree the reasons/conditions, then the motion fails.

## 6. Amendments\*

6.1 An amendment shall be either:

- a) To leave out words;
- b) To leave out words and insert or add others; or
- c) To insert or add words;

but shall not have the effect of introducing a significantly different proposal or of negating the motion.

6.2 Before moving an amendment a Councillor shall ensure that there is likely to be a seconder for that amendment.

6.3 When an amendment has been moved and seconded, no further amendments shall be moved until the first amendment has been voted upon.

6.4 If an amendment is carried, it shall be incorporated into the motion which shall become the substantive motion upon which further amendments may be moved. If an amendment is voted down, further amendments may then be moved on the motion.

6.5 After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote after any further debate.

6.6 The ruling of the Chair on whether an amendment satisfies the requirements set out in 6.1 a-c, will be final. To assist the Chair in this respect, notices of amendment, should, where possible, be given in writing

6.7 With the agreement of any seconder and with the assent of the Council, given without comment, a Councillor proposing a motion or amendment may:

- a) Withdraw that proposal; or
- b) Alter its wording; or
- c) Accept an amendment.

6.7 Alterations to a motion

(a) A Member may alter a motion of which he or she has given notice with the consent of the Chair. The Chair's consent will be signified without discussion.

(b) A Member may alter a motion which he or she has moved without notice with the consent of both the Chair and the seconder. The Chair's consent will be signified without discussion.

(c) Only alterations which could be made as an amendment may be made.

#### 6.8 Alternative Budget Motions

If there is to be an amendment to the proposed budget, it should be compliant with the procedure as outlined at 3.2 in the Council Financial Procedure Rules of this Constitution.

### 7. Points of Order or Personal Explanation\*

7.1 A Councillor may rise on a Point of Order or in personal explanation and shall be allowed by the Chair of the Council to be heard forthwith.

7.2 A Point of Order shall relate only to an alleged breach of a specified Procedure Rule or statutory provision and the Councillor raising it shall immediately identify how it has been broken.

7.3 A personal explanation shall be confined solely to a brief explanation of how a speech in the current debate by that Councillor appears to have been factually misunderstood. It shall not be used to introduce new material.

### 8. Reports of Executive Councillors

8.1 An Executive Councillor shall submit a report to an Ordinary Meeting of the Council as to current and future business of their portfolio for the information of and comment from the Council. Such reports are for discussion and comment only and no motion shall be put to the meeting as to any such item other than those closure motions described in Standing Order 5.

## 9. Proposers and Seconders

9.1 If the mover of a motion or of an amendment sits down without speaking to it, the right to speak shall be lost but the mover of a motion shall retain the right of reply.

9.2 The seconder of a motion or of an amendment may declare that the Councillor is reserving the right to speak:

- a) Until later in the debate; or
- b) Until it appears to the Chair of the Council that - at that point - there are no more speakers to be called and before the mover of the motion exercises the right of reply.

## 10. Rights to Speak During Debates

10.1 A Councillor who has spoken once on any motion or amendment may not speak again. The exceptions to this Rule are that a Councillor who has already thus spoken may also:

- a) Speak once to an amendment moved by another Councillor;
- b) Move a subsequent amendment. If a Councillor wishes to exercise this right, then the Councillor shall immediately make the purpose of this second speech clear to the Chair of the Council;
- c) Exercise a right of reply under Council Procedure Rule 11; or,
- d) Make a Point of Order or personal explanation.

### 10.2 Rules of Debate

- a) No speeches until motion seconded
- b) No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.
- c) Right to require motion in writing Unless notice of the motion has already been given, the Chairman may require it to be written down and handed to him or her before it is discussed.

#### Secunder's speech

- d) When seconding a motion or amendment, a Member may reserve their speech until later in the debate.

## 11. Rights of Reply

11.1 The mover of a motion shall have a right of reply to any debate on that motion. This right shall be in addition to that Councillor's speech introducing the motion or the report.

11.2 The mover of a motion shall also have a right of reply to any debate:

- a) On any amendment to that motion;
- b) On a reference back to the Executive of that recommendation; and
- c) Immediately before the following closure motions are put to the vote:
  - i. To postpone consideration of the motion;
  - ii. To adjourn the debate;
  - iii. That the question be now put.

11.3 The Councillor presenting a report shall also have a right of reply to the following closure motions immediately before they are put to the vote:

- a) That the Council proceed to the next business;
- b) To adjourn the debate; or
- c) That the question be now put.

11.4 A Councillor who has moved a motion or introduced a report shall only have the further rights to speak which are defined in this Council Procedure Rule but shall not otherwise speak during that debate.

11.5 A Councillor exercising a right of reply shall not introduce new factual material.

11.6 The mover of an amendment or of any of the procedural motions referred to in Council Procedure Rule 85 shall not have a right of reply.

## 12. Speeches

12.1 A Councillor shall not speak on a motion or amendment for longer than 3 minutes.

12.2 The exceptions to this Rule shall be that:

- a) The mover of a recommendation (or of a motion of which notice has been given in accordance with Council Procedure Rule 4) may speak for not more than 10 minutes when moving such recommendation or motion;
- b) A Councillor exercising a right of reply may speak for 5 minutes; and
- c) The mover of an amendment may speak for 5 minutes.

12.3 A Councillor shall normally stand when speaking and shall address the Chair of the Council. When the Chair of the Council rises all Councillors shall be silent. No-one else shall speak until the Chair has been resumed.

## 13. Questions from Councillors

## **Questions on Notice**

13.1 At a Full Council meeting, any Councillor, upon giving 5 working days' written notice, specifying the question to the Governance Manager or his/her nominee, may ask the Leader of the Council a question on a matter which concerns the Council's functions, powers, duties and which affects the Council Area.

13.2 Any Councillor, upon giving written notice, specifying the question, to the Governance Manager or his/her nominee by 4pm on the day that provides 2 clear working days before the Council meeting (excluding the day of the meeting itself), may ask the Leader of the Council, a Lead Councillor, Chair of a Committee or another Councillor who has been appointed to an outside body, a question which concerns the Executive's or Committee's functions, powers and duties or the work of the outside body and which affects the Council Area.

## **Urgent Questions**

13.3 Any Councillor may put to the Leader, a Lead Councillor, or Chair of any Committee, any question relating to urgent business of which notice has not been given. A copy of any such question shall be delivered to the Governance Manager or his/her nominee not later than 12 noon on the day of the meeting.

13.4 The Leader, portfolio holder, or Committee Chair may decline to answer or may direct the question to be answered by the Chair of the appointed sub-committee which has been delegated the subject matter of the question.

13.5 The Councillor asking the question may ask a supplementary question related to the question or arising from the answer to seek further clarification.

13.6 Questions are to be asked and answered without further discussion by other members present. The Leader of the Council, Executive Councillor, or a Committee Chair to whom the question has been addressed may ask another Councillor or Officer to answer it if they are of the opinion that a discussion is required, or they may refer it to another relevant meeting of the Executive or Committee.

13.7 Where it is not possible to provide an answer to a question during the meeting, the person responsible for answering shall provide a written answer within 5 working days of the meeting.

## **14. Public Question Time\***

### **Questions**

14.1 At meetings of the Council, up to 15 minutes shall be allocated to receiving questions from members of the public.

14.2 Members of the public may ask the Leader of the Council, a Lead Councillor or a Chair of a committee questions relevant to any item on the agenda for the meeting or to the functions, powers or duties of the Council at Ordinary Meetings of the Council.

14.3 In relation to each meeting at which a member of the public wishes to ask a question, notice specifying the question should be given in writing by the person and received by the Governance Manager or his/her nominee by 4pm on the day that provides 1 clear working days before the Council meeting (excluding the day of the meeting itself).

14.4 In cases where there is any doubt as to whether a question is relevant to the functions, powers or duties of the Council, the Council Solicitor and Monitoring Officer shall determine whether they are accepted.

14.5 The Governance Manager or his/her nominee, in consultation with the Chair of the Council, appropriate Lead Councillor or Chair of the Committee (in relation to a Committee meeting appropriate) and questioner, may re-word any question to bring it into proper form and to secure brevity.

14.6 If a question relates to a ward-based issue, the Chair of the Council or Chair of the Committee meeting (as appropriate) shall invite a contribution from any Councillor representing that ward before calling for the formal reply.

14.7 In response to a question, the Councillor to whom the question has been put will normally provide and circulate to the questioner and all Councillors at the meeting a written answer which, together with the question, shall also be recorded in the minutes.

14.8 The questioner may, (subject to the time limits in paragraph (1) above) ask one supplementary question if such a question arises from the answer given.

14.9 If the questioner is unable to attend the meeting due to unforeseen circumstances then they may, with the consent of the Chair of the Council or Chair of the Committee (as appropriate) nominate a spokesperson to ask the supplementary question.

14.10 Questions, including any supplementary questions, will be asked and answered without discussion.

14.11 The Leader of the Council, Lead Councillor or Chair may decline to answer a question or nominate another Councillor or Officer to answer it on their behalf. In the case of a Committee meeting, if appropriate, the Chair may nominate the most appropriate Councillor or Officer present to provide a response to a question or supplementary question from a member of the public.

14.12 Any question or response under this Council Procedure Rule 4 shall not exceed 3 minutes in length.

14.13 Questions shall not be disallowed merely because advance notice in writing has not been given. Such questions may not be answered immediately but later in writing.



However, it is always preferred that questions are put in writing in order to assist Councillors and Officers to be able to give answers at the meeting.

14.14 The procedure for taking questions or statements from members of the public at meetings of the Planning Committee shall follow such pattern as agreed from time to time by the Chair of the Planning Committee to best take account of its needs for public involvement.

## 15. Statements\*

15.1 As an alternative to asking a question, a member of the public may address the Council or any Committee.

15.2 At meetings of the Council up to 15 minutes shall be allocated to receiving statements from members of the public.

15.3 Statements shall be for a period not exceeding 3 minutes on matters relevant to any item on the agenda for the meeting or to the functions, powers, or duties of the Council, subject to the following conditions.

15.4 In relation to each meeting at which a member of the public wishes to speak and following publication of the agenda, notice, including a summary of the subject matter, must be given in writing by the person to the Governance Manager or his/her nominee not later than 4pm one clear working day before the day of the meeting (excluding the day of the meeting itself).

15.5 If a speaker is unable to attend the meeting due to unforeseen circumstances then, with the consent of the Chair of the Council (or Committee Chair in respect of a Committee meeting), they may nominate a spokesperson to speak for them.

15.6 The Leader of the Council, relevant Lead Councillor or Committee Chair shall be entitled to respond to the statement, and this shall not exceed 3 minutes in length.

## 16. Presentation of Petitions\*

16.1 A petition is a written request signed by the requisite number of people appealing to an authority about a particular cause or issue.

16.2 A petition requiring debate by Full Council is a petition that contains more than 1600 signatures (1% of the District's population) and will be debated by Full Council.

16.3 Excluded Matters are matters that are excluded from the scope of the petitions duty and these are:

- a) Any matter relating to a planning decision, including about a development plan document or the community infrastructure levy;
- b) Any matter relating to an alcohol, gambling or sex establishment licensing decision;

- c) Any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
- d) Any matter which the Chair of the Council or relevant Committee believes to be scurrilous, offensive, improper, repetitious, capricious, irrelevant or otherwise objectionable.

16.4 Petitions submitted to the Council must include:

- a) A clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take;
- b) The name and address and signature of any person supporting the petition;
- c) The name and address of the petition organiser.

16.5 All petitions will be acknowledged within 10 working days.

16.6 If a petition contains **1600 or more** signatures the petition will be debated at the next scheduled meeting of ordinary Council. The normal convention will be to debate no more than one petition at any one Council meeting on a first come basis, subject to the discretion of the Chair of the Council.

16.7 The petition organiser will be given 5 minutes to present the petition to the meeting.

16.8 Councillors will discuss the petition up to a maximum of 15 minutes.

16.9 The Council will decide how to respond to the petition which may include to take the action requested, not to take the action requested for the reasons given in the debate, refer the matter for further investigation, or refer the matter to the Council Executive for final decision.

16.10 A petitioner has the right to request a review of the steps taken in response to the petition if they are unhappy and that request shall be made to the Council's Scrutiny Committee.

## 17. Deputations\*

17.1 Any Somerset West and Taunton elector may ask that a deputation should be received by a meeting which has powers or duties relating to the matter of concern to that deputation. Such a request shall be made by written notice to the Governance Manager or his/her nominee at least 3 working days before the meeting to which it relates unless the Chair of the Council has, because of special circumstances, given approval to a lesser period of notice.

17.2 The person making the request shall indicate in the notice:

- a) The matter to which the request relates;
- b) The number and the names and the addresses of those making up the deputation;  
and
- c) The name of the leader who will speak for them.

17.3 On being called by the Chair of the Council, the leader of the deputation may speak for not more than 5 minutes about the matter described in the notice given.

17.4 For a further period of 5 minutes, Councillors may ask questions of the deputation, which questions shall be asked and answered without discussion.

17.5 Having heard from the deputation, the Chair of the Council (or Councillor chairing the meeting) may either:

- a) Give an immediate oral response to their request, or
- b) Ask that an immediate oral response be given to the deputation by the Leader of the Council (or other Executive Councillor who is present) or by an Officer; or,
- c) Call for a report to be considered at the next meeting of that – or the relevant Committee unless the request relates to business which is already on the Committee's agenda; or
- d) Ask that a written answer be given to the deputation where the necessary information is not readily available.

## 18. Voting\*

18.1 All motions and amendments, unless the law otherwise requires, shall be decided by a simple majority of those Councillors present at the meeting and voting at the time the question was put. The vote will be by affirmation or by a show of hands, as the Chair of the Council shall choose. Councillors must be present in the room for the whole of the item under discussion to be eligible to vote.

18.2 If before the Chair of the Council calls for the vote, either:

- a) The mover and seconder of the motion - or of the amendment, or,
- b) Any Councillor supported by the votes of at least a quarter of the Councillors present, request that a Recorded Vote be taken, then votes shall be publicly declared, and recorded in the minutes.

In addition:

- i. Immediately after any vote is taken at a budget decision meeting there must be a Recorded Vote in the minutes of the proceedings of

that meeting given the names of the persons who cast a vote for the decision or against the decision or who abstained from voting;

- ii. 'Budget decision meeting' means the meeting at which the Council makes a calculation (whether originally or by substitute) in accordance with any sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52 of the Local Government Finance Act 1992 or subsequent amendments; or
- iii. 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;
- iv. References to a vote 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.

18.3 In addition to the option under Council Procedure Rule 18 (2), any Councillor may require - immediately after a vote is taken - that the manner in which that Councillor's vote was cast (for, against or abstaining) shall be recorded in the minutes.

18.4 Where a vote is taken upon the choice of more than 2 candidates for an appointment and there is not an absolute majority in favour of one candidate, the candidate receiving the least number of votes shall be excluded and a further vote taken, the procedure being continued until there is an absolute majority in favour of one candidate.

18.5 In the case of an equality of votes, the Chair of the Council shall have a second or casting vote.

18.6 The Chair of the Council shall have unfettered discretion as to its use for or against the proposition.

## **19. Offensive or Disorderly Conduct\***

19.1 If at a meeting a Councillor uses an expression which another Councillor believes is offensive and the latter draws the attention of the Chair to it, the Chair may request the Councillor to withdraw the expression.

19.2 If at a meeting the Chair believes a Councillor to be guilty of persistently disregarding the ruling of the Chair by behaving improperly or offensively, or by deliberately obstructing business, the Chair or any other Councillor may move 'that Councillor \_\_\_\_\_ be not further heard' and the motion, if seconded, shall be put to the vote and voted on without discussion.

19.3 If a Councillor continues to behave improperly after such a motion has been carried, the Chair may either:

- a) Move 'that Councillor \_\_\_\_\_ do leave the meeting'; or
- b) Adjourn the meeting for a specified period.

If seconded the motion shall be put and voted on without discussion.

19.4 If a Councillor does not leave the meeting after a resolution to that effect, the Chief Executive or his/her nominee shall arrange for the removal of the Councillor and shall take such measures as may be necessary to prevent the Councillor from re-entering the meeting.

19.5 In the event of any significant disturbance which makes the due and orderly dispatch of business impossible, the Chair of the Council, in addition to the exercise of any other power, may, without the need for the Council's approval, adjourn the meeting for such period as s/he thinks necessary.

## **20. Disturbance by Members of the Public\***

20.1 If a member of the public interrupts the proceedings at a meeting, the Chair shall request that there be no further interruptions. If the interruptions continue the Chair shall order the removal of the person interrupting from the room.

20.2 If there should be general disturbance in any part of the room open to the public the Chair may order that part to be cleared.

## **21. Interests of Members and Officers\***

21.1 Where at a meeting any matter is being considered in which a Councillor then present has a '*prejudicial interest*' as defined by the Council's adopted Code of Conduct, that Councillor shall be entitled to make representations, answer questions or give evidence provided that members of the public also have the same right. The Councillor must then leave the meeting immediately thereafter unless:

- a) A dispensation has been granted in accordance with the relevant due process in exercise of its powers under the Local Government Act; or,
- b) The item merely forms part of minutes submitted and is dealt with as 'for information' only.

21.2 Where any matter is being considered in which a Councillor then present has a '*disclosable pecuniary interest*' as defined by the Council's adopted Code of Conduct, that Councillor must disclose to that meeting the existence and nature of that interest (except where the matter is considered a sensitive interest and so there is no requirement to disclose the nature of it) and withdraw from the meeting room or chamber as soon as

it becomes apparent that the business is being considered at that meeting, unless a dispensation has been granted in accordance with the relevant due process.

21.3 Where a Councillor present at such a meeting has a '*personal interest*' (as defined in the adopted Code) which is not a '*prejudicial interest*' then the Councillor shall immediately draw the attention of the meeting to that personal interest.

21.4 Any Officer of the Council present at a meeting when an item involving a disclosable interest is under consideration shall draw the attention of the meeting to that interest.

21.5 A 'disclosable interest' is an interest which, if the Officer were a Member of the Council, would need to be declared under the Council's adopted Code of Conduct as a '*prejudicial interest*'.

21.6 No such duty shall arise regarding an item which merely relates to the general terms and conditions of employment of all staff employed by the Council.

## **22. Exclusion of Press and Public\***

22.1 Press representatives and public shall withdraw from a meeting if an exclusion resolution is passed.

22.2 On a motion to exclude the public, unless the motion appears on the agenda, the Chair shall ascertain the grounds for the motion and seek the advice of the Council Solicitor and Monitoring Officer or his/her nominee as to whether members of the public may lawfully be excluded.

22.3 Even where an item or report has been marked either 'Exempt' or 'Confidential', it is for the meeting itself to decide whether, taking the wider public interest into account, the item (or part of it) should nevertheless be considered in the presence of the press and public.

22.4 If an issue should arise during a debate as to the appointment, promotion, dismissal, salary, conditions of service or conduct of any identifiable employee of the Council, the Councillor chairing the meeting shall move the exclusion resolution (due to the likelihood that exempt information about a particular employee would be disclosed to the public).

22.5 The motion shall be immediately approved or rejected before the issue is further considered.

22.6 When an exclusion resolution is passed those permitted to remain include all those who are members of the Council, the Officers or consultants serving that meeting and those specifically invited by the meeting to remain for reasons set out in the minutes.

## **23. Rescindment and Variation of Resolutions\***

23.1 A resolution passed within the previous 6 months shall not be rescinded or varied unless either:

- a) There has been a significant change of circumstances (noted in the minutes of the meeting) since the previous resolution was passed and is agreed by 50% of the members; or
- b) By resolution of the Full Council on a motion of which notice has been given under Council Procedure Rule 4 signed by not less than 12 members.

23.2 Where it is intended that such an item should appear on the agenda for a meeting, the agenda item shall say that this '6-month rule' applies.

23.3 This Council Procedure Rule shall not apply in the case of a planning or licensing application.

23.4 Every such notice of motion shall specify the resolution to be rescinded or varied

## 24. Ruling of the Chair of the Council\*

24.1 The ruling of the Chair of the Council on any question under these Procedure Rules, on a Point of Order, or, on the admissibility of a personal explanation shall be final and shall not be open to discussion.

## 25. Quorum\*

25.1 No business shall be transacted at a meeting unless at least the indicated number of its members is present:

Meeting	Quorum
Full Council	15
Planning Committee	4
Licensing Committee	4
Audit and Governance Committee	3
The Executive	3
Scrutiny Committees	4
Standards Committee	3
Any other Member body	1/4 of its members, or 2 (whichever is the greater)

## 26. Agenda and Attendance at Meetings

26.1 A Councillor has the right to receive agenda and papers for all meetings of the Council, the Executive, the Corporate Scrutiny Committee, the Community Scrutiny Committee, the Licensing Committee, the Audit and Governance Committee, Standards Committee and the Planning Committee and to attend and speak at all such meetings, whether the Councillor is a member of the body or not.

26.2 This right to be treated as a participating member of these bodies shall not extend to their sub-groups which have been convened to act:

- a) In a quasi-judicial role on the Council's behalf in relation to such matters as staff disciplinary appeals, licensing hearings, or to deal with staff appointments or other specifically identified matters; or
- b) A Task and Finish Scrutiny Group.

26.3 With those bodies listed in (2) above:

- a) The right to attend shall be the same as for members of the public;
- b) The right to contribute to the discussion shall be at the discretion of the Councillor chairing that meeting.

26.4 In order to avoid any doubt:

- a) The rights under paragraph (1) shall also extend to Exempt items of business;
- b) Councillors attending a meeting by virtue of this Procedure Rule shall not have a right to vote.

### 26.5 Appointment of substitute members of committees

*(Note: This Procedure Rule does not permit substitutes by Members not in a political group.)*

- a) It is not possible to have substitute Members for Executive.
- b) Substitute Members may speak and vote at Committee meetings if they have been appointed as detailed below (and received mandatory training as required by Licensing Committee and Planning Committee).
- c) The Leader or Deputy Leader of a political group may nominate any named Member of his/her group as the substitute Member for a Committee meeting by notifying the Proper Officer or the Meeting Administrator of the name of the substitute and the details of the meeting at which they will be substituting; such notification must be made at least one hour before the start of the relevant



meeting. Notification by a Councillor purporting to be the substitute Member will not be accepted.

- d) In the event that the substantive Member of the Committee subsequently attends the meeting the substitute Member must take no further part in the meeting.

## 27. Summoning of Meetings

27.1 Those listed below may request the Chief Executive to call a Full Council meeting in addition to Ordinary Meetings:

- a) The Council (by resolution);
- b) The Chair of the Council;
- c) The 'Designated Officers';
- d) Any 5 members of the Council - if they have signed a requisition presented to the Chair of the Council and the Chair has either refused to, or has failed to call, such a meeting within 7 days of presenting their requisition;
- e) The notice convening such a requisitioned meeting shall state the names of those Councillors requesting it and the business which they wish to have dealt with.

## 28. Time Limits for All Meetings\*

28.1 A meeting of Full Council or other committees including the Scrutiny Committees shall not exceed 3 hours in duration except in accordance with Council Procedure Rule 29 below.

28.2 If the business of the meeting has not been completed within that time, the Chair of the Council or Chair of the relevant Committee will interrupt the debate to announce the time and call for a vote to be taken immediately on the item under discussion.

28.3 No member will be able to address the meeting after the Chair of the Council's or Chair of the relevant Committee's interruption on any item appearing on the agenda.

28.4 Any items remaining on the agenda, which have not been considered, will be adjourned to the next scheduled meeting or a date to be fixed before the meeting adjourns.

28.5 Any suspension of time for adjournments during the meeting shall not count towards the 3-hour time limit.

## 29. Suspension of Council Procedure Rules\*

29.1 A motion to suspend a particular procedural Rule shall state the particular purpose and require a majority of at least half the total number of members appointed to that Council Meeting or Committee.

29.2 On occasions that Rule 28(1) is being waived, the duration of the suspension shall not exceed 30 minutes and shall, if seconded, be put to the vote without discussion.

29.3 Rule 28(1) can only be suspended once per meeting. However, the Chair of the Council, Chair of Planning Committee (see 29.4) or Chair of the Licensing Committee may decide otherwise in respect of the meeting they are chairing. This will generally only occur in exceptional circumstances.

29.4 Rule 28(1) can only be suspended twice per meeting of the Planning Committee (as per 28(6) above), in accordance with 29.2. Planning Committee meetings shall not exceed 4 hours in duration (with the Chair having discretion to conclude an agenda item if part way through).

29.5 Rules 21 and 25 cannot be suspended.

### **30. Application of Procedure Rules\***

30.1 These Procedure Rules shall apply to meetings of the Full Council. Those Rules marked “\*”, shall also apply to meetings of all Regulatory Committees, the Executive, the Audit and Governance Committee, Standards Committee, Corporate Scrutiny Committee and Community Scrutiny Committee, and any other formal decision making meeting (subject to the necessary changes in wording).

### **31. Withdrawal from Meetings**

31.1 Where a member has a Disclosable Pecuniary Interest in any business of the Council, whether registered under paragraphs 2.2.1 of the Council’s Code of Conduct or not, and you attend any meeting of the Council, its Executive or any Committee, Sub-Committee, Joint Committee at which that business is to be considered you must:

- a) Not seek to influence a decision about that business;
- b) Disclose to that meeting the existence and nature of that interest no later than the start of the consideration of the business in which you have that interest, or (if later) the time at which the interest becomes apparent to you. The exception to the requirement to disclose an interest is if the matter is a sensitive interest as set out in paragraph 2.11 of the Code of Conduct;
- c) Withdraw from the meeting room or chamber including the public gallery as soon as it becomes apparent that the business is being considered at that meeting;

Unless you have obtained a dispensation from the Council’s Monitoring Officer or the Standards Committee.

31.2 Where a member has a prejudicial interest as defined in the Council's Code of Conduct the member must:

- a) Not participate in any discussion of the matter at the meeting;
- b) Not participate in any vote on the matter at the meeting;
- c) Disclose the existence and nature of the interest to the meeting and leave the room where the meeting is being held while any discussion or voting takes place on the matter.

31.3 Where a member has a prejudicial interest in any business of the Council, the member may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business and he/she must leave the meeting immediately after making those representations, answering questions or giving evidence.



# **Procedure Rules for Full Council (Standing Orders)**

Those rules marked \* apply to Council and to the Committees

# Rules of Procedure

## Meetings of the Council

### 1. Annual Meeting of the Council

#### Order of Business

At Annual Meetings of the Council, the Order of Business shall be as follows:

- a) To choose a Councillor to preside if the Chair and Vice Chair of the Council\* are absent;
- b) To elect the Chair of the Council;
- c) To appoint the Vice-Chair of the Council;
- d) To receive any apologies for absence;
- e) To approve the minutes of the last Ordinary Meeting;
- f) To receive any communications or announcements from the Chair of the Council;
- g) To elect a Leader for a 4-year term of office;
- h) To receive any communications or announcements from the Leader of the Council;
- i) To receive any questions, statements or petitions from the public in accordance With Council Procedure Rules 14, 15 and 16;
- j) To receive any questions from Councillors in accordance with Council Procedure Rule 13;
- k) To elect the Chairs of the Scrutiny Committees
- l) To decide which Committees to establish for the municipal year;
- m) To decide the size and terms of reference of those Committees;
- n) To decide the numerical allocation of seats to political groups on Committees in accordance with the political balance rules;
- o) To make appointments to Committees;
- p) To make appointments to outside organisations, except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive. In an election year, such appointments may be deferred to the first Ordinary Meeting of the Council in the municipal year;
- q) To consider any other business set out in the summons;

- r) To authorise the sealing or signing of documents to give effect to any decisions taken.
- s) Consider any other business specified in the summons to the meeting, including consideration of proposals from the Executive in relation to the Council's Budget and Policy Framework and reports of the Scrutiny Committee(s) for debate.

1.2 Other than items a) to c) above, the Chair of the Council may, with the consent of the Council, vary the Order of Business.

1.3 Ordinary meetings of the full Council will take place in accordance with the programme decided at the Council's Annual Meeting.

## **2. Extraordinary Council Meetings**

2.1 Extraordinary Meetings shall be held on such days as may be determined by the Council or the Chief Executive, in consultation with the Chair of the Council and political group leaders.

## **3. Calling Extraordinary Meetings**

3.2 An Extraordinary Meeting of the Council may be called at any time by:

- a) The Council by resolution;
- b) The Chair of the Council;
- c) The Monitoring Officer; or,
- d) Any 5 Councillors by written requisition presented to the Chair of the Council where he or she has refused to call a meeting or has failed to call a meeting within 7 days of the presentation of the requisition.

### **Order of Business**

3.3 At Extraordinary Meetings of the Council, the Order of Business shall be as follows

- a) To choose a Councillor to preside if the Chair and Vice Chair are absent;
- b) To receive any apologies for absence;
- c) To receive and note any disclosable pecuniary, prejudicial and/or personal interests from Councillors;
- d) To receive any communications or announcements from the Chair;
- e) To receive any communications or announcements from the Leader of the Council;

- f) To receive only in relation to the business for which the Extraordinary Meeting has been called any questions, statements or petitions from the public in accordance with Council Procedure Rules 14, 15 and 16;
- g) To receive only in relation to the business for which the Extraordinary Meeting has been called any questions from Councillors in accordance with Council Procedure Rule 13;
- h) To consider the business for which the Extraordinary Meeting has been called. The Chair may at his or her absolute discretion permit other items of business to be conducted for the efficient discharge of the Council's business;
- i) To authorise the sealing or signing of documents to give effect to any decisions taken.

3.3 Other than items (a) to (c) above, the Chair of the Council may, with the consent of the Council, vary the Order of Business.

3.4 During the course of the municipal year there will be a ordinary meeting solely for the purpose of setting the Council Budget.

## **4. Ordinary Meeting of the Council**

### **Order of Business**

4.1 At Ordinary Meetings of the Council, the Order of Business shall be as follows:

- a) To choose a Councillor to preside if the Chair and Vice-Chair of the Council are absent;
- b) To receive any apologies for absence;
- c) To receive and note any disclosable pecuniary, prejudicial and/or personal interests from Councillors;
- d) To approve the minutes of the last meeting;
- e) To receive any communications or announcements from the Chair of the Council;
- f) To receive any communications or announcements from the Leader of the Council;
- g) To receive any questions, statements or petitions from the public in accordance with Council Procedure Rules 14, 15 and 16;
- h) To receive any questions from Councillors in accordance with Council Procedure Rule 13;
- i) To consider any other business set out in the summons;



- j) To consider any motions in accordance with Council Procedure Rule 4;
- k) To authorise the sealing or signing of documents to give effect to any decisions taken;
- l) To consider reports from Executive Councillors.

### **Variation of Order of Business\***

4.2 The Chair of the Council may, with the consent of the Council, vary the Order of Business.

### **Minutes\***

4.3 At the next Ordinary Meeting, the Chair of the Council shall, with the Council's assent, sign the minutes of the business transacted at the previous meeting as a correct record.

4.4 The only discussion allowed upon the Minutes shall be as to their accuracy, and any objection upon that ground shall be made by motion. A question may be put to the Chair of the Council as to the accuracy of the Minutes.

### **Notices of Motion**

4.5 If a Councillor wishes to move a motion at a meeting of the Council, then notice in writing shall be given to the Governance Manager or his/her nominee of its terms and the name of a Councillor who has agreed to second it. Such notices shall be dated, numbered as received and available for the inspection of Councillors.

4.6 Seven clear working days' written notice of the actual motion is needed in order to have a notice of motion included in the summons. This means that written notice and the wording of the motion itself must be delivered to the Governance Manager or his/her nominee by 4pm on the day that provides 7 clear working days before the Council meeting (excluding the day of the meeting itself).

4.7 The motion shall relate to the work of the Council or the interests of people living in the Council Area.

4.8 A motion shall not be taken if its proposer is not present, unless another Councillor has been asked to propose it and the Council so agree.

4.9 A motion or amendment to rescind a decision within 6 months of it being approved should be made in accordance with Rule 23 of these Procedure Rules.

4.11 A motion will not usually be considered at an Extraordinary meeting of Council without the leave of the Chair.

4.12 The proposer of the motion may not exceed 5 minutes subject to the consent of the Chair when presenting the motion to the meeting.

## 5. Motions During a Debate\*

5.1 A Councillor may at the conclusion of a speech of another Councillor, move without debate one of the following motions:

- a) To amend the motion;
- b) To defer consideration of the motion;
- c) To adjourn the meeting;
- d) To adjourn the debate;
- e) To proceed to the next item of business;
- f) That the question be now put;
- g) To request a Recorded Vote; see Procedure Rule 18;
- h) That Councillor\_\_\_\_\_ be not further heard;
- i) That Councillor\_\_\_\_\_ do leave the meeting;
- j) That the (identified) recommendation be referred back for further Consideration (a deferral);
- k) That the press and public be excluded;
- l) To suspend any one or more Procedure Rules during all or part of the meeting;
- m) To refer a petition which has been presented to a meeting of the Council to a Committee for consideration;

5.2 If the motion is seconded then (subject to the proviso set out in (c) below) the Chair of the Council shall proceed as follows:

- a) The motion shall be put to the vote forthwith and without discussion;
- b) Then - subject only to the right of reply of the Councillor who either presented the report or who proposed the original motion - the motion shall be immediately acted upon;
- c) The Chair of the Council shall have the discretion not to accept such a motion when of the opinion that the matter before the meeting has not yet been sufficiently discussed.

5.3 If the Planning Committee votes against an Officer recommendation, it must either give reasons if it is a refusal or conditions in the case of permitting development:

- a) The Committee must vote on the reasons/conditions which will then form part of the substantive motion;
- b) The substantive motion must then be voted upon;
- c) If the Committee fails to agree the reasons/conditions, then the motion fails.

## 6. Amendments\*

6.1 An amendment shall be either:

- a) To leave out words;
- b) To leave out words and insert or add others; or
- c) To insert or add words;

but shall not have the effect of introducing a significantly different proposal or of negating the motion.

6.2 Before moving an amendment a Councillor shall ensure that there is likely to be a seconder for that amendment.

6.3 When an amendment has been moved and seconded, no further amendments shall be moved until the first amendment has been voted upon.

6.4 If an amendment is carried, it shall be incorporated into the motion which shall become the substantive motion upon which further amendments may be moved. If an amendment is voted down, further amendments may then be moved on the motion.

6.5 After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote after any further debate.

6.6 The ruling of the Chair on whether an amendment satisfies the requirements set out in 6.1 a-c, will be final. To assist the Chair in this respect, notices of amendment, should, where possible, be given in writing

6.7 With the agreement of any seconder and with the assent of the Council, given without comment, a Councillor proposing a motion or amendment may:

- a) Withdraw that proposal; or
- b) Alter its wording; or
- c) Accept an amendment.

6.7 Alterations to a motion

(a) A Member may alter a motion of which he or she has given notice with the consent of the Chair. The Chair's consent will be signified without discussion.

(b) A Member may alter a motion which he or she has moved without notice with the consent of both the Chair and the seconder. The Chair's consent will be signified without discussion.

(c) Only alterations which could be made as an amendment may be made.

#### 6.8 Alternative Budget Motions

If there is to be an amendment to the proposed budget, it should be compliant with the procedure as outlined at 3.2 in the Council Financial Procedure Rules of this Constitution.

### 7. Points of Order or Personal Explanation\*

7.1 A Councillor may rise on a Point of Order or in personal explanation and shall be allowed by the Chair of the Council to be heard forthwith.

7.2 A Point of Order shall relate only to an alleged breach of a specified Procedure Rule or statutory provision and the Councillor raising it shall immediately identify how it has been broken.

7.3 A personal explanation shall be confined solely to a brief explanation of how a speech in the current debate by that Councillor appears to have been factually misunderstood. It shall not be used to introduce new material.

### 8. Reports of Executive Councillors

8.1 An Executive Councillor shall submit a report to an Ordinary Meeting of the Council as to current and future business of their portfolio for the information of and comment from the Council. Such reports are for discussion and comment only and no motion shall be put to the meeting as to any such item other than those closure motions described in Standing Order 5.

## 9. Proposers and Seconders

9.1 If the mover of a motion or of an amendment sits down without speaking to it, the right to speak shall be lost but the mover of a motion shall retain the right of reply.

9.2 The seconder of a motion or of an amendment may declare that the Councillor is reserving the right to speak:

- a) Until later in the debate; or
- b) Until it appears to the Chair of the Council that - at that point - there are no more speakers to be called and before the mover of the motion exercises the right of reply.

## 10. Rights to Speak During Debates

10.1 A Councillor who has spoken once on any motion or amendment may not speak again. The exceptions to this Rule are that a Councillor who has already thus spoken may also:

- a) Speak once to an amendment moved by another Councillor;
- b) Move a subsequent amendment. If a Councillor wishes to exercise this right, then the Councillor shall immediately make the purpose of this second speech clear to the Chair of the Council;
- c) Exercise a right of reply under Council Procedure Rule 11; or,
- d) Make a Point of Order or personal explanation.

### 10.2 Rules of Debate

- a) No speeches until motion seconded
- b) No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.
- c) Right to require motion in writing Unless notice of the motion has already been given, the Chairman may require it to be written down and handed to him or her before it is discussed.

Secunder's speech

- d) When seconding a motion or amendment, a Member may reserve their speech until later in the debate.

## 11. Rights of Reply

11.1 The mover of a motion shall have a right of reply to any debate on that motion. This right shall be in addition to that Councillor's speech introducing the motion or the report.

11.2 The mover of a motion shall also have a right of reply to any debate:

- a) On any amendment to that motion;
- b) On a reference back to the Executive of that recommendation; and
- c) Immediately before the following closure motions are put to the vote:
  - i. To postpone consideration of the motion;
  - ii. To adjourn the debate;
  - iii. That the question be now put.

11.3 The Councillor presenting a report shall also have a right of reply to the following closure motions immediately before they are put to the vote:

- a) That the Council proceed to the next business;
- b) To adjourn the debate; or
- c) That the question be now put.

11.4 A Councillor who has moved a motion or introduced a report shall only have the further rights to speak which are defined in this Council Procedure Rule but shall not otherwise speak during that debate.

11.5 A Councillor exercising a right of reply shall not introduce new factual material.

11.6 The mover of an amendment or of any of the procedural motions referred to in Council Procedure Rule 85 shall not have a right of reply.

## 12. Speeches

12.1 A Councillor shall not speak on a motion or amendment for longer than 3 minutes.

12.2 The exceptions to this Rule shall be that:

- a) The mover of a recommendation (or of a motion of which notice has been given in accordance with Council Procedure Rule 4) may speak for not more than 10 minutes when moving such recommendation or motion;
- b) A Councillor exercising a right of reply may speak for 5 minutes; and
- c) The mover of an amendment may speak for 5 minutes.

12.3 A Councillor shall normally stand when speaking and shall address the Chair of the Council. When the Chair of the Council rises all Councillors shall be silent. No-one else shall speak until the Chair has been resumed.

## 13. Questions from Councillors

## **Questions on Notice**

13.1 At a Full Council meeting, any Councillor, upon giving 5 working days' written notice, specifying the question to the Governance Manager or his/her nominee, may ask the Leader of the Council a question on a matter which concerns the Council's functions, powers, duties and which affects the Council Area.

13.2 Any Councillor, upon giving written notice, specifying the question, to the Governance Manager or his/her nominee by 4pm on the day that provides 2 clear working days before the Council meeting (excluding the day of the meeting itself), may ask the Leader of the Council, a Lead Councillor, Chair of a Committee or another Councillor who has been appointed to an outside body, a question which concerns the Executive's or Committee's functions, powers and duties or the work of the outside body and which affects the Council Area.

## **Urgent Questions**

13.3 Any Councillor may put to the Leader, a Lead Councillor, or Chair of any Committee, any question relating to urgent business of which notice has not been given. A copy of any such question shall be delivered to the Governance Manager or his/her nominee not later than 12 noon on the day of the meeting.

13.4 The Leader, portfolio holder, or Committee Chair may decline to answer or may direct the question to be answered by the Chair of the appointed sub-committee which has been delegated the subject matter of the question.

13.5 The Councillor asking the question may ask a supplementary question related to the question or arising from the answer to seek further clarification.

13.6 Questions are to be asked and answered without further discussion by other members present. The Leader of the Council, Executive Councillor, or a Committee Chair to whom the question has been addressed may ask another Councillor or Officer to answer it if they are of the opinion that a discussion is required, or they may refer it to another relevant meeting of the Executive or Committee.

13.7 Where it is not possible to provide an answer to a question during the meeting, the person responsible for answering shall provide a written answer within 5 working days of the meeting.

## **14. Public Question Time\***

### **Questions**

14.1 At meetings of the Council, up to 15 minutes shall be allocated to receiving questions from members of the public.

14.2 Members of the public may ask the Leader of the Council, a Lead Councillor or a Chair of a committee questions relevant to any item on the agenda for the meeting or to the functions, powers or duties of the Council at Ordinary Meetings of the Council.

14.3 In relation to each meeting at which a member of the public wishes to ask a question, notice specifying the question should be given in writing by the person and received by the Governance Manager or his/her nominee by 4pm on the day that provides 1 clear working days before the Council meeting (excluding the day of the meeting itself).

14.4 In cases where there is any doubt as to whether a question is relevant to the functions, powers or duties of the Council, the Council Solicitor and Monitoring Officer shall determine whether they are accepted.

14.5 The Governance Manager or his/her nominee, in consultation with the Chair of the Council, appropriate Lead Councillor or Chair of the Committee (in relation to a Committee meeting appropriate) and questioner, may re-word any question to bring it into proper form and to secure brevity.

14.6 If a question relates to a ward-based issue, the Chair of the Council or Chair of the Committee meeting (as appropriate) shall invite a contribution from any Councillor representing that ward before calling for the formal reply.

14.7 In response to a question, the Councillor to whom the question has been put will normally provide and circulate to the questioner and all Councillors at the meeting a written answer which, together with the question, shall also be recorded in the minutes.

14.8 The questioner may, (subject to the time limits in paragraph (1) above) ask one supplementary question if such a question arises from the answer given.

14.9 If the questioner is unable to attend the meeting due to unforeseen circumstances then they may, with the consent of the Chair of the Council or Chair of the Committee (as appropriate) nominate a spokesperson to ask the supplementary question.

14.10 Questions, including any supplementary questions, will be asked and answered without discussion.

14.11 The Leader of the Council, Lead Councillor or Chair may decline to answer a question or nominate another Councillor or Officer to answer it on their behalf. In the case of a Committee meeting, if appropriate, the Chair may nominate the most appropriate Councillor or Officer present to provide a response to a question or supplementary question from a member of the public.

14.12 Any question or response under this Council Procedure Rule 4 shall not exceed 3 minutes in length.

14.13 Questions shall not be disallowed merely because advance notice in writing has not been given. Such questions may not be answered immediately but later in writing.



However, it is always preferred that questions are put in writing in order to assist Councillors and Officers to be able to give answers at the meeting.

14.14 The procedure for taking questions or statements from members of the public at meetings of the Planning Committee shall follow such pattern as agreed from time to time by the Chair of the Planning Committee to best take account of its needs for public involvement.

## **15. Statements\***

15.1 As an alternative to asking a question, a member of the public may address the Council or any Committee.

15.2 At meetings of the Council up to 15 minutes shall be allocated to receiving statements from members of the public.

15.3 Statements shall be for a period not exceeding 3 minutes on matters relevant to any item on the agenda for the meeting or to the functions, powers, or duties of the Council, subject to the following conditions.

15.4 In relation to each meeting at which a member of the public wishes to speak and following publication of the agenda, notice, including a summary of the subject matter, must be given in writing by the person to the Governance Manager or his/her nominee not later than 4pm one clear working day before the day of the meeting (excluding the day of the meeting itself).

15.5 If a speaker is unable to attend the meeting due to unforeseen circumstances then, with the consent of the Chair of the Council (or Committee Chair in respect of a Committee meeting), they may nominate a spokesperson to speak for them.

15.6 The Leader of the Council, relevant Lead Councillor or Committee Chair shall be entitled to respond to the statement, and this shall not exceed 3 minutes in length.

## **16. Presentation of Petitions\***

16.1 A petition is a written request signed by the requisite number of people appealing to an authority about a particular cause or issue.

16.2 A petition requiring debate by Full Council is a petition that contains more than 1600 signatures (1% of the District's population) and will be debated by Full Council.

16.3 Excluded Matters are matters that are excluded from the scope of the petitions duty and these are:

- a) Any matter relating to a planning decision, including about a development plan document or the community infrastructure levy;
- b) Any matter relating to an alcohol, gambling or sex establishment licensing decision;

- c) Any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
- d) Any matter which the Chair of the Council or relevant Committee believes to be scurrilous, offensive, improper, repetitious, capricious, irrelevant or otherwise objectionable.

16.4 Petitions submitted to the Council must include:

- a) A clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take;
- b) The name and address and signature of any person supporting the petition;
- c) The name and address of the petition organiser.

16.5 All petitions will be acknowledged within 10 working days.

16.6 If a petition contains 1600 or more signatures the petition will be debated at the next scheduled meeting of ordinary Council. The normal convention will be to debate no more than one petition at any one Council meeting on a first come basis, subject to the discretion of the Chair of the Council.

16.7 The petition organiser will be given 5 minutes to present the petition to the meeting.

16.8 Councillors will discuss the petition up to a maximum of 15 minutes.

16.9 The Council will decide how to respond to the petition which may include to take the action requested, not to take the action requested for the reasons given in the debate, refer the matter for further investigation, or refer the matter to the Council Executive for final decision.

16.10 A petitioner has the right to request a review of the steps taken in response to the petition if they are unhappy and that request shall be made to the Council's Scrutiny Committee.

## 17. Deputations\*

17.1 Any Somerset West and Taunton elector may ask that a deputation should be received by a meeting which has powers or duties relating to the matter of concern to that deputation. Such a request shall be made by written notice to the Governance Manager or his/her nominee at least 3 working days before the meeting to which it relates unless the Chair of the Council has, because of special circumstances, given approval to a lesser period of notice.

17.2 The person making the request shall indicate in the notice:

- a) The matter to which the request relates;
- b) The number and the names and the addresses of those making up the deputation;  
and
- c) The name of the leader who will speak for them.

17.3 On being called by the Chair of the Council, the leader of the deputation may speak for not more than 5 minutes about the matter described in the notice given.

17.4 For a further period of 5 minutes, Councillors may ask questions of the deputation, which questions shall be asked and answered without discussion.

17.5 Having heard from the deputation, the Chair of the Council (or Councillor chairing the meeting) may either:

- a) Give an immediate oral response to their request, or
- b) Ask that an immediate oral response be given to the deputation by the Leader of the Council (or other Executive Councillor who is present) or by an Officer; or,
- c) Call for a report to be considered at the next meeting of that – or the relevant Committee unless the request relates to business which is already on the Committee's agenda; or
- d) Ask that a written answer be given to the deputation where the necessary information is not readily available.

## 18. Voting\*

18.1 All motions and amendments, unless the law otherwise requires, shall be decided by a simple majority of those Councillors present at the meeting and voting at the time the question was put. The vote will be by affirmation or by a show of hands, as the Chair of the Council shall choose. Councillors must be present in the room for the whole of the item under discussion to be eligible to vote.

18.2 If before the Chair of the Council calls for the vote, either:

- a) The mover and seconder of the motion - or of the amendment, or,
- b) Any Councillor supported by the votes of at least a quarter of the Councillors present, request that a Recorded Vote be taken, then votes shall be publicly declared, and recorded in the minutes.

In addition:

- i. Immediately after any vote is taken at a budget decision meeting there must be a Recorded Vote in the minutes of the proceedings of

that meeting given the names of the persons who cast a vote for the decision or against the decision or who abstained from voting;

- ii. 'Budget decision meeting' means the meeting at which the Council makes a calculation (whether originally or by substitute) in accordance with any sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52 of the Local Government Finance Act 1992 or subsequent amendments; or
- iii. 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;
- iv. References to a vote 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.

18.3 In addition to the option under Council Procedure Rule 18 (2), any Councillor may require - immediately after a vote is taken - that the manner in which that Councillor's vote was cast (for, against or abstaining) shall be recorded in the minutes.

18.4 Where a vote is taken upon the choice of more than 2 candidates for an appointment and there is not an absolute majority in favour of one candidate, the candidate receiving the least number of votes shall be excluded and a further vote taken, the procedure being continued until there is an absolute majority in favour of one candidate.

18.5 In the case of an equality of votes, the Chair of the Council shall have a second or casting vote.

18.6 The Chair of the Council shall have unfettered discretion as to its use for or against the proposition.

## **19. Offensive or Disorderly Conduct\***

19.1 If at a meeting a Councillor uses an expression which another Councillor believes is offensive and the latter draws the attention of the Chair to it, the Chair may request the Councillor to withdraw the expression.

19.2 If at a meeting the Chair believes a Councillor to be guilty of persistently disregarding the ruling of the Chair by behaving improperly or offensively, or by deliberately obstructing business, the Chair or any other Councillor may move 'that Councillor \_\_\_\_\_ be not further heard' and the motion, if seconded, shall be put to the vote and voted on without discussion.

19.3 If a Councillor continues to behave improperly after such a motion has been carried, the Chair may either:

- a) Move 'that Councillor \_\_\_\_\_ do leave the meeting'; or
- b) Adjourn the meeting for a specified period.

If seconded the motion shall be put and voted on without discussion.

19.4 If a Councillor does not leave the meeting after a resolution to that effect, the Chief Executive or his/her nominee shall arrange for the removal of the Councillor and shall take such measures as may be necessary to prevent the Councillor from re-entering the meeting.

19.5 In the event of any significant disturbance which makes the due and orderly dispatch of business impossible, the Chair of the Council, in addition to the exercise of any other power, may, without the need for the Council's approval, adjourn the meeting for such period as s/he thinks necessary.

## **20. Disturbance by Members of the Public\***

20.1 If a member of the public interrupts the proceedings at a meeting, the Chair shall request that there be no further interruptions. If the interruptions continue the Chair shall order the removal of the person interrupting from the room.

20.2 If there should be general disturbance in any part of the room open to the public the Chair may order that part to be cleared.

## **21. Interests of Members and Officers\***

21.1 Where at a meeting any matter is being considered in which a Councillor then present has a '*prejudicial interest*' as defined by the Council's adopted Code of Conduct, that Councillor shall be entitled to make representations, answer questions or give evidence provided that members of the public also have the same right. The Councillor must then leave the meeting immediately thereafter unless:

- a) A dispensation has been granted in accordance with the relevant due process in exercise of its powers under the Local Government Act; or,
- b) The item merely forms part of minutes submitted and is dealt with as 'for information' only.

21.2 Where any matter is being considered in which a Councillor then present has a '*disclosable pecuniary interest*' as defined by the Council's adopted Code of Conduct, that Councillor must disclose to that meeting the existence and nature of that interest (except where the matter is considered a sensitive interest and so there is no requirement to disclose the nature of it) and withdraw from the meeting room or chamber as soon as

it becomes apparent that the business is being considered at that meeting, unless a dispensation has been granted in accordance with the relevant due process.

21.3 Where a Councillor present at such a meeting has a '*personal interest*' (as defined in the adopted Code) which is not a '*prejudicial interest*' then the Councillor shall immediately draw the attention of the meeting to that personal interest.

21.4 Any Officer of the Council present at a meeting when an item involving a disclosable interest is under consideration shall draw the attention of the meeting to that interest.

21.5 A 'disclosable interest' is an interest which, if the Officer were a Member of the Council, would need to be declared under the Council's adopted Code of Conduct as a '*prejudicial interest*'.

21.6 No such duty shall arise regarding an item which merely relates to the general terms and conditions of employment of all staff employed by the Council.

## **22. Exclusion of Press and Public\***

22.1 Press representatives and public shall withdraw from a meeting if an exclusion resolution is passed.

22.2 On a motion to exclude the public, unless the motion appears on the agenda, the Chair shall ascertain the grounds for the motion and seek the advice of the Council Solicitor and Monitoring Officer or his/her nominee as to whether members of the public may lawfully be excluded.

22.3 Even where an item or report has been marked either 'Exempt' or 'Confidential', it is for the meeting itself to decide whether, taking the wider public interest into account, the item (or part of it) should nevertheless be considered in the presence of the press and public.

22.4 If an issue should arise during a debate as to the appointment, promotion, dismissal, salary, conditions of service or conduct of any identifiable employee of the Council, the Councillor chairing the meeting shall move the exclusion resolution (due to the likelihood that exempt information about a particular employee would be disclosed to the public).

22.5 The motion shall be immediately approved or rejected before the issue is further considered.

22.6 When an exclusion resolution is passed those permitted to remain include all those who are members of the Council, the Officers or consultants serving that meeting and those specifically invited by the meeting to remain for reasons set out in the minutes.

## **23. Rescindment and Variation of Resolutions\***

23.1 A resolution passed within the previous 6 months shall not be rescinded or varied unless either:

- a) There has been a significant change of circumstances (noted in the minutes of the meeting) since the previous resolution was passed and is agreed by 50% of the members; or
- b) By resolution of the Full Council on a motion of which notice has been given under Council Procedure Rule 4 signed by not less than 12 members.

23.2 Where it is intended that such an item should appear on the agenda for a meeting, the agenda item shall say that this '6-month rule' applies.

23.3 This Council Procedure Rule shall not apply in the case of a planning or licensing application.

23.4 Every such notice of motion shall specify the resolution to be rescinded or varied

## 24. Ruling of the Chair of the Council\*

24.1 The ruling of the Chair of the Council on any question under these Procedure Rules, on a Point of Order, or, on the admissibility of a personal explanation shall be final and shall not be open to discussion.

## 25. Quorum\*

25.1 No business shall be transacted at a meeting unless at least the indicated number of its members is present:

Meeting	Quorum
Full Council	15
Planning Committee	4
Licensing Committee	4
Audit and Governance Committee	3
The Executive	3
Scrutiny Committees	4
Standards Committee	3
Any other Member body	1/4 of its members, or 2 (whichever is the greater)

## 26. Agenda and Attendance at Meetings

26.1 A Councillor has the right to receive agenda and papers for all meetings of the Council, the Executive, the Corporate Scrutiny Committee, the Community Scrutiny Committee, the Licensing Committee, the Audit and Governance Committee, Standards Committee and the Planning Committee and to attend and speak at all such meetings, whether the Councillor is a member of the body or not.

26.2 This right to be treated as a participating member of these bodies shall not extend to their sub-groups which have been convened to act:

- a) In a quasi-judicial role on the Council's behalf in relation to such matters as staff disciplinary appeals, licensing hearings, or to deal with staff appointments or other specifically identified matters; or
- b) A Task and Finish Scrutiny Group.

26.3 With those bodies listed in (2) above:

- a) The right to attend shall be the same as for members of the public;
- b) The right to contribute to the discussion shall be at the discretion of the Councillor chairing that meeting.

26.4 In order to avoid any doubt:

- a) The rights under paragraph (1) shall also extend to Exempt items of business;
- b) Councillors attending a meeting by virtue of this Procedure Rule shall not have a right to vote.

26.5 Appointment of substitute members of committees

*(Note: This Procedure Rule does not permit substitutes by Members not in a political group.)*

- a) It is not possible to have substitute Members for Executive.
- b) Substitute Members may speak and vote at Committee meetings if they have been appointed as detailed below (and received mandatory training as required by Licensing Committee and Planning Committee).
- c) The Leader or Deputy Leader of a political group may nominate any named Member of his/her group as the substitute Member for a Committee meeting by notifying the Proper Officer or the Meeting Administrator of the name of the substitute and the details of the meeting at which they will be substituting; such notification must be made at least one hour before the start of the relevant



meeting. Notification by a Councillor purporting to be the substitute Member will not be accepted.

- d) In the event that the substantive Member of the Committee subsequently attends the meeting the substitute Member must take no further part in the meeting.

## **27. Summoning of Meetings**

27.1 Those listed below may request the Chief Executive to call a Full Council meeting in addition to Ordinary Meetings:

- a) The Council (by resolution);
- b) The Chair of the Council;
- c) The 'Designated Officers';
- d) Any 5 members of the Council - if they have signed a requisition presented to the Chair of the Council and the Chair has either refused to, or has failed to call, such a meeting within 7 days of presenting their requisition;
- e) The notice convening such a requisitioned meeting shall state the names of those Councillors requesting it and the business which they wish to have dealt with.

## **28. Time Limits for All Meetings\***

28.1 A meeting of Full Council or other committees including the Scrutiny Committees shall not exceed 3 hours in duration except in accordance with Council Procedure Rule 29 below.

28.2 If the business of the meeting has not been completed within that time, the Chair of the Council or Chair of the relevant Committee will interrupt the debate to announce the time and call for a vote to be taken immediately on the item under discussion.

28.3 No member will be able to address the meeting after the Chair of the Council's or Chair of the relevant Committee's interruption on any item appearing on the agenda.

28.4 Any items remaining on the agenda, which have not been considered, will be adjourned to the next scheduled meeting or a date to be fixed before the meeting adjourns.

28.5 Any suspension of time for adjournments during the meeting shall not count towards the 3-hour time limit.

## **29. Suspension of Council Procedure Rules\***

29.1 A motion to suspend a particular procedural Rule shall state the particular purpose and require a majority of at least half the total number of members appointed to that Council Meeting or Committee.

29.2 On occasions that Rule 28(1) is being waived, the duration of the suspension shall not exceed 30 minutes and shall, if seconded, be put to the vote without discussion.

29.3 Rule 28(1) can only be suspended once per meeting. However, the Chair of the Council, Chair of Planning Committee (see 29.4) or Chair of the Licensing Committee may decide otherwise in respect of the meeting they are chairing. This will generally only occur in exceptional circumstances.

29.4 Rule 28(1) can only be suspended twice per meeting of the Planning Committee (as per 28(6) above), in accordance with 29.2. Planning Committee meetings shall not exceed 4 hours in duration (with the Chair having discretion to conclude an agenda item if part way through).

29.5 Rules 21 and 25 cannot be suspended.

### **30. Application of Procedure Rules\***

30.1 These Procedure Rules shall apply to meetings of the Full Council. Those Rules marked “\*”, shall also apply to meetings of all Regulatory Committees, the Executive, the Audit and Governance Committee, Standards Committee, Corporate Scrutiny Committee and Community Scrutiny Committee, and any other formal decision making meeting (subject to the necessary changes in wording).

### **31. Withdrawal from Meetings**

31.1 Where a member has a Disclosable Pecuniary Interest in any business of the Council, whether registered under paragraphs 2.2.1 of the Council’s Code of Conduct or not, and you attend any meeting of the Council, its Executive or any Committee, Sub-Committee, Joint Committee at which that business is to be considered you must:

- a) Not seek to influence a decision about that business;
- b) Disclose to that meeting the existence and nature of that interest no later than the start of the consideration of the business in which you have that interest, or (if later) the time at which the interest becomes apparent to you. The exception to the requirement to disclose an interest is if the matter is a sensitive interest as set out in paragraph 2.11 of the Code of Conduct;
- c) Withdraw from the meeting room or chamber including the public gallery as soon as it becomes apparent that the business is being considered at that meeting;

Unless you have obtained a dispensation from the Council’s Monitoring Officer or the Standards Committee.

31.2 Where a member has a prejudicial interest as defined in the Council's Code of Conduct the member must:

- a) Not participate in any discussion of the matter at the meeting;
- b) Not participate in any vote on the matter at the meeting;
- c) Disclose the existence and nature of the interest to the meeting and leave the room where the meeting is being held while any discussion or voting takes place on the matter.

31.3 Where a member has a prejudicial interest in any business of the Council, the member may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business and he/she must leave the meeting immediately after making those representations, answering questions or giving evidence.



# Financial Procedure Rules

## 1.0 Introduction

- 1.0 The Financial Procedure Rules provide the framework for managing the financial affairs of the Council. They apply to every Councillor and Officer of the Council and anyone acting on its behalf.
- 1.1 The Financial Procedure Rules govern the way the Council undertakes financial planning, budget setting, budget monitoring and closing of the accounts. They should also clearly identify the way day to day financial administration is conducted and financial controls are exercised.
- 1.2 The Financial Procedure Rules are part of a wider set of operational and managerial arrangements. They help protect the Council and the public from poor decision making, theft, fraud, and material error. They also offer significant protection to Officers and Councillors from undue criticism and accusations of impropriety.
- 1.3 All Councillors and staff have a general responsibility for taking reasonable action to provide for the security of assets, funds and resources under their control, and for ensuring that the use of these resources is legal, properly authorised and provides value for money.
- 1.4 The Section 151 Officer is responsible for issuing advice and guidance to underpin the Financial Procedure Rules that Councillors, Officers, and others acting on behalf of the Council are required to follow.
- 1.5 The Financial Procedure Rules will be reviewed regularly by the Section 151 Officer, at least every two years, and approved by Full Council.
- 1.6 The Section 151 Officer may choose to delegate responsibility to a nominated officer of the Council where appropriate.

## 2.0 Financial Governance

- 2.1 The Councillors (individually, and contained within Full Council, Executive and Committees) and Statutory Officers (Head of Paid Service, Monitoring Officer and Section 151 Officer) have key roles and responsibilities in relation to the financial administration and stewardship of the Council, as referenced in the Constitution.

## **3.0 Financial Planning and Management**

### **3.1 Financial Strategy and Medium-Term Financial Plan**

3.1.1 The Section 151 Officer, in consultation with the Senior Management Team and Executive Councillors, will maintain a Financial Strategy and Medium Term Financial Plan (MTFP) that covers a period of at least three years, including the current financial year.

3.1.2 The Council's Financial Strategy will purposely look strategically beyond the current financial period to consider the funding options available for the proposed delivery of future corporate priorities, as well as the continuity of service delivery, to ensure these are affordable and result in a balanced budget, and support the organisation's resilience and long-term financial sustainability.

3.1.3 The Medium Term Financial Plan will provide a high level strategic allocation of capital and revenue financial resources (for both the General Fund and the Housing Revenue Account) that align with the corporate priorities and plans contained within the Financial Strategy, including the forecasting of costs and future funding requirements and availability.

3.1.4 The Financial Strategy and Medium Term Financial Plan will be produced as part of the overall budget process each year and reported to Executive for approval during the autumn committee cycle. This will then be reported, in conjunction with the annual budget, council tax and rent proposals, to Full Council before 11 March of the proceeding financial year.

#### **Budget Strategy**

3.1.5 The Section 151 Officer, in consultation with the Senior Management Team and Executive Councillors, will provide a Budget Strategy for the proceeding financial year, which will form the foundations for the Annual Budget Setting process.

3.1.6 The Budget Strategy will provide a more detailed requirement of the strategic allocation of financial resources (both capital and revenue) that align with corporate priorities and plans for the proceeding financial year, including the level of council tax, balances and reserves, and the management of financial risks.

3.1.7 This will normally be reported alongside the Financial Strategy and Medium Term Financial Plan presented to Executive before seeking approval of Full Council before 11 March of the proceeding financial year.

#### **Capital, Investment and Treasury Strategy**

3.1.8 The Section 151 Officer, in consultation with the Senior Management Team and Executive Councillors, will each year prepare a Capital, Investment and

Treasury Strategy for the proceeding financial year, as required by the Prudential Code.

- 3.1.9 The Capital, Investment and Treasury Strategy is intended to give a high level overview of how capital expenditure, capital financing and treasury management activity contribute to the provision of services along with an overview of how associated risk is managed and the implications for future financial sustainability.
- 3.1.10 The Capital, Investment and Treasury Strategy will be produced and reported in accordance with the annual budget setting timetable and presented to the Executive before seeking the approval of Full Council before the 31 March of the proceeding financial year.

### **Commercial Property Investment Strategy**

- 3.1.11 The Director of Development and Place, in conjunction with the Section 151 Officer, is responsible for the preparation and review of a Commercial Property Investment Strategy (CPIS).
- 3.1.12 The CPIS will set out the governance arrangements and framework for Commercial Property Investments ensuring a consistent appraisal method, clarity on corporate risk and management, and provide the Council with an agile response to investment opportunities.
- 3.1.13 Full Council will be responsible for approving the CPIS. The Strategy will be reviewed and updated on an annual basis. Investment decisions are delegated to the Commercial Property Investment Board (CPIB) up to agreed thresholds, with individual items above this amount subject to Full Council approval. The thresholds are:

Decision Body	Acquisitions	Disposals
Full Council	£25,000,001 and above	£30,000,001 and above
Commercial Property Investment Board	Up to £25,000,000	Up to £30,000,000

### **Budget Setting**

- 3.1.14 The Council has a statutory duty to set a balanced budget.
- 3.1.15 The Section 151 Officer is responsible for making the arrangements and issuing the guidelines for producing the Council's Revenue Budget and Capital Programme.
- 3.1.16 Senior Officers are responsible for ensuring that staff adhere to the timetable and requirements set out by the Section 151 Officer for the Budget Setting process, and provide any information and evidence required in relation to this.

3.1.17 In accordance with the agreed budget timetable, the detailed Budget Setting report, setting out the proposed revenue and capital spending proposals, will be presented to the Executive before seeking the approval of Full Council for the proceeding financial year.

3.1.18 In accordance with Section 25 of the Local Government Act 2003 a statement from the Section 151 Officer is required to confirm the robustness of the budget process and the adequacy of reserves. Unless in exceptional circumstances or through further approval, expenditure shall not be incurred on behalf of the Council unless it is approved in the Capital or Revenue budget estimates.

### **Council Tax Setting**

3.1.19 Full Council is responsible for setting the Council Tax Base. This responsibility shall be delegated to the Section 151 Officer, who will set the Council Tax Base for tax-setting purposes by 31 January for the proceeding financial year and notify precepting and levying bodies of this figure by this date. The Section 151 Officer will notify all Councillors as part of the Budget Setting report presented to Full Council at the Council Tax Setting meeting.

3.1.20 Full Council shall set the level of Council Tax by 11 March for the proceeding financial year as required by the Local Government Finance Act 1992.

3.1.21 In the event of any late changes such as budget amendments or preceptor demand notifications, Full Council have the provision to be able to delegate the final approval of the Council Tax Setting report including the tax determination to the Leader, which must incorporate the tax rate set by Full Council for SWTC. Any decision taken by the Leader will be published to ensure transparency of governance.

### **Housing Revenue Account (HRA)**

3.1.22 The Section 151 Officer is responsible for providing the HRA Revenue Budget and Capital Programme report, to include the Housing Rent proposals, for the proceeding financial year in line with the timetable and requirements out by the Section 151 Officer for the Budget Setting process.

3.1.23 The Housing Revenue Account Budget report and Housing Rent proposals will be shared with Tenants Strategic Group for consultation.

3.1.24 An updated overview of the HRA 30-Year Business Plan will be provided to the Executive prior to or with the Draft Budget for the proceeding financial year.



### **Fees and Charges**

- 3.1.25 The Fees and Charges Strategy shall be agreed as part of the Financial Strategy during the autumn committee cycle.
- 3.1.26 Full Council shall give delegated authority to the Section 151 Officer to approve, and agree any amendments to, the fees and charges for the Council in line with the approved Fees and Charges Strategy, with the exception of:
- (a) Car Parking Charges
  - (b) Any others as determined by Council
- 3.1.27 All fees and charges shall be reviewed annually by Section 151 Officer in consultation with Directors and Assistant Directors as per the budget setting timetable.
- 3.1.28 As part of the overall budget process, the revenue budget will include the latest projection of income from fees and charges.
- 3.1.29 The Section 151 Officer will be responsible for publishing a Fees and Charges Register on the Council's website.

### **Earmarked Reserves Review**

- 3.1.30 The Section 151 Officer shall determine adequate earmarked reserves to provide for future financial commitment and mitigate financial risks. Earmarked Reserves shall be set aside for specific purposes and may include general contingencies.
- 3.1.31 The Section 151 Officer is responsible for undertaking an annual review of all Earmarked Reserves. Recommendations arising from the review will be presented to the Executive for approval alongside or in advance of the final budget and financial plan. The report will provide information on the review and highlight any proposals to return any funds to general balances.

### **Capital Programme**

- 3.1.32 A five-year rolling Capital Programme will be prepared and reviewed annually to confirm the capital expenditure and financing requirement estimates for each financial year, based on the following principles:
- To maintain an affordable five-year rolling capital programme.
  - To ensure capital resources are strategically aligned with the Council's corporate priorities and statutory responsibilities.
  - To undertake prudential borrowing only where there are sufficient monies to meet, in full, the implications of capital expenditure, borrowing and running costs.

- To maximise available resources by actively seeking appropriate external funding and disposal of surplus assets.
- 3.1.33 The Section 151 Officer will be responsible for compiling the five-year Capital Programme including the associated capital financing, in consultation with Senior Officers, for consideration by the Executive before seeking the approval of Full Council. The programme will include:
- committed schemes that are in the process of completion
  - schemes for replacement / maintenance of existing assets
  - new starts for the following years
  - planned financing arrangements including through receipts from expected sales of assets and external grants and contributions expected.
- 3.1.34 The Capital Programme will be approved through the Budget Setting report.
- 3.1.35 Approval by the Council of the Capital Programme shall not automatically authorise expenditure but will:
- indicate that the necessary funds for the ensuing financial years shall be available for the scheme; and
  - that the scheme can be prepared in detail.

## 3.2 **Alternative Budget Motions**

- 3.2.1 Any Councillor proposing to put forward to Council any amendment to the draft Budget or any alternative Budget should provide a copy thereof to the Section 151 Officer as soon as possible and at least 5 working days before the Council meeting so that they may advise Council whether the resulting amended or alternative budget would provide robust estimates and adequate reserves for the purpose of section 25 of the Local Government Act 2003.

## 3.3 **Budget Management and Monitoring**

- 3.3.1 The system of budget management and monitoring is used to ensure that all budgets and financial resources for which the Council is accountable, are allocated correctly and managed effectively.
- 3.3.2 The Section 151 Officer shall ensure that the Budget Holder has access to financial information to enable them to control expenditure and income for which they are responsible.
- 3.3.3 The Director will be the accountable officer for all budgets within their directorates. They will be responsible for establishing and maintaining a scheme of delegations for budgets to Budget Holders, which must be provided to the Section 151 Officer.
- 3.3.4 The Budget Holder will be responsible for managing budgets and other financial resources effectively and within approved limits.

3.3.5 The Section 151 Officer is responsible for providing further procedural advice on budget management and monitoring.

### 3.4 Making Changes to the Approved Budget

3.4.1 A virement is the transfer of budget from one specific area to another. This can either be a transfer within revenue budgets or capital budgets, but not between revenue and capital.

3.4.2 The Virement Scheme is intended to enable the Budget Holder to manage budgets with a degree of flexibility within the overall framework determined by the Council, and therefore optimise the use of resources.

3.4.3 **Revenue Virements:** Amendments to the revenue budget can only be made with approval as long as funds are available and as per the Virement Scheme table below:

Threshold	Decision
£150,001 and above	Executive Decision (in consultation with the Section 151 Officer)
£50,001 up to £150,000	Director / CEO and Section 151 (in consultation with Executive Councillors / Portfolio Holders)
Up to £50,000	Assistant Director / Director / CEO (in consultation with the Finance Business Partner)
Any value related to revised budget coding, technical accounting and structural presentational changes not fundamentally changing the use of funds	S151 Officer

3.4.4 The Section 151 Officer shall ensure that where any revenue Virements have been approved, these will be included within the performance report presented to the Executive.

3.4.5 **Supplementary Budgets:** Authority to approve Supplementary Budgets shall be delegated as per the table below, provided that in each case general reserves remain at least 10% above the recommended minimum level.

Supplementary Revenue Budget Scheme Table

Threshold	Decision
£250,001 and above	Full Council
£150,001 to £250,000	Executive
Up to £150,000	Director / CEO and Section 151 Officer

3.4.6 The Section 151 Officer shall ensure that where any supplementary budgets have been approved, these will be included within the performance report presented to the Executive.

3.4.7 No revenue virement shall be allowed between the following budgets without approval of the Section 151 Officer:

- Financing charges e.g. capital depreciation
- Rates and other taxes
- Support Service Recharges
- Insurances

3.4.8 No revenue virement shall be allowed to or from the 'salaries' budget unless approved by the Director(s) in consultation with a Finance Specialist.

3.4.9 Where there is a corresponding and matching increase in income and expenditure, the following approval limits will apply:

Threshold	Decision
£50,001 and above	Executive Councillor and Section 151 Officer
£20,001 to £50,000	Assistance Director / Director / CEO and Section 151 Officer
Up to £20,000	Budget Holder

3.4.10 The Directors shall manage staff resources within the agreed budgeted establishment. Any changes to the permanent establishment must be within the approved budget and agreed by the Senior Management Team.

3.4.11 Any increase over and above the agreed budgeted establishment (in costs and full time equivalents) must be supported with proposals to cover the additional costs and submitted to the Senior Management Team for consideration and approval. Any changes must be notified to the Section 151 Officer.

3.4.12 **Capital Virements:** Amendments to the capital budget can only be made with approval as long as funds are available and as per the Virement Scheme table below:

Capital Virement Scheme Table

Threshold	Decision
£150,001 and above	Executive Decision (in consultation with the Section 151 Officer)
£50,001 to £150,000	Assistant Director / Director / CEO and Section 151 (in consultation with Executive Councillors / Portfolio Holders)
Up to £50,000	Assistant Director and Finance Business Partner

- 3.4.13 **Capital Additions:** Authority to approve Supplementary Capital Budgets shall be delegated as per the table below, provided that in each case the Section 151 Officer agrees the source of the additional funding, and any revenue implications are affordable within approved budget limits.

Supplementary Capital Budget Scheme Table

Threshold	Decision
£250,001 and above	Full Council
£150,001 to £250,000	Executive
Up to £150,000	Director / CEO and Section 151 Officer

- 3.4.14 The Section 151 Officer shall ensure that where any capital additions have been approved, these will be included within the performance report presented to the Executive.
- 3.4.15 **Funding Substitutions:** The Section 151 Officer is responsible for approving funding changes.
- 3.4.16 **Growth Programme and Community Infrastructure Levy (CIL):** Full Council is responsible for approving any total budget allocations to the Growth and CIL Programmes. The Executive is responsible for delivering the programmes within the total approved budgets. Allocations to individual projects may be approved in line with the following table.

Threshold	Decision
£250,001 and above	Portfolio Holder
Up to £250,000	Director of Place and Development

**3.5 Budget Monitoring**

- 3.5.1 Directors and Assistant Directors have no authority to overspend revenue or capital budgets, or under-recover income budgets under their control,

and are responsible for monitoring their budgets to ensure this situation does not arise.

- 3.5.2 In preparing any estimates of expenditure and income, Directors and Assistant Directors must give proper consideration to the implications in current and future years.
- 3.5.3 Directors and Assistant Directors shall notify the Section 151 Officer of all significant budget variations including underspends, over-recovery of income or windfall benefits arising within their revenue and capital budgets, regardless of whether offsetting savings or additional income have been identified.
- 3.5.4 Directors and Assistant Directors shall ensure that their managers do not enter into commitments / contracts before satisfying themselves there is sufficient approved budget provision.
- 3.5.5 All unauthorised expenditure shall be reported immediately by the Director or Assistant Director to the Section 151 Officer who will advise on the appropriate action.

### **3.6 Carry Forwards**

- 3.6.1 The Section 151 Officer is responsible for approving the carry forward of all budgets and spending plans that span financial years i.e. timing difference and profiling.
- 3.6.2 The Section 151 Officer shall approve other individual carry forwards up to £150,000, with any above this amount being approved by the Executive.

### **3.7 Budget Monitoring – Capital**

- 3.7.1 Once the Capital Scheme has been prepared in detail and the tenders have been obtained, the Director or Assistant Director shall compare the allocation of funds approved within the Capital Programme to the tendered bids and determine if further approval is required.
- 3.7.2 Further approval will be required in line with supplementary budget approval thresholds, subject to affordability being confirmed by the Section 151 Officer.
- 3.7.3 Approval to award a Capital Scheme contract will be as per Contract Procedure Rules.
- 3.7.4 A Capital Scheme must not commence until the relevant funding is in place to meet the approved budget for the Scheme. For example, capital receipts and / or capital grants have been received.

### **3.8 Leases**

- 3.8.1 Directors and Assistant Directors shall ensure that credit arrangements, such as leasing arrangements, are not entered into without the prior approval of the Section 151 Officer and, if applicable, approval of the scheme through the capital programme.
- 3.8.2 The Section 151 Officer shall ensure that there is sufficient budget and calculate whether a lease or alternative financing arrangement provides best value and best fit with Capital and Treasury strategies.

### **3.9 Balances and Reserves**

- 3.9.1 The Section 151 Officer shall advise the Executive and Full Council on prudent levels of general balances, revenue reserves and contingencies for the Council.
- 3.9.2 Applying transfers to and from the general balances and earmarked reserves will be the responsibility of the Section 151 Officer in line with the approved budget and any approved changes during the year.

### **3.10 Budget Monitoring – Reporting**

- 3.10.1 The Section 151 Officer will report to the Executive, at agreed intervals, on the revenue and capital budgets and wider financial standing and will make recommendations for varying the approved budget where necessary.
- 3.10.2 Where overspending occurs on delegated budgets that cannot be covered by income, savings or underspending they shall be reported to the Executive and underwritten by balances for financial planning purposes. The Senior Management Team shall determine and report mitigating actions and any related recommendations to the Executive.
- 3.10.3 All service underspend and overspend over £20,000 shall be fully explained by the Budget Holder within the budget monitoring process to the Section 151 Officer with a mitigation plan where appropriate. All those over £50,000 will be reported to the Executive.
- 3.10.4 As soon as practicable after the end of the financial year the Section 151 Officer shall submit the financial outturn position to the Executive. This will include a comparison of budget against actual spending and an analysis of major variances.

### **3.11 Finance Comments in Reports**

- 3.11.1 The responsible Councillor and/or Officer report authors must ensure relevant financial implications are included in any key decision reports, in consultation with the Section 151 Officer, Finance Business Partner or Finance Specialist.

- 3.11.2 Authors should provide draft reports to the Section 151 Officer, Finance Business Partner or Finance Specialist prior to any submission of reports so that they may produce any financial reports and / or comments on the financial or budgetary implications of this action. For draft reports this will be 5 working days before any interim review and for final reports this will be 5 working days prior to agendas being published.
- 3.11.3 Budget Holders shall consult with the Section 151 Officer on any unplanned policy matters or other matters affecting the finances of the Council.

### **3.12 Closing of Accounts and Statement of Accounts**

- 3.12.1 The Council has a statutory responsibility to produce a Draft Statement of Accounts, and for these to be audited, approved and published online by the deadlines set within Accounts and Audit Regulations (currently 31 July for Draft Accounts and 30 September for Audited Accounts).
- 3.12.2 The Section 151 Officer is responsible for selecting and consistently applying suitable accounting policies, determining accounting procedures and records, and ensuring compliance with relevant Accounting Codes of Practice.
- 3.12.3 The Section 151 Officer is responsible for making the arrangements for closing the Council's accounts, for ensuring that the Annual Statement of Accounts is prepared in accordance with the relevant Code's, as well as all matters relating for their audit and public inspection.
- 3.12.4 Senior Officers are responsible for ensuring that staff adhere to the timetable and requirements set out by the Section 151 Officer for the closing of the accounts, and provide any information and evidence required in relation to this.
- 3.12.5 The Section 151 Officer shall sign and date the Statements of Accounts, stating his or her opinion in respect of the accounts presenting a true and fair view of the financial position of the Council at the accounting date and its income and expenditure for the year ended 31 March 2xxx.
- 3.12.6 The Audit, Governance and Standards Committee is responsible for approving the audited Statement of Accounts.

### **3.13 Treasury Management Framework**

- 3.13.1 The Section 151 Officer is responsible for preparing a Capital Strategy, an Investment Strategy, a Treasury Management Strategy and a Minimum Revenue Provision (MRP) Policy in line with the relevant CIPFA codes and statutory guidance, to be presented to Full Council for approval by 31 March of the preceding financial year.



- 3.13.2 The purpose of these reports is to inform Councillors of the recommended strategy for effectively managing the Council's cash resources in accordance with the legislative and regulative frameworks, including the approach to borrowing and investments taking into account prudential borrowing limits and performance indicators.
- 3.13.3 These reports also set out the approach and operating limits that must be applied in treasury management activity.
- 3.13.4 The monitoring of treasury performance is the responsibility of the Audit and Governance Committee, which will receive mid-year and end of year treasury performance reports.
- 3.13.5 All executive decisions on borrowing, investment or financing, and administration shall be delegated to the Section 151 Officer, who is responsible for establishing and monitoring Treasury Management Practices.
- 3.13.6 All treasury management activity shall be undertaken by trained staff only and in accordance with the CIPFA Code of Practice for Treasury Management in Local Authorities, the Prudential Code, and the Council's Treasury Management Strategy and Treasury Management Practices.

## **4.0 Financial Administration, Systems and Procedures**

### **4.1 Introduction**

- 4.1.1 The Section 151 Officer is responsible for determining the accounting procedures and records for the Council.
- 4.1.2 All officers working for or on behalf of the Council must follow the financial administration, systems and procedures set out below. These rules and regulations are essential to an effective framework of efficiency, accountability, and control.
- 4.1.3 All accounting systems, procedures and records shall be subject to the approval of the Section 151 Officer. Any changes to existing systems and the introduction of new systems shall also be approved by the Section 151 Officer.
- 4.1.4 All Assistant Directors will embed a culture of financial awareness and ensure that their officers and key partners are made aware of how their activities have a financial impact on the Council, either directly or indirectly.
- 4.1.5 All Officers will ensure that all financial transactions will be made through the Council's Accounting System.

### **4.2 Accounting**

- 4.2.1 All accounting arrangements across the Council shall be in a manner approved by the Section 151 Officer, taking into account best practice guidance issued by relevant external bodies, such as CIPFA and the Government.
- 4.2.2 There must be adequate separation of duties to ensure that no one officer is able to handle any financial transaction from start to finish without there being some mechanism for independent checking. By finish is meant the completion of the accounting for the transaction.
- 4.2.3 All expenditure, income, assets, and liabilities shall be completely and accurately accounted for within the Council's main Accounting System and any exceptions must be specifically authorised by the Section 151 Officer.

### 4.3 **Income**

- 4.3.1 The Section 151 Officer is responsible for drafting the Council's Income and Arrears Management Policy. Approval of the Policy shall be delegated to the Executive. This will be reviewed and approved by the Executive at least every three years, with any minor changes delegated to the Section 151 Officer in consultation with the Portfolio Holder.
- 4.3.2 The Income and Arrears Management Policy sets out the Council's policy and procedures in relation to the billing, collection and recovery of monies owed to the Council and is to be adopted across all functions within the Council.
- 4.3.3 The policy focusses on key aims and principles, priority of debt, vulnerability, methods of payment, payment arrangements, offsets, performance monitoring, data protection, segregation of duties and review.
- 4.3.4 The Section 151 Officer is accountable for the following, with Directors and Assistant Directors responsible for ensuring compliance within their services for:
- Administering all invoicing, credit notes, income and arrears collection
  - Providing the systems and documentation required for collection and associated debt recovery
  - Ensuring that claims for Government grants and other monies are made properly and promptly
  - Ensuring that all monies received are properly receipted, recorded and banked promptly
  - Administering the process for writing off irrecoverable debts and the monitoring and reporting of write off levels
  - Ensuring that a proper scheme of delegation has been established and it operates effectively

- Notification of all monies due to the Council under contracts, leases or other agreements and the termination of use or change of user affecting this income
- Reporting income management performance information to the Executive

4.3.5 Officers should encourage payment in advance or at point of service delivery wherever possible as per the Income and Arrears Management Policy and minimise the amount of credit given to customers.

4.3.6 The Section 151 Officer may authorise payment by instalments if full payment cannot be obtained immediately, in accordance with the Income and Arrears Management Policy, unless otherwise prescribed in relevant legislation, such as council tax and business rates.

4.3.7 Directors and Assistant Directors must notify the Section 151 Officer of all monies due to the Council under contracts, leases or other agreements and the termination of use or change of user affecting this income.

4.3.8 Any sales made via electronic commerce accounts, for example eBay and Amazon, must have the individual account pre-approved by the Section 151 Officer, and held in the name of the Council and using the Council's banking details. Directors and Assistant Directors are responsible for ensuring that any staff in their areas use these accounts appropriately and in line with financial procedure rules.

### **Raising of Invoices**

4.3.9 Officers responsible for raising invoices must ensure that VAT has been properly accounted for and the correct fee has been charged as per the approved fees and charges report, or any subsequent amendments.

4.3.10 The Directors are responsible for developing a scheme of discretionary discounts, in consultation with the Section 151 Officer.

### **Credit Notes**

4.3.11 Any invoice of £1,000 and over, that requires cancellation via a Credit Note, will require Budget Holder approval. Any invoice below £1,000 will require approval from an Income Specialist.

4.3.12 A clear reason for the Credit Note must be provided, and all evidence must be held on the Council's document management system. This information will be reviewed periodically and action taken to reduce the number of occurrences.

4.3.13 Any Credit Note must not be authorised or processed by the same person who raised the original invoice.

#### **Unallocated Income**

4.3.14 All unallocated income shall be dealt with on a daily basis by either allocation to the correct account/invoice, transferred or refunded.

#### **Aged Debt**

4.3.15 The Budget Holder will periodically review the outstanding debts pertaining to their functional area and take reasonable action to aid the collection of those debts and / or consider suspending the provision of goods / services to the customer until all payments due have been made.

4.3.16 For any irrecoverable debts, the Budget Holder will put forward a request to write off the debt.

#### **Writing Off Bad Debts**

4.3.17 The Section 151 Officer is responsible for the arrangements dealing with write off of irrecoverable debts.

4.3.18 Any write off per debtor greater than £25,000 in any year will be reported to the Executive for information.

4.3.19 Where a debt becomes uncollectable, any debts written off shall be in accordance with the following table:

<b>Threshold</b>	<b>Council Tax &amp; Business Rates, Sundry Income, Housing Benefit Overpayments &amp; Housing Rents</b>
£0.01 to £25.00	Customer Champion
£25.01 to £100.00	Case Manager
£100.01 to £1,000.00	Specialist / Senior Case Manager responsible for income activity
£1,000.01 to £5,000.00	Director or Assistant Director
£5,000.01 and above	Section 151 Officer

4.3.20 All write offs will be reported to the Section 151 Officer on a regular basis, and a summary of write-offs to be reported for information to the Portfolio Holder for Corporate Resources on a quarterly basis.

#### **4.4 Ordering of Supplies, Works, and Services**

- 4.4.1 All contracts and purchase orders are subject to the Contract Procedure Rules.
- 4.4.2 Directors must have systems in place to ensure that only authorised officers are allowed to place purchase orders, and that purchase orders are only raised when there is sufficient budget available.
- 4.4.3 Once the purchase has been agreed, the creation of an official purchase order using the Council's Accounting System will be required for all orders unless agreed by the lead Procurement Officer.

#### **Authorisation of Purchase Orders**

- 4.4.4 A register of approved authorisers will identify staff authorised to act on the Directors, Assistant Directors or Senior Officers behalf in respect of placing purchase orders and making payment, together with the limits of their authority.
- 4.4.5 A register of approved authorisers and authorised purchasers will be maintained within the Council's Accounting System.

#### **Receipt of Supply**

- 4.4.6 The receipt of supplies, works and services will be undertaken within the Council's Accounting System. The receipt will confirm that the supply is as requested and authorises the release of payment.

#### **Payment of Supplier Invoices**

- 4.4.7 The Section 151 Officer shall make arrangements for the payments of all monies due from the Council in accordance with the relevant legislative and statutory requirements.
- 4.4.8 Payment to a supplier will only be made on receipt of a valid and appropriately addressed tax invoice.
- 4.4.9 All invoices must reference a valid purchase order number, or customer account reference where a purchase order is not required e.g. for utilities contracts.
- 4.4.10 The Council is required to comply with the Late Payment of Commercial Debt Regulations. Any supplier issuing an invoice in error will be required to re-submit a valid invoice with an amended invoice date.

#### **Payments in Advance**

- 4.4.11 The Council will ordinarily only pay for goods, services and works upon receipt or completion.
- 4.4.12 Where such goods, services and works are essential and only available if paid in advance (e.g. e-commerce) then Officers, prior to authorising payments in advance, must undertake a risk assessment of the supplier or service provider defaulting.
- 4.4.13 All payments in advance in excess of £5,000 must be agreed with a Finance Specialist or Procurement Specialist and any in excess of £50,000 must be agreed by the Section 151 Officer.

### **Payment Methods**

- 4.4.14 The Section 151 Officer must approve all banking, purchase and credit card arrangements across the Council, and must be satisfied with the safe keeping of all controlled banking stationery.
- 4.4.15 The Section 151 Officer will maintain a register of all bank and card acquiring contracts.
- 4.4.16 Cheques above certain financial limits set by the Section 151 Officer shall be manually countersigned by those designated officers authorised to do so by the Section 151 Officer.
- 4.4.17 Directors are responsible for ensuring that any staff in their areas that use the procurement Credit / Debit Cards adhere to the requirements of the Purchasing Card Guide and Terms and Conditions.
- 4.4.18 Any purchases made via the internet must be made in adherence to the Council's procurement procedures
- 4.4.19 Any purchases made via electronic commerce accounts, for example eBay and Amazon, must have the individual account pre-approved by the Section 151 Officer, and held in the name of the Council and using the Council's banking details. Directors are responsible for ensuring that any staff in their areas use these accounts appropriately and in line with financial procedure rules.

### **Petty Cash**

- 4.4.20 The Section 151 Officer must approve all banking and Petty Cash acquiring arrangements across the Council and must be satisfied with the safe keeping of all controlled banking stationery.
- 4.4.21 The Section 151 Officer must authorise all Petty Cash accounts and the Petty Cash Account Holder must comply with the rules set within the Petty

Cash Guide and Terms and Conditions as prescribed by the Section 151 Officer.

### **Taxation**

- 4.4.22 The Section 151 Officer is responsible for ensuring compliance with all relevant taxation regulations and guidance that affect the Council.
- 4.4.23 Directors must notify the Section 151 Officer immediately of all new areas of business and of any change of circumstances to ensure the impact on VAT has been reviewed. For example, buying or selling a property and / or undertaking new investment activity.

### **Planning Obligations Board**

- 4.4.24 The Planning Obligations Board shall recommend budget allocations from the Community Impact Mitigation (CIM) Fund and other Hinkley S106 Funds for approval as per the following table.

<b>Threshold</b>	<b>Decision</b>
£250,001 and above	Full Council
Up to £250,000	Executive

### **4.5 Investments, Borrowing, Capital Financing and Trust Accounts**

- 4.5.1 The Section 151 Officer shall ensure that the Council's money is properly managed and controlled in a way which balances risk with return but with the overriding consideration being given to the security and liquidity of the Council's investment.
- 4.5.2 All investments, except bearer securities, controlled by the Council shall be registered in the Council's name or in the name of nominees approved by the Executive.
- 4.5.3 All securities shall be held securely by the Council's bankers, or custodians approved at the Section 151 Officer.
- 4.5.4 The Section 151 Officer shall ensure that all borrowing is made in the name of the Council.
- 4.5.5 The Section 151 Officer shall ensure that all applicable trust funds are registered in the name of the Council.
- 4.5.6 The Section 151 Officer will provide regular monitoring reports to the Audit, Governance and Standards Committee.

4.5.7 The Section 151 Officer will report any breaches or amendments of the Prudential Code to Council.

## 4.6 **Asset Management**

### **Asset Register**

4.6.1 The Finance Business Partner shall maintain a full and accurate register of all Council fixed assets.

### **Custody of Deeds**

4.6.2 The Council's Solicitor shall have custody of the title deeds and other agreements under seal or hand of all land owned by the Council (together with all deeds and documents held as security for any monies owed to the Council) and are responsible for their safe-keeping.

### **Security**

4.6.3 Directors shall be responsible for the proper security of all buildings, stocks, furniture, equipment and cash etc. within their services. They shall exercise a co-ordinating role on security issues and shall be consulted where it is felt that security is inadequate or in special circumstances.

### **Valuations**

4.6.4 The Finance Business Partner will be responsible for ensuring that a valuation report is produced on an annual basis and used as part of creating the Statement of Accounts.

4.6.5 The Council will carry out a rolling programme of asset valuations to ensure that all Property, Plant and Equipment required to be measured at fair value is revalued at least every five years.

4.6.6 Valuations of land and buildings will be carried out in accordance with the methodologies and bases for estimation set out in the professional standards of the Royal Institution of Chartered Surveyors (RICS).

4.6.7 Valuations of vehicles, plant, furniture and equipment will be based on current prices where there is an active second-hand market or latest prices adjusted for the condition of the asset.

### **Impairment**

4.6.8 The Finance Business Partner is responsible for ensuring that assets are assessed at each year-end as to whether there is any indication that an asset may be impaired.

4.6.9 Where indications exist and any possible differences are estimated to be material, the recoverable amount of the asset is estimated and, where this is less than the carrying amount of the asset, an impairment loss is recognised for the shortfall.



### **Condition Surveys**

- 4.6.10 The Finance Business Partner shall ensure that condition surveys of all buildings and property assets in which the Council has a proprietary interest are carried out at least once every 5 years.
- 4.6.11 Survey details are to be recorded in appropriate systems and work programmes prepared in accordance with priorities set out in the Asset Management Plan.

### **Maintenance of Assets**

- 4.6.12 Directors are responsible for implementing a system for the maintenance of assets, stocks and stores including regular stock checks and write offs when required.

### **Asset Management Plan**

- 4.6.13 The Assistant Director – Climate Change and Assets is responsible for producing an Asset Management Plan. The Plan will be approved by Executive, with the monitoring of the delivery of that Plan delegated to Assistant Director – Climate Change and Assets.
- 4.6.14 The Asset Management Plan looks at how the Council's assets support achievement of the Council's objectives and the services it provides.
- 4.6.15 The Plan will set out principles, priorities and actions to ensure the assets are used and managed as efficiently and effectively as possible.
- 4.6.16 The Plan will be reviewed annually to take account of any changes in the Council's objectives or priorities.

### **Acquisition and Sale / Disposal of Assets**

- 4.6.17 Except for Commercial Investment Properties which will be made in accordance of the Commercial Investment Property Strategy and related authority, all acquisitions and disposals of Council property shall be made in accordance with the approved governance arrangements or otherwise in accordance with the Council's Capital Strategy and its Asset Management Plan.
- 4.6.18 The Section 151 Officer shall be responsible for the appropriate accounting treatment of any acquisition and sale / disposal of assets.
- 4.6.19 All acquisitions and sale / disposal of assets shall be made in line with approved budgets and in consultation with the Section 151 Officer. The authority to approve acquisitions and sale / disposal of assets, except for Commercial Investment Property, shall be delegated as per the table below.

<b>Threshold</b>	<b>Decision</b>
£250,001 and above	Executive
Up to £250,000	Chief Executive or Director

4.6.20 In respect of receipts from sale of assets where values are less than £10,000: these net proceeds will be credited to the appropriate revenue budget.

4.6.21 In respect of receipts from sale of assets where values are more than £10,000: the net proceeds will be recorded as either capital receipts unless Statutory Guidance permits the use as Flexible Capital Receipts. The net receipts can then be used to fund revenue costs, provided the expenditure meets the requirements for qualifying expenditure under this guidance.

#### **4.7 Payroll**

4.7.1 The Head of Paid Service is responsible for producing a Pay Policy to be approved by the Executive by the 31 March of the proceeding financial year.

4.7.2 The Pay Policy sets out the Council's policy and procedures in relation to the payments of salaries and wages to all staff, including payments for other allowances, and for payment of allowances to Councillors, employed by the Council. This is to ensure that the risk associated with the public sector payroll system are managed effectively.

4.7.3 The Section 151 Officer is responsible for all payments of salaries and wages to all staff, including payments for other allowances, and for payment of allowances to Councillors. All payments must be made by BACS once a month through the Council's Payroll System.

4.7.4 Directors and their respective managers must notify central payroll team of all matters relating to the employment (including any changes) of officers so that the appropriate financial entries and payments can be made.

4.7.5 Officers will submit their expenses claims through the Council's Payroll System. The relevant manager will then validate the claim prior to online approval.

#### **4.8 Somerset West Lottery**

4.8.1 The Council will be an enabler for the lottery and use the contracted services of a licenced External Lottery Manager (ELM) to operate the lottery as per the Gambling Act 2005.

- 4.8.2 The Council will hold the relevant licence(s) obtained from the Gambling Commission as regulated by the Gambling Act 2005.
- 4.8.3 The Section 151 Officer, Directors and/or Assistant Directors may be registered as the 'responsible officers' with the Gambling Commission.
- 4.8.4 Any arrangements of administering the lottery will be delegated to the Director of Housing and Communities and Portfolio Holder in consultation with the Section 151 Officer.
- 4.9 Grants Paid out to VCS**
- 4.9.1 The authority to award grants will be delegated by the Executive to the Grants Panel, and all decisions will be published.
- 4.9.2 In order to make the most effective use of the Council's grants schemes (as listed below) the Council needs to ensure applicants maximise match funding from other funders for their projects in the district.
- Somerset West Lottery Local Community Fund (SWL LCF)
  - Voluntary and Community Sector (VCS) Partner Grants
  - VCS Small Grants Scheme
- 4.9.3 The Council may choose to outsource this function to an external body to administer on behalf of the Council and present assessed applications to the Council's Grants Panel for consideration and approval.
- 4.10 Insurance**
- 4.10.1 The Section 151 Officer is responsible for maintaining adequate insurance cover for the Council and keeping comprehensive records of all risks covered.
- 4.10.2 Directors must notify the Section 151 Officer immediately of all new areas of risk and of any change of circumstances likely to affect existing insurance risks.
- 4.10.3 Any incident which could give rise to an insurance claim must be promptly notified to the Section 151 Officer, by the relevant officer, who shall also inform the Police if appropriate.
- 4.10.4 The Section 151 Officer will handle all insurance claims with the insurance company if proceedings are issued.
- 4.11 Financial Inducements, Gifts, Hospitality and Promotional Offers**
- 4.11.1 All staff must comply with the Employee Code of Conduct and Gifts and Hospitality Guidance and Procedures. Further advice should be sought from the Monitoring Officer.

4.11.2 All Councillors and staff must not accept inducements in the process of administering the financial affairs of the Council.

#### **4.12 Declaration of Interest**

4.12.1 All officers shall notify their Director and the Monitoring Officer in writing if they have a financial interest (direct or indirect) in any current or proposed contract of the Council. The Monitoring Officer shall record in a schedule to be kept for the purpose, particulars of any such notice given. Failure to disclose a financial interest in a contract is a criminal offence under section 117 of the Local Government Act 1972.

4.12.2 All officers shall advise their Director and the Monitoring Officer, to be incorporated into the schedule mentioned above, of any conflict of interest which has arisen or might arise because they are likely to be required or authorised to do something as a Council Officer, in which they have a personal or private interest.

### **5.0 Risk Management and Control of Resources**

#### **5.1 Risk Management**

5.1.1 The Director of Internal Operations is responsible for preparing a Risk Management Strategy as part of the Governance Framework, and ensuring that Councillors and staff consider risk when dealing with Council business and key activities.

5.1.2 The Risk Management Strategy will be approved by the Executive, and reviewed at least every three years.

5.1.3 Risk management and control arrangements are the responsibility of management, and the Director of Internal Operations shall report on risk management arrangements and performance to the Audit, Governance and Standards Committee

#### **5.2 Internal Control**

5.2.1 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.

5.2.2 The Section 151 Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.

5.2.3 It is the responsibility of Directors to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

5.2.4 The Section 151 Officer shall undertake an annual review of the effectiveness of the systems of internal control, and key findings and actions reported within the Annual Governance Statement.

### 5.3 Internal Audit

5.3.1 Directors shall have regard to the principles of risk management, and to the Council's Risk Management Strategy. It is the responsibility of Internal Audit to review the adequacy and effectiveness of the Council's arrangements for risk management.

5.3.2 Under the Accounts and Audit Regulations 2015 the Council has a statutory obligation to have an adequate and effective system of internal audit.

5.3.3 The Section 151 Officer has the delegated authority for providing and maintaining this service.

5.3.4 The Internal Auditor is responsible for providing an internal audit function which meets the requirements of the Public Sector Internal Audit Standards (PSIAS). They are also responsible for providing an opinion, in support of the Annual Governance Statement, on how the Council's risk management processes identify, evaluate, monitor and report that controls are operating effectively within the Council.

5.3.5 Internal Audit is an assurance function that provides an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

5.3.6 Internal Audit has unrestricted access to all information (including records, computer files, databases, systems, property and personnel) across all functions and activities undertaken by the Council, or partners on the behalf of the Council where council information is held in order to review, appraise and report as may be necessary.

5.3.7 The Internal Auditor shall report to the Audit, Governance and Standards Committee all significant concerns that he/she may have over the adequacy and effectiveness of internal controls and risk management activities within the organisation.

### 5.4 External Audit

- 5.4.1 The council is responsible for approving the appointment of an external auditor. This shall be delegated to the Audit, Governance and Standards Committee.
- 5.4.2 The External Auditor has a responsibility to satisfy themselves that the Council has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources. This judgement is based on criteria specified by the National Audit Office.
- 5.4.3 The Section 151 Officer, in conjunction with Directors, must ensure that the Council makes best use of resources, and taxpayers and service users receive value for money.
- 5.4.4 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.
- 5.4.5 The Section 151 Officer is responsible for presenting the Audit Findings Report and the Annual Audit Letter to the Audit, Governance and Standards Committee.
- 5.4.6 The Section 151 Officer must advertise the Public Right of Inspection on the Council's website in line with Accounts and Audit regulations.

## **5.5 Counter-fraud and Anti-bribery**

- 5.5.1 Section 151 of the Local Government Act 1972 requires every Local Authority to make arrangements for the proper administration of their financial affairs.
- 5.5.2 The Section 151 Officer is responsible for advising the Council on anti-fraud and anti-corruption strategies and measures. Approval of the policy is delegated by the Council to the Executive.
- 5.5.3 This policy provides a coherent and consistent framework to enable the organisation's staff and Councillors to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents it will also enable Councillors/ staff and the public/ stakeholders to identify and effectively report a potential breach.

## **5.6 Money Laundering**

- 5.6.1 The Section 151 Officer is responsible for preparing the Council's Money Laundering Policy (MLP) to be scrutinised by the Audit, Governance and Standards Committee and approved by the Executive.

- 5.6.2 The Money Laundering Policy (MLP) will be reviewed on a regular basis, at least every three years, and upon issue of new or updated relevant regulations.
- 5.6.3 This policy will ensure that there are adequate controls in place within the Council to counter money laundering activities and terrorist financing activities, in line with the Money Laundering Regulations 2017.
- 5.6.4 The Executive will appoint a Money Laundering Reporting Officer (MLRO).

## **5.7 Trading Units**

- 5.7.1 It is the responsibility of the Section 151 Officer to advise on the establishment and operation of trading accounts and business units, and to determine the arrangements under which these are operated.
- 5.7.2 Directors must observe all statutory requirements in relation to trading accounts, including the maintenance of a separate revenue account to include all relevant income and expenditure, including overhead charged and an annual report in support of the Council's annual financial statements.
- 5.7.3 Directors must ensure that the same accounting principles are applied in relation to trading accounts as for other service units.

## **6.0 External Arrangements**

### **6.1 Partnerships**

- 6.1.1 Partnerships include any arrangements where the Council agrees to undertake, part fund or participate in a project with other bodies; either as a beneficiary of the project, or because the nature or status of the project gives the Council a right or obligation to support it. Where the Council is simply providing funding without assuming any obligation or risk relating to delivery of the project, this is not a partnership.
- 6.1.2 The Executive is responsible for approving the operational framework for the Council's participation in all strategic partnerships or joint working arrangements with other local public, private, voluntary and community sector organisations. This includes the arrangements for delegation to officers and the detailed arrangements for the provision of both financial and physical resources by the Council.
- 6.1.3 The Section 151 Officer and Monitoring Officer are responsible for promoting, maintaining and monitoring the same high standards of conduct with regard to legal and financial administration and accounting arrangements in partnerships that apply throughout the Council. They shall also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. They shall ensure



that the risks have been fully appraised before agreements are entered into with external bodies. They shall ensure that all partnerships are included within the Partnership Register.

- 6.1.4 The approval of both the Section 151 Officer and the Monitoring Officer must be obtained prior to the Council entering into any formal partnership agreement. The approval of the Section 151 Officer must also be obtained where it is proposed that the Council adopts the role of 'Accountable Body' for a partnership.
- 6.1.5 Directors are responsible for ensuring that appropriate preparation work is undertaken and approvals are obtained before any negotiations are concluded in relation to work with external bodies.
- 6.1.6 A written partnership agreement must be produced that clearly establishes the responsibilities, rights, and obligations of the respective partners for managing the arrangement and the resources made available to the partnership.
- 6.1.7 The agreement must clearly set out the financial arrangements of the partnership including accounting, funding, assets, liabilities, insurances, tax accounting and risk management.
- 6.1.8 The agreement must also set out the arrangements in respect of unspent funding at each year end, unless this is to be returned to the Council as unspent money, and for addressing any overspend.
- 6.1.9 The agreement must also include HR advice in respect of employment rights and obligations including IR35 and TUPE implications.

## **6.1 External Funding (Including Grants)**

- 6.1.1 The Section 151 Officer, in consultation with the relevant Director, is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.
- 6.1.2 Directors must advise the Section 151 Officer with details of all bids for external funding, as well as all grant and subsidy notifications by external bodies, as soon as they are received.
- 6.1.3 Directors are responsible for ensuring that the terms and conditions of all grants have been met properly.
- 6.1.4 Directors must not commit expenditure on projects requiring matched funding contributions until the external funding has been confirmed.



6.1.5 Directors are responsible for informing the Section 151 Officer promptly about such funding. Where such income is receivable against a grant claim the relevant Director shall provide written confirmation to the Section 151 Officer that all output and other grant requirements have been properly and fully met.

## 6.2 Work for Third Parties

6.2.1 The Section 151 Officer is responsible for providing specific guidance to Directors in respect of contractual arrangements for the provision of services to third parties or external bodies.

6.2.2 Work can only be undertaken for third parties where the Council has the legal powers to undertake the work.

6.2.3 Regarding the financial aspects of third party contracts, Assistant Directors will ensure:

- Compliance with any guidance issued by the Section 151 Officer and that appropriate insurance arrangements are made.
- All costs arising from the provision of services to a third party are recovered and hence that there is no subsidy included within the contract.
- The Council is not unnecessarily exposed to the risk of bad debts.

6.2.4 A written agreement must be put in place between the Council and the third party, which details the services to be provided, over what period and at what price; this will be signed by both parties to the agreement.

6.2.5 Directors will provide information on the contractual arrangements to the Section 151 Officer in order that the appropriate disclosures can be made within the Council's annual statement of accounts.

6.2.6 The Director / Section 151 Officer / Solicitor shall be responsible for approving the contractual arrangements for any work for third parties or external bodies.

6.2.7 The relevant Senior Officer must ensure that any work carried out for third parties is not outside the Council's powers by formally seeking the opinion of the Council's Monitoring Officer before such an arrangement is entered into.

6.2.8 The Section 151 Officer will issue guidance on all financial matters in respect of providing third parties with services.

6.2.9 The relevant Senior Officer must ensure that:

- Proposals are costed properly in accordance with the guidance provided by the Section 151 Officer;

- No contract is subsidised by the Council;
- Appropriate insurance arrangements are made;
- Wherever possible, payment is received in advance of the provision of the service;
- The Section 151 Officer is provided with the appropriate information to enable a note to be entered into the Statement of Accounts; and
- Information held or assets owned by the Council is/are not used to the detriment of the Council.
- There is compliance with GDPR.

### 6.3 **Alternative Delivery Models**

6.3.1 The Section 151 Officer is responsible for providing specific technical guidance to Assistant Directors and managers / specialists regarding financial arrangements for any proposal to deliver services via an alternative delivery vehicle. They shall also ensure that any such activities are properly recorded in the Council's accounts.

6.3.2 Legal advice shall be sought for the contractual arrangements for any alternative delivery model.

6.3.3 Any proposal to deliver services via an alternative delivery vehicle must be developed through the Council's business case governance framework to ensure that there is a robust planning and decision-making process in place.

6.3.4 Assistant Directors are responsible for ensuring that necessary approval is obtained before any contract negotiations and/or financial transactions are made, and that all agreements and arrangements are properly documented.

6.3.5 There are various types of alternative delivery model, including, but not limited to:

- Local Authority Trading Company (LATC)
- Joint Ventures - set up as separate corporate entities joining two or more parties for the purpose of executing a business undertaking
- Charitable incorporated organisation - a corporate entity which is regulated by the Charities Commission
- Social Enterprises - businesses trading for social and environmental purposes
- Outsourcing – a contractual arrangement between the Council and a private provider for the delivery of an agreed service
- Social Impact Bonds – contract to achieve agreed social outcomes through a programme of interventions delivered by a number of service providers

- Joint Committee – joint bodies set up, by agreement, to discharge or carry out activities in conjunction with other local authorities
- Unincorporated association

## 6.4 **Transparency**

6.4.1 To provide transparency in its stewardship of public funds the Council makes information available to the public in relation to its spending and are available to download via the Council's Open data portal. This brings together all our published datasets and other information of interest on one searchable database for anyone, anywhere to access. <https://www.somersetwestandtaunton.gov.uk/open-data/>

## Appendix A

List of supporting strategies, policies, plans and reports

- Financial Strategy and Medium Term Financial Plan
- Budget Strategy
- Capital Strategy
- Commercial Investment Strategy
- Revenue Budget and Capital Programme Report including ...
  - Council Tax Setting Report
  - HRA Revenue Budget and Capital Programme Report
  - HRA 30-Year Business Plan
  - Fees and Charges Register
  - Earmarked Reserves Review Report
  - Capital Programme Report
- Performance Reporting
- Statement of Accounts
- Investment Strategy
- Minimum Revenue Provision Policy
- Treasury Management Strategy Statement
- Treasury Performance Reports
- Income and Arrears Management Policy
- Contract Procedure Rules
- Purchasing Card Guide and Terms and Conditions
- Petty Cash Guide and Terms and Conditions
- Asset Management Plan
- Payroll Policy
- Employee Code of Conduct
- Gifts and Hospitality Guidance and Procedures
- Risk Management Strategy
- Governance Framework
- Anti-Fraud and Anti-Corruption Policy
- Money Laundering Policy
- Partnership Working Operational Framework

**-End of Document-**

# Contract Procedure Rules

## 1 Introduction

- 1.1 These Contract Procedure Rules apply to all purchases of works, goods, and services by the Council. Their observance is mandatory. The object of these Rules are as follows:
- a) To ensure that the Council's procurement activity is fair, open, transparent, non-discriminatory, and lawful.
  - b) To protect the Council, Councillors and Officers from the risk of challenge, undue criticism, or allegations of wrongdoing.
  - c) To assist officers in achieving best practice and lawful procurement.
  - d) To ensure the Council fulfils its duty of delivering Best Value for its Council Taxpayers and excellent outcomes for its customers.
- 1.2 The expectation is of compliance to these Rules, and in any cases of doubt, advice must be sought from the Strategic Procurement Specialist or the Assistant Director Finance (S151 Officer). The administration, monitoring, and governance of the application of these Rules shall be the responsibility of the Director of Internal Operations.
- 1.3 If there is any relevant change to English or UK Law which affects these Rules, then that change must be observed until these Rules can be revised. Where there is a difference between these Rules and the current legislation, the legislation will prevail.

## 2 Application

- 2.1 These Rules apply to:
- a) All contracts for the supply of works, goods, or services to the Council.
  - b) Partnership and collaborative arrangements with other Local Authorities where the Council is not the Lead Authority. Assurance is to be sought that the Lead Authority is acting in compliance with its own Contract Procedure Rules.
  - c) Concession Contracts.
- 2.2 These Rules do not apply to:
- a) Contracts solely for the acquisition, disposal, or transfer of any interest in land.
  - b) Contracts of employment for the appointment of individual members of staff.

### Exemptions to These Rules

- 2.3 The expectation is that these Procedure Rules will be observed. However, an exemption to the requirements of Contract Procedure Rules 15, 19, 20, 21 and 22 may be sought where one or more of the following circumstances apply:

- a) Goods or materials are proprietary items or are sold only at a fixed price and no satisfactory alternative is available.
- b) Contracts for the execution of mandatory works by statutory undertakers, such as utilities providers.
- c) The work to be executed or the goods or materials to be supplied consist of repairs to or the supply of parts for existing proprietary machinery or plant or the execution of work or supply of goods or services or materials necessary for maintenance or repairs to existing machinery or plant.
- d) Goods, works, or services procured in a genuinely unforeseeable emergency (e.g. natural disasters such as flooding or fires, immediate changes to legislation) because of a need to respond to events that were beyond the genuine control of the Council. Any such contract entered by the Council must not be for a term of more than 6 months. It must be noted that not allowing sufficient time to tender shall not be considered an emergency.
- e) Legal services falling within Regulation 10(1)(d) of the Public Contracts Regulations 2015.
- f) Dealings in the money market or obtaining finance within Regulation 10(1)(e) and 10(1)(f).
- g) Purchases at auction or at public fairs or markets.
- h) Goods or Services where the Council's needs are only capable of being met by one supplier and where the contract assists the Council in meeting its statutory duties.
- i) Contracts falling within the Light Touch Regime. [Guidance available here](#)
- j) Life or death – where there is a significant chance that the life or health of Officers, Councilors or the public will be put at real risk.
- k) Increased costs/loss of income – where the Council will incur significant avoidable costs or lose significant income (significant shall be taken to mean material in the sense that it is either material to the project, the service, or the Council).
- l) Limited markets – supply of the product or service is demonstrably restricted to a sole source of supply.
- m) Other unforeseen circumstances or specific project conditions that would result in unacceptable commercial and/or reputational impact.

2.4 For contracts less than £50,000, the Procuring Officer must complete the relevant exemption request (Waiver) form and seek the approval of the Strategic Procurement Specialist.

2.5 For contracts at and above £50,000 and below Threshold 3 (see Rule 15 Tables 1 and 2 for Thresholds), the Procuring Officer must complete the relevant exemption request form and seek the approval of the Strategic Procurement Specialist and Assistant Director Finance (S151 Officer).

2.6 The Procuring Officer is responsible for ensuring that the exemption request (Waiver) forms are duly completed and signed prior to the award of a contract.

- 2.7 No exemption shall be granted for contracts over Threshold 3 unless expressly permitted by either the Director of Internal Operations or Assistant Director Finance (S151 Officer) and the Strategic Procurement Specialist.
- 2.8 Regardless of whether an exemption has been sought, the necessary authorisations to procure, award, amend or sign a contract (at Contract Procedure Rule 27) must also be obtained.

### **3 Compliance**

- 3.1 Every contract entered on behalf of the Council shall comply with:
- a) These Contract Procedure Rules.
  - b) The Council's Financial Procedure Rules.
  - c) All relevant English and UK legislation.
- 3.2 All members of staff and consultants engaged in any capacity to manage or supervise the procurement of any works, goods or services for the Council must comply with these Contract Procedure Rules. Non-compliance with these Rules may constitute grounds for disciplinary action.
- 3.3 If there is any doubt about the application of the Rules, the issues should be referred to the Strategic Procurement Specialist.

### **4 Conflicts of Interest**

- 4.1 Members of staff must avoid any conflict between their own interests and the interests of the Council. This is a requirement of the Council's Employee Code of Conduct (Sections 6, 7, 10, 11 and 12) and includes:
- a) Not accepting gifts or hospitality from organisations or suppliers that the Council has dealings with.
  - b) Not working for organisations or suppliers that the Council has dealings with.
  - c) Notifying the Strategic Procurement Specialist and Monitoring Officer in writing if an Officer has links with an organisation or supplier who is tendering or quoting for a contract with the Council or already has a contract with the Council (for example, where a family member or close friend works for the organisation).
- 4.2 All consultants engaged to act on behalf of the Council must declare that they will avoid any conflict between their own interests or those of any of their other clients and the interests of the Council.
- 4.3 If a Councillor or a member of staff has an interest (direct or indirect), financial, otherwise, in a contract or proposed contract, he/she must declare it in writing to the Monitoring Officer and their Director as soon as he/she becomes aware of the interest. A Councillor or member of staff who has an interest in a contract must not take part in the procurement or management of that contract.
- 4.4 The Monitoring Officer must maintain a record of all declarations of interest notified by Officers and Councillors.

## **5 Prevention of Bribery and Corruption**

- 5.1 A contract may be terminated immediately and any losses to the Council arising from the termination recovered from the supplier, if the supplier, or anyone acting on his behalf (with or without the supplier's knowledge), offers or promises or gives a financial or other advantage to a Councillor, any member of staff, or any consultant in connection with the contract.
- 5.2 Any Councillor, member of staff or consultant who becomes aware or has reason to believe that a supplier or potential supplier has committed one of the corrupt acts referred to in Rule 5.1, must report it to the Monitoring Officer.

## **6 Relevant Legislation**

- 6.1 For the purposes of these Procedure Rules Relevant Legislation is defined as the following legislation:
- a) Public Contracts Regulations 2015 (PCR 2015).
  - b) Concession Contracts Regulations 2016 (CCR 2016).
  - c) Public Services (Social Value) Act 2012.
  - d) Freedom of Information Act 2000.
  - e) General Data Protection Regulation (GDPR) and the Data Protection Act 2018.
  - f) Equality Act 2010.
  - g) Modern Slavery Act 2015.
  - h) Transfer of Undertakings (Protection of Employment) Regulations 2006.
  - i) Any industry or sector-specific legislation pertaining to the subject matter of the Contract.
- 6.2 The Procuring Officer should be aware that the Relevant Legislation may operate to dictate the method of procurement and the content of any related contract.
- 6.3 When planning and preparing all procurement and contracting activities the Procuring Officer shall have regard to the Relevant Legislation and seek advice from the Strategic Procurement Specialist or, if they believe there is a governance issue, the Monitoring Officer where necessary to ensure that any applicable Relevant Legislation has been complied with.

## **7 Responsibilities of Directors**

- 7.1 Procurement activity in the Council is devolved to individual Directorates and Services, which are supported in their purchasing activities by the Procurement Team, SHAPE Legal Partnership, Finance Specialists and Case Officers.

## **8 Estimate of Contract Value**

- 8.1 The value of a contract is the total amount that the Council expects to pay for the contract, including any additional options, lots, renewals and/or extensions.
- 8.2 Where the contract period is indefinite or uncertain, the value shall be calculated on the basis that the contract will be for a period of 4 years.



- 8.3 Contracts must not be packaged or divided into smaller units for the purpose of creating lower value contracts to avoid any provision of these Rules or procurement legislation. When tendering consideration must be given to the extent to which it is appropriate to divide the contract into lots to facilitate opportunities for small and medium sized enterprises and voluntary organisations.
- 8.4 The repeat direct award of contracts or purchase orders for the same or similar services, whatever the value of the individual contracts/purchase orders, to the same supplier shall, for the purposes of determining the aggregated contract value and the application of these Rules, be regarded as extensions to a single contract.

## **9 Use of Framework Agreements**

- 9.1 The use of framework agreements is permitted for any value of contract. The Procurement Team must be consulted, and confirmation given that the Council may lawfully access the framework before a purchase. The Procurement Team must be informed of the use of a Framework Agreement.
- 9.2 To select a supplier for a call-off contract under a multi-supplier Framework Agreement, or to conduct a mini competition, the Procuring Officer in conjunction with the Procurement Team must follow the procedure set out in that Framework Agreement.
- 9.3 The Procurement Team will keep a record of framework use.

## **10 Market Engagement (Soft Market Testing)**

- 10.1 Officers may, prior to commencing the procurement process and on the advice of the Procurement Team, consult potential candidates in general terms about the nature, level and standard of the supply and seek market views and intelligence that can be used in the planning and conduct of the procurement process.

## **11 Performance Bonds, Parent Company Guarantees and Insurance**

- 11.1 It is the responsibility of the Procuring Officer, in consultation with the Finance Manager and where necessary the Assistant Director Finance (S151 Officer) to set, where appropriate, adequate levels of insurance for every procurement.
- 11.2 The Procuring Officer must ensure that any insurance required by the Council is held by the supplier with reputable insurance provider(s) and it is renewed as necessary during the contract period.
- 11.3 The Procuring Officer must consult the Finance Manager or Assistant Director Finance (S151 Officer) concerning whether a performance bond or a deposited sum is needed where:
- a) The contract is for construction and the value of the contract is more than £100,000; or
  - b) The contract value is above £1,000,000; or
  - c) Where it is proposed to make stage or other payments in advance of receiving the whole of the contract and there is a concern about the stability of the candidate.

- 11.4 The Procuring Officer must consult the Finance Manager or Assistant Director Finance (S151 Officer) concerning whether a parent company guarantee is needed where:
- a) The Total Contract Value exceeds the UK Procurement Threshold; or
  - b) The award of the contract is based on the evaluation of the parent company or there is some concern about the stability of the supplier.

## 12 TUPE

- 12.1 Where relevant, the Procuring Officer must consider the implications of the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended and consult with the Monitoring Officer and HR as to their application.

## 13 Dispute Resolution

- 13.1 The Procuring Officer must consider the procedure for resolving disputes arising in relation to the procurement and, where appropriate, contracts shall contain provisions for alternative dispute resolution.

## 14 Form of Contract

- 14.1 All contracts, regardless of value, shall be accompanied either by the Council's:
- a) Standard Terms and Conditions of contract; or,
  - b) The standard form of contract; or,
  - c) Bespoke terms.
- 14.2 Further guidance regarding the mandatory contract terms to be included in Council contracts can be sought from the Strategic Procurement Specialist.
- 14.3 All Contracts are to be executed in accordance with Procedure Rule 29.

## 15 The Procurement Process

- 15.1 The process to be adopted is determined by the value of the contract. The procedure must be both appropriate and proportionate to the value of the contract. It must ensure that the Council achieves Best Value which is to be assessed by an evaluation of both the price and quality of competitive bids so as to determine the most economically advantageous over the life of the contract.
- 15.2 Procuring officers must, as a minimum, obtain quotations and tenders as follows:

### A. Contracts for Goods and Services

**Table 1**

Threshold	Value
1	£5,000
2	£50,000
3	UK Supplies Goods and Services Threshold (See Table 3)

<b>Contract Value</b>	<b>Procurement Process</b>	<b>Advertising Requirements</b>	<b>Process Guidance</b>
Up to Threshold 1	<p>(i) Must demonstrate Best Value by following the procurement process for Lower Value Purchases.</p> <p>(ii) Alternatively, the procurement is carried out under the Rules of an appropriate Framework.</p> <p>Written quotation(s) must be received. One quotation may be sufficient if Best Value is evidenced.</p>	None	<p><i>See Rule 19.</i></p> <p><i>Low Value Procurement process</i></p>
Between Threshold 1 and 2	<p>(i) A minimum of 3 quotations received via the Council's Electronic Tendering System.</p> <p>(ii) Alternatively, the procurement is carried out under the Rules of an appropriate Framework.</p>	Optional	<p><i>See Rule 20.</i></p> <p><i>Quotations</i></p>
Between Threshold 2 and 3	<p>(i) An invitation to Tender via the Council's Electronic Tendering System.</p> <p>(ii) Alternatively, the procurement is carried out under the Rules of an appropriate Framework.</p>	<p>(i) Open advertisement on the Council's Electronic Tendering System and in Contracts Finder.</p> <p>(ii) In accordance with the Rules of the Framework.</p>	<p><i>See Rule 21.</i></p> <p><i>Procurement processes requiring Invitations to Tender</i></p>
At and above Threshold 3	<p>(i) Invitation to Tender as per the Relevant Legislation and via the Council's Electronic Tendering System.</p> <p>(ii) Alternatively, the procurement is carried out under the Rules of an appropriate framework.</p>	<p>(i) Open advertisement on the Council's Electronic Tendering System, in Contracts Finder and in the UK.</p> <p>(ii) In accordance with the Rules of the Framework.</p>	<p><i>See Rule 22.</i></p> <p><i>Procurement processes over the UK Threshold</i></p>

## **B. Contracts for Works**

- 15.3 For works contracts, the Council utilises several lists of approved contractors (Approved Select Lists) for example the Devon and Somerset Select List of Approved Contractors (SLOAC) and Construction Line. These Approved Select Lists provide access to pre-qualified contractors who have registered their interest in working in the Somerset West and Taunton area.
- 15.4 Use of an Approved Select List (ASL) for works contracts below UK thresholds is encouraged but it is not mandated. Where it is used, there are different Rules

associated with the award of works contracts, these are detailed in the Table 2 below.

**Table 2**

Threshold	Value
1	£15,000
2	£150,000
3	UK Works Threshold (See table 3)

Threshold	Non-Select List Rules	Select List Rules	Process Guidance
Up to Threshold 1	<p>(i) The Officer shall seek sufficient competition to demonstrate that Best Value has been achieved.</p> <p>(ii) Alternatively, the procurement is carried out under the Rules of an appropriate Framework.</p> <p>Written quotation(s)* must be received. One quotation may be sufficient if Best Value is evidenced.</p>	<p>(i) A minimum of 2 quotations is invited with at least 1 randomly selected by Approved Select List Software.</p> <p>The Officer must be satisfied that Best Value has been achieved.</p> <p>Written quotations must be received.</p>	<p>See Rule 19.</p> <p><i>Low Value Procurement Process</i></p>
Between Threshold 1 and 2	<p>(i) A minimum of 3 quotes received via the Council's Electronic Tendering System.</p> <p>(ii) Alternatively, the procurement is carried out under the Rules of an appropriate Framework.</p>	<p>A minimum of 3 quotes invited, at least 2 randomly selected by the Approved Select List Software.</p>	<p>See Rule 20</p> <p><i>Quotations</i></p>
Between Threshold 2 and 3	<p>(i) An Open Tender is advertised via the Supplying the Southwest Portal.</p> <p>(ii) Alternatively, the procurement is carried out under the Rules of an appropriate Framework.</p>	<p>For values between £150,000 and £250,000:</p> <p>A minimum of 5 invitations and 3 confirmed expressions of interest. At least 3 invitations being randomly selected by the Approved Select List Software.</p> <p>For values between £250,000 and UK Works threshold:</p> <p>All relevant registered suppliers on the Approved Select List invited to register interest.</p>	<p>See Rule 21</p> <p><i>Procurement processes requiring Invitations to Tender</i></p>

Threshold	Non-Select List Rules	Select List Rules	Process Guidance
At or above Threshold 3	(i) Invitation to Tender as per the Relevant Legislation and via the Council's Electronic Tendering System; or  (ii) Alternatively, the procurement is carried out under the Rules of an appropriate Framework.	Not Applicable above UK Works Threshold	See Rule 22. Procurement processes over <i>the UK Threshold</i> .

**Table 3**

UK Thresholds (From 1<sup>st</sup> January 2021)

	Threshold
Supply and services contracts (local authorities, universities, academies, emergency services)	<b>£189,330</b>
Works or services concession contracts (all)	<b>£4,733,252</b>

## 16 The Procurement Sourcing Strategy

- 16.1 For procurement processes with a Total Contract Value more than the UK Threshold the Procuring Officer must seek approval from the Strategic Procurement Specialist or Assistant Director Finance (S151 Officer) prior to procurement and must consult with the Procurement Team to develop a procurement sourcing strategy.

## 17 Specification

- 17.1 Each procurement must be appropriately scoped and specified by either the nominated Contract or Project Manager, and the Selection and Award criteria must be formulated in advance of inviting expressions of interest to ensure the Council obtains value for money and the procurement process is transparent.
- 17.2 All works, goods and services must be scoped and specified by reference to published UK national standards. The specification must be a clear and comprehensive description of the Council's requirements and should incorporate measurable and, so far as is possible, objective quality and performance criteria to enable a proper assessment to be made of the supplier's ability to meet the Council's requirements.

## 18 Standard Procurement Documents

- 18.1 The Procuring Officer must use standard Procurement Documents (obtained from the Procurement Team) or relevant Framework Agreement or Dynamic Purchasing System documents.
- 18.2 Where it is necessary to vary the documents at 18.1, the Procuring Officer must, in the first instance, consult with the Procurement Team.

## 19 Procurement Processes

- 19.1 19.1 The following is applicable to each process:
- a) Where there is a suitable Framework Agreement, Dynamic Purchasing System or Corporate Contractual Arrangement approved by the Strategic Procurement Specialist, that Framework Agreement, Dynamic Purchasing System or Corporate Contractual Arrangement shall be used, provided that such a course of action achieves the principles of Best Value.
  - b) Where acceptance of quote or tender is made by the issuing of a Purchasing Order, the Purchase Order must refer to the Council's Standard Terms and Conditions of Contract, except for where the complexity of the contract requires more bespoke terms, in which case the Purchase Order shall make separate reference to these.
  - c) Unless otherwise specified in these Rules, unsuccessful candidates shall be notified and, at their request, shall be given the reason why they were unsuccessful without breaching the commercial confidentiality of other candidates.
- 19.2 In all cases other than Lower Value Purchases, the Council's Standard Procurement Documents must be used.

### Process for Lower Value Purchases

- 19.3 For contracts up to and including the Total Contract Value of £5,000 (goods and services), or £15,000 (works), the Procuring Officer is required to achieve a minimum of one written quotation to demonstrate compliance.
- 19.4 Compliance with the principle of Best Value will be demonstrated by evidence of the application of commercial considerations in the decision and a demonstrable conclusion that a better value outcome is unlikely to be achieved without a disproportionate application of further resource input.
- 19.5 Where compliance with the principle of Best Value cannot be demonstrated by seeking one written quotation, the Procuring Officer shall seek more than one quote.
- 19.6 The Procuring Officer may choose to either:
- a) Place an order with the selected supplier based on a pre-quoted price (such as in a supplier's catalogue), having satisfied themselves that the price to be paid represents Best Value; or
  - b) Select a minimum of one potential candidate to be invited to submit a quotation.
- 19.7 Where the Procuring Officer is unable to select a potential candidate and/or demonstrate Best Value, the procedure set out at Rule 20 (Quotations) must be followed.
- 19.8 Acceptance will be notified to the successful supplier by issue of a Purchase Order.

19.9 The Procuring Officer must document their decision-making process to demonstrate compliance with this section.

## **20 Process Requiring Quotations**

20.1 For contracts with a Total Contract Value of more than £5,000 (£15,000 for works) but less than £50,000 (£150,000 for Works), the Procuring Officer is required to achieve a minimum of 3 quotations via the ProContract Procurement Portal.

20.2 Compliance with the principle of Best Value will be demonstrated by evidence of the application of commercial considerations in the decision and a demonstrable conclusion that a better value outcome is unlikely to be achieved without a disproportionate application of further resource input.

20.3 Where compliance with the principle of Best Value cannot be demonstrated by seeking 3 written quotations, the Procuring Officer shall seek more than 3 quotations and, if considered necessary, run an open competition.

20.4 In respect of works contracts only, Procuring Officers are required to consider the use of an Approved Supplier List (ASL) in the first instance and to justify, and to record, the reasons for non-use.

20.5 Competitive quotations must be sought inviting at least 3 candidates registered on the Procurement Portal, or the relevant ASL.

20.6 If no suitable candidates can be found on the Procurement Portal, the Procuring Officer may also place an open advertisement in the Procurement Portal and in Contracts Finder.

20.7 If the Procuring Officer cannot obtain 3 quotations, the Procuring Officer must satisfy themselves that they have achieved Best Value and must seek approval from the Strategic Procurement Specialist prior to proceeding with the procurement. Justification and approval to proceed must be recorded and available for inspection.

20.8 Acceptance will be notified to the successful supplier by issue of a Purchase Order and Contract.

20.9 Where the Goods, Services or Works will be delivered or utilised over a period as opposed to a single one-off supply a Contract Award Record must be made on the Council's Contracts Register.

## **21 Procurement Processes Requiring Invitations to Tender**

21.1 For contracts with a Total Contract Value of £50,000 (£150,000 for Works) but less than the UK Threshold, the Procuring Officer must seek the advice of a procurement Officer.

21.2 The Procuring Officer is required to invite tenders from all qualified candidates by advertising the opportunity via the Procurement Portal and in Contracts Finder. Where an Approved Selection List is used the Procuring Officer must obtain at least 3 confirmed expressions of interest.

21.3 An Invitation to Tender shall be sent to all parties who have expressed an interest.

- 21.4 The successful supplier and unsuccessful candidates shall be notified of the outcome by issue of a letter sent electronically via the Procurement Portal.
- 21.5 A Purchase Order must be raised.
- 21.6 A Contract Award Record must be made on the Council's Contracts Register, and in Contracts Finder.

## **22 Procurement Processes for Contracts of a Value Over the UK Threshold**

- 22.1 The procuring officer must obtain approval from the Strategic Procurement Specialist or Assistant Director Finance (S151 Officer) before beginning a procurement exercise in respect of any contract at and above the relevant UK Threshold.
- 22.2 For contracts at and above the relevant UK Threshold, the Procuring Officer is required to invite tenders from any and all qualified candidates by advertising the opportunity via the Procurement Portal, in Contracts Finder and publish the opportunity on the UK Find a Tender site.
- 22.3 A statutory minimum period of advertising will apply which will vary depending on the procedure used but will not be less than 10 working days.
- 22.4 In most cases, the Open Procedure, Restricted Procedure or Competitive Procedure with Negotiation shall be used, however, the advice on the appropriate route to procurement must be sought from the Strategic Procurement Specialist in conjunction with, where applicable SHAPE Legal Partnership.
- 22.5 The successful supplier and unsuccessful candidates shall be notified in accordance with the Relevant Legislation and a Standstill Period shall be observed.
- 22.6 A Purchase Order must be raised.
- 22.7 A Contract Award Record must be made on the Council's Contracts Register, in Contracts Finder and in Find a Tender (or elsewhere in accordance with UK Legislation).

## **23 Confidentiality of Tenders and Quotations**

- 23.1 All matters concerned with quotations and tenders must be treated as confidential, and any information, discussion or correspondence entered should be confined to those officers of, or consultants to, the Council who are directly concerned.
- 23.2 The amount or value of any tender or quotation which is to be considered by the Council or Executive shall not be made public before the meeting and shall be omitted from any written report on the subject which may be circulated before the meeting unless the report is marked as confidential.

## **24 Submission, Receipt and Opening and Evaluation of Tenders**

- 24.1 The submission, receipt, opening and evaluation of tenders is subject to specified procedures (based on the Total Contract Value) and any Officer involved in a procurement that is likely to require tenders must seek guidance from the Strategic



Procurement Specialist. As a minimum requirement:

- a) All Contracts at and above the Total Contract Value of £50,000 (£150,000 for Works) shall be submitted electronically through ProContract Procurement Portal.
- b) Tenders received after the stated date and time shall not be accepted under any circumstances. For the purposes of these Rules the time will be deemed to be at the first stroke, e.g. noon shall be 12:00:00hrs.
- c) Submissions shall be verified and opened by authorised Procurement officer on the Procurement Portal.

## **25 Contract Selection Criteria and Award Criteria**

- 25.1 The Selection Questionnaire shall be used to assess a candidate's ability to meet the Council's requirements or minimum standards of suitability, capability, legal status, or financial standing.
- 25.2 For all Contracts over the Total Value of £50,000 the Officer shall include the Selection Questionnaire within the Procurement Documents. For works contracts the Procuring Officer should seek guidance from the Strategic Procurement Specialist and Procurement Team in respect of the correct use of selection Questionnaires.
- 25.3 The Award Criteria shall be used to assess a candidate's ability to deliver the Council's requirements under the Contract, achieving Best Value.
- 25.4 The Contract shall be awarded to the candidate whose tender best meets the Award Criteria (as set out in the Procurement Documents).
- 25.5 The Procuring Officer shall consult with the Procurement Team for guidance on the Selection and Award criteria prior to issuing the Procurement Documents.

## **26 Intention to Award a Contract**

- 26.1 For contracts with a Total Contract Value over the UK Threshold, procuring officers must allow candidates a mandatory minimum Standstill Period of 10 calendar days before entering into a contractually binding agreement with the successful supplier(s). It is most important that any communication with the preferred candidate(s) does not constitute a Contract award, conditional or otherwise.
- 26.2 Following any Standstill Period, if appropriate, an Award Notice must be placed by the authorised procurement officer on the appropriate contract finder publication.
- 26.3 All candidates must be simultaneously notified in writing of the award and all letters informing them of the outcome of the Tender must comply with the Relevant Legislation.
- 26.4 Should any further communication with the candidates be requested/required, advice should be sought by the Strategic Procurement Specialist and Procurement Team prior to any such communication.
- 26.5 Any complaints, correspondence threatening challenge or formal court proceedings challenging the decision must be immediately submitted to the

## 27 Authorisations

### Authority to Procure a Contract

- 27.1 A Director may authorise a procurement exercise in respect of contracts of any value if:
- The decision to procure a contract is not a Key Decision.
  - The procurement relates to their Service.
  - In doing so they are acting in accordance with the Financial Procedure Rules.
  - Where the contract value is above the relevant UK Threshold the approval of the Assistant Director Finance (S151 Officer) or Strategic Procurement Specialist must be obtained.

### Authority to Award or Amend a Contract

- 27.2 Approval to award or amend a contract, Framework Agreement or Dynamic Purchasing System can only be given as set out in Table 4.
- 27.3 In respect of contract amendments, the Total Contract Value is the total value of the contract plus the value of any proposed amendment.
- 27.4 The Director or Assistant Director for the service responsible for the procurement will determine what a politically sensitive contract is for the purposes of Table 4. The Director or Assistant Director should seek advice from the Monitoring Officer should they need guidance.

### Authority to Sign a Contract

- 27.5 The Chief Executive, Section 151 Officer and Monitoring Officer may sign any contract.
- 27.6 A Director may sign contracts in respect of procurement within their services.
- 27.7 Directors may delegate their Authority to sign to an Officer, however this must be in accordance with the requirement at Finance Procedure Rule 3.1.31 to maintain a register of approved authorisers.
- 27.8 As well as signing, contracts may also require sealing under Contract Procedure Rule 29.

**Table 4**

Total Contract Value	Approval to Award	Approval to sign Contracts
Contracts <u>of any value</u> involving: Significant risk, Significant externalisation of services Politically sensitive issues.	Key Decision to be made by the Executive.	Chief Executive, Director, Assistant Director, Section 151 Officer, Monitoring Officer

<b>Total Contract Value</b>		<b>Approval to Award</b>	<b>Approval to sign Contracts</b>
Over £500,000		Key Decision to be made by the Executive, Leader or Portfolio Holder.	Chief Executive, Director, Section 151 Officer, Monitoring Officer
Over Threshold 3 and less than £500,000		Chief Executive, Director, Assistant Director, or the Section 151 Officer	Chief Executive, Director, Assistant Director, Section 151 Officer, or Monitoring Officer
Goods and Services: Over £50,000 but less than Threshold 3	Works: Over £150,000 but less than Threshold 3	Strategic Procurement Specialist, K-grade Approved Procurement Practitioner (within Service).	Chief Executive, Director, Assistant Director, Section 151 Officer, Monitoring Officer
Goods and Services: Up to and including £50,000	Works: Up to and including £150,000	Grade H Approved Procurement Practitioner (within Service).	Chief Executive, Director, Assistant Director, Section 151 Officer, Monitoring Officer.
Goods and Services: Up to and including £5,000	Works: Up to and including £15,000	Grade F Approved Procurement Practitioner (within Service).	Chief Executive, Director, Assistant Director, Service Manager, Lead Specialist (K grade), Section 151 Officer, Monitoring Officer.
Goods and Services: Up to £1,000	Works: Up to £1,000	Any Grade having completed the Procurement e-learning training	Chief Executive, Director, Assistant Director, Service Manager, Lead Specialist (K grade), Section 151 Officer, Monitoring Officer.

## 28 Further Authorisation for Advance Payments

28.1 Contracts requiring payment in advance must be authorised in accordance with the Financial Procedure Rules. In particular:

- a) Payments in advance more than £5,000 must be authorised by a Finance Specialist.
- b) Payments in advance more than £50,000 must be authorised by the Section 151 Officer.

## **29 Deeds, Sealing and Signing of Contracts**

- 29.1 A Contract must be sealed with the common seal of the Council where:
- a) The Council may wish to enforce the contract more than 6 years after its end (e.g. construction works); or,
  - b) The price paid or received under the contract is a nominal price and does not reflect the value of the goods, services or works; or,
  - c) The Total Contract Value is at and above £500,000.
- 29.2 Before a contract can be sealed by the Council, the Procuring Officer must provide the relevant Authority to award in writing from the appropriate decision maker.

## **30 Contracts Register**

- 30.1 All contracts having a value or estimated value of £5,000 or more must be entered in the Council's Contracts Register, which will be monitored by the Strategic Procurement Specialist and Procurement Team.
- 30.2 The Procuring Officer shall ensure that original signed copies of the contract are stored in accordance with the Council's retention policy.
- 30.3 The Procuring Officer must keep and maintain records in respect of each Tender and Contract (such records should include the materials pertaining to all stages of the procurement cycle).

## **31 Contract Documents and Letters of Intent**

- 31.1 Wherever practicable, work under a contract must not start until the contract documents and all other procedures have been completed to the satisfaction of the relevant Director or, in the case of a procurement valued at £100,000 or more, the Director and Strategic Procurement Specialist. A letter of intent must not be issued unless approved by the Director or Assistant Director Finance (S151 Officer).

## **32 Variations and Extensions**

- 32.1 Variations must not exceed the scope, financial value, or duration of the advertised contract.
- 32.2 Where relevant Officer considers that a proposed variation may materially change or exceed the specification, price or duration of a contract, advice must be obtained from the Strategic Procurement Specialist.
- 32.3 Variations to contracts must be approved and signed by the relevant officers in accordance with Table 4 at Rule 27.
- 32.4 Extensions of contracts may only be made where:

- a) There is budgetary provision.
- b) Best Value can be clearly demonstrated, and that the extension will not contravene any legal requirement.
- c) The extension is within the scope (description of Goods, Services or Works, duration, and Total Value) of the original Contract

And for Contracts below the UK Threshold:

- a) There is a provision stipulated in the original contract for an extension.
- b) The extension does not cause the Total Contract Value to exceed the relevant UK Threshold.

- 32.5 For contracts at or over the UK Threshold, the original Contract Notice advertised, and the contract permits the extension.
- 32.6 Where the Officer responsible considers that a proposed extension may materially change or exceed the specification, price or duration of a contract, Authority for the extension must be obtained from the Assistant Director or a Director for the Service to which the procurement relates.
- 32.7 Extensions to contracts must be approved and signed by the relevant officers in accordance with the approval levels set out in Table 4 in section 28.
- 32.8 For contracts with a Total Contract Value exceeding the UK Threshold, any variation or extension to a Contract which in aggregate results in additional costs exceeding 10% of the original contract value or £75,000 (whichever is the greater) shall be subject to the prior approval of the Director for the service area to which the procurement relates and the Monitoring Officer.
- 32.9 For contracts with a Total Contract Value exceeding the UK Threshold, any variation or extension to a contract which in aggregate results in:
- a) Additional costs exceeding 15% of the original contract value or £150,000 (whichever is the greater).
  - b) A significant delay in the time for completion. Or,
  - c) Significant risks not initially identified, shall be reported at the earliest opportunity to the Section 151 Officer and shall be subject to their approval in conjunction with an appropriately empowered Officer.
- 32.10 The Officer responsible for the amendment to the contract must ensure that all variations and/or extensions, are stored with the original signed and dated contract.

### **33 Contract Management and Contract Expiry**

- 33.1 A contract manager must be appointed for all new contracts and named in the Procurement Documents and contract.
- 33.2 All contracts with a Total Contract Value over the relevant UK Threshold must have in place:
- a) A contract operation manual and plan.

- b) A risk register, and risk and mitigation strategy.
- c) A contingency plan.
- d) An exit management plan, together with appropriate contract clauses, to minimise the potential impact on the Council's service delivery, because of the expiry, or early termination, of the contract.

33.3 For any contract with a total value below the relevant UK Threshold, where supplier failure would have an adverse impact on the Council's service delivery the requirements of 33.2.c and 33.2.d apply equally.

## **34 Further Advice**

34.1 Should the procurement or management of a contract involve the following, or should the Procuring Officer have any queries regarding the following, the Officer should seek the advice of the Strategic Procurement Specialist or Legal Services as appropriate:

- a) Confidentiality of sensitive commercial information.
- b) The organisation of Presentations, Demonstrations, Site visits and interviews.
- c) Abnormally low bids.
- d) Contracts exceeding the written estimate.
- e) Clarification of tenders from candidates.
- f) Post tender negotiation and best and final offers.
- g) Electronic auctions.
- h) Early termination of a contract.
- i) Assignment or novation of a contract.
- j) Subsidy.
- k) Development agreements.

## **35 Amendments to These Contract Procedure Rules**

35.1 The Monitoring Officer and Executive shall be empowered to review the Contract Procedure Rules from time to time and as often as may be necessary in consultation with the Assistant Director Finance (S151 Officer) and Strategic Procurement Specialist and Portfolio Holder responsible for Finance and Procurement and, following formal approval by Full Council, shall publish details of any amendments.

## **Somerset West and Taunton Council Petition Scheme**

### **Petitions**

The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the council will receive an acknowledgement upon receipt of the petition.

We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition. Petitions can be posted to us or handed into reception at the Council offices.

Petitions can also be presented during public question time at most public meetings of the Council or any of its Committees, providing the subject of the petition is within their remit.

Paper petitions can be sent to:

**Governance Team**  
**Somerset West and Taunton Council**

X

X

### **What are the guidelines for submitting a petition?**

Petitions submitted to the council must include:

- a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the council to take;
- the name and address and signature of any person supporting the petition.

Petitions should be accompanied by contact details, including an address, for the petition organiser. The Council will contact the organiser to explain how we will respond to the petition, so it would be helpful to include telephone and email contact details as well.

The contact details of the petition organiser will not be placed on the website. If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.

## **What will the council do when it receives my petition?**

An acknowledgement will be sent to the petitioner upon receipt of their petition. This will set out what we plan to do with the petition. We will provide a full written response to the petitioner within 20 working days of this acknowledgement being issued, if this isn't possible, we'll explain why it might take longer. The petition will also be shared with the local Councillor and the relevant Executive Member with responsibility for the service involved.

The acknowledgement will clarify what we plan to do with the petition and when the petitioner can expect to hear from us again. If we can do what the petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will then be closed. If the petition needs more investigation, we will tell you the steps we plan to take.

If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or is on a matter where there is already an existing right of appeal, other procedures apply.

We will not take action on any petition which we consider to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition.

The status details of a petition received will be published on our website, including the expected response date and if possible, all correspondence relating to the petition (all personal details will be removed).

When you sign an e-petition you can elect to receive this information by email. We will not send you anything which is not relevant to the e-petition you have signed.

## **How will the council respond to petitions?**

Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- taking the action requested in the petition
- referring the petition to an appropriate decision maker\* for response
- undertaking research or holding an inquiry into the matter
- holding a public meeting with petitioners
- referring the petition for consideration by the council's Scrutiny Committee\*
- considering the petition at a Full Council\* meeting

\*The Executive is the main decision making body of the council and Executive members and the Leader of Council are responsible for the majority of the council's functions, supported by the Chief Executive and other council employees. The Scrutiny Committees of the council do not make decisions, but seeks to influence decision-makers.



The full Council has four scheduled public meetings each year. Its main purpose is to agree a budget and policy framework within which the Leader of Council and their Executive operate and council services are provided.

If your petition is about something over which the council has no direct control (for example the local railway or hospital) we will consider making representations on behalf of the community to the relevant body. The council works with a large number of local partners and where possible, will work with them to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with council policy), then we will set out the reasons for this to you. You can find more information on the services for which the council is responsible here [www.somersetwestandtaunton.gov.uk](http://www.somersetwestandtaunton.gov.uk)

If your petition is about something that a different council is responsible for we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to another council and informing the petitioner of this as part of the initial acknowledgement but could involve other steps. In any event we will always notify you of the action we have taken.

## **E-petitions**

The council welcomes e-petitions which can be submitted through a number of free online tools such as [www.change.org/start-a-petition](http://www.change.org/start-a-petition) and [www.ipetitions.com](http://www.ipetitions.com). E-petitions must follow the same guidelines as paper. Most petitions run for six months, but you can choose a shorter or longer timeframe, up to a maximum of 12 months. Guidance on how to use the free online tools are included on the respective websites.

When you create an e-petition, you may want to include an email address so that we are notified that a petition is live and so that you can easily send it to us for action once closed. Is so, please use the governance email address.

When your e-petition has closed for signature and is submitted through our governance email address, the team will ensure that it is forwarded to an appropriate decision maker. In the same way as a paper petition, you will receive an acknowledgement upon receipt. If you would like to present your e-petition to a meeting of the council, please contact us within 10 working days of receipt of the acknowledgement.

The acknowledgment and response will be published on the Council website.

## **What can I do if I feel my petition has not been dealt with properly?**

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the council's two Scrutiny Committee's review the steps that the council has taken in response to your petition. It is helpful to everyone, and

can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the council's response is not considered to be adequate.

The Scrutiny Committee(s) will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. If your petition includes a request for a senior council officer to give evidence at a public meeting and has at least 800 signatures (0.5% of the local population) a specific senior officer or Executive member (as decided by the Committee) will be required to attend the meeting and participate.

Should the committee determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the council Executive and arranging for the matter to be considered at a meeting of the Full Council. Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on our website.

## **Full council debates**

If a petition contains more than 1600 signatures (1% of the local population) the petition organiser can request a further escalation to a meeting of the County Council.

This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. The council will normally consider the petition at its next meeting. The petition organiser will be given three minutes to present the petition at the meeting and the petition will then be discussed by councillors, normally for a maximum of 15 minutes. The Chair of Council will decide whether the petition organiser may make a supplementary statement during the debate.

The council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter. Where the issue is one on which the Executive are required to make the final decision, the council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

## **More information**

For more information about the council's petition scheme or to present your petition, please contact:

Governance Team

X

Email: x  
Tel: x



# Articles of the Constitution

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# **1 Article 1 – The Constitution**

## **1.1 Powers of the Council**

1.1.1 The Council will exercise all its powers and duties in accordance with the law and this Constitution.

## **1.2 The Constitution**

1.2.1 This Constitution, and all its appendices, is the Constitution of Somerset West and Taunton Council.

## **1.3 Purpose of the Constitution**

1.3.1 The purpose of the Constitution is to:

- enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- support the active involvement of citizens in the process of local authority decision-making;
- help Councillors represent their constituents more effectively;
- enable decisions to be taken efficiently and effectively;
- create a powerful and effective means of holding decision-makers to public account;
- ensure that no one will review or scrutinise a decision in which they were directly involved;
- ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions;
- provide a means of improving the delivery of services to the community.

## **1.4 Interpretation and Review of the Constitution**

1.4.1 Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above. The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

## **2 Article 2 – Members of the Council**

### **2.1 Composition and Eligibility**

#### **(a) Composition**

2.1.1 The Council will comprise of 59 Councillors. One or more Councillors will be elected by the voters of each ward in accordance with a scheme approved by the Secretary of State.

#### **(b) Eligibility**

2.1.2 Any person over 18 who meets the eligibility requirements under Section 79 of the Local Government Act 1972 may stand for election as a Councillor.

### **2.2 Election and Terms of Councillors**

2.2.1 Unless otherwise prescribed by Parliament, the regular election of Councillors will take place every 4 years on the first Thursday in May. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

### **2.3 Roles and functions of all Councillors**

#### **(a) Key Roles**

2.3.1 All Councillors will:

- a) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- b) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;

- c) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- d) balance different interests identified within the ward or electoral division and represent the ward or electoral division as a whole;
- e) be involved in decision-making, including any scheme of individual decision-making established by the Council or Leader;
- f) be available to represent the Council on other bodies;
- g) maintain the highest standards of conduct and ethics, including compliance with the Councillor Code of Conduct.

### **(b) Rights and Duties**

#### 2.3.2 All Councillors will:

- a) have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law;
- b) not disclose to anyone information which is confidential or exempt without the consent of the Council, or divulge information given in confidence to anyone other than a Councillor, Officer or third party entitled by law to know it.

2.3.3 For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules.

## **2.4 Election of the Chair**

2.4.1 The Chair will be elected by the Councillors at the Annual Council meeting. The term of office for the Chair will be one year. The Councillor will take office immediately upon her/his declaration of acceptance of office of Chair and will continue in office until her/his successor is elected, unless the Councillor ceases to be Chair.

## **2.5 Conduct and Disqualification**

2.5.1 Councillors will at all times observe the Councillors Code of Conduct and the



Protocol on Councillor/Officer Relations.

2.5.2 Councillors are subject to section 85 of the Local Government Act 1972 and therefore any Councillors who fails to attend any meeting of the Council or of any committee, joint committee or sub-committee of which they are a member for more than six months, unless the failure to attend was due to some reason approved by the Council, shall cease to be a Councillor of the Somerset West and Taunton Council.

## **2.6 Allowances**

2.6.1 Councillors are entitled to receive allowances in accordance with the Councillors' Allowances Scheme.

# **3 Article 3 – Citizens and the Council**

## **3.1 Citizens' Rights**

3.1.1 Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules.

### **(a) Voting and Petitions**

3.1.2 Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for a directly elected Mayor form of executive.

3.1.3 As well as residents those who work or study in the district may present petitions on other matters in accordance with the Council's Petitions Scheme.

### **(b) Information**

3.1.3 Citizens have the right to:

- a) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting, or part of it, is therefore held in private;
- b) attend meetings of the Executive when key decisions are being considered;
- c) find out from the Forward Plan what key decisions will be taken by the

Executive and when. The Forward Plan is available for inspection at the Council's reception and on its website; see reports and background papers, and any records of decisions made by the Council and the Executive;

- d) inspect the Council's accounts and make their views known to the external auditor;
- e) take part in public consultation processes commenced by the Council.

### **(c) Participation**

3.1.4 Citizens have the right to participate in Council, Executive and Committee meetings (in accordance with procedures set out in this Constitution) and may contribute to investigations by the Scrutiny Committee(s).

### **(d) Complaints**

3.1.5 Citizens have the right to complain to:

- a) the Council itself under its complaints scheme;
- b) the Local Government and Social Care Ombudsman after using the Council's own complaints scheme;
- c) the Council's Monitoring Officer about a breach of the Councillor Code of Conduct.

## **3.2 Citizens' Responsibilities**

3.2.1 When participating in meetings, or in dealings with the Council, citizens must not be disruptive, violent, abusive or threatening to Councillors or Officers and must not wilfully damage property owned by the Council, Councillors or Officers.

## **4 Article 4 – The Full Council**

### **4.1 Functions of the Full Council**

4.1.1 Only the Council will exercise the following functions:

- a) adopting and changing the Constitution;

- b) approving or adopting the Policy Framework, the Budget and any application to the Secretary of State in respect of any housing land transfer;
- c) subject to the urgency procedure contained in the Access to Information Procedure Rules, making decisions about any matter in the discharge of an executive function which is covered by the Policy Framework or the Budget where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget;
- d) appointing the Leader of the Council;
- e) exercising powers to remove the Leader from office before completion of his/her term of office;
- f) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- g) appointing representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Council;
- h) adopting and varying a Councillors' Allowances Scheme;
- i) changing the name of the area/council,
- j) conferring the title of honorary alderman or honorary alderwoman, or awarding the Freedom of the Council Area under Sections 248 and 249 of the Local Government Act 1972;
- k) confirming the appointment of the Head of Paid Service;
- l) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- m) making a request under Section 14A(1) (requests for single-member electoral areas) of the Local Government Act 1992 for single-member electoral areas;
- n) the passing of resolutions to change a scheme for elections under the Local Government and Public Involvement in Health 2007 Act (Subsections 32(1), 37(1) or 39(1));

- o) the making of orders giving effect to recommendations made in a community governance review under the Local Government and Public Involvement in Health 2007 Act (Section 86);
- p) the duty to make a change in governance arrangements under the Local Government and Public Involvement in Health 2007 Act (Schedule 4 paragraphs 3 and 8);
- q) a decision to accept an invitation to become an 'opted in' Authority, for the purposes of appointing external auditors under the provisions of the Local Audit (Appointing Person) Regulations 2015;
- r) making or revising Council Tax Reductions Scheme under Section 13(A)(2) of the Local Government Finance Act 1992 as amended by the Localism Act 2011;
- s) approving supplementary budget allocations (whether revenue or capital budgets) at or above £250,000.00.
- t) Electing the Chair of the Council and appointing the Vice-Chair.
- u) Confirming the appointment of the Section 151 Officer and Monitoring Officer.
- v) Designating an officer to be the Returning Officer and Electoral Registration Officer.
- w) consider recommendations from the Executive (which will come from Hinkley Point Planning Obligations Board) to allocate contributions for projects seeking funding of over £250,000.
- x) consider recommendations from the Executive (which have not come from Hinkley Point Planning Obligations Board) to allocate contributions for projects seeking funding of over £250,000.
- y) consider recommendations from the Executive (which have come from the internal Planning Obligations Group (to allocate contributions for projects seeking funding of over £250,000))
- z) appoint the Council's representatives to the Hinkley Point Planning

## Obligations Board

- aa) appoint the Council's representative on the Somerset Community Foundation Panel who will consider bids to the EDF Energy Community Fund
- bb) all other matters which, by law, must be reserved to Full Council.

4.1.2 The Council will also exercise the following additional functions which may be discharged by Full Council itself or delegated to a committee or sub-committee of Councillors, an officer of the Council or another authority:

- a) all responsibilities of the Council (as provided by the Local Government Act 2000 and guidance published by the Secretary of State) which must be undertaken by the Council rather than the Executive (see Responsibility for Functions, Table 1); and,
- b) all local choice functions (as provided by the Local Government Act 2000 and guidance published by the Secretary of State) which the Council decides should be undertaken by itself rather than the Executive (see Responsibility for Functions, Table 2).

## 4.2 Meanings

### (a) Policy Framework

4.2.1 The Policy Framework means the following plans and strategies required by law:

- a) Crime and Disorder Reduction Strategy;
- b) Development Plan documents;
- c) Licensing Authority Policy Statement;
- d) Plans and alterations that together comprise the Development Plan.

4.2.2 The Council has also decided to include the following in the Policy Framework:

- a) Corporate Plan;

- b) Housing Investment Programme;
- c) Asset Management Strategy;
- d) Community Strategy.

4.2.3 The Council has the power to vary the Policy Framework from time to time, provided it does so in accordance with any statutory guidance.

**(b) Budget**

- i. The Budget includes the allocation of financial resources to different services and projects, proposed reserves and contingency funds, the council tax base, setting the council tax, setting housing rents, decisions' relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

**(c) Housing Land Transfer**

- ii. Housing land transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

**4.3 Council Meetings**

- iii. There are four types of Council meeting:
  - 1. the Annual Meeting
  - 2. Ordinary Meetings
  - 3. Extraordinary Meetings
  - 4. Special Meetings

and they will be conducted in accordance with the Council Procedure Rules of this Constitution as may be adopted and amended from time to time.

## **4.4 Responsibility for Functions**

4.4.1 The Council will maintain and publish information on the responsibilities for the Council's functions, which are not the responsibility of the Executive as set out in the Constitution at 'Responsibility for Functions'.

## **5 Article 5 – The Chair**

### **5.1 Role and Functions of the Chair of the Council**

5.1.1 The Chair will be elected by the Council annually and will have the following responsibilities when chairing meetings of the Council to:

- a) uphold and promote the purposes of the Constitution and to interpret the Constitution when necessary;
- b) preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- c) ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Councillors who are not part of the Executive are able to hold the Leader and other members of the Executive and committee chairs, including chairs of Scrutiny Committee(s), to account;
- d) promote public involvement in the Council's activities;
- e) be the conscience of the Council;
- f) oversee the implementation of any dispute resolution procedures established by the Council and included in the rules of procedure contained in this Constitution.

## **6 Article 6 – Scrutiny Committee(s)**

### **6.1 Terms of Reference**

6.1.1 Scrutiny refers to all the Scrutiny functions within the Council and is used in this Constitution as a collective term for all individual Scrutiny Committees, sub-committees and scrutiny panels and all references to Scrutiny are to be interpreted accordingly, except where otherwise expressly stated.

6.1.2 The Council will appoint at least one Scrutiny Committee to discharge the functions conferred by section 21 of the Local Government Act 2000. Details of the Committee(s), as amended from time to time, are included in the Scrutiny Procedure Rules. Specific terms of reference for the Scrutiny Committee(s) are found in this Constitution.

6.1.3 The Council has a Corporate Scrutiny Committee and Community Scrutiny Committee (please refer to the Scrutiny Committees – Terms of Reference for more information).

## **6.2 General role**

6.2.1 Within their terms of reference, Scrutiny Committee(s) will:

- a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- b) review and/or scrutinise the performance of external bodies subject to scrutiny by the Council;
- c) in accordance with their remit and terms of reference, make reports and/or recommendations to the full Council and/or the Executive and/or any committee or joint committee in connection with the discharge of any functions;
- d) consider any matter affecting the area or its inhabitants;
- e) exercise the right to Call-In, for reconsideration, decisions made but not yet implemented by the Executive and/or any committee (where exercising Executive functions), as well as pre- scrutinise any proposed decisions published in the Forward Plan. The procedure to be followed when the right to Call-In is exercised is included in the Procedure Rules of this Constitution;



- f) create time-limited panels to consider specific issues.

## **6.3 Specific Functions**

### **(a) Policy Development and Review**

#### 6.3.1 Scrutiny Committee(s) may:

- a) assist the Council and the Executive in the development of its Budget and Policy Framework by in-depth analysis of policy issues;
- b) conduct research, community and other consultation in the analysis of policy issues and possible options;
- c) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- d) question members of the Executive and/or committees and Chief Officers about their views on issues and proposals affecting the area;
- e) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

### **(b) Scrutiny**

#### 6.3.2 Scrutiny Committee(s) may:

- a) review and scrutinise the decisions made by and the performance of the Executive and/or committees and Council Officers both in relation to individual decisions and over time;
- b) review and scrutinise the Council's performance in relation to its policy objectives, performance targets and/or particular service areas;
- c) question members of the Executive, committees and Chief Officers and Officers with management responsibilities about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;

- d) make recommendations to the Executive, appropriate committee, officer and the Full Council arising from the outcome of the scrutiny process;
- e) review and scrutinise the performance of other public bodies in the area and call for reports from them and attendance of appropriate representatives to address the Scrutiny Committee(s) and local people about their activities and performance;
- f) question and gather evidence from any person (with their consent).

**c) Finance.**

6.3.3 Scrutiny Committee(s) may:

- A) exercise overall responsibility for the finances made available to them.
- B) scrutinise the overall Council Budget as part of its preparation.

**(d) Annual Report**

6.3.4 The Scrutiny Committee(s) must report annually to Council on their work.

## **6.4 Proceedings of Scrutiny Committees**

6.4.1 The Scrutiny Committee(s) will conduct their proceedings in accordance with the Scrutiny Procedure Rules of this Constitution.

## **7 Article 7 – The Executive (Leader and Executive)**

### **7.1 Role**

7.1.1 The Executive will carry out all of the local authority's functions which are not expressly reserved as the responsibility of any other part of the local authority, whether by law or under this Constitution.

### **7.2 Form and Composition**

7.2.1 The Council has adopted the Leader and Executive (England) model of executive.

7.2.2 The Executive will consist of the Council Leader together with an Executive

of at least 2 but not more than 9 other Councillors appointed by the Leader.

**(a) The Leader**

7.2.3 The Leader will be a Councillor elected by the Council at the Annual Council Meeting in the year of the Council elections. The Leader will hold office for the term of four years until the next post-election Annual Council Meeting, or unless:

- a) the Councillor resigns from the office; or
- b) the Councillor is suspended from being a Councillor under Part III of the Local Government Act 2000 (although the Councillor may resume office at the end of the period of suspension); or
- c) the Councillor is removed from office by resolution of the Council.

7.2.4 In the event of the office of Leader becoming vacant before expiration of their Term of Office, the Council will elect a new Council Leader at its next meeting or at a meeting called for that purpose. The new Leader will serve for the period of office remaining (i.e. until the next post-election Annual Council Meeting).

**(b) The Deputy Leader**

7.2.5 The Leader shall appoint an Executive Councillor to serve as Deputy Leader.

7.2.6 The Deputy Leader of the Council will hold office until the end of the term of office of the Leader unless:

- a) the Councillor resigns from the office; or
- b) the Councillor is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- c) the Councillor is no longer a Councillor; or
- d) the Councillor is removed from that office by the Leader

7.2.7 Where a vacancy occurs in the office of Deputy Leader, the Leader of the

Council must appoint another Executive Councillor to that role.

### **7.3 Other Executive Councillors**

7.3.1 The Leader must appoint between two and nine Executive Councillors including the Deputy Leader.

7.3.2 The Leader shall determine the terms of office of Executive Councillors, which shall be no longer than the end of the term of office of the Leader. An Executive Councillor shall cease to hold that office if:

- a) the Councillor resigns from office; or
- b) the Councillor is suspended from being a Councillor under Part III of the Local Government Act 2000 (although the Councillor may resume office at the end of the period of suspension); or
- c) the Councillor is no longer a Councillor; or
- d) the Councillor is removed from office by the Leader.

### **7.4 Proceedings of the Executive**

7.4.1 Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules of this Constitution.

### **7.5 Responsibility for Functions**

7.5.1 The Leader has responsibility for the exercise of all the functions of the Executive (executive functions) under this Constitution and in law.

7.5.2 The Leader may discharge any executive function or delegate their exercise to:

- a) the Executive as a whole (Leader and Executive),
- b) an individual Executive Councillor,
- c) a committee of the Executive,
- d) an officer,
- e) an area committee established under section 18 of the Local Government Act 2000,

- f) be exercised under joint arrangements
- g) Individual non-executive Councillors where a scheme under the Local Government and Public Involvement in Health Act 2007 has been established.

7.5.3 Those persons or bodies exercising executive functions may delegate those powers so far as allowed by law.

7.5.4 A list of responsibilities for Executive functions will be maintained by the Monitoring Officer and published on the Council's website.

## **8 Article 8 – Regulatory and Other Committees**

### **8.1 Regulatory and Other Committees**

8.1.1 The Council will appoint certain committees to deal with statutory or regulatory functions. Some committees may be set up as consultation or advisory forums (i.e. without decision-making powers). A list of these committees as amended or added to from time to time will be maintained by the Monitoring Officer.

### **8.2 Audit and Governance Committee and Standards Committee**

8.2.1 The Council will appoint one or more committees that between them will undertake (a) the role of an Audit and Governance Committee, (b) Standards Committee and (c) ensure compliance in decision-making in respect of the Council's political management arrangements and constitutional procedures. The latter role includes all parts of the Council that are responsible for making decisions including full Council, Executive, Officers under delegated authority, the Planning and Licensing Committees and other Council bodies, including joint bodies with other agencies and partnerships.

## **9 Article 9 – Ethical Standards Arrangements**

### **9.1 Establishment**

9.1.1 The Council will appoint a committee to ensure the Council meets its duty to promote and maintain high standards of conduct by Councillors and co-opted

Councillors of the authority under s.27 (1) of the Localism Act 2011, and to determine complaints and appeals under the Councillor Code of Conduct.

9.1.2 The Council has designated these functions to the Standards Committee.

**a) Independent Person**

9.1.3 The Council has made provision under s.7 of the Localism Act 2011 to appoint at least one independent person:

- whose views are to be sought and taken into account before decisions are made on an allegation about a Councillor's conduct;
- whose views may be sought by a Councillor or co-opted member of the authority if that person's behaviour is the subject of an allegation; and
- who will be invited to attend any panel meetings to determine the outcome of an investigation into an allegation about a Councillor's conduct or to appeal the outcome of a previous determination and, if present, may advise the panel and the Councillor who is the subject of the hearing or appeal.

9.1.4 A vacancy for an independent person must be sought by advertisement in such manner as the authority considers is likely to bring it to the attention of the public (s.28(8)(c)(i) Localism Act 2011).

9.1.5 The Council may only consider and approve candidates who have submitted to the authority an application to fill the vacancy (s.28(8)(c)(ii) Localism Act 2011);

9.1.6 Independent person appointments must be approved by a majority of the members of the Council (i.e. 30 Councillors) (s.28(8)(c)(iii) Localism Act 2011 – Appointments will be for a term of office determined by Full Council.

9.1.7 An independent person does not cease to be independent as a result of being paid any amounts by way of allowances or expenses in connection with performing the duties of the appointment.

9.1.8 A person is not independent if the person is

- a) a Councillor, co-opted Councillor or officer of the authority, or was a Councillor, co-opted Councillor or officer of the authority at any time during

- the 5 years ending with the appointment; or
- b) a relative (as defined in s28(8) Localism Act 2011), or close friend, of a Councillor, co-opted Councillor or officer of the authority.

## **10 Article 10 – Community Councils and Forums (AREA COMMITTEES UNDER SECTION 18 OF THE LOCAL GOVERNMENT ACT 2000)**

10.1 The Council may establish Community Councils and Forums in accordance with such determinations as it may later make.

## **11 Article 11 – Joint Arrangements and Partnerships**

### **11.1 Joint Arrangements**

11.1.1 The Council may establish joint arrangements with one or more local authority to exercise functions that are not Executive functions in any of the participating authorities. Such arrangements may involve the appointment of a joint committee with these other local authorities.

11.1.2 The Executive may establish joint arrangements with one or more local authority to exercise functions that are Executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.

11.1.3 Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations, as amended from time to time.

### **11.2 Access to Information**

11.2.1 The Access to Information Rules apply to joint arrangements.

11.2.2 If all the members of a joint committee are members of the Executive in each of the participating authorities, then the access to information regime for the joint committee is the same as that applied to the Executive.

11.2.3 If the joint committee contains members who are not on the Executive of

any participating authority, then the Access to Information Rules in Part V of the Local Government Act 1972 will apply.

### **11.3 Delegation To and From Other Local Authorities**

11.3.1 The Council may delegate non-Executive functions to another local authority or, in certain circumstances where permitted by law, to the Executive of another local authority.

11.3.2 The Executive may delegate Executive functions to another local authority or the Executive of another local authority.

11.3.3 The decision whether or not to accept such a delegation from another local authority shall be reserved to Council.

## **12 Article 12 – Officers**

### **12.1 Management Structure**

#### **(a) General**

12.1.1 The Full Council may engage such staff (referred to as Officers) as it considers necessary to carry out its functions.

#### **(b) Chief Officers and Heads of Functions/Directors**

12.1.2 The Chief Executive shall have the responsibility and the power to amend the portfolios of Chief Officers as he/she considers necessary to deliver the Council's functions, vision and priorities. Such changes shall be carried out in accordance with the relevant HR policies applicable. The Chief Executive shall consult the Executive before such changes and report them to Full Council as soon as practicable thereafter

#### **(c) Head of Paid Service, Monitoring Officer and Section 151 Officer**

12.1.3 Council officers are required to be appointed to these posts by law undertaking specified functions. The Council has designated the following posts as set out below.



<b>Post</b>	<b>Designation</b>
Chief Executive	Head of Paid Service
Governance Manager	Monitoring Officer
Strategic Finance Advisor and S151 Officer	Section 151 Officer

#### **(d) Structure**

12.1.4 The Head of Paid Service will maintain and publicise a description of the overall functional structure of the Council showing the management structure and deployment of Officers. This is set out in Chapter 25 of this Constitution (Management Structure).

### **12.2 Functions of the Head of Paid Service/Returning Officer**

#### **(a) Discharge of Functions by the Council**

12.2.1 The Head of Paid Service will report to Council on the manner in which the discharge of the Council's functions is coordinated, the number and grade of Officers required for the discharge of functions and the organisation of Officers.

12.2.2 The Head of Paid Service will be the Returning Officer and Electoral Registration Officer

#### **(b) Restrictions on Functions**

12.2.3 The Head of Paid Service may not be the Monitoring Officer but may hold the post of Section 151 Officer if a qualified accountant.

### **12.3 Functions of the Monitoring Officer**

#### **(a) Maintaining the Constitution**

12.3.1 The Monitoring Officer will maintain an up-to-date Constitution and will ensure that it is widely available for consultation by Councillors, staff and the public.

#### **(b) Ensuring Lawfulness and Fairness of Decision-Making**

12.3.2 After consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report in writing to the Full Council (or to the Leader or Executive in relation to an Executive function) if s/he considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration.

12.3.3 Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

**(c) Conducting investigations**

12.3.4 The Monitoring Officer will conduct investigations into allegations of misconduct by Councillors and make reports or recommendations in respect of them to a panel of the Standards Committee.

**(d) Proper Officer for Access to Information**

12.3.5 The Monitoring Officer will ensure that Executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

**(e) Advising Whether Executive Decisions Are Within the Budget and Policy Framework**

12.3.6 The Monitoring Officer will advise whether decisions of the Executive are in accordance with the Budget and Policy Framework.

**(f) Providing Advice**

12.3.7 The Monitoring Officer 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.

**(g) Restrictions on Posts**

12.3.8 The Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service.

## **12.4 Functions of the Section 151 Officer**

**(a) Ensuring Lawfulness and Financial Prudence of Decision-Making**

12.4.1 After consulting with the Head of Paid Service and the Monitoring Officer, the Section 151 Officer will report to the Council, or to the Executive in relation to an Executive function, and the Council's external auditor if s/he 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 is about to enter an item of account unlawfully.

**(b) Administration of Financial Affairs**

12.4.2 The Section 151 Officer will have responsibility for the administration of the financial affairs of the Council.

**(c) Contributing to Corporate Management**

12.4.3 The Section 151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

**(d) Providing Advice**

12.4.4 The Section 151 Officer 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 and will support and advise Councillors and Officers in their respective roles.

**(e) Give Financial Information**

12.4.5 The Section 151 Officer will provide financial information to the media, members of the public and the community.

**12.5 Duty to Provide Sufficient Resources to the Monitoring Officer and Section 151 Officer**

12.5.1 The Council will provide the Monitoring Officer and Section 151 Officer with such Officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

**12.6 Conduct**

12.6.1 Officers will comply with the Officer Code of Conduct and the Protocol for Councillor-Officer Relations in this Constitution.

## 12.7 Employment

12.7.1 The recruitment, selection and dismissal of Officers will comply with the Officer Employment Procedure Rules of this Constitution.

## 13 Article 13 – Decision-Making

### 13.1 Responsibility for Decision-Making

13.1.1 The Council will issue and keep an up-to-date record of which Council body or which individual Councillor or officer has responsibility for particular types of decisions or decisions relating to particular areas or functions.

13.1.2 It will establish the threshold levels for key decisions as defined in paragraph 13.3(b) below.

### 13.2 Principles of Decision-Making

- a) All decisions of the Council will be made in accordance with the following principles:
- b) proportionality (i.e. reasonableness of action);
- c) due consultation and the taking of professional advice from officers;
- d) respect for human rights;
- e) a presumption in favour of openness;
- f) clarity of aims and desired outcomes;
- g) a statement of all options considered;
- h) a statement of the reasons for the decision.

### 13.3 Types of Decision

- a) **Decisions reserved to full Council:** Decisions relating to the functions listed in Article 4.1 will be made by the Council and not delegated.
- b) **Key Decisions:** A key decision is an Executive decision, which is likely:
  - i. to be significant in terms of its effects on communities living or

- working in an area comprising one or more wards in the District; and / or
- ii. to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or functions to which the decision relates.

Key decisions can generally be considered to be decisions which involve one or more of the following:

- Decisions involving significant expenditure as set out in the Financial Thresholds in the Executive Procedure Rules;
- Decisions having a "significant impact" on people in one or more wards; and/or
- Decisions which are politically sensitive and which the Executive wishes to take rather than delegate to officers.

A decision maker may only make a Key Decision in accordance with the requirements of the Executive Procedure Rules of this Constitution (and therefore should follow the Access to Information Rules).

### **13.4 Decision-Making by the Full Council**

13.4.1 Subject to the principles of natural justice and respecting Human Rights, the Council meeting will follow the Council Procedure Rules of this Constitution when considering any matter.

### **13.5 Decision-Making by the Executive**

13.5.1 Subject to the principles of natural justice and respecting Human Rights, the Executive will follow the Executive Procedures Rules of this Constitution when considering any matter.

### **13.6 Decision-Making by Scrutiny Committee(s)**

13.6.1 Subject to the principles of natural justice and respecting Human Rights, the Scrutiny Committee(s) will follow the Scrutiny Procedures Rules of this Constitution when considering any matter.

### **13.7 Decision-Making by Other Committees and Sub-Committees**

## **Established by the Council**

13.7.1 Subject to the principles of natural justice and respect for human rights, other Council committees and sub committees will follow those parts of the Council Procedures Rules, as apply to them.

### **13.8 Decision-Making by Council Bodies Acting as Tribunals**

13.8.1 The Council, a Councillor 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.

## **14 Article 14 – Finance, Contracts and Legal Matters**

### **14.1 Financial Management**

14.1.1 The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules of this Constitution.

### **14.2 Contracts**

14.2.1 Every contract made by the Council will comply with the Contracts Procedure Rules of this Constitution.

### **14.3 Legal Proceedings**

14.3.1 The Monitoring Officer is authorised to institute, defend or participate in any legal proceedings (whether actual or contemplated) in any case where such action is necessary to give effect to decisions of the Council or in any case where s/he considers that such action is necessary to protect the Council's interests. The Monitoring Officer may further delegate these powers, in so far as is legally permissible.

### **14.4 Authentication of Documents**

14.4.1 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Monitoring Officer or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

14.4.2 Any contract with a value exceeding £500,000 entered into on behalf of the Council in the course of the discharge of an Executive function shall be made in writing and under the Common Seal of the Council.

## **14.5 Common Seal of the Council**

14.5.1 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 also to those documents, which in the opinion of the Monitoring Officer or an officer authorised by him/her, should be sealed.

14.5.2 The Monitoring Officer (or such other person(s) authorised by him/her) will attest the affixing of the Common Seal. An entry of every sealing of a document shall be made and consecutively numbered in a book kept for the purpose and shall be signed by a person who has attested the seal.

14.5.3 The Monitoring Officer shall keep a list of those persons/posts authorised to attest the affixing of the Common Seal.

## **14.6 Custody of the Seal**

14.6.1 The Common Seal of the Council shall be kept in a safe place in the custody of the Monitoring Officer or their deputy.

## **14.7 Authentication of Documents for Legal Proceedings**

14.7.1 Where any document will be a necessary step in legal proceedings on behalf of the Council, it shall be signed by the Monitoring Officer or an officer authorised by him/her, unless any enactment otherwise requires or authorises, or the Council or a Committee acting under delegated powers gives the necessary authority to some other person for the purpose of such proceedings.

# **15 Article 15 – Review and Revision of the Constitution**

## **15.1 Duty to Monitor and Review the Constitution**

15.1.1 A key role of the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task, the Monitoring Officer may:

- i. attend and observe meetings of different parts of the Councillor and Officer structure;
- ii. undertake an audit trail of a sample of decisions;
- iii. record and analyse issues raised with her/him by Councillors, Officers, the public and other relevant stakeholders;
- iv. without any reduction or restriction on the lawful requirements of the role of the Monitoring Officer, s/he will work in co-ordination with the Section 151 Officer and the Chief Executive;
- v. compare practices in this Council with those in other comparable authorities, or national examples of best practice;
- vi. amend the Constitution to rectify any typographical or grammatical errors or to delete or update any obsolete terms or references or officer designations;
- vii. make minor detailed changes of a limited significance (as agreed by the Monitoring Officer and the appropriate Portfolio Holder ) subject to obtaining the written agreement of the Portfolio Holder and such agreed changes and the reasons for the change to be subsequently notified to all Councillors.

## **16 Article 16 – Suspension, Interpretation and Publication of the Constitution**

### **16.1 Suspension of the Constitution**

#### **(a) Limit to Suspension**

16.1.1 The Articles of this Constitution may not be suspended. The Rules



specified in (c) below may be suspended by the Council to the extent permitted within those Rules and the law.

#### **(b) Procedure to Suspend**

16.1.2 A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

#### **(c) Rules Capable of Suspension**

16.1.3 The Council may decide to suspend any rule, other than any rule which is prescribed by law and cannot be so suspended.

### **16.2 Interpretation**

16.2.1 The ruling of the Chair, having received legal advice, as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

### **16.3 Publication**

16.3.1 The Monitoring Officer will ensure that a copy of this Constitution is available to each Councillor of the authority upon delivery to her/him of that individual's Declaration of Acceptance of Office, on the Councillor first being elected to the Council.

16.3.2 The Monitoring Officer will ensure that the Constitution is available for inspection on the Council's website, at Council offices, all libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.

