

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 5th 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 7th 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)

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