



## **SOMERSET COUNCIL CONSTITUTION**

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**Somerset**  
Council

# Constitution

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**Constitution 2023**  
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# Somerset Council Constitution

## Glossary

*This glossary explains key terms used in the Council's Constitution but is not part of the Constitution.*

### Adjourned

To suspend (i.e. a meeting) with the intention to resume it later.

### Annual Governance Statement

A public statement which reviews how well the Council has kept to its own governance rules.

### Annual Statement of Accounts

See Statement of Accounts.

### Anti-Fraud and Corruption Strategy

The Council's strategy for protecting its valuable resources which describes the expectations and practices to avoid their loss.

### Asset Management Plan / Strategy

The Council's approach to getting the best possible value and revenue from things it owns (assets), such as buildings, land, roads and technology.

### Approved Supplier List

A list of suppliers which have met specific criteria to enable them to provide particular goods or services to the Council.

### Balance Sheet

A statement of the Council's assets, liabilities, and capital at a particular point in time which details the balance of the Council's income and expenditure over the preceding period.

### Budget

Every year the Council puts a financial plan or budget in place. This shows how and where the Council will spend money to provide services and deliver the aims which it set out in its corporate plan / vision. It also sets the level of Council tax which it will

charge in the next financial year. All councils must set a balanced budget.

### Cabinet

Also known as the Executive, the Cabinet is the Council's strategic decision-making body responsible for making the majority of decisions - "Executive Decisions"- for which the Council is responsible. The Cabinet is made up of the Leader and up to nine other elected councillors, including up to two Deputy Leaders, who are appointed and led by the Leader of the Council

### Capital and Investment Strategy

The Council's medium to long term plan for investing in its asset base.

### Capital Programme

Part of the Medium Term Financial Plan which sets out capital projects approved by full Council over a medium term, multi-year period.

### Chair of the Council

The Chair of the Council is an elected member who chairs meetings of the Council and carries out a variety of civic and ceremonial duties. The Chair is elected to be the Chair by the other members of the Council, usually at the Council's Annual Meeting in May. The Chair cannot be a Cabinet Member and is assisted in their work by the Vice-Chair.

### Chief Executive

The Council's most senior Officer who is responsible for the management and direction of the Council's Officers. The Chief Executive manages the Council's Senior Leadership Team and is accountable to the Leader of the Council, the Cabinet and the Council as a whole. The Chief Executive is designated as the Council's Head of Paid Service and is one of the Statutory Officers.

### Chief Finance Officer

The Chief Finance Officer (CFO) is a Statutory Officer\*. The CFO is responsible for managing the Council's finances and providing expert financial advice to the Council. The CFO must be a qualified accountant and balancing the Council's budget each year is one of their major responsibilities. This officer is referred to as the Section 151 Officer throughout this Constitution.

*\* Section 151 of the Local Government Act 1972 requires every Council to have a Chief Financial Officer.*

### Clear Days

Does not include the starting or finishing day. Example: for 5 clear days notice: do not include the day when notice was given. If this was on a Tuesday, time starts to

run on Wednesday. Notice would not be completed until 12.01am the following Wednesday. If clear working days are used Saturday, Sunday or bank holidays would not be counted.

#### Code of Conduct (Councillor Code of Conduct / Officer Code of Conduct)

A set of rules which elected and co-opted councillors and officers must follow.

#### Commercial Agreement

A type of contract by way of which goods, services or other tasks are provided or undertaken for consideration (usually money).

#### Commissioning

Within the Council, the process of specifying, securing and monitoring service delivery by and from a provider- usually from outside the Council (i.e. a contractor).

#### Committee

A Committee is a formal group of elected councillors whose remit, terms of reference and operating rules are set out in the Council's Constitution. There are many different committees of the Council. Each one makes decisions about a specific area of responsibility – for example audit or planning.

#### Confidential Information

In relation to meetings and reports this is information which the Council has received from a Government department on terms but which it cannot disclose publicly.

It can also be information which (i) the Council cannot disclose due to a court order or legislation or (ii) is not in the public domain, is information which you would expect to be kept out of the public domain and was given to the Council in such a way that made it clear it was meant to be kept confidential.

#### Constitution

A governance document, or 'rule book', which sets out how the Council is run, how decisions are made and how it complies with the law.

#### Contingent Liability

A liability which may be incurred by the Council dependent upon a future uncertain event, eg a court case.

#### Contract

An agreement which: may be oral, written, partly oral and partly written or implied from conduct between the Council and another person; gives rise to obligations which are enforceable or recognised by law (i.e. legally binding); and commits the Council to paying or doing something.

A reference to a contract may also include a contract to which the Contract Procedure Rules apply and a "call off contract" means an order made or call off

contract entered into under a Framework Agreement.

#### Contractors

See suppliers.

#### Contract Management

The process of ensuring the contract results in the benefits and outcomes envisaged and that the advantages secured during the tendering phase are realised and improved through further proactive performance management during its term.

### Contract Management System

The IT system and associated processes used to support supplier and contract management, providing visibility and a single view of all Council contracts. It includes the Council's contract register.

### Contract Procedure Rules

The part of the Constitution that sets out the procedures to be followed when seeking to establish a contract with an external supplier.

### Council

The term often used to refer to the whole organisation (i.e. members and officers); but see full Council below. The Council is led by councillors who are elected by the public. They set the priorities and the budget for the organisation. Staff working for the Council (officers) deliver the day to day operations. The word Council is used to refer both to the organisation as a whole and specifically to the decision-making body.

### Council Body

May include any Committee, Board or Panel.

### Council Tax

The income collected from residents based on banded property values and which funds a significant proportion of Council services.

### Councillor

A councillor is elected and is a member of the Council. Councillors stand for election normally every four years and are accountable to the residents of a specific area (their electoral division) but are responsible for making decisions for the entire Council area.

Councillors do not have to be a member of a political party, but most do; those who do not are known as 'un-grouped' or 'independent' councillors.

### Councillor Call for Action

The Councillor Call for Action allows councillors to refer matters of concern within the community to the relevant Board or Committee. The aim of this opportunity is to provide councillors with additional powers that enable them to respond to local community concerns which have proved difficult to resolve.

### Debt Management Strategy

The Council's strategy to manage and recover the sums of money it is owed.

### Decisions

The choices and agreements made on a particular issue. The Council's Constitution sets out the rules on how formal decisions are to be taken in compliance with the

law. The Constitution also sets out that decisions are to be recorded and published. (see also Key Decisions)

#### Director

The Council's most senior officers report directly to the Chief Executive and are accountable to Members and the Cabinet. These posts include the statutory Director of Adult Social Services (DASS) and the Director of Childrens Services (DCS).

#### Disclosable Pecuniary Interest

Means a financial interest as defined in [‘The Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#)

#### Division

A division is an electoral area. Somerset Council has 55 divisions.

#### **Elected Member**

See Councillor

#### **Executive**

See Cabinet

#### Exempt Information

In relation to meetings and reports this means information which can be withheld from the public. It must pass one of seven tests in order for it to be exempt and it must also be in the public interest to do so. If an item is deemed to be exempt during a public meeting, then members of the public and any press have to leave the meeting while exempt information is being discussed.

#### External Auditors

An independent auditor appointed to review the Council's financial and management arrangements.

#### Financial Year

The financial year for the Council is not the same as the calendar year. Our financial year starts on 1st April and ends on 31<sup>st</sup> March.

#### Financial Regulations

The rules which set out how the Council will manage its financial affairs

#### Forward Plan

A list of the 'key decisions' the Council will make over the next one to four months. The forward plan also includes a summary of any reports which will be presented to the Cabinet. You can see the forward plan for the Council on the website.

## Framework

A term used in different ways which refers to the way that the Council operates, for example, policy framework, commissioning framework, governance framework.

## Full Council

The full Council is all the 110 councillors who make up Somerset Council. Full Council meets throughout the year with the meeting being chaired by the Chair. Full Council takes specific decisions, including setting the budget. It also appoints committees to make decisions about specific issues such as planning and licensing.

## Function

Within the Council, a function is a service which the Council provides or an activity which it undertakes, or which it has a duty to deliver; for example housing and education.

## Head of Paid Service

The Head of Paid Service is a 'statutory officer' with overall responsibility for the employment of Council Officers (currently the Chief Executive).

## Independent Person

The Council has to have at least one designated independent person who is not a councillor or a member of staff. The independent person is consulted about complaints made against councillors and also about the dismissal of one of the council's statutory officers.

## Key Decision

Key decisions are executive decisions (not those made by committee) and are defined in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) (Regulations) 2012 and are decisions which:-

- Result in the Council incurring expenditure which is, or making savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
- Are deemed significant in terms of their effect on communities living or working within the area of the Council.

The Council has decided that other significant decisions will be treated as key decisions, described in the Constitution. Key decisions are taken by the Leader, the Cabinet, Cabinet Members or Officers under delegated authority.

## Leader (of the Council)

Councillors elect a person who will be the leader of the council. Usually this is the leader of the largest political group on the whole council. The Leader of the Council is also the Leader of the Cabinet and will appoint up to nine other councillors to form the Cabinet to take Executive decisions on behalf of the Council. The Leader can

appoint up to two Deputy Leaders from the councillors appointed to the Cabinet.

#### Lead Member

An elected councillor appointed to the Executive by the Leader. Some Lead Members are assigned responsibility for a specific 'portfolio' and are sometimes referred to as 'Portfolio Holders'. Lead Members can also make key decisions which are included in the Forward Plan.

#### Legal Professional Privilege

Confidential communications between lawyers and their clients can be withheld from a court or from a third party using legal professional privilege.

#### Legislation

The Law which can be made by Parliament which takes the form of an Act of Parliament (a statute) or Statutory Regulations or By-laws which can be made by the Council.

#### Medium Term Financial Plan

Sets out the Council's budget (revenue and capital) over a period of more than one year; is linked to the Corporate Plan and Service Plans.

#### Member

See Councillor.

#### Minutes

The formal written record of a meeting. Minutes of Council meetings are available on the Council's website.

#### Monitoring Officer

The Monitoring Officer is a 'statutory officer' responsible for the lawful and good governance of the Council, in particular the Constitution, decision-making and the conduct of councillors and officers.

#### Motion

A proposal for a discussion or debate.

#### Municipal Year

The period between annual meetings of the Council. The municipal year is not the same as the council's financial year, which starts on 1 April. The municipal year usually starts in May but is not a fixed date and as such the number of days in a municipal year varies slightly.

#### Officer

Someone employed by the council.



## Planning Applications

Means planning applications for consent as well as applications for reserved matters approvals.

## Planning Officer

Means an employee of the Council tasked with processing and evaluating planning applications

## Policy

A policy sets out a strategic objective for the Council and provides a framework of principles and guidelines which officers must follow to achieve those objectives.

## Policy Framework

Refers to the Council's strategies and policies.

## Point of Order

Where a councillor considers that a breach of the Procedure Rules or legislation has occurred within a debate

## Portfolio

Within the Council, a portfolio is a specific area of responsibility, for example housing. You can see the portfolios and who is responsible for each area (the Portfolio Holders) on the website.

## Procedure

The means by which a strategy or policy will be implemented or a process which must be followed.

## Procurement

How the Council identifies, sources, selects and manages the resources which it needs to buy in to deliver services or meet its strategic objectives.

## Proper Officer

A term used to refer to the Council's lead Officer for a particular function.

## Quorum

The minimum number of attendees who have to be present at a meeting of the Council, a Committee or Sub-Committee etc to begin and / or conduct its business. If at any time a meeting is not quorate, its decisions at that time are not valid.

## Representations

Members of the public can give their views on any Cabinet or Cabinet Member reports or on proposed decision by informing Democratic Services by the deadline outlined in the report

## Reserves

Sums of money set aside on the Council's balance sheet. The Council has 'general reserves' and 'earmarked reserves' which are set aside for a specific purpose.

## Scheme of Delegation

The Scheme of Delegation sets out how the Council and the Cabinet have delegated authority to a committee or another body or to an individual councillor or senior officer to exercise their powers or perform their functions. The officer Scheme of Delegation concerns those powers and functions delegated to officers. The Scheme of Delegation will also specify any limits on the delegated authority.

## Section 151 Officer (S151 Officer)

See Chief Finance Officer.

## Standards Complaint

Refers to a complaint made against an elected or co-opted member that the member concerned has failed to comply with the relevant Members' Code of Conduct.

## Statement of Accounts

A document required by law which sets out the Council's financial position at 31<sup>st</sup> March each year and includes the Council's income and expenditure for a given financial year.

## Statute

An Act of Parliament – the law.

## Statutory

Required by law. Councils have statutory duties including preventing homelessness, managing community safety and determining planning applications.

## Statutory Officers

The Council is required by law to appoint officers in certain key roles. The Statutory Officers are the Head of Paid Service; the Monitoring Officer and the Section 151 Officer. The Council must also appoint other officers including a Director for Children's Services and the Director for Adult Social Services, a Director of Public Health and a Scrutiny Officer. For full details see the website.

### Sub-Committee

A group of elected councillors from the committee in question convened to undertake a particular task or perform a particular function. The sub-committee then reports back and is accountable to the committee.

### Suppliers

Also known as 'contractors' suppliers are those parties which enter into a contract with the Council to provide goods or services.

### Trading Account

Services which are funded by generating income from internal and external sources.

### Treasury Management Strategy

The way in which the Council manages its cash, borrowing, lending and investments, and associated risks.

### Virement

The movement of money from one budget heading to another.

### Vires (intra vires / ultra vires)

A Latin word which means 'powers'. Within the Council vires concerns the power or lawful authority to make a decision, perform a function or undertake an action. A decision made, function performed or action undertaken will be 'intra vires' if the Council has the power and lawful authority to do it and 'ultra vires' if it does not.

## **Part A – Summary and Explanation**

### **Section 1 Summary and Explanation**

#### **1. Summary and Explanation**

##### **The Council's Constitution**

- 1.1 Somerset Council has a Constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that decisions are efficient, transparent, and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose. The Council must operate in accordance with its Constitution and the rules set out in it which the Council has agreed.
- 1.2 The purpose of the Constitution is to ensure that the Council's decision-making and governance arrangements support its corporate aims, objectives and priorities effectively and efficiently. It also ensures that the Council meets its legal duties.
- 1.3 The Council has chosen a Leader and Executive model of governance. This is explained below.

##### **Corporate Objectives and Values**

- 1.4 The Council's current corporate objectives, priorities and values are set out in its Council Plan.

##### **Residents' Rights**

- 1.5 The Council welcomes the participation of residents in its work.
- 1.6 Residents have several rights in their dealings with the Council. Some of these are legal rights, whilst others depend on the Council's own processes.

1.7 Residents have the right to:

- 1.7.1 vote at local elections as long as they are registered and eligible to vote;
- 1.7.2 contact their local Councillor about any matters of concern to them in their local division;
- 1.7.3 contact the appropriate Lead Member about any matters of concern that relate to their portfolio;
- 1.7.4 have access to the Council's Constitution;
- 1.7.5 attend all meetings of the Council, Executive, Scrutiny Committees, and other Committees except where exempt or confidential matters are being discussed (these are explained in the Access to Information Procedure Rules set out in Part B);
- 1.7.6 petition the Council on any matter relevant to the Council;
- 1.7.7 find out what major decisions (referred to as Key Decisions) are to be discussed by the Executive, individual Lead Members and employees and what decisions are likely to be taken by Executive in private and when;
- 1.7.9 see reports and background papers, and any record of decisions made by the Council, Executive, Scrutiny Committees and other Committees, also individual Lead Members and executive decisions made by Officers (except exempt and confidential information);
- 1.7.10 complain to the Council through its complaints procedure about something they think the Council should have done that it has not done; something it should have done differently or something it has done that it should not have;

- 1.7.11 complain to the Local Government and Social Care Ombudsman if they think the Council has not followed its procedures properly. This should only happen if they have pursued their complaint through the Council's own complaints process and remain dissatisfied with the outcome. ;
- 1.7.12 compliment the Council where the service they have received has been exceptionally good or speedy and which could help spread good practice across the Council;
- 1.7.13 complain to the Council's Monitoring Officer if they have evidence which they think shows that a Councillor (including a City, Town or Parish Councillor) has not followed their relevant Councillor Code of Conduct set out at Part H.
- 1.7.14 complain to the Council about any Officers' actions or attitude; and
- 1.7.15 inspect the Council's accounts during the limited period of the audit each year and make their views known to the external auditor. The period when accounts are open to inspection is publicised in advance.

### **What's in the Constitution?**

- 1.8 The Constitution is divided into [10] parts.
- 1.9 This part provides a summary and explanation of how the Council operates and sets out the basic principles about its procedures, about which there is more information throughout the Constitution. Part B explains resident's rights and how they can be involved with the Council. Parts C to G set out the functions of the Council, Executive and Committees and how they operate. Part H deals with Councillors including the Scheme of Members Allowances which explains how the councillors are reimbursed for their time and expenses. Part I deals with Officer matters.

- 1.10 Officers, Councillors and Committees must operate in accordance with the Council's Scheme of Delegation and the more detailed rules and procedures set out in the Constitution.

### **How the Council Operates**

- 1.11 Until the next election in May 2027 the Council consists of 110 Councillors. Elections will be normally be held on the first Thursday in May every four years beginning in May 2027. If a Council seat becomes vacant during a Councillor's term of office there may be a by-election. By-elections do not usually take place within 6 months prior to a normal election.
- 1.12 Councillors are democratically accountable to residents of their division. There are 2 councillors elected for each division. The overriding duty of Councillors is to the whole community of Somerset, but they have a special duty to everyone who lives in their division, including those who did not vote for them. Councillors set the policy of the Council and take many decisions. The Council's website contains details of how to get in touch with the Councillors and of any positions they hold in the Council.
- 1.13 Councillors must follow a Code of Conduct to ensure high standards in the way they undertake their duties. If they do not follow the Code, complaints can be made against them. The Code of Conduct and how to make complaints is set out in Part H.
- 1.14 All councillors meet together at least quarterly as the Council and this is called "full Council". At full Council, Councillors: make decisions that the law says are reserved to full Council (see Part C); decide on some of the Council's policies; set the Budget and Council tax each year. Members of the public are welcome to attend Council meetings. The agenda for the meeting including the location of the meeting and reports are published on the Council's website, usually the week before the meeting. The Council is committed to transparency and will ensure it holds full Council meetings, wherever possible,

in venues which have webcasting facilities, and which can accommodate members of the public who wish to attend.

### **Role of All Councillors**

1.15 All Councillors will:

- 1.15.1 collectively be the ultimate policy-makers and carry out several strategic and corporate management functions;
- 1.15.2 act as a 'corporate parent' to Somerset's children looked-after and care leavers;
- 1.15.3 contribute to the good governance of the Council and actively encourage community participation and resident involvement in decision making;
- 1.15.4 effectively represent the interests of the communities and individual residents of the County in their own division;
- 1.15.5 respond to residents' enquiries and representations, fairly and impartially;
- 1.15.6 participate in the governance and management of the Council;
- 1.15.7 maintain the highest standards of conduct and ethics and observe the [Councillor Code of Conduct for Elected and Co-opted Councillors] (set out in Part H) and the other Codes and Protocols adopted by the Council;
- 1.15.8 be available to represent the Council on other bodies; and
- 1.15.9 attend meetings of bodies to which they are appointed or, if they are unable to attend, present their apologies.



- 1.16 Councillors are entitled to receive allowances to cover their time and expenses in accordance with the Members' Allowances Scheme set out in Part H of this Constitution.

### **The Chair of the Council**

- 1.17 The Chair is elected by the full Council at its "Annual Meeting" each year, which is usually held in May. The Council also elects a Vice Chair, who acts as Chair when the Chair is not available.
- 1.18 The Chair (and the Vice Chair) undertake civil and ceremonial roles on behalf of the Council and represent the Council at events. The Chair promotes public involvement in the Council's activities. If you would like to ask the Chair to visit an event you can contact their office via the Council's website.
- 1.19 Although the Chair is an elected politician and has a vote, there is a duty on them to be impartial in carrying out the role of Chair.
- 1.20 The Chair presides over meetings of the full Council to ensure that business is carried out effectively and is responsible for upholding and interpreting this Constitution. The Chair's ruling about the Constitution or any proceedings of the Council cannot be challenged, although their interpretation must have regard to the purposes of this Constitution and must be reasonable and lawful.
- 1.21 Neither the Chair nor the Vice-Chair can be the Leader or a member of the Executive.

### **Council Business**

- 1.22 At its annual meeting (usually in either April or May) the Council will approve its planned "Calendar of Business and Schedule of Meetings but nothing prevents changes being made to the Calendar of Business and Schedule of Meetings during the following 12 months.

- 1.23 There are three types of full Council meeting which are conducted in accordance with the "Council Procedure Rules" which are set out in Part C:
- 1.23.1 the Annual Meeting;
  - 1.23.2 ordinary meetings;
  - 1.23.3 extraordinary meetings.
- 1.24. There are some decisions which can only be taken by the full Council. The Council sets the "Budget and Policy Framework" for the Council. All decisions must be taken in accordance with the Budget and Policy Framework which can only be changed by full Council. More information about the Budget and Policy Framework is included at Part C
- 1.25. The Council is responsible for electing (and can remove) the Leader of the Council who in turn will appoint a Deputy Leader and an Executive. The Council (mainly through the Scrutiny Committee process and the call-in of decisions) is ultimately responsible for holding the Executive to account. The role of the Council is set out in more detail in Part C and the role of the Executive is set out in more detail in Part E

### **How Decisions Are Made**

- 1.26 Types of Decision:
- 1.26.1 Executive decisions:
    - (a) Key Decisions which can be taken by Executive, or Lead Members; or in the absence of Lead Members, exercised by Officers with delegated powers,;
    - (b) delegated non-Key Decisions. These are normally taken by Officers but can be referred back to Executive or Lead Members.

#### 1.26.2 Non-Executive Decisions:

- (a) Council decisions – decisions reserved to Council by statute such as setting the precept;
- (b) Council reserved decisions – decisions which Council has reserved to itself;
- (c) delegated Council decisions – decisions delegated to Committees and Officers.

#### 1.27 Key Decisions

1.27.1 Key decisions as defined by Regulation 8 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 are decisions which:

- (a) result in expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates;
- (b) are deemed to be significant in terms of their effects on communities living or working in an area comprising two or more electoral divisions in the area of the local authority.

1.28 The Council has resolved that those decisions detailed below shall also be treated as Key Decisions. The Council may change those decisions it has decided to treat as Key Decisions as required in the light of experience of operating the Constitution. The Council has decided that the following are to be treated as Key Decisions. A decision which:

1.28.1 is not consistent with the Revenue Budget, Capital Programme or Borrowing Limits and Financial Procedure Rules approved by the Council;

1.28.2 is in conflict with a policy, plan or strategy approved by the Council or a Committee of the Council;

- 1.28.3 raises new issues of strategy or Policy;
- 1.28.4 requires the acquisition or disposal of any land or interest in land in excess of a value of £500,000;
- 1.28.5 comprises or includes the making, approval or publication of a draft or final scheme which may require, either directly or in the event of objections, the approval of a Minister of the Crown;
- 1.28.6 requires the passage of local legislation;
- 1.28.7 is of such significance to the locality, the Council or the services which it provides that the decision-taker is of the opinion that it should be treated as a Key Decision;
- 1.29 A decision taker may only make a Key Decision in accordance with the requirements of Parts B and E and, in particular (and to the extent applicable in any given case) with:
  - 1.29.1 the Access to Information Procedure Rules;
  - 1.29.2 the Budget and Policy Framework provisions; and
  - 1.29.3 the Executive Procedure Rules.
- 1.30 A key decision may only be taken by the Executive or Lead Members (or where Lead Members are absent, an officer with delegated powers except in a case to which Executive Procedure Rules applies (i.e. Special Urgency or Major Emergency respectively).
- 1.31 All decisions taken by the Council, unless they are delegated to a single Councillor or to an Officer, are taken by a simple majority vote of the Councillors who are at the meeting. Councillors cannot vote unless they are physically present at the time. If there is a tie in the voting, the Chairman of the meeting has a second vote. This is called a "Casting Vote. The Scheme of Delegation in Part I gives details of responsibility for decision making.

- 1.32 When the Council knows when Key Decisions are going to be discussed or made, details will be published on the "Forward Plan" which is published on the Council's website. If these decisions are to be discussed at an Executive meeting, this will generally be open for the public to attend.
- 1.33 The Constitution also provides for decision making which enables the Council to:
- 1.33.1 provide clear leadership to the community in partnership with local people, communities, businesses and other organisations;
  - 1.33.2 support the active involvement of local people and local communities in the process of decision making;
  - 1.33.3 help Councillors represent their constituents effectively;
  - 1.33.4 create a powerful and effective means of holding decision makers to public account;
  - 1.33.5 ensure that no one will review or scrutinise a decision in which they were directly involved;
  - 1.33.6 be clear about who is responsible for making specific decisions and that they explain the reasons for decisions; and
  - 1.33.7 provide a means of improving the delivery of services to the community.
- 1.34 The Council also requires that decisions:
- 1.34.1 *are proportionate, with clear aims and desired outcomes and reasons given;*  
*show due regard to all relevant and material considerations and disregard irrelevant considerations;*
  - 1.34.2 *are taken after due consultation and obtaining professional advice where appropriate;*

*1.34.3 show respect for human rights;*

*1.34.4 pay due regard to equality legislation and the need to prevent people being drawn into terrorism;*

*1.34.5 take account of the environmental and health impact;*

*1.34.6 are as open and transparent as possible.*

### ***The Executive***

- 1.35 The Council has decided to adopt a Leader and Executive (or an “Executive”) form of governance. The Executive is a group of Councillors who are responsible collectively for what the law calls the “executive functions” of the Council. The law sets out what functions are for the Executive and what are the functions of the Council. In all but a very few cases, if the law does not say that something is a function of the Council, it is for the Executive, as the Executive of the Council, to decide.
- 1.36 The Executive is made up of the Leader of the Council and up to 9 other Lead Members. These will include a Deputy Leader (noting that the Deputy Leaders and Lead Members must not together exceed 9 postholders) who are chosen and appointed by the Leader. The Leader may also appoint Associate Lead Members to assist Lead Members in their roles, but these deputies cannot substitute for Lead Members at Executive and can have no individual decision making allocated to them. The Leader may change Executive portfolios and delegations.
- 1.37 Individual members of the Executive have responsibility for specific functions delegated to them by the Leader. Details are set out in Part E. Most of the decisions taken by the Authority are executive decisions in accordance with the law. The Leader also delegates executive decisions to officers.
- 1.38 The Executive is responsible for developing the policies and strategies of the Council which are then approved by Council; and takes most of the decisions

on service provision. These are “executive decisions”. Some decisions are taken by Executive as a whole; but many decisions are delegated to individual Lead Members or to Officers, as set out in the Scheme of Delegation at Part I

- 1.39 The Executive and Lead Members can only make decisions which are in line with the Council's overall Budget and Policy Framework set out in Part C. If the Executive wishes to make a decision outside the Budget and Policy Framework, that decision must be referred to the full Council to decide.

### **Overview and Scrutiny**

- 1.40 Scrutiny Committees are established to support and challenge the work of the Executive and help hold it to account. A Scrutiny Committee can consider decisions of the Executive and delegated decisions if they feel the decision should be looked at before it is implemented. This is called a “call-in”. A Scrutiny Committee may recommend that the decision is reconsidered or ask Council to consider it before it is referred back to Executive and the Executive has to hear what they say and consider the matter again. Lead Members or their Deputies cannot sit on these Scrutiny Committees. More details about Scrutiny Committees is available at Part G.
- 1.41 A Scrutiny Committee may also be consulted by the Executive or the Council on forthcoming decisions and policy development.
- 1.42 A Scrutiny Committee can also sometimes hold inquiries into matters of local concern in which residents may take part. These inquiries may lead to reports and recommendations which advise the Executive or the Council as a whole, and in some cases outside agencies, on policies, budget, and service delivery.

### **Regulatory and Other Council Committees**

- 1.43 Some decisions cannot by law be decided by the Executive including planning and licensing determinations. These are delegated by the Council to Committees.

- 1.44 Council Committees, unlike the Executive and its Executive Committees, must be proportionate to the size of the political groups on the Council. Members of Council Committees are appointed by full Council.
- 1.45 The Council has established Committees to deal with regulatory functions such as licensing and planning matters.
- 1.46 In addition, Councillors take part when required in Appeals Committees and Appointment and Advisory Panels.
- 1.47 These Committees and the other Committees are explained in more detail in Part D.

### **The Council's Employees**

- 1.49 The Council has people working for it (called Officers) to give advice, implement and make decisions in accordance with the Scheme of Delegation and carry out the day-to-day delivery of Council services. Officers are paid in accordance with the Council's pay policy statement which is reviewed each year.
- 1.50 The Council's management structure is set out on the Council's website.
- 1.51 The recruitment, selection and dismissal of Officers has to comply with the Council's Employment Procedure Rules which are set out in Part I.
- 1.52 Some of the Council's officers - the Monitoring Officer (Governance) and the Section 151 Officer (Finance) have a specific duty to ensure that the Council acts within the law and uses its resources wisely.
- 1.53 Officers must comply with the Employee Code of Conduct which is set out in Part I.



## **Local and Partnership Working**

- 1.54 The Council works closely with other organisations and creates new partnerships to help the Council meet its corporate vision and objectives. In addition, the way in which the Council delivers some of its services and functions to residents and businesses will be reviewed to ensure the Council delivers value for money.
- 1.55 Local Community Networks aim to ensure strong connections between Somerset Council and local communities. The Local Community Networks are advisory and may make recommendations to decision-makers in accordance with their terms of reference. The Local Community Networks do not have any decision-making powers other than the allocation of the budget devolved to them. More information about the Local Community Networks is available on the Council's website.
- 1.56 The Council also supports a number of strategic partnerships such as the Heart of the South West Local Enterprise Partnership, Avon and Somerset Police and Crime Panel and the Somerset Rivers Authority.

## **Joint Arrangements**

- 1.55 The Council and the Executive may exercise their functions in several ways, for example they can:
- 1.55.1 enter into arrangements or agreements with any person or body to deliver a service;
  - 1.55.2 establish joint arrangements including a joint committee with one or more other local authorities to exercise functions;
  - 1.55.3 co-operate with, or facilitate or co-ordinate the activities of, any person or body;
  - 1.55.4 exercise on behalf of that person or body any functions of that person or body; or

1.55.5 delegate functions to another local authority.

### **Contracts and Contracting Out**

- 1.55 Every Contract made by the Council has to comply with the Contract Procedure Rules and Financial Procedure Rules set out at Part I
- 1.56 The Council (for non-executive functions) and the Executive (for executive functions) may contract out functions within the law, but the Council retains ultimate responsibility for those functions.

### **Documents**

- 1.57 Where any document is necessary for any legal procedure or proceedings on behalf of the Council, it will be signed by the Service Director- Governance, Legal and Democratic Services, the Monitoring Officer or another person authorised by them unless any enactment requires otherwise, or the Council has authorised another person in this regard.

### **Common Seal of the Council**

- 1.58 The Common Seal of the Council is the official stamp of the Council to be used on deeds or other documents and will be kept in a safe place under the custody of the Service Director- Governance, Legal and Democratic Services.
- 1.59 A decision of the Council or one of its Committees acting under delegated powers, or of the Executive, or of a Committee of the Executive, or the Leader or a Lead Member acting under delegated powers, or one made in accordance with the Scheme of Delegations to Officers set out in Part I of this Constitution, will be sufficient authority for sealing any document necessary to give effect to the decision.
- 1.60 The Common Seal will be affixed to those documents which in the opinion of the Service Director- Governance, Legal and Democratic Services should be sealed or are required to be sealed by the Contract Procedure Rules. The Common Seal will be attested by the Monitoring Officer, Service Director-

Governance, Legal and Democratic Services or any other Officer authorised for the purpose by the Chief Executive, Monitoring Officer or Service Director-Governance, Legal and Democratic Services.

### **Changes to the Constitution**

- 1.61 The Constitution has been formally adopted by the Council. The Council will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.
- 1.62 The Monitoring Officer has authority to make minor amendments and corrections to the Constitution to reflect decisions made by Council and Executive and changes to the legislation.
- 1.63 Any substantive changes to the Council's decision-making arrangements and Committee structure will be considered by the Constitution and Governance Committee who will recommend changes to full Council who will have to approve them prior to implementation.

### **Publication**

- 1.64. The Monitoring Officer will ensure that copies of this Constitution are available for inspection by members of the public on the Council's website and at the Council's main office. A paper copy of the Constitution can be purchased by the press and members of the public on payment of a reasonable fee.

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## **Part B – Public Participation**

### **Section 1 Public Participation**

### **Section 2 Access to Information Procedure Rules**

### **Section 3 Petition Scheme**

### **Section 4 Citizens' Responsibilities and Obligations**

#### **1. Public Participation with [Somerset Council]**

- 1.1 Somerset Council encourages and actively supports people getting involved in the Council's work to the area of Somerset. The Council wants to make it easy for people to get involved and give their views to help influence and develop what the Council does and the decisions it takes.
- 1.2 The Council welcomes suggestions which will help improve the way it works and how it involves the public. You can make suggestions on the Council's website.
- 1.3 There are lots of ways you can get involved with the work the Council does and find out about the decisions it makes.

#### **Attendance at Meetings of Council, Executive and Committee Meetings**

- 1.4 The public are encouraged to attend meetings of the Council to hear debates and are able to speak at certain meetings.
- 1.5 You can find out when and where the Council has its meetings on the website. You can also see what will be covered in the meetings by looking at the agenda and reports for each meeting. These are published on the Council's website at least five days ahead of the date of the meeting.
- 1.6 There are limited occasions when the Council needs to discuss confidential issues and information. When this happens press and public can be excluded from the meeting while confidential issues and information are discussed. This is

sometimes called a private session. Private sessions will only be held when absolutely necessary and when it is legally justified; and are carried out in accordance with the requirements of local government legislation with regard to notice of what will be discussed.

## **Public Speaking**

1.7 The public can speak in accordance with set procedures at the following meetings:

### **1.7.1 Scrutiny Committees;**

The Scrutiny Committees are open to the public and public involvement in key issues is encouraged. Please see the website for further details.

### **1.7.2 LOCAL COMMUNITY NETWORKS:**

The Council encourages people to attend LOCAL COMMUNITY NETWORKS meetings, ask questions and get involved. The rules for public speaking at Local Community Networks are set out in their terms of reference document which are published on the Council's website.

### **1.7.3 Other Meetings:**

Special rules apply to the public speaking at other meetings such as at the Planning Committees and Licensing and Regulatory Committees. Further details can be found on the sections covering these Committees at Part D and Part G.

## **Planning Committees, Licensing Committee and the Licensing Sub-Committees**

1.8 Although special rules apply to speaking at these Committees it is also possible to write-in beforehand with views that you want the Committee to consider. There are rules about this which are set out on our website and in Part D.

## **Executive**

1.9 The Executive has developed a Forward Plan which can found on the Council's website . The Forward Plan indicates the most important decisions (known as Key Decisions) which the Executive will be taking in the future and when this is likely to be done.

1.10 If you are interested in attending a Executive meeting when a Key Decision is discussed, you can subscribe to electronic updates which will let you know when the meeting will take place. Details of Executive meetings are also published on the Council's website.

1.11 You can also send in your views to the Executive in writing to [democracy@somerset.gov.uk.]

### **Scrutiny Committees**

1.12 The Council has a number of Scrutiny Committees which deal with separate parts of the Council's work. The Scrutiny Committees help the Council to develop new policy by finding out what is needed and they also act as a "critical friend" to hold decision makers to account. Scrutiny Committees also carry out inquiries and reviews and welcome suggestions from residents as to areas which could be investigate. You can find More information about the Scrutiny Committees in Part G.

### **LOCAL COMMUNITY NETWORKS**

1.13 Local Community Networks (LCNs) will take place in local areas across Somerset. The LCNs welcome public participation. You can find out more information about the LCNs and what they do at Part E and on the Council's website.

### **Petitions**

1.14 The Council is pleased to accept petitions dealing with something for which the Council is responsible. There are rules which set out how to make a petition to the Council, what happens when a petition is received and how the Council will

respond. The Council's Petition Scheme detailed at Section 3 below and on the Council's website.

- 1.15 Petitions need to clearly show what they are about. Names of everyone who supports the petition must be set out in an identifiable way. Some petitions, for example, those asking for the Council to have a different form of governance, must follow special rules as are set out in the law.

### **Consultation**

- 1.16 The Council makes every effort to consult as widely and as fairly as possible on the decisions to it intends to make and the action it intends to take. Sometimes, with matters such as planning and licensing applications, there are specific statutory consultation processes which the Council must follow. Outside of the requirements of statutory consultations the Council will try to consult on important decisions as widely as possible and give consideration to the results of the consultations.

### **Councillors**

- 1.17 The area of Somerset Council is divided into administrative areas, called Divisions. Each Division is represented by two elected Councillors as detailed on the Council's website. If you are registered and eligible to vote you can vote for the people that you want to represent your Division at Somerset Council during local elections which are normally held every four years unless there is a vacancy or the Government has set a different time for an election. You can find out more about elections and how to register to vote on the Council's website. Although they have responsibility for the whole of the Somerset Council area, your local Division Councillors also have a particular responsibility to the residents of their Division.
- 1.18 You can find out who your local Councillor is, and how to get in touch with them on the Council's website.



1.19 Your local Councillors may hold scheduled sessions where you can meet them face to face to talk about issues which concern you, or where you need advice about Council matters. You can find out how to contact your local Councillor using the contact details available on the Council's website.

### **Webcasting and Social Media**

1.20 Members of the public are welcome to come and watch meetings of [Somerset Council] in person. Many meetings are also available to view online using the webcast service

1.21 Updates from Somerset Council can also be found on social media:

[Facebook]

[Twitter]

[Youtube]

[Linked In – Somerset Council]

1.22 Many local Councillors also have their own private (not provided by the Council) social media accounts.

### **Budget and Policy Development**

1.23 Somerset Council wants to include and involve local people when Councillors come to set the budget and other key policies so that residents can influence the decisions the Council make.

1.24 When appropriate the Council runs consultations inviting people to have their say. Focus groups and residents or user panels may also be arranged as a way of seeking out views. In addition, LCNs will publicise proposed changes or consultations with a view to encouraging members of the community to have their say.

## **2. Access to Information Procedure Rules**

### **Introduction**

2.1 The Council is committed to the principles of transparency laid down in the "Access to Information Legislation" (including the Freedom of Information Act 2000 and Environmental Information Regulations 2004). In accordance with the legislation, the Council maintains a Publication Scheme approved by the Information Commissioner which is available on the Council's website. The Council is committed to:

- 2.1.1 promoting a positive attitude to dealing with requests for information;
- 2.2.1 maintaining information in an orderly and efficient fashion and disposing of information that is no longer required;
- 2.2.3 increasing awareness and understanding of the implications of the legislation, both amongst its employees and amongst members of the public.

These Access to Information Procedure Rules make provision for access to information to relevant matters set out in this Constitution. They do not affect any additional rights to information contained elsewhere in this Constitution or the law.

### **Scope**

2.2 Unless otherwise stated these Rules apply to all meetings of the Council, Scrutiny Committees, Joint Committees, and other Council Committees including the Health and Wellbeing Board and public meetings of the Executive (together called "meetings").

### **Rights to Attend Meetings**

2.3 Members of the public may attend, record, photograph, film and report on all meetings in accordance with the Openness of Local Government Bodies Regulations 2014 subject only to the exceptions in these Rules.

- 2.4 Members of the public who wish to report or record public meetings are required to comply with any Council guidance on the reporting and recording of meetings which may be issued on practical arrangements. The Council will not permit the recording or reporting of proceedings where the public are not allowed to attend the meeting, or that part of the meeting, by reason of the likely disclosure of exempt or confidential information.
- 2.5 It is recommended that members of the public who wish to record, photograph, film and report on public meetings advise Council Officers in advance of the meeting so that all necessary practical arrangement can be made.
- 2.6 In relation to Executive Meetings, non-Executive Members can attend the meeting as a member of the public. Members of the public are not able to ask questions at Executive Meetings however, a Councillor attending as a member of the public will be allowed to ask questions at the meeting subject to complying with any relevant procedural rules.

### **Notices of Meeting**

- 2.7 The Council normally gives at least 5 clear days' notice of public meetings by posting details of the meeting on the Council's website and at the Council's principal offices. If the meeting is convened at shorter notice than 5 days, then public notice is given at the time the meeting is convened.
- 2.8 Meetings will normally be held in public unless the confidential content of the meeting requires it to be heard in the absence of the public and press in a private session.
- 2.9 If the Executive wishes to consider an item in private it will give 28 clear Days' notice of its intention to do so on the Forward Plan unless there are exceptional circumstances.
- 2.10 After having given 28 clear days' notice of its intention to consider an item in private, a further notice at least 5 clear working days before the meeting that the

meeting will proceed in private will be given. This Notice will be given by the Monitoring Officer (the Proper Officer) and will give the Executive's reasons for meeting in private, details of the representations received that a private meeting should not take place and contain a statement of the Council's response.

- 2.11 If it is proposed that the Executive consider an item in private and 28 clear days' notice of such a meeting has not been given on the Forward Plan, the agreement of the Chair of the appropriate Scrutiny Committee is required if the public are to be so excluded.

### **Access to Agenda and Reports Before the Meeting**

- 2.12 The Council will make copies of the agenda and reports of meetings open to the public available on the Council's website and available for inspection at its main office at least five clear days before the meeting. Where an urgent item is added after this time, the Monitoring Officer shall make each such report available to the public as soon as the report is completed and sent to Councillors, and will ensure that the report is open to public inspection from the time the item was added to the supplementary agenda.

### **Supply of Copies**

- 2.13 The Council will make available to any person:-

- 2.13.1 any agenda and reports which are open to public inspection;
- 2.13.2 any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- 2.13.3 If the Monitoring Officer considers it appropriate, copies of any other documents supplied to Councillors in connection with an item;

- 2.14 The Council may charge to supply this information where permitted to do so under its "Charging Policy"

## **Access to Minutes etc. After the Meeting**

2.15 Draft minutes of a decision are only confirmed as a correct record of a decision when:

- 2.15.1 approved as a correct record of the decision at the next convenient meeting of the body which made the decision (Council, Committees and Sub-Committees);
- 2.15.2 signed as a correct record of the decision by the Proper Officer (Executive and Executive Committees);
- 2.15.3 Signed by the Lead Member who has taken the decision or by an Officer alone.

2.15 Where appropriate, the Council will prepare and make available on request a draft decision notice as soon as practicable after the decision has been made, but any such draft should not be relied on as a correct record until it has been confirmed as such.

2.16 The Council will make available access to copies of the following after a meeting in accordance with its "Retention Schedule":

- 2.16.1 the minutes of the meeting, or, where appropriate, records of decisions taken, together with reasons, for all meetings of the Executive excluding any part of the minutes of proceedings when the meeting was not open to the public and which disclose exempt or confidential information;
- 2.16.2 a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- 2.16.3 the agenda for the meeting; and
- 2.16.4 reports relating to items when the meeting was open to the public provided that such reports do not contain confidential or exempt

information or, if they do, the information disclosed is no longer confidential or exempt.

### **Background Papers**

2.17 The author of a report for a meeting will set out list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

2.17.1 disclose any facts or matters on which the report or an important part of the report is based; and

2.17.2 which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information as defined in Rules 2.20 and 2.22.

If there are no relevant background papers then the report should state none.

2.18 The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers, except in so far as they disclose exempt or confidential information.

### **Summary of the Public's Rights**

2.19 A written summary of the public's rights to attend meetings and to inspect and copy documents is kept at the Council's principal offices and is available on the Council's website [here](#).

### **Confidential Information – Exclusion of the Public and Press**

2.20 The public and the press must be excluded from an item at a meeting whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings, that confidential information would be disclosed.

## **Meaning of Confidential Information**

2.21 For the purposes of access to reports, confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by reason of a court order or any enactment.

## **Exempt Information – Discretion to Exclude Public**

2.22 The public may be excluded from an item at a meeting whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings, that exempt information would be disclosed.

2.23 Where a decision on an item at a meeting will determine any person's rights or obligations, or adversely affect their possessions, Article 6 of the European Convention on Human Rights establishes a presumption that the discussion of the item will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

## **Meaning of Exempt Information**

2.24 Subject to paragraph 2.25 below, and to the test of the Public Interest set out in paragraph 2.25 below, information is exempt information where it falls within any of the following categories:

- (a) information relating to an individual;
- (b) information which is likely to reveal the identity of an individual;
- (c) information relating to the financial or business affairs of any particular person (including the public authority holding the information), except where the information is required to be registered under certain prescribed statutes detailed in Part 2 of Schedule 12A Local Government Act 1972 from time to time which include the Companies Acts (as defined by s.2 of the Companies Act 2006) and the Charities Act 2011.

- (d) "financial or business affairs" includes contemplated, as well as past or current activities;
- (e) information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the Authority. "Labour relations matter" means any matter which may be the subject of a trade dispute, or any dispute about any such matter (i.e. a matter specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992;
- (f) information in respect of which a claim to legal professional privilege could be maintained in legal proceedings;
- (g) information which reveals that the Authority proposes:
  - (a) to give under any enactment a notice, under or by virtue of which requirements are to be imposed on a person; or
  - (b) to make an order or direction under any enactment.
- (h) information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

2.24 Information pertaining to planning permission falling within any of the categories in paragraph 2.24 above is not thereby exempt if it relates to proposed development for which the local planning authority may grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.



## **Public Interest Test**

2.25 Information falling within any of categories in Rule 2.24 which is prevented from being exempt because either:

2.25.1 it falls within category c., and is required to be registered under the prescribed enactments; or

2.25.2 rule 2.24 applies; it is exempt information if, and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## **Freedom of Information Act 2000 and Environmental Information Regulations 2004**

2.26 In compliance with the Freedom of Information Act 2000, the Council will respond to any requests for information. There is no charge for responding to requests for information other than 'disbursement' costs; however, a charge may be made if it exceeds the Government's advisory fee level or if the request is one which comes under the Environmental Information Regulations 2004.

## **Exclusion of Public Access to Reports**

2.27 The Monitoring Officer may exclude access by the public and the press to a report which, in his or her opinion, relates to an item during which, in accordance with Rule 2.20 or 2.22, the meeting is likely not to be open to the public; or, as the case may be, was not open to the public. Such reports will be marked "Not for Publication", together with the category of information likely to be disclosed. Before the public and the press are excluded in accordance with this provision, the Council must have complied with the notice provisions in Rule 2.7 and notice of the proposal to meet in private will have been given by the Council's Proper Officer.

## **Rights of Access to Information by Councillors**

- 2.28 Where a Committee has resolved to exclude the public from a meeting or part of a meeting on the grounds that exempt or confidential information is being considered, a Councillor may attend the meeting and/or inspect any exempt or confidential documents relating to the business of the Committee if they can demonstrate a "need to know".
- 2.29. A Councillor's "need to know" arises when they requires the information in order to carry out properly their duties as a Councillor. It may apply to information about matters affecting his/her electoral division or matters which relate to a Council body or informal working group to which they belong. It does not arise where a Councillor would simply like to know what is in a document or what may be said at a meeting. It also does not enable a Councillor to "trawl" through a large number of files in search of information (sometimes known as "fishing for information"). Whether a need to know arises in a particular case will be a matter of fact and degree to be decided in the light of all the circumstances of the request.
- 2.30 It is a general presumption that all reports, including those containing confidential or exempt information, will be available to Scrutiny Committees where they are relevant to that business to be conducted by that Scrutiny Committee. This presumption may be dis-applied in exceptional circumstances.
- 2.31 In the event of a dispute, the Monitoring Officer will determine whether a Councillor has demonstrated a "need to know". The test applied is whether it is reasonable to refuse the Councillor access to the information given all the circumstances. For example, if a Councillor is motivated by improper or ulterior reasons, it would be appropriate to refuse access.

### **3. The Council's Petition Scheme**

- 3.1 Somerset Council welcomes petitions and recognises that they are one way in which people can let us know their concerns. Councils have discretion on how petitions are approached locally. This is Somerset Council's Petition Scheme.

What is a Petition?

- 3.2 The Council treats as a petition any communication which is identified as being a petition or if it seems to us that it is intended to be a petition and has a minimum of 50 signatories of people who live, work or study in the Somerset Council area
- 3.3 Petitions of 5000 signatures (individually or collectively) will be treated as Large Petitions

The Role of Councillors.

- 3.4 Before considering whether or not to submit a petition to the Council the petition organiser may want to discuss their issue with one of their local councillors. Their Local Councillor will be able to advise whether the matter is one for the Council and also whether a petition is the best form of engagement with the Council on the matter which has been raised.
- 3.5 When a petition is received by the Council which relates to a local matter (particularly affecting a specific ward), the Council will notify each relevant local Councillor.

How Do I Submit a Petition?

- 3.6 You can submit a petition by post, by hand or e-mail
- 3.7 Petitions can be sent to: Monitoring Officer, Somerset Council, or emailed to democratic services or by hand at any of our offices E-petitions must follow the same guidelines as paper petitions. All e-petitions will run for 28 days (unless the Monitoring Officer agrees an alternative timescale) to ensure that the Council's decision making process is not delayed. The petition will need to be checked before it is published on line and if the Council is unable to publish it, an officer will contact the Petition Organiser to explain why.
- 3.8 Petitions can be presented at Council meetings by placing the petition on the front table.

#### How We Will Deal with a Petition

- 3.9 All petitions submitted to Somerset Council will receive an acknowledgement from the Council within 3 clear working days of receipt.
- 3.10 If the petition is not valid it will be returned to the Petition Organiser with an explanation within 10 clear working days of receipt.
- 3.11 If the petition is valid the Petition Organiser will then be informed of how the petition will be handled within 20 clear working days of acknowledgement
- 3.12 If the Petition Organiser is submitting the petition in response to a Council consultation or on a specific matter, it is important to identify the matter which it relates to, so that the Council can ensure that the petition is considered along with the original matter. See below for further guidance.
- 3.13 Please be aware any petition submitted to the Council will be publicly available and may form part of an agenda and published on the Council's website
- 3.14 A petition must include:-
  - a. what it is about – it must relate to a responsibility of the Council (this must be on each page of the petition)
  - b. What the petitioner wants the Council to do (this must be on each page of the petition)
  - c. name of everyone who supports the petition must be set out in an identifiable way

- d. For paper petitions the signature of each petitioner
- e. The name and contact details of the "petition organiser" or someone the petition organiser would like any correspondence about the petition to be sent. This can be either a postal or an email address The Petition Organiser may include the addresses of petitioners, which may be useful to the Council, for example, in assessing the degree of local support or opposition to a particular matter, but this is not essential.

3.15 The Monitoring Officer may reject a petition if in their view:

- f. It is not relevant to Council functions
- g. It does not qualify under the scheme or does not comply with the above rules
- h. It is vexatious, abusive or otherwise inappropriate
- i. It is a duplicate or repeat petition
- j. It is a petition qualifying under another enactment
- k. It is excluded because for example:
  - l. It relates to a planning decision and/or ancillary applications and decisions and/or follow on decisions;
  - m. It relates to a licensing decision;
  - n. It relates to any other 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.

3.16 In the period immediately before an election or referendum the Council may need to deal with the petition differently – if this is the case the Monitoring Officer will explain the reasons and discuss the revised timescale which will apply. Political impartiality must be maintained during the pre-election period. If the petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In this case, the Monitoring Officer will write to the Petition Organiser to explain the reasons.

3.17 Different Types of Petition

3.18 There are different types of petitions which are submitted for various reasons:-

- a. Consultation - Petitions are submitted in response to an invitation from the Council to submit representations on a particular proposal. The petition will be taken into account either by the appropriate body, officer, or the Executive Lead Member taking the decision.
- b. Council-wide - the Petition will be presented at full Council.

The Council will not debate the petition unless it is a Large Petition. The relevant Petition Organiser/or the Local Councillor will be allowed 3 minutes to present the petition at the meeting. Except with the consent of the Chairman only one person may speak to present a petition.

If the petition is a Large Petition there will be a debate at a Full Council meeting of a maximum of 15 minutes

At any one meeting, no-one may present more than two petitions unless approved at the time of receipt by the Monitoring Officer in consultation with the Chairman.

The full Council may refer the petition to the relevant Executive Lead Member for consideration. The Executive Lead Member may provide an immediate verbal response to the petition, or refer it to a relevant Committee, Community Board or the Executive for further consideration.

Presentations at Committees may be made by the relevant councillor or the petition organiser. The relevant councillor or the petition organiser will be allowed 3 minutes to present the petition unless otherwise agreed by the Chairman.

- c. Petitions on Local issues will normally be presented to and dealt with by the LCN

A report will be written giving an officer response to the petition which will be considered by the LCN. (If there is a deadline to respond to the petition before the meeting the petition could be considered by the officer, Local councillor and Executive Lead Member). If the LCN does not agree with the officer response they can decide to refer the issue to the relevant Executive Lead Member for reconsideration with an explanation of their reasoning. If there is a petition relating to a local issue which is currently being consulted upon the Monitoring Officer may consider that the best route for this petition is via the Council or Consultation route as explained above to be taken into account by the decision taker rather than being submitted to the LCN

#### **4. Citizens' Responsibilities and Obligations**

- 4.1 Citizens must not be abusive, threatening or violent (verbally, physically or in writing) towards Councillors or Officers.
- 4.2 Citizens must not wilfully damage any property owned by the Council, its Councillors or Officers.
- 4.3 Citizens must not misuse any information (for example, for financial gain or commercial benefit) obtained during the course of their contact with the Council.
- 4.4 Citizens must disclose any confidential information obtained during the course of their contact with the Council (unless required to do so by law).
- 4.5 The Council will not tolerate abusive, threatening or violent conduct towards its Councillors or Officers or damage to their or the Council's property and will report such instances to the police.
- 4.6 The Council takes complaints submitted by citizens very seriously but has in place a procedure for dealing with habitual and / or vexatious complainants which it will use if necessary.

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## **Part C – Council**

[Section 1 Role of Council](#)

[Section 2 Budget and Policy Framework](#)

[Section 3 Council Procedure Rules](#)

[Section 4 Budget and Policy Framework Procedure Rules](#)

[Section 5 Honorary Alderman Scheme](#)

Full Council is the term given to a meeting which all Members attend. This Part deals with what full Council does and how these meetings are run. The Rules include how questions are put to Members, how votes are taken and how Members are appointed to serve on committees or sub committees.

These Rules are written in formal language. If you have specific questions our democratic services team will be happy to help you

## **1. Role of Council**

### **Council Functions**

1.1. The Council's functions are:

- adopting and amending the Council's Constitution;
- approving or adopting the Council's budget and policy framework;
- subject to the urgency procedure of the Council's Budget and Policy Framework Procedure Rules, making decisions which relate to an executive function which is covered by the Budget and Policy Framework, when the decision would be contrary to, or not wholly in accordance with the Budget, or would be contrary to the Policy Framework;
- appointing and removing the Leader of the Council;
- deciding the composition of a Council Committee; appointing Members to be members on a Committee, and agreeing and / or amending the terms of reference of a Committee;
- Receiving regular reports from the Leader and the Executive and the Scrutiny Committees regarding their decisions and/or outcomes;
- appointing Members to represent the Council on outside bodies (unless the appointment is or relates to an executive function, or it has been delegated by the Council to an individual or Council body);
- adopting, amending, revoking or replacing the Member Code of Conduct and the Council's Arrangements for Dealing with Standards Complaints;
- adopting, amending, revoking or replacing a Member Allowance Scheme;
- passing byelaws and local legislation;
- public health functions including promoting healthier lifestyles and scrutinising and challenging the NHS and other partners to promote better health and ensure threats to health are addressed;
- confirming and terminating the appointment of the Council's Head of Paid Service (Chief Executive) and Statutory Officers;
- the non-executive functions specified in this Constitution as being the responsibility of the Council;
- appointing Honorary Alderman in accordance with the Honorary Alderman Scheme;

- all other functions which by law must be reserved to the Council.

## **2. Budget and Policy Framework**

2.1. **Policy Framework** means the following plans and strategies:

- Corporate Plan
- Local Plans including the Minerals and Waste plans
- Community Infrastructure Levy (CIL) Charging Schedule
- Treasury Management Strategy
- Capital and Investment Strategy
- Youth Justice Plan
- Housing Strategy
- Licensing Authority Statement of Licensing Policy
- Statement on Gambling Policy
- Policy on Pay

2.2. **Budget.** The Budget including:

- Allocating financial resources to different services and projects
- Setting Council Tax

## **3. Council Procedure Rules**

### **Annual Meeting of the Council**

#### **Timing and Business**

- 3.1. **In** a year where there is an ordinary election of Members, the annual meeting will take place within **21 days** of the retirement of the outgoing Members. In any other year, the annual meeting will take place in May.
- 3.2. The annual meeting will:
  - elect a person to preside if the Chair of the Council is not present;
  - elect the Chair of the Council;
  - elect the Vice-Chair of the Council;
  - approve the minutes of the last meeting;
  - receive any announcements from the Chair and / or the Head of

Paid Service and/or Returning Officer;

- Subject to Part E , elect the Leader in the year of an ordinary election of Members;
- appoint the Scrutiny Committees and such other committees and sub-committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions. This will include appointing the Chairs, Vice-Chairs and membership of the committees and sub-committees;
- agree the Scheme of Delegation or such part of it as the Constitution determines it is for the Council to agree; and
- approve a programme of ordinary meetings of the Council for the year.

### **Scrutiny of Members on Committees and Outside Bodies**

3.3. At the annual meeting, the Council will:

- decide which committees and sub-committees to establish for the municipal year;
- decide the size and terms of reference for those committees;
- decide the allocation of seats to political groups in accordance with the political balance rules;
- make appointments to outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable by the Executive or the Leader.
- Receive a report from the Leader about Executive Member appointments and the record of delegations

### **Ordinary Meetings**

- 3.4. Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. The Chair of the Council and the Leader of the Council may jointly agree to vary the time or date of any ordinary meeting or to cancel any ordinary meeting. If they decide to do so, the decision must be agreed and notified to the Monitoring Officer no less than one month before the date that the meeting was due to take place, unless the variation or cancellation is due to exceptional and unforeseen circumstances (as determined by the Chief Executive in consultation with the Chair of the Council).
- 3.5. The order of business at ordinary meetings will be as set out below.
- 3.6. The Chair has discretion to vary the order of business or add items at any meeting. Such a variation may not displace business falling under items a, b,

c, d, e or f. The Chair has discretion to invite a speaker to address the Council meeting, or to permit an Officer of the Council to attend the meeting and present a briefing paper or report on any matter before the Council.

- a. elect a person to preside if the Chair and Vice-Chair are not present (this cannot be a Executive Member);
- b. approve the minutes of the last meeting;
- c. receive any apologies
- d. receive any declarations of interest from Members;
- e. receive any announcements from the Chair;
- f. receive a report from the Leader and receive questions and answers on the report;
- g. receive petitions in relation to matters which in the opinion of the Chair are relevant to the Council's functions;
- h. receive reports from Executive Members and receive questions and answers on the reports;
- i. receive reports from the Council's Committees and receive questions and answers on those reports;
- j. receive any reports from the Council's Scrutiny Committees and receive factual questions and answers on those reports;
- k. receive reports from statutory officers
- l. receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- m. 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
- n. consider motions; and
- o. deal with questions from Members in accordance with Rule 3.25.

### **Extraordinary Meetings**

#### **Calling Extraordinary Meetings**

- 3.7. The Monitoring Officer may call Council meetings in addition to ordinary meetings and those listed below may request the Monitoring Officer to call additional Council meetings:
- the Council by resolution;

- the Chair of the Council;
- 5 Members if they have signed a requisition presented to the Chair of the Council and the Chair of the Council has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the request. Any requisition must state the business to be transacted, that it falls within the functions of the Council and the reasons why an Extraordinary Meeting is required.

## **Business**

- 3.8. The business to be conducted at an extraordinary meeting shall be restricted to the item of business contained in the request for the extraordinary meeting except that the Chair may at their absolute discretion permit on the grounds of urgency other items of business to be conducted for the efficient discharge of the Council's business.

## **Time and Place of Meetings**

- 3.9. The time and place of meetings will be determined by the Monitoring Officer and notified in the summons.

## **Notice of and Summons to Meetings**

- 3.10. The Monitoring Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least **5 clear working days** before a meeting, the Monitoring Officer will send a summons signed by them to every councillor. The summons will give the date, time and place of each meeting and specify the business to be transacted and will be accompanied by such reports as are available.

## **Chair of Meeting**

- 3.11. The person presiding at the meeting may exercise any power or duty of the Chair

## **Quorum**

- 3.12. The quorum of a meeting will be 28 members. If a quorum is not present within 10 minutes of the scheduled start of the meeting or such longer time as allowed by the Chair, or if during any meeting if the Chair counts the number of Members present and declares there is not a quorum present, the meeting will be adjourned. Remaining business will be considered at a time and date fixed by the Chair. If the Chair does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **Questions by Members**

### **Questions Without Notice**

3.13. Any councillor may ask

- an Executive Member or the Chair of a committee any question on an agenda item. Any questions directed to the Chair of the Audit and Governance Committee must be factual only.
- any Executive Member any question on any issue relevant to their portfolio.

3.14. Questions are normally limited to one (1) minute per councillor unless the Chair consents to a longer period.

3.15. Supplementary questions can only be asked with the consent of the Chair.

### **Questions on Notice**

3.16. Subject to Rule 3.17, any councillor may ask:

- the Chair;
  - a member of the Executive;
  - or the Chair of any committee or sub-committee
- a question on any matter in relation to which the Council has powers or duties or which affects the administrative area of the Council.

### **Notice of Questions**

3.17. A councillor may ask a question under Rule 3.16 (questions on notice) if either:

- they have given notice of the question in writing or by e-mail no later than **noon 3 clear working days** before the day of the meeting to the Monitoring Officer; or
- the question relates to urgent matters, they have the consent of the Chair or councillor to whom the question is to be put and the content of the question is received by the Monitoring Officer in writing or by e-mail by **9.00 a.m. on the day of the meeting**.

### **Content of Questions**

3.18. All questions must, in the opinion of the Chair:

- not be unreasonable;
- contain no expressions of opinion;

- relate to matters on which the Council has or may determine a policy;
- not relate to questions of fact;
- not require the disclosure of confidential or exempt information;
- not relate to a matter which is of purely personal concern to an individual/family member.

### **Time Allowed for Member Questions Without Notice at Council Meetings**

- 3.19. The number of questions asked under Rule 3.13 (without notice) and the total time allowed for consideration of such questions shall be determined by the Chair;
- 3.20. At the conclusion of the response to the question under consideration or at the expiry of such time period as determined by the Chair from the time when the first questioner started to speak, the Chair shall conclude the meeting or proceed to the next item of business.
- 3.21. Any remaining questions shall be responded to in writing before the next ordinary meeting of the Council.

### **Generally**

#### **Record of Questions**

- 3.22. The Monitoring Officer will send a copy of any question received under Rule 3.16 (on notice) to the Councillor to whom it is to be put. Copies of all questions under Rule 3.16 (on notice) will be available to all Members and the public attending the meeting.
- 3.23. Rejected questions under Rule 3.16 (on notice) will be returned to the questioner with the reasons for rejection.

#### **Order of Questions**

- 3.24. Questions from Members received in accordance with Rule 3.13 (without notice) will be asked in the order determined by the Chair except that if the opposition Group Leader has a question they will be invited to put it first.

#### **Response**

- 3.25. An answer to a question under Rule 3.13 (without notice) may take the form of:
- a direct verbal answer;
  - where the desired information is in a publication of the Council or other published work, a reference to that publication; or



- where the reply cannot conveniently be given verbally, a written response will be provided no later than 10 clear working days after the meeting.
- 3.26. The response to a question under Rule 3.16 (on notice) will be in writing which will be provided to the questioner within 10 clear working days of the meeting.
- copies of all questions and responses will be available on the Council's website with the minutes for the relevant meeting.

### **Reference of Question to the Executive or a Committee**

- 3.27. Unless the Chair decides otherwise, no discussion will take place on any question, but any councillor may move that a matter raised by a question be referred to the Executive or the appropriate Committee or sub-Committee as necessary. Once seconded, such a motion will be voted on without discussion.

### **Motions on Notice**

#### **Application of Rules**

- 3.28. Rules 3.29 to 3.36 do not apply to motions on notice under Rule 3.37.

#### **Notice**

- 3.29. Except for motions which can be moved without notice under Rule 3.38, written notice of every motion, must be delivered by hand or e-mail to the Monitoring Officer not later than 7 clear working days before the Council meeting at which it is to be considered.
- 3.30. Except for amendments which can be moved without notice under Rule 3.38 or are allowed under Rule 3.49, written notice of amendments to a motion must be delivered by hand or e-mail to the Monitoring Officer not less than 2 clear working days before the start of the Council meeting at which the motion to which it relates is to be considered.
- 3.31. Once approved by the Monitoring Officer copies of the amendment will be provided to Group Leaders.

#### **Motion Set Out in Agenda**

- 3.32. Motions for which notice has been given will be listed on the agenda in the order in which they were received.

## Scope

- 3.33. Motions must be about matters for which the Council has a direct responsibility or duty.
- 3.34. The Chair after consultation with the Monitoring Officer will refuse to accept any motion or amendment to a motion which they deem to be illegal, improper, vexatious or out of order.

## Order of and Time Allowed for Motions

- 3.35. Notwithstanding the order of Motions within the Agenda the Chair will decide the order that Motions will be considered and the time allowed for consideration of motions on the Agenda. At the conclusion of such period allowed, the Chair shall put to the vote, without further discussion, all the questions necessary to dispose of the motion then under debate provided that:
  - a. if any speech to be concluded is a speech proposing a motion, the Chair shall allow the motion to be formally seconded (without comment);
  - b. if any speech to be concluded is a speech moving an amendment, the Chair shall allow the amendment to be formally seconded (without comment) and the mover of the motion to exercise their right of reply; and
  - c. otherwise, the Chair shall allow the mover of the motion to exercise their right of reply.
- 3.36. Any remaining motions submitted under this Rule shall be deferred to the next ordinary meeting of the Council, Committee or Sub-Committee and shall be dealt with at that meeting in the same order and before any other motions of which notice is given for that meeting.

## Motions to Amend Budget and Policy Framework

- 3.37. Written notice of a motion to move an amendment of the Executive's proposals for the Council's Budget and Policy Framework, subject to the Budget and Policy Framework Procedure Rules, must be delivered to the Monitoring Officer **not later than midday 2 working days before the Council meeting at which it is to be considered**. Motions received after that deadline will only be considered in exceptional circumstances and with the approval of the Chair, Section 151 Officer and Monitoring Officer. The Chair has discretion on how to deal with motions under this Rule.

## **Motions Without Notice**

3.38. The following motions may be moved without notice:

- to appoint a Chair of the meeting at which the motion is moved;
- in relation to the accuracy of the minutes;
- to change the order of business in the agenda;
- to refer something to an appropriate body or individual;
- to appoint a committee or member arising from an item on the summons for the meeting;
- to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- to withdraw a motion;
- to proceed to the next business;
- that the question be now put;
- to adjourn a debate;
- to adjourn a meeting;
- to suspend a particular Council Procedure Rule;
- to exclude the public and press in accordance with the Access to Information Rules;
- to not hear further a councillor named under Rule 3.88 or to exclude them from the meeting under Rule 3.89; and
- to give the consent of the Council where its consent is required by this Constitution.

## **Rules of Debate**

### **No Speeches Until Motion Seconded**

3.39. No speeches may be made after the mover has moved a motion and explained the purpose of it until the motion has been seconded.

### **Right to Require Motion in Writing**

3.40. Unless notice of the motion has already been given or the motion is one detailed under Rule 3.38, the Chair will require it to be written down in sufficient time to circulate to all members before it is discussed. The Chair will decide whether there is sufficient time to propose a motion without notice.

## **Seconders's Speech**

- 3.41. When seconding a motion or amendment, a councillor may reserve their speech until later in the debate.

## **Content and Length of Speeches**

- 3.42. Speeches must be directed to the motion under discussion or to a personal explanation or point of order.
- 3.43. Subject to Rule 3.46 below a speech by the mover of a motion may not exceed 5 minutes without the consent of the Chair.
- 3.44. Subject to Rules 3.45 and 3.46 below, speeches by other Members, including those Members seconding or speaking during their right to reply, may not exceed 2 minutes without the consent of the Chair.
- 3.45. When the Council's annual budget is under discussion, the Leader of each political group, apart from the Leader of the Council and the Leader of the largest opposition political group, on the Council may speak for up to 5 minutes or such longer period as the Chair shall allow.
- 3.46. Any speeches by the Leader of the Council or the Leader of the largest opposition political group can be up to 15 minutes or such longer period as the Chair shall allow.

## **When a Councillor May Speak Again**

- 3.47. A councillor who has made a speech on a motion may not speak again whilst it is the subject of debate, except:
- to speak once on an amendment moved by another councillor;
  - to move a further amendment if the motion has been amended since they last spoke;
  - if their first speech was on an amendment moved by another councillor, to speak on the main issue (whether or not the amendment on which they spoke was carried);
  - in exercise of a right of reply;
  - on a point of order; or
  - by way of personal explanation.

## **Amendments to Motions**

- 3.48. An amendment to a motion must be relevant to the motion and will either be:
- a. to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - b. to leave out words;
  - c. to leave out words and insert or add others; or
  - d. to insert or add words
- as long as the effect of b. to d. is not to negate the motion or to introduce a new motion.
- 3.49. Amendments must be in writing and on notice under Rule 3.30 unless the amendment arises during the debate and could not have been reasonably foreseen. The Chair's ruling on the validity of an amendment is final.
- 3.50. Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- 3.51. If an amendment is not carried, other amendments to the original motion may be moved.
- 3.52. If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- 3.53. 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.

## **Alteration of Motion**

- 3.54. A councillor may alter a motion of which they have given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- 3.55. A councillor may alter a motion which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- 3.56. Only alterations which could be made as an amendment may be made.

## **Withdrawal of Motion**

- 3.57. A councillor may withdraw a motion which they have moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No councillor may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

## **Right of Reply**

- 3.58. The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- 3.59. If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- 3.60. The mover of the amendment has no right of reply to the debate on their amendment. If their amendment is carried, they can have the penultimate speech on the amended motion.

## **Motions Which may be Moved During Debate**

- 3.61. When a motion is under debate, no other motion may be moved except the following procedural motions:
- to withdraw a motion;
  - to amend a motion;
  - to proceed to the next business;
  - that the question be now put;
  - to adjourn a debate;
  - to adjourn a meeting;
  - to exclude the public and press in accordance with the Access to Information Rules; or
  - to not hear further a councillor named under Rule 3.88 or to exclude them from the meeting under Rule 3.89.

## **Closure Motions**

- 3.62. A councillor may move, without comment, the following motions at the end of a speech of another councillor:
- to proceed to the next business;

- that the question be now put;
  - to adjourn a debate; or
  - to adjourn a meeting.
- 3.63. If a motion to proceed to next business is seconded and the Chair considers the item has been sufficiently discussed, the Chair will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- 3.64. If a motion that the question be now put is seconded and the Chair considers the item has been sufficiently discussed, the Chair will put the procedural motion to the vote. If it is passed the Chair will give the mover of the original motion a right of reply before putting their motion to the vote.
- 3.65. If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair considers the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, the Chair will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

### **Point of Order**

- 3.66. A councillor may raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of these Council Procedure Rules or the law. The councillor must indicate the Rule or law and the way in which they consider it has been breached. The ruling of the Chair on the matter will be final.

### **Personal Explanation**

- 3.67. A councillor may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the councillor which may appear to have been misunderstood in the present debate. The ruling of the Chair on the admissibility of a personal explanation will be final.

### **Motion to rescind a previous decision**

- 3.68. No motion or amendment to a motion to reverse a decision made at a meeting of the Council within the preceding six months shall be moved unless the notice of motion is signed by at least 15 Members (including the proposer).

### **Motion similar to one previously rejected**

- 3.69. No motion or amendments to a motion to the same effect as one rejected

by the Council within the preceding six months shall be moved unless the notice of motion is signed by at least 15 Members (including the proposer). Once the Council has determined the extant motion or amendment, no one may propose a similar motion or amendment within a further period of six months.

- 3.70. The requirements in Rules 3.68 and 3.69 above shall not apply where the motion in question arises from the recommendation of the Executive or a committee.

## **Voting**

### **Majority**

- 3.71. Any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put unless the law provides otherwise.

### **Chair's Casting Vote**

- 3.72. If there are equal numbers of votes for and against, the Chair will have a second/ casting vote. There will be no restriction on how the Chair chooses to exercise a second/casting vote.

### **Method of Voting**

- 3.73. Unless a recorded vote is demanded under Rule 3.71 the Chair will take the vote by show of hands, or by use of the Council's electronic voting system, if any, or if there is no dissent, by the affirmation of the meeting.

### **Recorded Vote**

- 3.74. If 15% of Members (rounded up) present at the meeting request it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and included in the minutes.

### **Right to Require Individual Vote to be Recorded**

- 3.75. Where any councillor requests it immediately after the vote is taken, their vote will be recorded in the minutes to show whether they voted for or against the motion or abstained from voting.



## **Nominations, Elections and Appointments**

- 3.76. If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.
- 3.77. Where a vote is taken for the election of the Chair and the out-going Chair is present in the room and not seeking re-election, the out-going Chair will preside over the election of the new Chair.
- 3.78. The out-going Chair shall be deemed to have retired from that position immediately before the start of a meeting at which a Chair is to be elected.
- 3.79. Subject to Rule 3.74 and in accordance with Rule 3.6 b members of the Council shall appoint one of their number to preside over the election of Chair if the Vice-Chair is seeking election as Chair or is not present.
- 3.80. Officers shall not call for nominations for the election of the Chair.

## **Voting at a Budget Decision Meeting**

- 3.81. Immediately after any vote is taken at a budget decision meeting of the Council there must be recorded in the minutes of the proceedings of that meeting the names of the Members who cast a vote for the decision or against the decision or who abstained from voting.

**Note:** Budget decision means calculation of the council tax requirement, calculation of the basic amount of council tax, additional calculations where special items relate to part only of the area administered by the Council, calculation of council tax for different variation bands, substitute calculations and calculation of the amount payable by billing authorities.

A councillor who has council tax arrears is not eligible to vote on budget decisions.

## **Minutes**

- 3.82. Minutes will contain all motions and amendments in the form and order they were put.

## **Signing the Minutes**

- 3.83. The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

## **No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting**

- 3.84. Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972 (an extraordinary meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes.

## **Record of Attendance**

- 3.85. All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance where appropriate.

## **Exclusion of Public**

- 3.86. Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part B of this Constitution or in accordance with the following Rules.
- 3.87. If a member of the public interrupts proceedings, the Chair will warn the person concerned. If they continue to interrupt, the Chair will order their removal from the meeting room.
- 3.88. If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

## **Members' Conduct**

### **Speaking at Meetings**

- 3.89. When a councillor speaks they must address the meeting through the Chair. If more than one councillor signifies their intention to speak, the Chair will ask one to speak. Other Members must remain silent whilst a councillor is speaking unless they wish to make a point of order or a point of personal explanation.

## **Chair Speaking**

- 3.90. When the Chair speaks during a debate, any councillor speaking at the time must stop.

## **Councillor Not to be Heard Further**

- 3.91. If a councillor persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may move that the councillor be not heard further. If seconded, the motion will be voted on without discussion.

## **Councillor to Leave the Meeting**

- 3.92. If the councillor continues to behave improperly after such a motion is carried, the Chair may move that either the councillor leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

## **General Disturbance**

- 3.93. If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as they consider necessary.

## **Suspension and Amendment of Council Procedure Rules**

### **Suspension**

- 3.94. Any of these Council Procedure Rules except Rules 3.72 (right to require individual vote to be recorded) and 3.80 (signing the minutes) may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can either be for an item or for the duration of the meeting.

### **Amendment**

- 3.95. Any motion to add to, vary or revoke these Council Procedure Rules will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

## **Application of these Rules**

- 3.96. None of the Council Procedure Rules apply to meetings of the Executive, Committees or Sub-Committees, Joint Committees or other Body of the Council.

## **4. Budget and Policy Framework Procedure Rules**

### **The Framework for Executive Decisions**

- 4.1. The Council is responsible for the adoption of its Budget and Policy Framework as set out in Section 2 above. Once a Budget and the Policy Framework are adopted by Council, it is the responsibility of the Executive to implement the executive functions within that Budget and Policy Framework.

### **Process for Developing the Budget and Policy Framework**

- 4.2. After an appropriate consultation with the community and other stakeholders, the Executive will draft initial proposals in relation to any plan, strategy or budget which forms part of the Council's Budget and Policy Framework.
- 4.3. When the initial proposals have been drafted by the Executive, they will provide a copy to the Chair of the Scrutiny Committee with responsibility for the issue under consideration ("the relevant Scrutiny Committee") (unless it has already considered the initial proposals in accordance with the Scrutiny Committee Procedure Rules set out at Part G of this Constitution).
- 4.4. At the same time the Executive will notify the relevant Scrutiny Committee of the dates and/or proposed timetable within which the Executive intend to develop the proposal and submit them to full Council for approval. The timetable will allow as far as possible for both the Executive and relevant Scrutiny Committee to consider the proposals at ordinary planned meetings.
- 4.5. The relevant Scrutiny Committee will have three weeks to make its response unless the Executive or relevant Executive member has agreed a longer period with the Chair of the relevant Scrutiny Committee.
- 4.6. The Executive will finalise its proposals for consideration by full Council taking into account the recommendations (if any) of the relevant Scrutiny Committee. The report to full Council will include the recommendations (if any) of the relevant Scrutiny Committee, Executive's response to those recommendations (if any) and the extent to which they have been accepted by the Executive.
- 4.7. Full Council will consider the final proposals of the Executive and may:
  - adopt them without amendment;
  - amend them after a motion to amend is put by the Leader and seconded;
  - refer them back to the Executive for further consideration; or

- substitute its own proposals in their place.
- 4.8. If the Council accepts the Executive proposals with or without amendment the decision shall be effective immediately.
  - 4.9. If the Executive proposals are not accepted, the Democratic Services Manager will inform the Leader of the Council's objections and require him/her to reconsider the Executive proposals. The Leader will have 5 clear working days from receipt of the notification to submit a revised proposal or inform the Council of the Executive's disagreement with the objections. The Council's decision will become effective on the expiry of 5 clear working days after notification of the Council's objections unless the Leader submits revised proposals and/or formally objects in that period.
  - 4.10. If the Leader wishes to submit revised proposals and or disagree with the objections of the Council written notice will be given to the Democratic Services Manager to that effect prior to the date upon which the decision is to be effective. The written notice must state the reasons for the revised proposals and/or the disagreement. Where such notice is received the Democratic Services Manager shall convene a further meeting of the Council to reconsider its decision and the decision shall be effective pending that meeting.
  - 4.11. The Council meeting must take place within 10 working days of the receipt of the Leader's written notice unless the Chair of the Council and Leader agree that the matter can wait until the next programmed meeting of the Council. At that Council meeting the decision of the Council shall be reconsidered in the light of any revised proposals submitted and the reasons for those revisions and/or the Executive disagreement and reasons for that disagreement which shall be available in writing to the Council.
  - 4.12. The Council shall at that meeting make its final decision on the matter on the basis of a simple majority.

### **Decisions Outside the Budget or Policy Framework**

- 4.13. Subject to the provisions of the Financial Procedure Rules, the Executive, individual Members of the Executive, delegated officers, committees or joint arrangements discharging executive functions may only take decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to the Budget approved by full Council, then that decision may only be taken by the Council, subject to Rule 4.15 below.
- 4.14. If the Executive, individual Members of the Executive, delegated officers, committees or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Section 151 Officer as to whether the decision they want to make

would be contrary to the Budget and/or Policy Framework. If the advice of either of those officers is that the decision would not be in line with the existing Budget and/or Policy Framework, then the decision must be referred by that body or person to full Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 4.15 (urgent decisions outside the Budget and Policy Framework) below shall apply.

### **Urgent Decisions Outside the Budget or Policy Framework**

- 4.15. The Executive, an individual Executive member or officers, committees or joint arrangements discharging executive functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Budget approved by full Council only if the decision is a matter of urgency. However, the decision may only be taken:
- if it is not practical to convene a quorate meeting of the full Council; and
  - if the Chair of a relevant Scrutiny Committee agrees that the decision is a matter of urgency.
- 4.16. The reasons why it is not practical to convene a quorate meeting of full Council in time and the consent of the Chair of the relevant Scrutiny Committee to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of a relevant Scrutiny Committee the consent of the Chair of the Council or, in his/her absence, the consent of the Vice-Chair of the Council will be sufficient.
- 4.17. Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

### **Call-In of Decisions Outside the Budget or Policy Framework**

- 4.18. Where a Scrutiny Committee is of the opinion that a decision is, or if made would be, contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, it shall seek advice from the Monitoring Officer and/or Section 151 Officer.
- 4.19. In respect of functions which are the responsibility of the Executive, the Monitoring Officer's report and/or Section 151 Officer's report shall be made to the Executive with a copy to every councillor. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the Monitoring Officer's report and/or the Section 151 Officer's report. It shall prepare a report to full Council in the event that the Monitoring Officer or the Section 151 Officer conclude that

the decision was a departure or prepare a report to the Scrutiny Committee if the Monitoring Officer or the Section 151 Officer conclude that the decision was not a departure.

- 4.20. If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Section 151 Officer is that the decision is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, the Scrutiny Committee may refer the matter to full Council. In such cases, no further action will be taken in respect of the decision or its implementation until full Council has met and considered the matter. The full Council shall meet within 21 working days of the request or referral by the Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Section 151 Officer. The Council may either:
- endorse a decision or proposal as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Members in the normal way; or
  - amend the Council's Budget or Policy concerned to encompass the decision or proposal and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Members in the normal way; or
  - where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget and does not amend the existing Framework or Budget to accommodate it, require the Executive or the decision-taker to reconsider the matter in accordance with the advice of the Monitoring Officer and/or Section 151 Officer.

## **5. Honorary Alderman / Alderwoman Scheme**

### **Background**

- 5.1 Section 249 of the Local Government Act 1972 gives principal councils the power to confer the title of 'Honorary Alderman' or 'Honorary Alderwoman' on persons who have, in the opinion of the Council, rendered eminent services to the Council as past members of that Council, but who are no longer members of the council. The Act does not specify how eminent services are defined, and this is left as a matter of local interpretation.
- 5.2 The Act also provides that in order to confer the title of Honorary Alderman or 'Honorary Alderwoman' on an ex-Councillor, a meeting of the whole Council needs to be convened specifically for this purpose and the resolution passed by not less than two thirds of the voting Members present at that meeting.
- 5.3 The Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008 provide for the continuation of the conferment of Honorary Aldermen or Honorary Alderwoman status from legacy Councils to a new Authority. Section 32 of these Regulations specifically set out this provision. To this end, Honorary Aldermen from the 5 legacy Somerset Authorities became Aldermen for Somerset with effect from 1 April 2020.

### **Process For Nomination**

- 5.4 Nominations shall only be made in the year of the Council Elections.
- 5.5 Any nomination must be proposed and seconded by existing serving Members of the Council.
- 5.6 Nominations received will be submitted to the Monitoring Officer who will then liaise with Group Leaders and the Chair of the Council for consideration.
- 5.7 A report will then be presented to Full Council to consider conferring the Honorary Alderman or Honorary Alderwoman status.
- 5.8 Formal election to the Roll of Honorary Alderman shall be by resolution of the Council, passed by not less than two thirds of those Members present and voting thereon at a meeting of the Council specifically convened for that purpose.



## **Criteria**

- 5.9 A person shall be deemed eligible to be enrolled as an Honorary Alderman or Honorary Alderwoman provided that the person has served as a Member of the Council (and any of the 5 legacy Somerset Local Authorities prior to the establishment of the Council on 1 April 2020) for at least 10 years in total.
- 5.10 Honorary Alderman or Honorary Alderwoman is an apolitical role so individuals should not hold political office
- 5.11 For the purposes of this Scheme, the term "eminent service" is left undefined to allow flexibility when determining nominations

## **Term of Office**

- 5.12 All Honorary Aldermen and Honorary Alderwomen shall be lifetime appointments subject to the withdrawal of Title/Rights as set out below.

## **Rights & Priveleges**

- 5.13 An Honorary Alderman and Honorary Alderwoman is entitled to the following rights & privileges:
- To be presented with an Honorary Aldermen badge.
  - To receive the link to the electronic version of the Full Council summons & Agenda
  - Parking free at each Council Offices when undertaking duties.
  - To receive invitations to all civic/ceremonial, and social events to which Members of the Council are invited.

(Given the capacity issues with Full Council meetings, and the current number of Honorary Alderman and Honorary Alderwoman, no guarantee of attendance at Council meetings can be provided)

## **Withdrawal of Title/Right**

- 5.14 If an existing Honorary Alderman or Honorary Alderwoman stands for election and is not elected, they shall continue in the role. If they are elected to the Council as a Member, the title and rights shall be withdrawn from the individual for such time as they are a serving Member.
- 5.15 It shall be competent for the Council in any other particular case to withdraw the title of Honorary Alderman and the attached rights and privileges. Such

withdrawal of the title shall be by way of formal motion to a meeting of the full Council, (the summons to which contains special notice that such withdrawal is proposed and the reason therefor) and subsequent resolution of the Council passed by not less than two thirds of the Members present and voting thereon at the meeting of the Council. On the passing of such resolution, the Monitoring Officer shall delete the name of the person concerned from the Roll of Honorary Aldermen and advise that person accordingly.

### **Application of This Scheme**

- 5.16 This Scheme shall apply to all Honorary Aldermen and Honorary Alderwomen of the Council – i.e. those Aldermen who have continued from the legacy Councils (paragraph 3 of this Scheme refers) and Aldermen or Alderwomen appointed by Somerset Council.

## **Part D – Committee Structure and Procedure Rules**

Some matters are dealt with by specific committees. These are specific groups of councillors who meet regularly to make decisions about defined parts of the Council's work such as planning and standards. The Council as a whole decides how these committees are made up and who will serve on each committee.

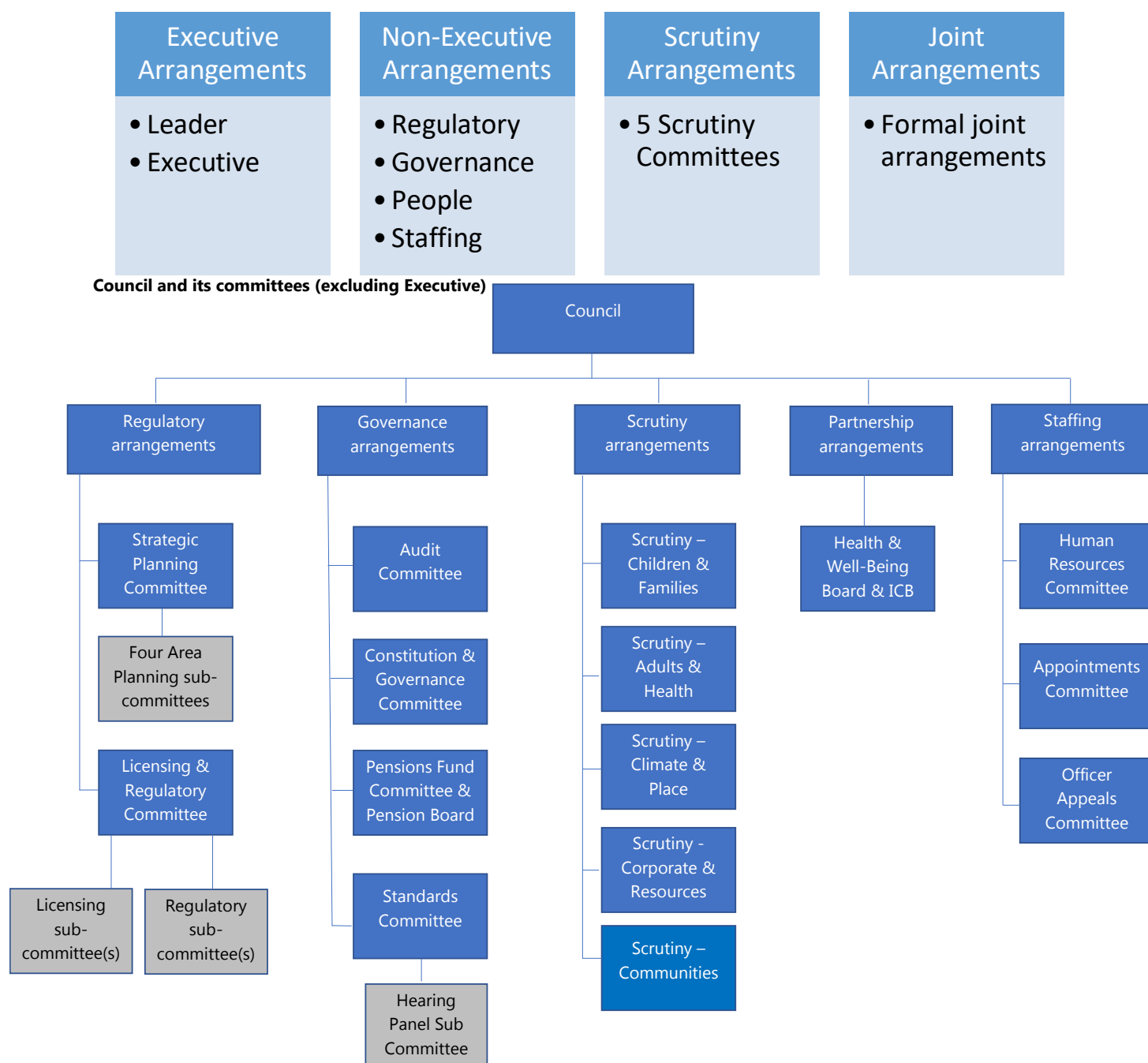
This section sets out the committees in Somerset Council, the scope of their delegated powers, their terms of reference as well as the rules about how committee meetings are run and decisions are made.

These rules are written in formal language. If you have specific questions our democratic services team will be happy to help you.

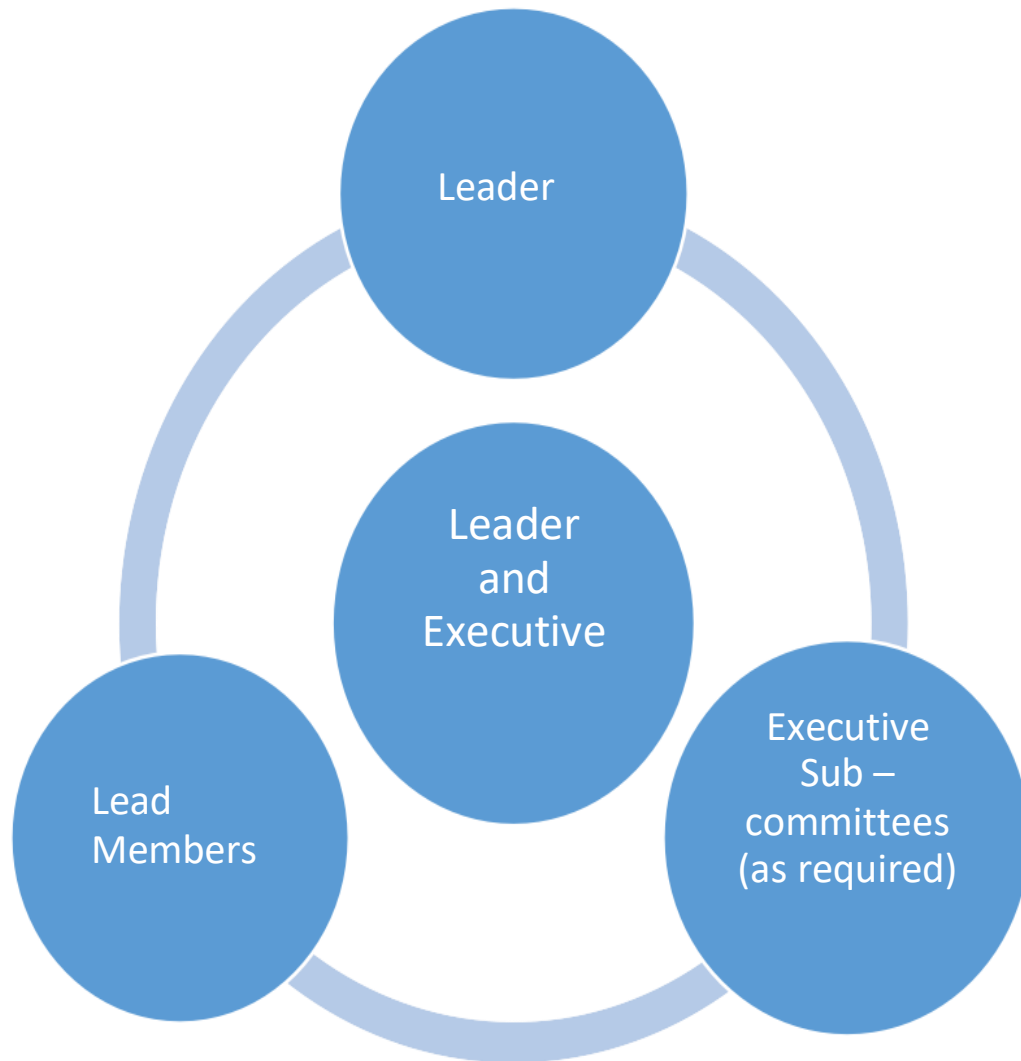
# 1. Committee Structure

- 1.1. The Council has decided that certain non-executive functions which are not reserved to the Council as a whole will be the responsibility of the Committees listed below and officers as further detailed in this Constitution by way of the Scheme of Delegation at Part I. Responsibility for some non-executive functions is also delegated to Directors and other senior Officers by way of the Scheme of Delegation in Part I Section 2. In addition to committees, some advisory and operational matters may also be carried out by panels, boards or forums.

## Decision Making



## Executive Arrangements



For text explanation of above diagrams please contact Democratic Services. Please see Part E for details of the Executive arrangements.

## 2. Committee Procedure Rules

### Scope

- 2.1. The Council will from time to time appoint such committees as it considers appropriate for the discharge of its functions, in accordance with this Constitution. A duly constituted committee acting in the exercise of its delegated powers and in accordance with its terms of reference shall be entitled to take all necessary action to fulfil its duties.
- 2.2. These Committee Procedure Rules apply to meetings of all Committees and Sub- Committees, with the exception of Licensing Committees and its Sub-Committees and also the Planning Committee and its Sub-Committees.
- 2.3. In the case of the Licensing Committee and its Sub-Committees these Rules are subject to and applied as stated in the Licensing Act 2003 (Hearings) Regulations 2005 and any other relevant legislation and as set out at the end of these Committee Procedure Rules.
- 2.4. Joint Committees and their Sub-Committees will follow these Procedure Rules unless other Rules have been agreed within their terms of reference.

### Summons and Agenda

- 2.5. At least **5 clear working days** before a meeting, the Monitoring Officer will send a summons to every Member of the Committee. The summons will give the date, time and place of the meeting and specify the business to be transacted and will be accompanied by such reports as are available.
- 2.6. Any additions or amendments to an agenda that has been sent to Councillors and/or any supplemental agenda must be approved by the Democratic Services Manager and the Chair of the Committee. Approval will only be given where there is a good reason for the addition or amendment and where the need for it could not reasonably have been foreseen at the time when the agenda was compiled.
- 2.7. The Monitoring Officer will give notice to the public of the time and place of any meeting as determined by them in accordance with the Access to Information Rules together with additions or amendments to the agenda that have been sent to Councillors.

### Chair

- 2.8. The Council shall appoint the Chairs and Vice-Chairs of Committees at its annual meeting, all of whom shall hold office until the next annual meeting or until their successors are elected or appointed.

- 2.9. If both Chair and Vice-Chair are absent from a meeting a Chair for the meeting will be elected. The person presiding at the meeting may exercise any power or duty of the Chair. (see Voting below for nomination rules)
- 2.10. No person shall hold the office of Chair or Vice-Chair unless they are a member of the committee in question and are also a councillor of the Council unless otherwise allowed under the terms of reference of that committee.
- 2.11. A councillor can be voted to be a Chair of a committee in their absence, provided they remain a member of that committee.

## **Meetings**

- 2.12. The quorum for a committee or sub-committee is one quarter of the total number of members of the committee or sub-committee unless otherwise detailed in the relevant terms of reference but shall not be less than three voting councillors.
- 2.13. If a quorum is not present within 10 minutes of the scheduled start of the meeting or such longer time as allowed by the Chair, the business of the meeting will be adjourned to the next meeting.
- 2.14. All councillors present during the whole or part of a meeting must make their attendance known to the proper officer.

## **Minutes**

- 2.15. The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.
- 2.16. Minutes will contain all motions and amendments in the form and order the Chair put them.

## **Questions**

- 2.17. A member of a committee or sub-committee may ask the Chair of it a question on any matter in relation to which the Council has powers or duties or which affects the Somerset Council administrative area and which falls within the terms of reference of that committee or sub-committee. A Chair may allow a councillor who is not a member of the relevant committee or sub-committee to speak on an item of business.

## **Content of Questions**

2.18. Questions must, in the opinion of the Chair:

- a. not be unreasonable;
- b. contain no expressions of opinion;
- c. relate to matters on which the Council has or may determine a policy;
- d. not require the disclosure of confidential or exempt information;
- e. not relate to a matter which is of purely personal concern to an individual/family member.

## **Time Allowed for Councillor Questions at Committee and Sub-Committee Meetings**

2.19. The number of questions and the total time allowed to ask and for consideration of such questions shall be determined by the Chair.

## **Order of Questions**

2.20. Questions will be asked in the order determined by the Chair of the Committee or Sub-Committee.

## **Written Responses**

2.21. Any question which cannot be dealt with during question time or to which a response cannot conveniently be given verbally to a question, will be dealt with by a written response provided within 5 clear working days of the meeting.



## Motions

### **Motions on Notice**

2.22. Any member of a committee or sub-committee may propose a motion by giving notice of it **not less than 7 clear working days before a meeting** to the Monitoring Officer. Motions must be framed in appropriate language and must, in the opinion of the Chair of the Committee or Sub-Committee in consultation with the Monitoring Officer be about matters for which the Committee or Sub-Committee has a direct responsibility or duty and motions which they deem to be illegal, improper, vexatious or out of order shall be rejected.

### **Motions Without Notice**

2.23. The following motions may be moved without notice:

- a. to appoint a Chair of the meeting at which the motion is moved;
- b. in relation to the accuracy of the minutes;
- c. to approve the minutes as a correct record;
- d. to change the order of business in the agenda;
- e. to refer a sub-committee's report or any item in it, or any other item, back to a sub-committee;
- f. to appoint sub-committee members if this arises from an item in the agenda of the meeting;
- g. to adopt a report or recommendation of the Executive, another committee, a sub-committee or an officer;
- h. to take an action recommended in an Officer's report, or other report submitted to the Committee or Sub-Committee;
- i. to withdraw a motion or amendment;
- j. to proceed to the next business;
- k. that the question be now put;
- l. to adjourn a debate;
- m. to adjourn the meeting;
- n. to suspend a particular Committee Procedure Rule;
- o. to exclude the public and press in accordance with the Access to Information Rules;
- p. to not hear further a councillor or to exclude them from the meeting for disorderly conduct.

## **Motions Set Out in the Agenda**

2.24. Motions for which notice has been given will be listed on the agenda in the order in which they were received.

## **Order and Time Allowed for Motions**

2.25. Notwithstanding the order of Motions within the Agenda the Chair will decide the order that Motions will be considered and the time allowed for consideration of motions. At the conclusion of the speech being delivered or at the expiry of such time as decided by the Chair from the commencement of the consideration of the first such motion at the meeting, the Chair shall put to the vote, without further discussion, all the questions necessary to dispose of the motion then under debate provided that:

- a. if the speech to be concluded is a speech proposing a motion, the Chair shall allow the motion to be formally seconded (without comment);
- b. if the speech to be concluded is a speech moving an amendment, the Chair shall allow the amendment to be formally seconded (without comment) and the mover of the motion to exercise their right of reply; and
- c. otherwise, the Chair shall allow the mover of the motion to exercise their right of reply.

2.26. Any remaining motions shall be deferred to the next ordinary meeting of the Committee or Sub-Committee and shall be dealt with at that meeting in the same order and before any other motions of which notice is given for that meeting.

## **Rules of Debate**

2.27. The following rules apply to a particular meeting to the extent that the Chair considers appropriate.

## **No Speeches Until Motion Seconded**

2.28. No speeches may be made after the mover has moved a motion and explained the purpose of it until the motion has been seconded.

## **Right to Require Motion in Writing**

- 2.29. Unless notice of the motion has already been given or the motion is one which can be given without notice, the Chair may require it to be written down in sufficient time to circulate to all members before it is discussed. The Chair will decide whether there is sufficient time to propose a motion without notice.

## **Seconders' Speech**

- 2.30. When seconding a motion or amendment, a councillor may reserve their speech until later in the debate.

## **Content and Length of Speeches**

- 2.31. Speeches must be directed to the motion under discussion or to a personal explanation or point of order.
- 2.32. A speech by the mover of a motion may not exceed **5 minutes without the consent of the Chair.**
- 2.33. Speeches by other Councillors, including those councillors seconding or speaking during their right to reply, may not exceed **3 minutes without the consent of the Chair.**

## **When a Councillor May Speak Again**

- 2.34. A councillor who has made a speech on a motion may not speak again whilst it is the subject of debate, except:
- to speak once on an amendment moved by another councillor;
  - to move a further amendment if the motion has been amended since they last spoke;
  - if their first speech was on an amendment moved by another councillor, to speak on the main issue (whether or not the amendment on which they spoke was carried);
  - in exercise of a right of reply;
  - on a point of order; and
  - by way of personal explanation.

## **Amendments to Motions**

- 2.35. An amendment to a motion must be relevant to the motion and will either be:
- to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - to leave out words;

- c. to leave out words and insert or add others; or
- d. to insert or add words.

As long as the effect of b. to d. is not to negate the motion or to introduce a new motion.

- 2.36. Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- 2.37. If an amendment is not carried, other amendments to the original motion may be moved.
- 2.38. If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- 2.39. 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.

### **Alteration of Motion**

- 2.40. A councillor may alter a motion of which they have given notice with the consent of the Committee. The Committee's consent will be signified without discussion.
- 2.41. A councillor may alter a motion which they have moved without notice with the consent of both the Committee and the seconder. The Committee's consent will be signified without discussion.
- 2.42. Only alterations which could be made as an amendment may be made.

### **Withdrawal of Motion**

- 2.43. A councillor may withdraw a motion which they have moved with the consent of both the Committee and the seconder. The Committee's consent will be signified without discussion.
- 2.44. No councillor may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

### **Right of Reply**

- 2.45. The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- 2.46. If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may

not otherwise speak on it.

- 2.47. The mover of the amendment has no right of reply to the debate on their amendment. If their amendment is carried, they can have the penultimate speech on the amended motion.

### **Motions Which May Be Moved During the Debate**

- 2.48. When a motion is under debate, no other motion may be moved except the following procedural motions:

- a. to withdraw a motion;
- b. to amend a motion;
- c. to proceed to the next business;
- d. that the question be now put;
- e. to adjourn a debate;
- f. to adjourn a meeting;
- g. to exclude the public and press in accordance with the Access to Information Rules; and
- h. to not hear further a councillor or to exclude them from the meeting for disorderly conduct.

### **Closure Motions**

- 2.49. A councillor may move, without comment, the following motions at the end of a speech of another councillor:

- a. to proceed to the next business;
- b. that the question be now put;
- c. to adjourn a debate; or
- d. to adjourn a meeting.

- 2.50. If a motion to proceed to next business is seconded and the Chair thinks the item has been sufficiently discussed, the Chair will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

- 2.51. If a motion that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, the Chair will put the procedural motion to the vote. If it is passed the Chair will give the mover of the original motion a right of reply before putting their motion to the vote.

- 2.52. If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair thinks the item has not been sufficiently

discussed and cannot reasonably be so discussed on that occasion, the Chair will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

## **Point of Order**

2.53. A councillor may raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of these Committee Procedure Rules or the law. The councillor must indicate the rule or law and the way in which they consider it has been breached. The ruling of the Chair on the matter will be final.

## **Personal Explanation**

2.54. A councillor may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the councillor which may appear to have been misunderstood in the present debate. The ruling of the Chair on the admissibility of a personal explanation will be final.

## **Voting**

- 2.55. Any matter will be decided by a simple majority of those councillors voting and present in the room at the time the question was put unless the law provides otherwise.
- 2.56. If a councillor arrives before the casting of votes has been commenced they are entitled to vote, unless the Committee or Sub-Committee is sitting in a quasi- judicial capacity (eg Licensing and Regulatory Committee) when a Councillor may not vote unless they have been present to hear all the evidence presented on an agenda item.
- 2.57. If there are equal numbers of votes for and against, the Chair will have a second/ casting vote. There will be no restriction on how the Chair chooses to exercise a second/casting vote.
- 2.58. The Chair will take the vote by show of hands, or by use of the Council's electronic voting system if any, or if there is no dissent, by the affirmation of the meeting.
- 2.59. Where any councillor requests it immediately after the vote is taken, their vote will be recorded in the minutes to show whether they voted for or against the motion or abstained from voting.
- 2.60. If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one

person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

2.61. Where a vote is taken for the election of the Chair of the Committee or Sub-Committee and the out-going Chair is present in the room and not seeking re-election, the out-going Chair will preside over the election of the new Chair.

2.62. The Chair of a Committee or Sub-Committee shall be deemed to have retired from that position immediately before the start of a meeting at which a Chair is to be elected.

2.63. Subject to Rule 2.63 members of the Committee or Sub-Committee shall appoint one of their number to preside over the election of Chair.

2.64. Officers shall not call for nominations for the election of the Chair.

### **Rights of Access/Inspection of Documents**

2.65. Rights of access to and inspection of documents will be as set out in the Access to Information Procedure Rules.

### **Councillors' Conduct**

#### **Speaking at Meetings**

2.66. When a councillor speaks they must address the meeting through the Chair. If more than one councillor signifies their intention to speak, the Chair will ask one to speak. Other councillors must remain silent whilst a councillor is speaking unless they wish to make a point of order or a point of personal explanation.

#### **Chair Speaking**

2.67. When the Chair speaks during a debate, any councillor speaking at the time must stop.

#### **Councillor Not to be Heard Further**

2.68. If a councillor persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may move that the councillor be not heard further. If seconded, the motion will be voted on without discussion.

## **Councillor to Leave the Meeting**

- 2.69. If the councillor continues to behave improperly after such a motion is carried, the Chair may move that either the councillor leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

## **General Disturbance**

- 2.70. If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as they consider necessary.

## **Exclusion of the Public**

- 2.71. Members of the public and press may only be excluded either in accordance with the Access to Information Rules or in accordance with the following Rules.
- 2.72. If a member of the public interrupts proceedings, the Chair will warn the person concerned. If they continue to interrupt, the Chair will order their removal from the meeting room.
- 2.73. If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

## **Appointment of Substitute Members on Committees and Sub-Committees**

- 2.74. The substitution rules will not apply to meetings of the Executive, Executive Sub-Committees, the Pension Fund Committee, Pensions Board, Health and Well-Being Board or the Officer Appeals Committee.
- 2.75. Subject to any other restrictions elsewhere in the Constitution, any councillor will be permitted to act as a substitute on a Council Body provided that they have been so appointed by Council to so act. The Proper Officer may consider a request from a councillor of a Council Body or the Leader of the political group of which the councillor is a member to appoint a substitute councillor. The proposed substitute councillor must be from the same political group as the councillor for whom they are substituting, subject to the agreement of the Monitoring Officer in consultation with the Chair of the relevant committee.
- 2.76. In order to be eligible to sit as substitutes on regulatory or administrative committees or panels or staff appointments or



disciplinary bodies established by the Council, councillors must have received formal training in relevant procedures and the law.

- 2.77. Substitute members will have all the powers and duties of any ordinary member of the committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.
- 2.78. Substitute members may attend meetings in that capacity only:
- a. to take the place of the councillor for whom they are designated substitute; and
  - b. where the ordinary councillor will be absent for the whole of the meeting; and
  - c. where the ordinary councillor or their group leader has notified the Monitoring Officer or the Democratic Services Manager of the intended substitution by no later than 24 hours before the start of the relevant meeting, or in exceptional circumstances and with the consent of the Monitoring Officer, no later than one hour before the start of the relevant meeting.

### **Suspension of Committee Procedure Rules**

- 2.79. All of these Rules of Procedure except Rules 2.15 (signing minutes) and 2.61 (individual councillor vote to be recorded) may be suspended by the Chair or by motion on notice or without notice if at least one half of the whole number of members of the Committee or Sub-Committee, are present. Suspension can either be for an item or for the duration of the meeting.

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## Part D – AUDIT COMMITTEE TERMS OF REFERENCE

### 1. General

- 1.1 The Audit Committee is a key component of the Council's governance framework. Its purpose is to provide an independent and high-level focus on the adequacy of governance, risk and control arrangements. The Committee's role in ensuring that there is sufficient assurance over governance risk and control gives greater confidence to all those charged with governance that those arrangements are effective. The Audit Committee has oversight of both internal and external audit together with the financial and governance reports, helping to ensure that there are adequate arrangements in place for both internal challenge and public accountability.
- 1.2 The Audit Committee is directly accountable to Full Council. It is independent of both the executive and the scrutiny functions and is a key advisory committee providing independent oversight, recommendations, opinions and influence on the matters for which it is responsible. To assist the Audit Committee in fulfilling its role, it has a right of access to and is expected to engage constructively with other committees and functions, for example scrutiny and service committees, corporate risk management boards and other strategic groups. The Audit Committee also has the right to request reports and seek assurances from relevant officers.
- 1.3 The terms of reference will be formally approved by the Council.
- 1.4 These terms of reference shall be reviewed by the Council on the advice of the Committee and on a regular basis to ensure that they remain fit for purpose and in accordance with any relevant regulations and guidance. Any revisions will be agreed by the Council and by the Committee.

### 2. Membership, Chair and Quorum

Number of Members	15 (includes up to 2 Independent members)
Substitute Members Permitted	Yes, provided they have met the training requirement set out in paragraph 7
Political Balance Rules apply	Yes
Appointments/Removals from Office	By resolution of full Council
Restrictions on Membership	Executive members and their deputies may not be a member of this Committee

Restrictions on Chair/Vice- Chair	None
Quorum	Five voting members
Number of ordinary meetings per Council Year	At least 4 per year

### 3. Responsibilities of the Chair

3.1 The Chair is responsible for:

- (a) ensuring the Committee delivers its purpose as set out in the Committee's terms of reference;
- (b) the arrangements for meetings of the Committee;
- (c) ensuring that Committee meetings are productive and effective and that opportunity is provided for the views of all Committee members to be expressed and considered; and
- (d) seeking to achieve the consensus of all Committee members on the business presented to the Committee and ensure that decisions are properly put to a vote when that cannot be reached.

### 4. Definitions

**AGS** means the Council's Annual Governance Statement

**CIPFA Guidance** means the following documents as amended or updated from time to time:

- CIPFA's Position Statement: Audit Committees in Local Authorities and Police 2022
- Audit Committees: practical guidance for local authorities and police (2022 edition – CIPFA) - The audit committee member in a local authority
- Audit Committees: practical guidance for local authorities and police (2022 edition – CIPFA) - Guiding the audit committee: Supplement to the audit committee member guidance

**LGAN** means the Local Government Application Note supporting the **PSIAS**

**PSAA** means Public Sector Audit Appointments Ltd

**PSIAS** means the Public Sector Internal Audit Standards

**QAIP** means the Internal Audit Quality Assurance and Improvement Programme

### 5. Terms of Reference

5.1 As set out in the CIPFA Guidance, the Audit Committee's principal duties are:

## **Governance, risk and control**

- To review the council's corporate governance arrangements against the good governance framework, including the ethical framework, and consider the local code of governance.
- To monitor the effective development and operation of risk management in the council.
- To monitor progress in addressing risk-related issues reported to the committee.
- To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.
- To consider reports on the effectiveness of financial management arrangements, including compliance with CIPFA's **Financial Management Code**.
- To consider the council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
- To review the assessment of fraud risks and potential harm to the council from fraud and corruption.
- To monitor the counter fraud strategy, actions and resources.
- To review the governance and assurance arrangements for significant partnerships or collaborations.

## **Financial and governance reporting**

### **Governance reporting**

- To review the **AGS** prior to approval and consider whether it properly reflects the risk environment and supporting assurances, including the head of internal audit's annual opinion.
- To consider whether the annual evaluation for the **AGS** fairly concludes that governance arrangements are fit for purpose, supporting the achievement of the authority's objectives.

### **Financial reporting**

- To monitor the arrangements and preparations for financial reporting to ensure that statutory requirements and professional standards can be met.
- To review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.
- To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

## **Arrangements for audit and assurance**

To consider the council's framework of assurance and ensure that it adequately addresses the risks and priorities of the council.

### **External audit**

- To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by **PSAA** or the authority's auditor panel as appropriate.
- To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.
- To consider specific reports as agreed with the external auditor.
- To comment on the scope and depth of external audit work and to ensure it gives value for money.
- To consider additional commissions of work from external audit.
- To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.
- To provide free and unfettered access to the audit committee chair for the auditors, including the opportunity for a private meeting with the committee.

### **Internal audit**

- To approve the internal audit charter.
- To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations.
- To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
- To approve significant interim changes to the risk-based internal audit plan and resource requirements.
- To make appropriate enquiries of both management and the head of internal audit to determine if there are any inappropriate scope or resource limitations.
- To consider any impairments to the independence or objectivity of the head of internal audit arising from additional roles or responsibilities outside of internal auditing and to approve and periodically review safeguards to limit such impairments.
- To consider reports from the head of internal audit on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include:

- updates on the work of internal audit, including key findings, issues of concern and action in hand as a result of internal audit work
- regular reports on the results of the **QAIP**
- reports on instances where the internal audit function does not conform to **PSIAS** and **LGAN**, considering whether the non-conformance is significant enough that it must be included in the **AGS**.
- To consider the head of internal audit's annual report, including:
  - the statement of the level of conformance with **PSIAS** and **LGAN** and the results of the **QAIP** that support the statement (these will indicate the reliability of the conclusions of internal audit)
  - the opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control, together with the summary of the work supporting the opinion (these will assist the committee in reviewing the **AGS**).
- To consider summaries of specific internal audit reports as requested.
- To receive reports outlining the action taken where the head of internal audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.
- To contribute to the **QAIP** and in particular to the external quality assessment of internal audit that takes place at least once every five years.
- To consider a report on the effectiveness of internal audit to support the **AGS** where required to do so by the accounts and audit regulations.
- To provide free and unfettered access to the audit committee chair for the head of internal audit, including the opportunity for a private meeting with the committee.

### **Accountability arrangements**

- To report to those charged with governance on the committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements and internal and external audit functions.
- To report to full council on a regular basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.
- To publish an annual report on the work of the committee, including a conclusion on the compliance with the **CIPFA Position Statement**.

- 5.2 In addition to the principal duties set out in 5.1 above, the Audit Committee will:

### **Annual Approvals**

- approve the annual accounts of the Council and the Annual Governance Statement.

### **Treasury Management**

- provide an overview role in Treasury Management matters including regular monitoring of treasury activity and practices.
- review and recommend the Non-Treasury Management Investment Strategy, the Capital Strategy, the Flexible Capital Receipts Strategy, the MRP Strategy, and any appropriate Prudential Indicators to Council.

- 5.3 In addition to the principal duties set out in 5.1 and 5.2 above, the Audit Committee may be requested to consider a review of a service, a proposed policy or other similar matters by another committee in the organisation or by one of the statutory officers, provided the matter relates to governance, risk or control and the committee does not take on a scrutiny or policy role.

Examples of where it may be helpful for the audit committee to assist include:

- reviewing whether adequate governance, risk management or audit processes are in place in relation to a specific service or new policy area
- providing advice to the executive on possible risks or implications for good governance arising from a proposed course of action or decision.

In each case, the aim of the committee should be to make recommendations in line with its role as set out in paragraph 1 above to help ensure that there are appropriate governance, risk, control and assurance arrangements in place. Audit committee recommendations under this paragraph may support the advice or recommendations of the statutory officers but cannot override that advice.

## **6. Conflicts of interest**

- 6.1 All members of the Committee must declare on appointment and at any such time as their circumstances change any potential conflict of interest arising as a result of their position on the Committee.



- 6.2 The Council's Monitoring Officer shall include interests registered by all members of the Committee in the published Members' and Co-opted Members' Register of Interests. All such interests are to be registered with the Monitoring Officer within 28 days of appointment to the Committee.

## **7. Knowledge and understanding including training**

- 7.1 All new members must follow an induction training plan and all members of the Committee will be expected to attend the training provided to ensure that they have the requisite knowledge and understanding to fulfil their role.
- 7.2 The Committee has adopted a training policy and all members of the Committee are expected to meet the requirements of that policy.
- 7.3 Failure to attend training may lead to removal from the Committee.

## **8. Independent Members**

- 8.1 Up to two Independent members may be appointed by Somerset Council as non-voting members of the Committee.
- 8.2 Independent members of the Committee shall be appointed and co-opted for a three year term by the Somerset Council following an open and transparent appointments process which considers aptitude, relevant knowledge, skills and experience.
- 8.3 Independent members of the Committee may only be removed during their term of office for good cause by the Somerset Council at a Full Council meeting. It is for the Council, acting reasonably, to determine whether or not it has good cause to terminate before the normal expiry of the term of the Independent Member.

## **9. Meetings**

- 9.1 The frequency of meetings is to be determined by the Committee once it has agreed a workplan, with a minimum of four meetings annually. In addition to this, training sessions will be held as necessary to ensure that Committee members have sufficient knowledge and skills to undertake the role.
- 9.2 The Committee will meet at the Council's main offices, or another location to be agreed by the Chair. Meetings will normally be held during normal working hours at times to be agreed by the Chair.

- 9.3 As a committee of the Council, the **Committee Structure and Procedure Rules** set out in Part D of the Council's Constitution apply to meetings of the Committee. Committee meetings will be held in open session with closed sessions where appropriate. The agenda papers will be circulated to members of the Committee and published in advance of meeting in line with Council policy. The minutes of meetings will be recorded and published in line with Council policy.
- 9.4 The following individuals may ask the Chair of the Committee to include items on the Committee's agenda:
- the Chair of the Committee
  - any member of the Committee, including co-opted members
  - the Chair of Council or any other Committee
  - any statutory officer or their deputy
  - the Council's external auditor
  - the Council's internal auditor

## **10. Code of Conduct**

- 10.1 All members of the Committee will be required to formally sign up to comply with the Somerset Council Code of Conduct

## Part D2 – Constitution & Governance Committee Terms of Reference

### General

The purpose of the Constitution and Governance Committee is to:

- (a) Maintain an effective, up to date and legally compliant Constitution.
- (b) Consider proposals from Council committees for changes to the constitutional arrangements of the Council.
- (c) Submit an annual report to the Council recommending a revised Constitution for approval to the Council's Annual General Meeting. See notes below.
- (d) Receive assurance from the Returning Officer regarding the administration of any elections;
- (e) Oversee the Council's input and response to boundary or electoral reviews as required by the Boundary Commission.

Notes: The functions of the Committee exclude approval of:

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

### Membership, Chair and Quorum

Number of Members	13
Substitute Members Permitted	Yes
Political Balance Rules apply	Yes
Appointments/Removals from Office	By resolution of full Council
Restrictions on Membership	None
Restrictions on Chair/Vice- Chair	None
Quorum	5 members
Number of ordinary meetings per Council Year	At least 3 per year

## **Terms of Reference**

- 1.1. Maintain an overview of all aspects of the Council's Constitution not otherwise reserved to the Standards Committee including but not limited to decision-making, Contract Procedure Rules and Financial Procedure Rules. Any proposed changes to the Council's Constitution are to be recommended to Council for approval.
- 1.2. Review any issue referred to it within these Terms of Reference by the Chief Executive, Monitoring Officer, Section 151 Officer or any Body of the Council.
- 1.3. Consider the Council's corporate governance arrangements and make recommendations to ensure compliance best practice.
- 1.4. Such other matters as required by law or guidance to be the proper remit of the Constitution and Governance Committee.

## Human Resources Committee Terms of Reference

### General

The purpose of the Human Resources Committee is to:

- determine, monitor, review and amend staffing policies and practices to secure the best use and development of the council's staff, including the power to deal with all matters relating to staff terms and conditions.
- acts as the Council's Remuneration Committee for Chief Officers pay.

### Membership, Chair and Quorum

Number of Members	13
Substitute Members Permitted	Yes
Political Balance Rules apply	Yes
Appointments/Removals from Office	By resolution of full Council
Restrictions on Membership	None
Restrictions on Chair/Vice- Chair	None
Quorum	5 members
Number of ordinary meetings per Council Year	At least 3 per year

### Terms of Reference

#### 1.1 The Committee:

- determines, monitors, reviews and amends staffing policies and practices to secure the best use and development of the council's staff, including the power to deal with all matters relating to staff terms and conditions.
- acts as the Council's Remuneration Committee for Chief Officers pay.

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

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

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

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

- (a) To act as a forum for consultation to secure co-operation between the Council and its employees and between the different services of the Council.
- (b) To discuss the conditions of service, hours of employment, remuneration, training and health, safety and welfare at work of employees of the Council within the terms of overall Council HR Policies and Procedures and make recommendations as necessary.
- (c) To take or recommend such action as it may be deemed necessary or desirable to prevent differences and misunderstandings between the Council and its employees, provided that no question of individual discipline, remuneration, promotion or efficiency shall be within the purview of the joint meeting.
- (d) To consider any proposed legislation affecting employees of the Council.
- (e) To encourage, consider and recommend improvements to the organisation, and the study of methods of administration including recruitment and training with a view to improving the efficiency of the service.
- (f) To consider any matter which may be referred to it by a standing Committee of the Council, the Central Safety Committee or alternatively a matter which it may be requested to deal with jointly by the Joint Secretaries.

## Part D - Licensing and Regulatory Committee, Regulatory Sub-Committee and Licensing Sub-Committee

### Licensing and Regulatory Committee

#### General

A regulatory Committee of the Council established to be responsible for the discharge of the **Council's licensing, certification and registration functions** under the Licensing Act 2003 and s.101 Local Government Act 1972 and any of the "relevant statutory provisions" within the meaning of Part 1 of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer and matters presently set out in paragraphs (d) to (m) of the Terms of Reference of the County Council's Regulation Committee.

#### Membership, Chair and Quorum

Number of Members	15
Substitute Members Permitted	Yes
Political Balance Rules apply	Yes
Appointments/Removals from Office	By resolution of Full Council
Restrictions on Membership	<p>Leader, Deputy Leader may not be a member of this Committee.</p> <p>Members of this Committee including substitutes will be required to undertake training as determined by the Monitoring Officer on licensing and regulatory functions and procedures</p>
Restrictions on Chair/Vice-Chair	Executive Leads or Deputy Executive Leads may not hold these offices.
Quorum	5
Number of ordinary meetings per Council Year	At least 4 meetings per municipal year to be diarised.
Standing Sub-Committees	Licensing Sub-Committee and Regulatory Sub-Committee

## Terms of Reference

- 1.1 To exercise the Council's responsibilities and functions relating to licensing, registration and other miscellaneous functions as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended ("2000 Regulations").
- 1.2 For the avoidance of doubt, in relation to the grant or issue by the Committee of any approval, consent, licence, permission or registration, the exercise of the responsibilities for the functions referred to above, includes responsibility for:
  - a. The imposition or amendment, modification or variation of any term, condition, limitation, or restriction.
  - b. The decision to take enforcement or other action in respect of a breach of any term, condition, limitation, or restriction.
  - c. The decision to revoke, vary or modify any approval, consent, licence, permission, or registration.
  - d. Where permissible by law, the decision to impose a charge and the amount of any such charge.
  - e. Where permissible by law, to determine and set the fees and charges in respect of any approval, consent, licence, permissions, or registration including consideration of any representations thereon or objections thereto.
- 1.3 To exercise the Council's functions under the Gambling Act 2005 as amended but not covered by the 2000 Regulations including those functions under Part 8 of the Gambling Act 2005 **except** the adoption of the Section 349 Gambling Act 2005 - Statement of Principles (adoption by full Council) and the passing of a resolution under Section 166 of the Gambling Act 2005 - resolution not to issue a casino premises licence (resolution by full Council - S154 (2)(a) of the Gambling Act 2005) having first sought the views of the Executive.
- 1.4 To exercise the Council's licensing and registration functions under the Local Government (Miscellaneous Provisions) Act 1982, as amended.
- 1.5 To set all non-statutory/discretionary fees and standard conditions and the licensing of premises for skin piercing and associated practices including acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis.



- 1.6 To exercise the Council's licensing and registration functions under the Caravan Site Act 1968 and Mobile Homes Act 2013 and related legislation including the setting of fees.
- 1.7 To develop, review and adopt statutory and relevant discretionary Policies in relation to the functions undertaken by this Committee. and to refer agreed policies to full Council where relevant, for noting.
- 1.8 To consider any matter referred to the Committee by the Council, another Committee, the Executive or an Executive Lead which relates to functions for which the Committee is responsible.
- 1.9 To establish a standing Sub-Committee to be known as the **Regulatory Sub-Committee** to consider and determine any applications and/or matters that by law or in accordance with the Council's adopted Policies or this Constitution require a hearing to be conducted.
- 1.10 To establish a standing Sub-Committee to be known as the **Licensing Sub-Committee** to consider and determine any applications and/or matters that by law or in accordance with the Council's adopted Licensing Policy and Gambling Statement of Principles or this Constitution require a hearing to be conducted.

## **Delegations**

- 1.12 All functions are delegated to the Licensing and Regulatory Committee other than any matter delegated to a named Officer in the Scheme of Delegation for Officers in connection with licensing functions.

## **Regulatory Sub-Committee**

### **General**

A regulatory sub-committee of the Licensing and Regulatory Committee established to conduct hearings and make determinations in respect of the Council's regulatory licensing functions.

### **Membership, Chair and Quorum**

Number of Members	3
Substitute Members Permitted	Yes - from Members of the Licensing and Regulatory Committee
Political Balance Rules apply	No
Appointments/Removals from Office	By the Democratic Services Manager subject to member's availability and when reasonably practical, on the basis of appropriate geographical representation
Restrictions on Membership	Only members of the Licensing and Regulatory Committee are eligible
Restrictions on Chair	None
Quorum	3
Number of ordinary meetings per Council year	Sub-Committee meetings to be scheduled once a month

### **Terms of Reference**

1.1 To conduct hearings and make determinations under or in respect of the following legislation and functions as required by law or in circumstances where the appropriate designated officer is unable to make a decision under the Scheme of Delegation for Officers or considers it appropriate to refer the decision to the Regulatory Sub-Committee.

- a. licensing of Hackney Carriage Private Hire Drivers, Vehicles, Operators and related enforcement
- b. classification of films
- c. licensing of sex establishments and venues
- d. registration/licensing of premises and individuals for skin piercing and associated practices including acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis
- e. licensing of caravan sites and camp sites
- f. licensing/ consent for Street Trading and

- g. such other matters as the Sub-Committee may be required by law either by means of policy or bye law adoption or statutory guidance in connection with the discharge of any of the matters referred to in these Terms of Reference

## **Delegations**

- 1.2 Decisions on all matters falling within these Terms of Reference.

## **Notes**

- 1.3 The Democratic Services Manager is authorised to constitute the Sub-Committee from the membership of the Licensing and Regulatory Committee having regard to member availability, together with a standby in case a member of the Sub-Committee is unable to participate or continue for any reason.
- 1.4 When reasonably practical, a Sub-Committee meeting should be held at the area offices or a suitable alternative which are closest to the premises or issue that is the subject of the meeting.
- 1.5 Members are appointed for a single meeting/hearing only.
- 1.6 The licensing of scrap metal dealers under the Scrap Metal Dealers Act 2013 is not specified in the 2000 Regulations and therefore until such time as there is further guidance or a change in the legislation the duties and responsibilities under the 2013 Act are deemed to be an executive function and do not therefore fall within the remit of the main Licensing Committee or Sub-Committee.

## **Licensing Sub-Committee**

### **General**

A licensing sub-committee of the Licensing and Regulatory Committee established to conduct hearings and make determinations in respect of the Council's statutory licensing functions

### **Membership, Chair and Quorum**

Number of Members	3
Substitute Members Permitted	Yes
Political Balance Rules apply	No
Appointments/Removals from Office	By the Democratic Services Manager subject to member's availability and when reasonably practical, on the basis of appropriate geographical representation
Restrictions on Membership	Only members of the Licensing and Regulatory Committee are eligible
Restrictions on Chair	None
Quorum	3
Number of ordinary meetings per Council year	Sub-Committee meetings to be scheduled once a month

### **Terms of Reference**

- 1.1 To conduct hearings and make determinations under or in respect of the following legislation and functions as required by law or in circumstances where the appropriate designated officer is unable to make a decision under the Scheme of Delegation for Officers or considers it appropriate to refer the decision to the Licensing Sub-Committee -
- Licensing Act 2003
  - Gambling Act 2005
  - Such other matters as the Sub-Committee may be required by law or in connection with the discharge of any of the matters referred to in these Terms of Reference.

### **Delegations**

- 1.2 Decisions on all matters falling within these Terms of Reference.

## **Notes**

- 1.3 The Democratic Services Manager is authorised to constitute the Licensing Sub-Committee from the membership of the Licensing and Regulatory Committee having regard to member availability, together with a standby in case a member of the Sub- Committee is unable to participate or continue for any reason.
- 1.4 When reasonably practical, a sub-committee meeting should be held at the Council offices or a suitable alternative which are closest to the premises or issue that is the subject of the meeting.
- 1.5 Members are appointed for a single meeting/hearing only.

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## **Part D – Licensing Sub-Committee Hearing Procedure**

### **Licensing Sub-Committee and Regulatory Sub-Committee Hearings**

Whilst written for the Licensing Sub-Committee, these Procedure Rules can be easily adapted for any Regulatory Sub-Committee hearing.

#### **ADMINISTRATION IN RELATION TO A HEARING**

1. Prior written notice of the Hearing will have been given to the interested/relevant Parties.
  - (a) Where a Party has informed the Authority that they will not be attending or represented, the Hearing may proceed in their absence.
  - (b) Where a Party has not replied to the notice, does not attend and is not represented, the Sub-Committee may proceed with the Hearing in that Party's absence or adjourn the Hearing if it is considered necessary in the public interest to do so.
  - (c) If a Party has indicated they will attend but does not appear, that Party must inform the Authority of any delay, with reasons and in consideration the Sub-Committee may decide to proceed with the Hearing or adjourn to later that same day or another time. If a Party is more than 15 minutes late and has not contacted the Authority with details of any delay, the Sub-Committee can decide to proceed with the Hearing or adjourn to later that same day or to another time.
2. If the Hearing is held in a Party's absence, the Sub-Committee will consider the application, representation or notice made by that Party.
3. Under the Licensing Act 2003 (Hearings) Regulations 2005 (Hearing Regulations) an Authority may dispense with a hearing if all persons required by the Act to agree that such a hearing is unnecessary, other than the Authority itself, have done

so by giving notice to the Authority that they consider a hearing to be unnecessary.

Where all the persons required by the Licensing Act 2003 to agree that a hearing is unnecessary have done so in accordance with the Hearing Regulations, the Authority, if it agrees that the hearing is unnecessary, must give notice to the Parties that the hearing has been dispensed with.

4. If it is the case that the Authority does not agree that the hearing should be dispensed with, the application/notice will still be determined by the Sub-Committee in public, unless it is considered to be in the public interest that the determination should be in private, on the basis of advance papers provided, with the Licensing Officer introducing their report and answering any queries the Sub-Committee may have before it makes its' determination.
5. Representations can be withdrawn by prior notice up to 1 day before the Hearing or orally at the Hearing.
6. Hearings shall take place in public, except where, the Authority considers that the public interest in excluding the public from all or part of the Hearing outweighs the public interest in it remaining public. The Authority considers it to be in the public interest to exclude the press and public, including the Parties, when the Sub-Committee is deliberating in order to reach its' decision. Where facilities permit, public hearings will be available to be viewed and participated in online using the Authority's webcast service. Members of the public who wish to record, photograph, film and report on public hearings are asked to advise the Democratic Services Officers before the Hearing so that where possible all necessary practical arrangements can be made.
7. At the Hearing any Party can be assisted or represented by any person whether or not that person is legally qualified.
8. The Hearing will be before a Sub-Committee which will be made up of three Members of the Authority's Licensing and Regulatory Committee who will at the beginning of the Hearing agree and identify which of them is to act as the Chair for the Hearing. Each matter/application will be dealt with individually and the



three Members must be able to participate in relation to each application to be considered at the Hearing and remain until the application/notice is determined.

9. The Chair will address any issues relating to registerable interests under the Authority's Member Code of Conduct at the Hearing after the introductions of persons in attendance have been made.
10. Members of the Sub-Committee must consider beforehand if they need to declare any registerable interest in which case they will not be allowed to attend the Hearing. Members who have a Disclosable Pecuniary Interest will not be able to attend the Hearing either. Members should also consider beforehand if they have or would be considered to have predetermined the matter in which case, they should also distance themselves from determination of the matter and not attend the Hearing.
11. Members of the Sub-Committee will have received advance notice of the Hearing (in accordance with the relevant legislation) in relation to each application/notice to be considered, which will include the Licensing Officer's Report and associated papers and Members will be expected to have read those papers ahead of the Hearing.
12. Account can be taken of documentary or other information produced by a Party in support of their application, representation or notice either 1 working day before the Hearing or, with the consent of all other Parties including the Sub-Committee at the Hearing. In both cases the Party seeking to introduce the information should provide sufficient copies of the same for all relevant Parties including the Sub-Committee Members.
13. Any Party wishing to call another person (other than the person representing them) to make oral representations, must provide details of this to the Authority within the time stated in the Notice of Hearing which the Authority will serve on the Parties. At the beginning of the Hearing the Sub-Committee will consider any such requests and confirm whether permission is granted for that person to speak.
14. The Sub-Committee may disregard any information which is not considered relevant to the application/representation/notice.
15. The purpose of the Hearing is to enable those with a right to appear, to amplify their written application or representation. It is also to assist the Sub-Committee to

gather evidence and understand the relevant issues. The Parties (including other persons on their behalf) will be allowed an equal reasonable period of time to address the Hearing and ask questions. The Chair may set such maximum period of time in the interests of the progress of the Hearing and in the public interest. Where representations made relate to the same or similar issues, a spokesperson should be appointed where possible to speak on behalf of any person who has made a written representation.

16. The Parties can ask questions of each other in accordance with the procedure below. The Chair can stop a Party asking questions if they feel the questions are unnecessary. Parties are expected to treat other Parties with respect and any form of harassment or excessive questioning will not be tolerated. In such cases the Chair will ask the Party to discontinue that type of questioning. The Chair can require any person (including any of the Parties) who is disrupting the proceedings to leave the Hearing.
17. The decision of the Sub-Committee will be made after the close of the Hearing for that matter and confirmed in writing to the Applicant and all Parties who submitted relevant representations, together with details of the right to appeal, within the time limits set out in the legislation and regulations.
18. The date of formal notification for the purpose of any appeal against the Sub-Committee's decision will be the date of the letter or electronic communication from the Authority enclosing the Decision Notice.
19. The Sub-Committee may depart from this procedure (as varied/amended from time to time based on changes to law and practice) if it considers it necessary and/or equitable to do so.

### **AT THE HEARING**

19. The Chair will open the Hearing and introduce the Sub-Committee and Officers. They will then ask each Party to introduce themselves.
20. The Chair will confirm that if a Party is not present their representation/application will be read and taken in to account in reaching the decision.

21. The Chair will address any registerable interest arising under the Code of Conduct.
22. The Chair will consider any submitted requests from a Party for permission for another person to appear at the Hearing. If necessary, the Sub-Committee will retire to deliberate before making a decision.
23. The Chair will confirm that the Hearing will take the form of a round-the-table discussion led by the Sub-Committee in accordance with this procedure. If all Parties present confirm that they have seen and understood the procedure to be followed at the Hearing and agree that they are ready to proceed then the Hearing shall commence.
24. The Chair will remind everyone that the purpose of the Hearing should be borne in mind at all times i.e.  
  
*To enable those with a right to appear, to amplify their written application or representation. It is also to assist the Sub-Committee to gather evidence and understand the relevant issues.*
25. The Chair will confirm what advance papers have been received and that these have been read.
26. The Chair will make clear that all Parties should only address the Sub-Committee in relation to matters they have raised in their application/representation. Any Party wishing to submit late evidence at the Hearing will only be able to do so with the consent of all Parties present and with the consent of the Sub-Committee.
27. The Chair will confirm whether all Parties have seen and understood the procedure to be followed and are ready to proceed with the Hearing.
28. The Chair will ask the Applicant whether they wish to make any amendments to their application with a view to addressing any issues raised by representations.
29. Order of Oral Presentation
  - (a) The Licensing Officer will present their report outlining the details of the application/notice/representations received.

- (b) Any Party may question the Licensing Officer.
- (c) The Members may question the Licensing Officer.
- (d) Responsible Authorities will present their case and call any witnesses.
- (e) Any Party may question the Responsible Authorities and any witnesses.
- (f) Members may question the Responsible Authorities and any witnesses.
- (g) Other Person(s) will present their case in turn and call any witnesses.
- (h) Any Party may question the Other Person(s).
- (i) Members may question the Other Person(s).
- (j) The Applicant/Licence Holder will present their case and call any witnesses.
- (k) Any Party may question the Applicant/Licence Holder and any witnesses.
- (l) Members may question the Applicant/Licence Holder and any witnesses.

The Chair at their discretion, may change the order of oral presentation at any stage, if it is considered to be beneficial to the flow of the hearing.

- 30. Before moving on to the next Party, the Chair will check there are no further points the current Party wishes to make or any further questions that need to be put to that Party.
- 31. The Licensing Officer may present any further information such as proposed non-mandatory Conditions deriving from the Operating Schedule or suggested by any Party. However, it will remain for the Sub-Committee to determine what conditions will apply, if any, should the application be successful.
- 32. Each Party will be invited to make closing submissions in the following order –
  - a. Responsible Authorities
  - b. Other Persons

- c. The Applicant
- d. Licensing Officer

- 32. The Chair will then close the Hearing and the Sub-Committee will retire to determine the matter. The Legal Advisor will retire with the Sub-Committee to answer any points of law.
- 33. The Sub-Committee will come to a decision which will be sent to the Applicant and all other relevant Parties together with the details of the right to appeal.

**NOTE:**

In producing this procedure the following has been considered: -

*The relevant legislation and statutory guidance together with local policies and procedures.*

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## Part D – PENSION FUND COMMITTEE (SOMERSET COUNCIL PENSION FUND) TERMS OF REFERENCE

### 1. General

- 1.1 The Pension Fund Committee is a committee with delegated decision making powers for the Fund in accordance with Section 101 of the Local Government Act 1972.
- 1.2 The terms of reference will be formally approved by the Council as the Administering Authority and by the Committee itself thereafter.
- 1.3 These terms of reference shall be reviewed by the Council on the advice of the Committee and on a regular basis to ensure that they remain fit for purpose and in accordance with any regulations and guidance issued by the Secretary of State. Any revisions will be agreed by the Council and by the Committee.

### 2. Membership, Chair and Quorum

Number of Members	10 (see details below)
Substitute Members Permitted	No
Political Balance Rules apply	Yes
Appointments/Removals from Office	By resolution of full Council
Restrictions on Membership	None
Restrictions on Chair/Vice- Chair	None
Quorum	3 members (to include either the Chair or Vice-Chair)
Number of ordinary meetings per Council Year	At least 4 per year

- 2.1 The Committee shall consist of 10 members and be constituted as follows:

- (a) Nine employer representatives

- (i) Seven employer representatives will be Somerset councillors who are not a member of the Board or Executive and will be selected by the

Administering Authority having taken account of their relevant experience and their knowledge and understanding of the Local Government Pension Scheme;

- (ii) One employer representative of the Police and Crime Commissioner for Avon & Somerset to be selected by the Police and Crime Commissioner having taken account of their relevant experience and their knowledge and understanding of the Local Government Pension Scheme;
- (iii) one employer representative to be nominated by the remaining employers within the Fund who are not represented by (i) or (ii) above having demonstrated their relevant experience, their capacity to represent other scheme employers and their knowledge and understanding of the LGPS. In the event of there being more than one nomination, the Administering Authority will arrange for a voting process of the qualifying employers.

(b) One scheme member representative:

- (i) To be nominated by the Unions.

2.2 The Chair and Vice Chair will be appointed annually by the Council as Administering Authority.

2.3 Due to the specialist knowledge requirements of Committee members, substitutes to the appointed members of the Committee are not permitted.

2.4 The committee will also be attended by:

- (i) Relevant officers; and
- (ii) a specialist independent adviser. In this respect the term independent means:
  - (i) having no current employment, contractual, financial or other material interest in either Somerset County Council or any scheme employer in the Fund; and
  - (ii) not being a member of the LGPS in the Fund.

The independent advisor will be a remunerated position.



### **3. Responsibilities of the Chair**

3.1 The Chair is responsible for:

- (a) ensuring the Committee delivers its purpose as set out in the Committee's terms of reference;
- (b) the arrangements for meetings of the Committee;
- (c) ensuring that Committee meetings are productive and effective and that opportunity is provided for the views of all Committee members to be expressed and considered; and
- (d) seeking to achieve the consensus of all Committee members on the business presented to the Committee and ensure that decisions are properly put to a vote when that cannot be reached.

### **4. Definitions**

- the Fund - Somerset Council Pension Fund.
- the Committee – The Pension Fund Committee of Somerset Council.
- the Board – The Pension Fund Board of Somerset Council.
- LGPS – The Local Government Pension Scheme

### **5. Terms of Reference**

5.1 The Committee will be provided with full delegated powers to discharge the functions of the Council in its role as the administering authority of the Somerset Council Pension Fund as defined in the LGPS Regulations.

5.2 The Committee's principal duties are:

- (i) Ensure the fund is run in line with all relevant law, statutory guidance and industry codes of best practice.
- (ii) Ensure all contributions due are collected from employers.
- (iii) Ensure that all benefits due are paid correctly and in a timely manner.
- (iv) Decide the aims of the investment policy.
- (v) Make arrangements for managing the fund's investments.
- (vi) Regularly monitor investment performance.
- (vii) Make arrangements to publish the fund's annual report and accounts.
- (viii) Consult stakeholders, and publish the funding strategy statement, statement of investment principles and other policies and documents as necessary.

- (ix) Order actuarial valuations to be carried out in line with the Local Government Pension Scheme Regulations.
- (x) Consider requests from organisations who want to join the fund as admitted bodies and consider any requests to change the terms of an existing admission agreement.
- (xi) Make representations to the Government about any planned changes to the Local Government Pension Scheme and all aspects of managing benefits.
- (xii) Put in place a written Scheme of Delegation to support the discharge of the above duties.

## **6. Conflicts of interest**

- 6.1 All members of the Committee must declare on appointment and at any such time as their circumstances change any potential conflict of interest arising as a result of their position on the Committee.
- 6.2 On appointment to the Committee and following any subsequent declaration of potential conflict the conflict must be managed in line with the, the internal procedures of Somerset Council, the requirements of the Public Service Pensions Act 2013 and the requirements of the Pensions Regulator's codes of practice on conflict of interest for Committee members.
- 6.3 The Council's Monitoring Officer shall include interests registered by all members of the Committee in the published Members' and Co-opted Members' Register of Interests. All such interests are to be registered with the Monitoring Officer within 28 days of appointment to the Committee.

## **7. Knowledge and understanding including training**

- 7.1 All new members must follow an induction training plan and all members of the Committee will be expected to attend the training provided to ensure that they have the requisite knowledge and understanding to fulfil their role.
- 7.2 The Committee has adopted a training policy and all members of the Committee are expected to meet the requirements of that policy.
- 7.3 Failure to attend training or participate in the processes referred to above may lead to removal from the Committee.

## **8. Term of office and removal from office**

- 8.1 The members of the Committee serve for a four year term, subject to the following:
- (a) the representatives of the administering authority shall be appointed annually by the Somerset Council Annual Council Meeting, but with a view to maintaining stability of membership;
  - (b) the representatives of the Police and Crime Commissioner for Avon and Somerset can be replaced by them at their behest, but with a view to maintaining stability of membership;
  - (c) the members' representative may be replaced by the Unions, but with a view to maintaining stability of membership.
- 8.2 Members of the Committee will be expected to attend all meetings and training sessions. This will be recorded and published.
- 8.3 Other than by ceasing to be eligible for appointment to the Committee, Committee members may only be removed from office during their term of appointment by the unanimous agreement of all of the other members of the Committee at a meeting of the Committee where this is specified as an agenda item or with the agreement of the Council at a Full Council meeting.
- 8.4 Arrangements shall be made for the replacement of Committee members in line with the procedures for their original appointment.

## **9. Meetings**

- 9.1 The frequency of meetings is to be determined by the Committee once it has agreed a workplan, with a minimum of four meetings annually. In addition to this, training sessions will be held as necessary to ensure that Committee members have sufficient knowledge and skills to undertake the role.
- 9.2 The Chair of the Committee may call additional meetings with the consent of other members of the Committee. Urgent business of the Committee between meetings may, in exceptional circumstances, be conducted via

communications between members of the Committee including telephone conferencing and emails.

9.3 The Committee will meet at the Council's main offices, or another location to be agreed by the Chair. Meetings will be held during normal working hours at times to be agreed by the Chair.

9.4 As a committee of the Council, the Rules of Procedure in the Council's constitution apply to meetings of the Committee. Committee meetings will be held in open session with closed sessions where appropriate. The agenda papers will be circulated to members of the Committee and published in advance of meeting in line with Council policy. The minutes of meetings will be recorded and published in line with Council policy.

## **10. Voting rights**

11.1 Each of the 10 members of the Committee will have voting rights. In the event of a tied vote the Chair has the option of having a final casting vote.

## **11. Code of Conduct**

12.1 All members of the Committee will be required to formally sign up to comply with the Somerset Council Code of Conduct

## **12. Allowances and Expenses**

13.1 Any councillor of the Council appointed to the Committee will be entitled to receive allowances in accordance with the Council's constitution (Scheme of Members' Allowances).

13.2 Reimbursement of expenses for all members of the Committee will be claimable in line with Somerset Council's agreed expenses rates.

## **13. Budget**

14.1 All costs arising from accommodation and administrative support to conduct its meetings and other business, and the training needs of the Committee will be met by the Fund.

- 14.2 The Council's Democratic Services will provide the secretariat services to the Committee, the cost of which will be met by the Fund.

**14. Accountability and reporting**

- 15.1 The Committee is accountable solely to Somerset Council for the effective operation of its functions.

- 15.3 The Committee shall report annually to Council on its work.

**15. Data protection and Freedom of Information**

- 16.1 For legal purposes the Committee is considered a committee of and part of the administering authority legal entity. Therefore the Committee must comply with the Council's Data Protection and Freedom of Information policies.

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## **PART D - PENSION FUND BOARD (SOMERSET COUNCIL PENSION FUND) TERMS OF REFERENCE**

### **1. Introduction**

- 1.1 The Pension Board is established under Section 5 of the Public Service Pensions Act 2013 and regulation 106 of the Local Government Pension Scheme Regulations 2013 (as amended).
- 1.2 The Board is established by Somerset Council in its capacity as the Administering Authority of the Somerset Council Pension Fund and operates independently of the Pension Fund Committee.
- 1.3 The terms of reference will be formally approved by the Council as the Administering Authority and by the Board itself at its first meeting.
- 1.4 These terms of reference shall be reviewed by the Council on the advice of the Board and on a regular basis to ensure that they remain fit for purpose and in accordance with any regulations and guidance issued by the Secretary of State. Any revisions will be agreed by the Council and by the Board.

### **2. Membership, Chair and Quorum**

Number of Members	6 (see details below)
Substitute Members Permitted	No
Political Balance Rules apply	Yes
Appointments/Removals from Office	By resolution of full Council
Restrictions on Membership	None
Restrictions on Chair/Vice- Chair	None
Quorum	3 members (must include one employer representative and one member representative)
Number of ordinary meetings per Council Year	At least 2 per year

2.1 The Board shall consist of 6 members and be constituted as follows:

(a) Three employer representatives

- (i) one employer representative will be a Somerset Councillor who is not a member of the Pensions Fund Committee and will be selected by the Administering Authority having taken account of their relevant experience, their capacity to represent other scheme employers and their knowledge and understanding of the Local Government Pension Scheme;
- (ii) two employer representatives to be nominated by the employers having demonstrated their capacity to represent other scheme employers, their relevant experience and their knowledge and understanding of the LGPS. In the event of there being more than one nomination, the Administering Authority will carry out a selection process.

(b) Three scheme member representatives

- i) two members representatives will be nominated by the recognised trade unions having demonstrated their capacity to represent other scheme employers, their relevant experience and their knowledge and understanding of the LGPS;
- ii) one members representative will be open to all scheme members. The administering authority shall contact scheme members advising them of the role and seeking nominations and asking them to demonstrate their capacity to represent other scheme members, their relevant experience and their knowledge and understanding of the LGPS. In the event of there being more than one nomination, the Administering Authority will carry out a selection process.

2.2 Due to the specialist knowledge requirements of Board members, substitutes to the appointed members of the Board are not permitted.



- 2.3 If a representative is not offered by any of the groups above the administering authority can allocate the place to another group so long as there remains 3 employer and 3 scheme member representatives.

### **3. Responsibilities of the Chair**

- 3.1 The Chair is responsible for:
- (a) ensuring the Board delivers its purpose as set out in the Board's terms of reference;
  - (b) the arrangements for meetings of the Board;
  - (c) ensuring that Board meetings are productive and effective and that opportunity is provided for the views of all Board members to be expressed and considered;
  - (d) seeking to achieve the consensus of all Board members on the business presented to the Board and ensure that decisions are properly put to a vote when that cannot be reached.
- 3.2 The Chair will be appointed annually by Board. The Chair will be rotated around the 6 members of the Board.

### **4. Definitions**

- the Fund - Somerset Council Pension Fund.
- the Board – The Pension Fund Board of Somerset Council.
- the Committee – The Pension Fund Committee of Somerset Council.
- LGPS – The Local Government Pension Scheme

### **5. Purpose and functions of the Board**

- 5.1 The regulations state that the role of the Board is to assist the Administration Authority to:
- (a) secure compliance with:
    - the LGPS Regulations;

- any other legislation relating to the governance and administration of the LGPS; and
    - the requirements imposed by the Pensions Regulator in relation to the LGPS, and
  - (b) ensure the effective and efficient governance and administration of the LGPS.
- 5.2 The Board will assist the Administering Authority by making recommendations about compliance, process and governance. The Board does not have a decision making role with regard to strategy or policy and can only challenge decisions made by the Committee where the Board considers a decision to be in breach of the relevant Regulations (or overriding legislation). The Board's role is to have oversight of the governance process for making decisions and agreeing policy.
- 5.3 In discharging its role, the Board's remit shall cover all aspects of governance and administration of the LGPS, including funding and investments. The Board must have regard to advice issued by the Scheme Advisory Board in accordance with section 7(3) of the Public Service Pensions Act 2013.
- 5.4 The Board will exercise its duties in the following areas:
- (a) monitor compliance with the relevant legislation and Codes of Practice set by The Pensions Regulator;
  - (b) review and ensure compliance of the Fund's:
    - (i) governance compliance statement
    - (ii) funding strategy statement
    - (iii) pension administration strategy statement
    - (iv) discretionary policy statement
    - (v) communications policy statement
    - (vi) statement of investment principles
    - (vii) annual report and accounts
  - (c) review and scrutinise the performance of the investments in relation to its governance and administration, policy objectives and performance targets;
  - (d) review and scrutinise the performance of the administration of members and employers in relation to its governance and administration, policy objectives and performance targets;

- (e) ensure policies and processes are in place so that employers comply with their obligations under the regulations;
- (f) review the processes for setting strategy, policy and decision-making and ensure they are robust;
- (g) agree the annual internal audit plan for the Fund;
- (h) consider the output of any internal audit work carried out on the Fund;
- (i) consider the external audit report on the Fund's Annual Report and Statement of Accounts;
- (j) review the Fund's risk register;
- (k) monitor the Fund's Internal Dispute Resolution Procedures;
- (l) from time to time the administering authority may consult the Board or ask assistance on specific issues.

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

5.6 The Board must always act within its Terms of Reference.

## **6. Conflicts of interest**

6.1 All members of the Board must declare on appointment and at any such time as their circumstances change any potential conflict of interest arising as a result of their position on the Board.

6.2 On appointment to the Board and following any subsequent declaration of potential conflict the conflict must be managed in line with the Board's policy on conflicts of interest, the internal procedures of Somerset County Council, the requirements of the Public Service Pensions Act 2013 and the requirements of the Pensions Regulator's codes of practice on conflict of interest for Board members.

6.3 The Council's Monitoring Officer shall include interests registered by all members of the Board in the published Members' and Co-opted Members'

Register of Interests. All such interests are to be registered with the Monitoring Officer within 28 days of appointment to the Board.

## **7. Knowledge and understanding including training**

- 7.1 All new members must follow an induction training plan and all members of the Board will be expected to attend the training provided to ensure that they have the requisite knowledge and understanding to fulfil their role.
- 7.2 All members must be prepared to participate in such regular personal training needs analysis or other processes as are put in place to ensure that they maintain the required level of knowledge and understanding to carry out their role.
- 7.3 Failure to attend training or participate in the processes referred to above may lead to removal from the Board.

## **8. Term of office and removal from office**

- 8.1 The members of the Board serve for a four year term, subject to the following:
  - (a) the representatives of the administering authority shall be appointed annually by the Somerset Council Annual Council Meeting, but with a view to maintaining stability of membership;
  - (b) the two union nominated member representatives can be amended at any time by the unions, but with a view to maintaining stability of membership.
- 8.2 Members of the Board will be expected to attend all meetings and training sessions. This will be recorded and published. The membership of any member who fails to attend for two consecutive meetings or two consecutive training events shall be reviewed by the Board and shall be terminated in the absence of mitigating factors
- 8.3 Subject to 8.4 below, a Board member can be removed from the Board in the following circumstances (but not limited to):

- (a) A poor attendance record;
- (b) if a member does not undertake training as requested by the administering authority;
- (c) if a member is In breach of Council's Code of Conduct / Declarations policy;
- (d) if a member has a conflict of interest that cannot be managed in accordance with the Board's conflicts policy;
- (e) if a representative member ceases to represent their constituency e.g. leaves the employer so no longer has the capacity to represent the Fund's employers.

8.4 Other than by ceasing to be eligible for appointment to the Board, Board members may only be removed from office during their term of appointment by the unanimous agreement of all of the other members of the Board at a meeting of the Board where this is specified as an agenda item or with the agreement of the Council at a Full Council meeting.

8.5 Arrangements shall be made for the replacement of Board members in line with the procedures for their original appointment.

## **9. Meetings**

9.1 The frequency of meetings is to be determined by the Board once it has agreed a workplan, with a minimum of two meetings annually. In addition to this, training sessions will be held as necessary to ensure that Board members have sufficient knowledge and skills to undertake the role.

9.2 The Chair of the Board may call additional meetings with the consent of other members of the Board. Urgent business of the Board between meetings may, in exceptional circumstances, be conducted via communications between members of the Board including telephone conferencing and emails.

9.3 The Board will meet at the Council's main offices, or another location to be agreed by the Chair. Meetings will be held during normal working hours at times to be agreed by the Chair.

- 9.4 As a committee of the Council, the Rules of Procedure in Section 6 of the Council's constitution apply to meetings of the Board. Board meetings will be held in open session with closed sessions where appropriate. The agenda papers will be circulated to members of the Board and published in advance of meeting in line with Council policy. The minutes of meetings will be recorded and published in line with Council policy.

## **10. Voting rights**

- 11.1 Each of the 6 members of the Board will have voting rights. In the event of a tied vote the Chair has the option of having a final casting vote.

## **11. Code of Conduct**

- 12.1 All members of the Board will be required to formally sign up to comply with the Somerset Council Code of.

## **12. Allowances and Expenses**

- 13.1 Any councillor of the Council appointed to the Board will be entitled to receive allowances in accordance with the Council's constitution (Scheme of Members' Allowances).
- 13.2 Reimbursement of expenses for all members of the Board will be claimable in line with Somerset County Council's agreed expenses rates.

### **13. Budget**

- 14.1 All costs arising from accommodation and administrative support to conduct its meetings and other business, and the training needs of the Board will be met by the Fund.
- 14.2 The Council's Democratic Services will provide the secretariat services to the Board, the cost of which will be met by the Fund.
- 14.3 The Board will have open access to all officers involved in the running of the Fund and any advisors already employed by the Fund (e.g. the Fund's Actuary).
- 14.4 The Board may make requests to the Section 151 Officer to approve any additional expenditure required to fulfil its obligations which will then be charged to the Fund. This would include any officer resources not already employed by the Fund.

### **14. Accountability and reporting**

- 15.1 The Board is accountable solely to the County Council for the effective operation of its functions.
- 15.2 The Board shall report to the Committee as often as the Board deems necessary and at least annually on:
  - (a) a summary of the work undertaken;
  - (b) the work plan for the next 12 months;
  - (c) areas raised to the Board to be investigated and how they were dealt with;
  - (d) any risks or other areas of potential concern it wishes to raise;
  - (e) details of training received and planned; and
  - (f) details of any conflicts of interest and how they were dealt with.

- 15.3 The Board shall report annually to Full Council on its work. It will also and as necessary from time to time report to Full Council any breach in compliance, or other significant issue, which has not been resolved to the satisfaction of the Board within a reasonable time of being reported to the Committee.
- 14.4 The Board shall report to the Scheme Advisory Board:
- (a) any areas of persistent non-compliance;
  - (b) any areas of non-compliance with the LGPS Regulations that have been reported to the Committee and full council but persist to be of a material concern.
- 15.5 The Board shall report to the Pensions Regulator all material breaches of the Pensions Regulator regulatory guidance, following notification to full council and the Committee.

## **15. Data protection and Freedom of Information**

- 16.1 For legal purposes the Board is considered a committee of and part of the Administering Authority legal entity. Therefore the Board must comply with the Council's Data Protection and Freedom of Information policies.



## Part D - Planning Committee Procedure Rules

### Terms of Reference of Planning Committees

#### 1. The Planning Committees

- 1.1 The Full Council will appoint one Strategic Planning Committee and four area-based Planning Committees<sup>1</sup> to exercise functions and responsibilities relating to:

Town and Country Planning and Development Control (excluding the preparation of plans and policies) as specified in Schedule 1 of the Local Authorities Functions and responsibilities (England) 2000 as amended by subsequent regulations.

The functions of the Planning Committees does not include:

- matters reserved to full council
- matters where functions are exercised under delegated powers in the officer scheme of delegation save where an officer declines the delegation and the matter would otherwise fall within the terms of reference of the Planning Committees.

These functions will be exercised over the whole geographical area of the Somerset Council on the basis set out below.

#### 2. The remit of the Strategic Planning Committee

- 2.1 The Strategic Planning Committee has the following additional functions:

1. The determination of applications to modify the definitive map or register a town or village green where the Executive Director (Climate and Place) in consultation with the Chair of the Strategic Planning Committee, consider that that the application should be determined by the Strategic Planning Committee taking into consideration the magnitude, nature, and impact of the decision; and

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<sup>1</sup> In law these are Sub-Committees under the provision of Section 101 of the Local Government Act 1972.

requests from applicants for definitive map modification order applications to be taken out of turn from the adopted Statement of Priorities.

2. To achieve nutrient neutral development in the Somerset Levels and Moors catchment area in compliance with the Habitats Regulations, the Strategic Planning Committee will have the following responsibilities:

- a. To have oversight of the programme and delivery of nutrient mitigation projects to support a series of interim measures to offset additional phosphates resulting from affected new developments within the River catchment areas (i.e., Rivers Tone, Parrett, and Brue) affecting the Somerset Levels and Moors Ramsar site and River Axe Special Area of Conservation.
- b. To have oversight of the monitoring of the performance of the above interim projects once delivered;
- c. Noting that there is an operational phosphate credit scheme for the River Tone catchment, agree the rollout of criteria to be used for the allocation of any phosphate credits generated from further Council led 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);
- d. To receive technical reports and updates on the strategic solution to the nutrient enrichment issue.

Note: for the avoidance of doubt the role of the Strategic Planning Committee does not include the determination of any planning applications that include Phosphate mitigation measures, that would ordinarily fall to one of the area-based Planning Committees.

3. Consideration of quarterly officer reports from area based Committees to monitor decision making and workload levels of the Committee.

### **3. Delegation to the area-based Planning Committee(s)**

3.1 All of the functions set out in Para 1.1 above, will be delegated to the relevant area based (these will be known as North, East, South and West) Planning Committees save for the following:

- Waste and Minerals planning applications where the proposed decision is to overturn the Officer recommendation. Such applications will be automatically referred up to the Strategic Planning Committee who will determine the matter at resolution stage in place of the area-based Planning Committees.
- Waste and Mineral planning applications that are a departure from adopted Waste and minerals development plans and recommended for approval by officers
- Applications and matters which fall within the area covered by more than one of the area-based Committees or cross the boundary of the authority.

### **4. The Referral Process from the area-based Planning Committee to the Strategic Planning Committee**

4.1 The consideration by the Strategic Planning Committee, of matters referred to it from the area-based Committees (set out in Para 3 above), shall be conducted as a rehearing of the original application or matter.

4.2 The Strategic Planning Committee shall affirm, vary or overturn the resolution recommended by the area-based Planning Committee.

4.3 The decision of the Strategic Planning Committee will thereupon stand as the decision of the Council as so affirmed or varied as the case may be.

### **5. Area-Based Planning Committees**

5.1 The Full Council will appoint 4 area-based Planning Committees:

- Planning North (covering the former Sedgemoor District Council area)
- Planning East (covering the former Mendip District Council area),
- Planning South (covering the former South Somerset District Council area)
- Planning West (covering the former Somerset West & Taunton District Council area.)

5.2 The geographical responsibilities as set out in a geographical map of the four area-based Planning Committees is available via the Council's website. The principles of geographical determination are set out below:

## **6. Principles of geographical location**

- 6.1 The exercise of the functions and responsibilities by individual area-based Planning Committees are subject to the following geographical condition:
- 6.2 The applications or matters referred to the area-based Planning Committees for determination relates to application sites and functions that arise within the divisions within the former District Council geographical areas.

## **Procedures**

The procedures at the Strategic Planning Committee meetings and area-based Planning Committee meetings will be as follows.

## **7. Membership and Meeting arrangements**

- 7.1 The Strategic Planning Committee will be comprised of 13 members.
- 7.2 The four area-based Planning Committees will be comprised of 13 members (or as otherwise detailed in the area-based Planning Committee Terms of Reference.
- 7.3 The membership of the Strategic Planning Committee shall be drawn from across the

local government area and will be politically balanced. The membership for the area-based Planning Committees will be drawn from the area which that area-based Planning Committee covers, where possible. All these committees shall be politically balanced in compliance with the statutory scheme in the Local Government and Housing Act 1989 and any subsequent legislation.

- 7.4 The relevant Planning Committees will meet at times and places appointed and published in accordance with the requirements of the Access to Information Rules. The maximum length of a Committee meeting will be up to 4 hours duration (excluding any comfort breaks). All meetings will be webcast and employ the use of hybrid participation technology, but committee members and lead officers must be present in the room.

Number of members of Strategic Planning Committee and area based Planning Committees	13
Substitute Members Permitted	Yes. As far as possible from the same geographical area subject to the political balance rules.
Political Balance Rules apply	Yes
Appointments/Removals from Committee	By resolution of Full Council, Political balance review or notification by Political Group Leader.
Restrictions on Membership	Lead Executive Members are not barred from membership of the Planning Committees, but membership should generally be avoided due to bias or predetermination issues.  Chair/Vice-Chair of Strategic Planning Committee may not sit on any area-based Planning

	<p>Committee.</p> <p>The undertaking of such training as determined by the Executive Director (Climate &amp; Place) on planning and other functions falling within the remit of the area-based Planning Committees and Strategic Planning Committee, probity in decision making, is a pre-requisite to membership of, and substitutes for this Committee</p>
Restrictions on Chair/Vice Chair	As above
Quorum	5
Number of ordinary meetings per Council year	At least 2 per year for each committee

### **Substitution and Membership**

- 7.5 Executive Lead Members are not barred from membership of the Planning Committees but membership should generally be avoided due to potential bias or predetermination issues. Associate Lead Members may be members of the Planning Committee(s). Neither Executive Lead Members nor Associate Lead Members may be Chair or Vice-Chair of the Planning Committee(s).
- 7.6 Chair/Vice-Chair of the Strategic Planning Committee may not sit on any of the area-based Planning Committees. Ordinary members of either Committees can sit on Strategic and area-based Planning Committees.
- 7.7 Substitutes may attend meetings in that capacity only to take the place of the member for whom they are the designated substitute where the ordinary member will be absent for the whole of the meeting and where the member has notified the

Democratic Services Manager or the Monitoring Officer of the intended substitution by no later than 24 hours before the start of the relevant meeting, or in exceptional circumstances and with the consent of the Chair, no later than one hour before the start of the relevant meeting.

### **Chair Responsibilities**

7.8 The Chair will preside over meetings of the Planning Committee and, where the Chair is absent for the whole or part of the meeting, the Vice-Chair will preside over the meeting or that part of it. In the absence of both the appointed Chair and Vice-Chair for either the whole of or part of a meeting, the Planning Committee will appoint from those Councillors then present a person to act as Chair for the duration of that meeting or part of it. (All references to 'Chair' in these rules will be read as referring to the person acting as Chair at the relevant meeting or part of it).

7.9 The Chair of the Planning Committee meeting will be responsible for:

- a. calling items for consideration as they appear on the Agenda,
- b. calling and allowing persons to speak at the Planning Committee meeting,
- c. maintaining good order at the Planning Committee meeting. For this purpose, the Chair has the right to curtail any speaker (including a member of the Committee), or to suspend the Planning Committee meeting, in cases of disorder, until good order has been restored.

7.10 In all matters of procedure and interpretation of these rules, the Chair's decision will be final.

7.11 Decisions of the area-based Planning Committees and Strategic Planning Committee are not subject to scrutiny arrangements/call in.

7.12 The order of business for each meeting of the Planning Committees:

- a. Opening matters;

- b. Apologies for absence;
- c. Substitutes
- d. Minutes of the previous meeting;
- e. Declarations of interest;
- f. Planning Applications
  - i) The Chair will announce the agenda item number.
  - ii) The Planning Officer will introduce the application with any relevant updates and provide a visual presentation to aid members' understanding of the context of the application.
  - iii) The Chair will call on public speakers to present in accordance with the Public Speaking Arrangements.
  - iv) The Chair will then ask members/officers if they have any points of clarification on points raised by public speakers.
  - v) The Chair will then ask members if they have technical questions of officers.
  - vi) The entire committee will then discuss/debate the application.
  - vii) Members may seek further clarification of:
    - A) particular points from officers, regarding the application, or
    - B) on points raised by speakers, in the main debate, through the Chair.
 Officers will respond to issues and questions raised by members.
  - viii) The Committee will then make a decision by vote.
- g. Other matters requiring consideration by the committee

7.13 Where there is no provision made in these Planning Committee Procedure Rules the requirements of the Committee Procedure Rules will be followed at the discretion of the Chair.

### **Minutes**

7.14 Minutes will contain all motions and amendments in the form and order they were put.

### **Approval of Minutes**

7.15 At every meeting of the Planning Committee(s) the Chair will move that the minutes



of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

### **Declarations of Interests**

7.16 Declarations will be made in accordance with the Code of Conduct. These declarations will be made at the outset of the meeting under the item listed as 'declarations of interests' on that Planning Committee's agenda or as soon as the interest comes to light.

### **Public Speaking Arrangements**

7.17 If matters are referred to Committee the following will be invited to speak in order at the Planning Committee meeting at which a matter is considered:

- a. Members of the public, or their representatives, who have previously made written representations objecting to or in support of the application;
- b. Parish, Town or City Councils who have previously made written representations objecting to or in support of the application;
- c. Members of the Council who are not members of the Planning Committee;  
and
- d. The applicant or agent.

7.18 Anyone wishing to speak at Planning Committee as above on a Planning Application must register their request with Democratic Services by twelve noon one working day in advance of the relevant Committee meeting. Requests will normally be dealt with on a first come first served basis. Details on how to register will be provided in the invitation to speak.

7.19 The circulation of documentation including photographs or presentation materials will be permitted if submitted to the Planning Service and Democratic Services two working days prior to the Planning Committee meeting. Circulation of such documentation provided less than two working days prior to the Planning

Committee(s) will generally not be permissible.

7.20 Anyone wishing to raise a question(s) at Public Participation at Planning Committee must register such question(s) two working days in advance in writing, (refer to Council Procedure Rules Para X) with Democratic Services. Details on how to register will be provided in the invitation to speak. The circulation of documentation including photographs or presentation materials will not be permitted at the Planning Committee meeting.

7.21 The order of speaking and time limits for Planning Committee meetings for each application will be as follows:

Members of the Public or their representatives objecting	Members of the Public or their representatives in support of the application	Parish/Town/City Council(s)	Members of the Council (non planning committee members)	Applicant or Agent
15 mins shared between maximum 5 speakers of 3 mins each	15 mins shared between maximum 5 speakers of 3 mins each	3 minutes each	3 minutes each	3 minutes

7.22 Where speaking times are shared, there is an overall time limit of fifteen minutes in total, with no one person being allowed to speak for more than three minutes.

Speakers in the above categories will be encouraged to coordinate with each other so that repetition can be avoided. Should it not be practical for all those wishing to speak to do so and should the speakers within a category not be able to agree on suitable representatives between them, speaking slots shall be allocated in the order that they registered to speak.

7.23 At the Chair's discretion in consultation with the legal advisor the time allowed may be increased. A speaker may nominate a single spokesperson to speak on their behalf.

## Voting

7.24 When a Planning Committee is considering any item, a member of the Committee must be present throughout the entire presentation and subsequent debate on the item, in order to vote on that item.

7.25 All members of the Committee will have one vote. The Chair will have a second or casting vote in the event of the votes cast being tied. Matters subject to a vote will be decided by a simple majority of the votes cast.

7.26 Voting will be either for the recommendation as it appears in the written report, including any update report, (or as amended by the Case Officer verbally at the meeting) or subject to a. and b. below for the amendment to the recommendation (as proposed by a member of the Committee) or an alternative proposal. Where there is more than one amendment proposed, they will be voted on in the order in which they are proposed.

- a. Before voting on a resolution, the effect of which is to refuse permission contrary to the officer recommendation, the Committee must identify the planning reasons behind the decision before the vote is taken, which may need to be justified in the event of an appeal or other challenge.
- b. Before voting on a resolution, the effect of which is to grant planning permission contrary to the officer recommendation, the Committee must approve relevant conditions and reasons for the departure from the officer recommendation. The detailed compilation and attachment of relevant conditions and reasons can be delegated to Officers.
- c. Once the Committee has before it the full resolution and the reasons for such, the Chair can invite planning and legal officers to advise on the clarity and validity of the reasons, including any associated risks. If there is any concern about the reasons, the Committee may consider deferring the item to another meeting for the reasons to be tested and discussed at the next convened meeting.

7.27 Any Councillor of the Committee may request that their name be recorded in the Minutes of the meeting recording the way they have voted in respect of any item.

7.28 Where there is ambiguity in the way votes are cast, the Chair may request Committee members to confirm their votes before the Committee's decision is recorded.

### **Site Visits**

7.29 Officers may organise a pre-Committee site visit where they feel it would be a valuable part of the planning process. However, they can cause additional costs and should only be used where the expected benefit is substantial. A decision to carry out a pre-Committee site inspection should normally only take place:

- a) If the impact of the proposed development is particularly difficult to visualise from the plans and any supporting material; or
- b) There is considerable local concern about a proposal, allied to planning reasons for carrying out the visit (e.g. the physical relationship of the site to other sites in the neighbourhood).

7.30 When site inspections take place, careful arrangements must be made to ensure that all parties are treated fairly and equitably, and that the appropriate standards of propriety are seen to be upheld, particularly to avoid the visit being seen as part of a lobbying process. Accordingly, the following rules will apply:

- a) The visit will be led by an Officer of the Planning Service.
- b) Members should not seek to have discussions either with the applicant or with members of the public who may be present. The public should not be invited and have no right to enter a site without the consent of the occupier. However, attendance does occur from time to time and requires careful handling to ensure confidence in subsequent decision making.
- c) If discussions do take place, no view on the merits or otherwise of the proposal should be given, as to do so may lead to suspicion that the individual Member had already made up his or her mind. Members should keep together, avoiding side discussions.

- d) Members should not engage individually in discussions with the applicant, Agent, objectors, third parties or members of the public who may be present as again suspicion may arise that this is part of the lobbying process rather than the information- gathering process.
- e) No hospitality should be accepted at site visits,
- f) Members may, at the site visit, ask officers questions or seek clarification on matters relevant to the site inspection.
- g) A site visit is not a formal meeting of the Planning Committee and therefore a Member with a Disclosable Pecuniary Interest is not debarred from attending. However, such a member must take care to ensure that; i) nothing they do at the site visit breaches the Members Code of Conduct and ii) they do not imply that they will be part of the decision making process at the Planning Committee.

### **Site Inspections by Individual Members**

7.31 Members are able to look at an application site following the receipt of the agenda and prior to the date of the Planning Committee meeting. This will enable them to acquaint themselves with the nature of the proposal and will help avoid delay and unnecessary site visits. However, Members should only conduct such site inspections from a public vantage point and should not meet with or discuss the application with any applicant/agent or third party on site.

### **Other Matters**

7.32 The undertaking of such training as determined by the Executive Director (Climate & Place) on planning and other functions falling within the remit of the area-based

Planning Committees and Strategic Planning Committee, including probity in decision making, is a pre-requisite to membership of, and substitutes for this Committee.

7.33 From time to time the Planning Committee(s) may consider reports on other items falling within the Committees terms of reference, such as performance reports, appeals, or proposed changes to national or regional planning policy.

7.34 In those circumstances the procedure to be followed will be as described for public items above except that, there being no Planning Application for the Committee to determine, there will be a provision for public questions before the Committee and before the Committee proceeds to substantive business.

## **8. Delegation of functions**

8.1 The majority of the Committees functions will be performed by Officers as set out in Part I of the Constitution. These delegations are subject to:

- a) Any such delegation being consistent with the Development Plan, National Planning Policy Framework and any other applicable legislation and government guidance; and
- b) Statutory and customary consultation being carried out.

Where Planning functions are delegated to an officer of the Local Authority, the officer may decline such delegation and refer the application to Committee.

### **Exceptions to delegated powers**

8.2 The following decisions are not within the scope of the powers delegated by this Scheme and shall be taken by the relevant Planning Committee. Where:

- i. The applicant is a Member of the Council or a direct relative of a Member of the Council
- ii. The applicant is one of the Council Officers listed below:
  - Senior Officers of the Council's Senior Management Team;

- Where the applicant is, or is directly related to, a member of staff in the Planning Service;
  - Any other employee who has direct involvement with the planning process in the course of their duties.
- iii Matters which the relevant Executive Director (Climate & Place) considers to be controversial due to their size, nature or impact, or for any other reason.
  - iv. Council's own development (excluding minor alterations<sup>2</sup> to Council owned assets)
  - v. Where the proposal is a departure from the development plan and the Officer recommendation is to approve (excluding S.73 applications)

### **Applications delegated to Officers**

8.3 Subject to the exceptions to delegated powers above the following matters are delegated to Officers and are exempt from the referral process:

- Certificates of Lawfulness Existing or Proposed
- Prior Approval/Prior Notification – all types
- Approval of details reserved by condition / discharge of Development Consent Order (DCO) requirements.
- Hazardous substance consents
- Any applications for works to trees, hedgerow removal or high hedges
- Permission in Principle (PIP)

### **Referral Process to relevant Planning Committee**

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<sup>2</sup> Minor alterations shall mean any development that is not defined as Major development (see footnote 2) for example:

- a) Less than 10 dwellings
- b) Less 1,000sqm of new office, retail, manufacturing or other floorspace

8.4 The relevant Divisional Member(s) and Parish/Town/City Council will be notified of the following applications. They will be able to request that these applications are referred to the relevant Planning Committee:

- Planning permission (outline and full)
- Advertisement consent
- Listed building consent
- Application for planning permission for relevant demolition in a conservation area
- Reserved matters approval following outline permission
- Variation/removal of conditions – Section 73 applications

8.5 Divisional Members will also be notified of applications for Permission in Principle but the decision would be delegated to Officers meaning they would not be referred to the relevant Planning Committee.

**8.6 Divisional Member referral (within 21 days of original notification):**

- a. Within 21 days of being notified of a Planning Application, a Somerset Council member can request referral of the application to the relevant Planning Committee by notifying the Planning Service, in writing, stating whether they support or object, with material planning reasons;
- b. If the Officer recommendation is ultimately in agreement with the Member, the decision will be delegated to Officers.
- c. If the Officer recommendation is ultimately not in agreement with the Member view AND the application is classified as a major application<sup>3</sup> it will

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<sup>3</sup> “major development” means development involving any one or more of the following—

(a) the winning and working of minerals or the use of land for mineral-working deposits;

(b) waste development;

(c) the provision of dwellinghouses where —

(i) the number of dwellinghouses to be provided is 10 or more; or

(ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i) above



- automatically be referred to the area-based Planning Committee for a decision.
- d. For all other applications, if the Officer recommendation is ultimately not in agreement with the Member view the Strategic Director (Climate and Place) (in accordance with the delegation scheme) will refer the application to the Chair and/or Vice-Chair of the relevant area-based Planning Committee. The Chair and/or Vice Chair, in consultation (where possible) with the Divisional Members, will determine whether the application should be referred to the area-based Planning Committee for a decision, or whether the exercise of delegated powers is appropriate, providing material planning reasons for this decision.
  - e. On referral to Chair and/or Vice Chair, the Divisional Members will receive a copy of the officer report and will be advised of the decision on whether it stands referred after.

#### **8.7 Divisional Member referral (post 21 days):**

- a. As a direct result of substantial changes and re-notification of an application to a Member, a Somerset Council Member will be given a further 14 days, from the date of re-notification, to request that the application is referred to the relevant Planning Committee by notifying the Planning Service in writing stating whether they support or object, with material planning reasons.
- b. If the Officer recommendation is ultimately in agreement with the Member, the decision will be delegated to Officers.
- c. If the Officer recommendation is ultimately not in agreement with the Member view AND the application is classified as a major application<sup>4</sup> it will

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(d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or

(e) development carried out on a site having an area of 1 hectare or more;

<sup>4</sup> "major development" means development involving any one or more of the following—

(a) the winning and working of minerals or the use of land for mineral-working deposits;

(b) waste development;

(c) the provision of dwellinghouses where —

(i) the number of dwellinghouses to be provided is 10 or more; or

(ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i) above

(d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or

- automatically be referred to the area-based Planning Committee for a decision.
- d. For all other applications, if the Officer recommendation is not in agreement with the Member view, the Executive Director (Climate and Place) will refer the application to the Chair and/or Vice-Chair of the relevant area-based Planning Committee. The Chair and/or Vice Chair, in consultation (where possible) with the Divisional Members will determine whether the application should be referred to the area-based Planning Committee for a decision, or whether the exercise of delegated powers is appropriate, providing material planning reasons for this decision.
  - e. On referral to Chair and/or Vice Chair, the Divisional Members will receive a copy of the officer report and will be advised of the decision as to whether it stands referred after.

## **8.8 Referral by Parish, Town and City Councils**

- a. Within 21 days of being notified of a Planning Application, a Parish, Town or City Council must notify the Planning Service in writing, that:
  - i They wish to refer the Planning Application to the relevant Planning Committee by either supporting or objecting to the application and;
  - ii Provide material planning reasons for the referral
- b. If the Officer recommendation is ultimately in agreement with the Parish, Town or City Council's view, the decision will be delegated to Officers.
- c. If the Officer recommendation is ultimately not in agreement with the Parish, Town or City Council view AND the application is classified as a major application<sup>5</sup> it will automatically be referred to the area-based Planning

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(e) development carried out on a site having an area of 1 hectare or more;

“major development” means development involving any one or more of the following—

(a) the winning and working of minerals or the use of land for mineral-working deposits;

(b) waste development;

(c) the provision of dwellinghouses where —

(i) the number of dwellinghouses to be provided is 10 or more; or

(ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i) above

Committee.

- d. For all other applications, if the Officer recommendation is ultimately not in agreement with the Parish, Town or City Council view then the Strategic Director (Climate and Place) will refer the application to the Chair and/or Vice-Chair of the area-based Planning Committee. The Chair and/or Vice Chair, in consultation (where possible) with the Divisional Members, will determine whether the application should be referred to the area-based Planning Committee for a decision, or whether the exercise of delegated powers is appropriate, providing material planning reasons for this decision.
- e. A Parish, Town or City Council may request an extension of the time limit in which they must notify the Planning Service that they wish to refer a Planning Application in order to allow for consideration at the next meeting of the Parish, Town or City Council (or it's Planning Committee). Such a request shall be granted where possible.
- f. On referral to Chair and/or Vice Chair, the Divisional Member will receive a copy of the officer report and will be advised of the decision as to whether it stands referred.

#### **8.9 Referral by Parish, Town and City Councils (post 21 days):**

- a. As a direct result of substantial changes and re-notification of an application, the Parish, Town or City Council will be given a further 14 days, from the date of re-notification, to request that the application is referred to the relevant Planning Committee by notifying the Planning Service in writing stating whether they support or object, with material planning reasons.
- b. If the Officer recommendation is ultimately in agreement with the Parish, Town or City Council view, the decision will be delegated to Officers.
- c. If the Officer recommendation is ultimately not in agreement with the Parish, Town or City Council view AND the application is classified as a major application<sup>6</sup> it will automatically be referred to the area-based Planning

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(d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or

(e) development carried out on a site having an area of 1 hectare or more;

<sup>6</sup> "major development" means development involving any one or more of the following—

(a) the winning and working of minerals or the use of land for mineral-working deposits;

(b) waste development;

Committee for a decision.

- d. For all other applications, if the Officer recommendation is not in agreement with the Parish, Town or Council view, the Executive Director (Climate and Place) will refer the application to the Chair and/or Vice-Chair of the relevant area-based Planning Committee. The Chair and/or Vice Chair, in consultation (where possible) with the Divisional Members will determine whether the application should be referred to the area-based Planning Committee for a decision, or whether the exercise of delegated powers is appropriate, providing material planning reasons for this decision.
- e. A Parish, Town or City Council may request an extension of the time limit in which they must notify the Planning Service that they wish to refer a Planning Application in order to allow for consideration at the next meeting of the Parish, Town or City Council (or it's Planning Committee). Such a request shall be granted where possible.
- f. On referral to Chair and/or Vice Chair, the Divisional Members will receive a copy of the officer report and will be advised of the decision as to whether it stands referred after.

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(c) the provision of dwellinghouses where —

(i) the number of dwellinghouses to be provided is 10 or more; or

(ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i) above

(d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or

(e) development carried out on a site having an area of 1 hectare or more;

## PART D - Standards Committee Terms of Reference

### 1. General

- 1.1 The Standards Committee is responsible for promoting and enforcing high standards of conduct by Members and co-opted Members and assisting Members and co-opted Members to observe the Council's code of conduct. The committee will have the roles and responsibilities set out in the Terms of Reference below.
- 1.2 The terms of reference will be formally approved by the Council.
- 1.3 These terms of reference shall be reviewed by the Council on the advice of the Committee and on a regular basis to ensure that they remain fit for purpose and in accordance with any relevant regulations and guidance. Any revisions will be agreed by the Council and by the Committee.

### 2. Membership, Chair and Quorum

Number of Members	10 (including 5 co-opted community representatives without voting rights)
Substitute Members Permitted	Yes
Political Balance Rules apply	Yes
Appointments/Removals from Office	By resolution of the Council
Restrictions on Membership	May not include members of the Executive
Restrictions on Chair/Vice-Chair	The Committee must be chaired by a Member of the Council
Quorum	3 members who are Members of the Council
Number of ordinary meetings per Council Year	At least 2 per year
Standing Sub-Committees	Hearings Panel

### 3. Definitions

- 3.1 The following terms:

### 4. Terms of Reference

- 3.1 The Standards Committee will have the following functions:
  - (i) to promote and maintain high standards of conduct by Members, co-opted Members and Officers;

- (ii) to supervise the Council's compliance with legislative requirements in relation to the maintenance of standards of Member conduct;
- (iii) to assist Members and co-opted Members to observe the Members' Code of Conduct;
- (iv) to support the Monitoring Officer in discharging their role in respect of standards of conduct and behaviour;
- (v) to receive reports and advice as required from the Monitoring Officer and any Independent Persons appointed by the Council under section 28 of the Localism Act 2011;
- (vi) to review the operation and effectiveness of the Members' Code of Conduct and recommend any changes considered necessary to the Council for approval;
- (vii) to appoint, as required, from among its membership, a Hearing Sub-Committee to determine allegations of misconduct referred to the Committee by the Monitoring Officer;
- (viii) to keep under review the operation and effectiveness of the Standards Hearing Sub Committee arrangements and to recommend any changes considered necessary to the Council for approval;
- (ix) to review the Monitoring Officer's arrangements for the investigation of allegations of breaches of the Council's Code of Conduct by Members and co-opted Members and to make recommendations for appropriate changes to the Monitoring Officer;
- (x) to make recommendations to Council with regard to the appointment of Independent Persons;
- (xi) to advise (including advising city, town or parish councils in Somerset in respect of members of their councils) on the induction and training of Members and co-opted Members on standards of conduct;

- (xii) to review the operation and effectiveness of the Council's Officer Code of Conduct and make recommendations on proposed changes to the Council;
- (xiii) to determine, subject to the applicable law, the requirements for the registration of Members' and co-opted Members' interests;
- (xiv) to review the Monitoring Officer's maintenance of the Members' and officers' registers of interests and gifts / hospitality;
- (xv) to grant dispensations to Members and co-opted Members from requirements relating to interests as set out in the Member Code of Conduct, and where appropriate, the Planning Protocol. This function has also been delegated to the Monitoring Officer in relation to all grounds of dispensation with a power to refer back to the Standards Committee;
- (xvi) In accordance with the Council's Arrangements for Dealing with Standards Complaints, to assess and / or refer for investigation allegations of misconduct on the part of councillors and co-opted members of the Council, or city, town or parish councillors if requested by the Monitoring Officer;
- (xvii) to make an annual report to the Council on the performance of the Committee's functions.

#### **4. Membership**

4.1 The Committee comprises 10 Members as follows:

- (i) 5 Members Somerset Council; and
- (ii) up to 5 co-opted community representatives appointed by Somerset Council as non-voting members of which at least 3 should be members of city, town or parish councils in Somerset.

## **5. Committee Business**

5.4 The following may put items on the Committee's agenda:

- (i) the Committee itself;
- (ii) the Council;
- (iii) the Leader;
- (iv) the Chair of any Council Committee;
- (v) a member of the Committee, including a co-opted member
- (vi) the Chief Executive;
- (vii) the Monitoring Officer;
- (viii) the Chief Finance Officer / Section 151 Officer.



## **PART D – Standards Hearings Sub-Committee Arrangements**

### **1. General**

- 1.1 The Standards Hearing Sub-Committee deals with the assessment and determination of complaints under the Members' Code of Conduct against Members and Co-opted Members where referred by the Monitoring Officer following consultation with the Council's Independent Person. Where an investigation finds evidence of a failure to comply with the Code of Conduct and a local resolution is not appropriate or not possible, a Standards Hearing Sub-Committee shall be convened by the Chair of the Standards Committee (or, where they are the subject of the complaint, the deputy Chair) on the request and advice of the Monitoring Officer to consider and determine the complaint.
- 1.2 The Standards Hearing Sub-Committee will have authority to determine the complaint referred to it and apply sanctions under the Council's procedure.
- 1.3 Given the wider provisions in place for determining complaints against members, it is expected that these arrangements will only be required to be used in exceptional circumstances where the alleged breach of the Code of Conduct is particularly serious and a satisfactory outcome has not been achieved through the other stages of the process.
- 1.4 The terms of reference will be formally approved by the Council.
- 1.5 These terms of reference shall be reviewed by the Standards Committee at least annually to ensure that they remain fit for purpose and in accordance with the law and any regulations. Any revisions will be agreed by the Council.

## **2. Membership, Chair and Quorum**

Number of Members	3
Substitute Members Permitted	No
Political Balance Rules apply	No
Appointments/Removals from Office	As set out in para 4 below
Restrictions on Membership	As set out in para 4 below
Restrictions on Chair/Vice-Chair	Only the Chair or (in their absence) the Vice Chair of the Standards Committee may chair the Hearing Panel
Quorum	3
Number of ordinary meetings per Council Year	None – the Standards Hearing Sub-Committee only meets when convened to hear specific complaints by the Monitoring Officer

## **3. Terms of Reference**

### **3.1 The Standards Hearing Sub-Committee will:**

- (i) hear and determine complaints in relation to serious allegations of breaches of the Council's Code of Conduct by Members and co-opted Members as referred to it by the Monitoring Officer;
- ~~(ii)~~ where it has determined in a case referred to it by the Monitoring Officer that a Member has breached the Council's Code of Conduct for Members decide on an appropriate sanction from among those detailed in paragraph 5 below;
- (iii) on the advice of the Monitoring Officer, adopt a procedure for hearings which:
  - complies with the rules on access to information set out in the Local Government (Access to Information) Act 1985 (as amended, updated or replaced);
  - upholds the principles of natural justice and the right to a fair trial;
  - has regard to any advice and guidance on the conduct of hearings into member conduct issued by the Local Government Association from time to time;

- is appropriate and proportionate taking into account the nature and complexity of the allegations concerned.

#### **4. Membership**

4.1 The Standards Hearing Sub-Committee comprises 3 Members.

4.2 Subject to paragraph 4.3, the Members of the Standards Hearing Sub-Committee will be:

- (i) The Chair or (in their absence or disqualification under paragraph 4.3) the Vice Chair of the Standards Committee; and
- (ii) 2 other Members of the Standards Committee nominated by the Chair (or in their absence or disqualification under paragraph 4.3) the Vice Chair of the Standards Committee.

4.3 No Member who is the subject of a complaint to be determined by the Standards Hearing Sub-Committee may:

- (i) act as a member of the Standards Hearing Sub-Committee for the hearing; or
- (ii) nominate a representative to be a member of the Standards Hearing Sub-Committee.

#### **5. Sanctions**

5.1 Where the Standards Hearing Sub-Committee has determined in a case referred to it by the Monitoring Officer that a Member has breached the Council's Code of Conduct for Members (or that a member of a city, town or parish council has breached their city, town or parish council's code of conduct for members) it may make a report to the Council (or, where appropriate, the city, town or parish council) for information and may further impose, or recommend that the Council (or the city, town or parish council where appropriate) imposes, any of the following sanctions which the Standards Hearing Sub-Committee determines to be appropriate having regard to its findings:

- (i) a recommendation to the Council (or, where appropriate, the city, town or parish council) that it should make a motion of censure in relation to the Member's conduct;
- (ii) a recommendation;
  - in the case of the Council, to the leader of the Member's political group (where the Member is a member of a political group, and otherwise to the Council) that the Member is removed; or
  - in the case of a member of a city, town or parish council, to the city, town or parish council, that the member is removed;from any or all Committees or Sub-Committees of the Council of which they are a member;
- (iii) a recommendation:
  - in the case of an Executive Member, to the Leader of the Council that the Member is removed from the Executive, or removed from particular Executive responsibilities;
  - in the case of the Leader of the Council, to the Council that the Member be removed from their role as Leader of the Council;
- (iv) an instruction to the Monitoring Officer to arrange training for the Member which is appropriate to the Member's conduct (or where appropriate, a recommendation to the city, town or parish council that such training should be arranged);
- (v) the removal of the Member from all outside appointments to which he/she has been appointed or nominated by the Council (or where appropriate, a recommendation to the city, town or parish council that such action should be taken);
- (vi) the withdrawal for a specified period of facilities provided to the Member by the Council, such as a computer, website and/or email and internet access (or where appropriate, a recommendation to the city, town or parish council that such action should be taken);

- (vii) the exclusion for a specified period of the Member from the Council's offices or other premises , with the exception of meeting rooms as necessary for attending Council, Executive, Committee and Sub-Committee meetings (or where appropriate, a recommendation to the city, town or parish council that such action should be taken);
- (viii) if relevant, a recommendation to the secretary or appropriate official of a political group that the Member be removed as group leader or other position of responsibility;
- (ix) A recommendation to the Council (or where appropriate, to the city, town or parish council) that contact between the Member and officers of the Council should be restricted to specified officers only.

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## **Part D11 - Harbour Management Advisory Committee**

### Membership and meeting arrangements

1. The Harbour Management Advisory Committee shall be primarily responsible for advising the Executive in exercising the Council's functions as a harbour authority as defined in the Harbours Act 1964 and any other functions arising under any local Act and/or byelaw in respect of the operational issues in relation to harbour land of any harbours within the area of the Council not dealt with through any other mechanism.

2. The Harbour Management Advisory Committee shall have the power to advise the Executive in determining income and expenditure matters relating to the harbours for which it is responsible.

3. The Committee will be made up of 6 members drawn from the Council and four non-elected members will be co-opted onto the Committee following an appointment process to assess the skills and expertise they can bring to the Committee.

4. The co-opted members will be recommended to Council for appointment and their appointment is subject to ratification by Council. Co-opted members will serve the Committee in accordance with the following arrangements:

Co-opted Membership for the first term of the Committee shall be as follows:

- 1 Co-opted Member will sit for only 1 year

- 2 Co-opted Members will sit for only 2 years
- 1 Co-opted Member will sit for a full term of 3 years

5. Co-opted Members who sit for only one or two years in the first term may be appointed for one or two subsequent three-year terms without further competition being required.

6. A Co-opted Member may be appointed to a second three-year term without recourse to open competition, subject to the agreement of both the Chair and the Co-opted Member, and the Committee's assessment that the Member has performed satisfactorily during the first term (all Membership of the Committee is subject to ratification by the Council ).

7. The quorum will be 5 members save that at no time shall there be less than 4 Council Members present at the meeting.

8. The Chair and Vice Chair will be Council Members.

9. The Committee shall meet at least 4 times a year and be governed by the Council Procedure Rules.

10. All members of the Committee shall abide by the Council's Code of Conduct.

11. The Committee will report annually to the Executive.



## Functions

1. Any function of the Council as Harbour or Port Authority is an Executive

Responsibility

2. The Committee shall be primarily responsible for advising the Executive in exercising the functions of the Council as Harbour or Port Authority in accordance with the provisions of the

Harbours Act 1964 and the Harbour Docks and Piers Clauses Act 1847 (as incorporated), as amended from time to time (the 'Harbour Legislation').

3. The Committee shall not incur any expenditure, enter into any obligations or take any other action except:

(i) within the budget determined by the Council in accordance with the following provisions; and

(ii) as set out in the harbour business plan approved by the Executive in accordance with the following provisions (the 'Harbour Business Plan')

4. The Committee is an advisory committee and makes recommendations to the Executive where there are any decisions required regarding the management, acquisition and disposal of assets in accordance with the Council's acquisitions and disposals policies, financial procedure rules and contracts procedures rules.

5. When making recommendations to the Executive, the Committee shall ensure its recommendations:

(i) accord with the provisions of the Harbour Legislation and Council's plans, policies and strategies and in particular the Harbour Business Plan;

and

(ii) Have been developed following 21 days' prior notice given to the Council's Chief Finance Officer.

6. The Committee will review and then recommend an annual budget, (including rental charges and central re-charges to the Council) and an annual schedule of charges and dues for the Harbours and these will be determined by the Executive.

7. The Committee will monitor performance against approved budgets and take appropriate action where this is required.

8. The Committee will make an annual report to the Executive reporting on performance against budget.

9. The Committee will publish a Harbour Business Plan and any other plan required from time to time following approval from the Executive.

10. The Harbour Business Plan and other plans should promote the Harbours to be financially self-sustainable in the long term, reducing the risk of the need to call upon the Council's General Fund

## **Part D12 – Somerset Board and Health & Well Being Board Terms of Reference (agreed May 2023)**

### **The Somerset Board Constitution**

The Somerset Board is the single high-level strategic partnership board for health, care and wellbeing for the county: in essence to consider all influences on what it is to live and work in Somerset.

It operates in conjunction with the Somerset Health and Wellbeing Board (HWB) and the Somerset Integrated Care Partnership (ICP) sitting as committees in common.

The Somerset Board consists of senior representatives from key organisations, agencies and sectors that have an impact and influence upon the health and wellbeing of the Somerset population.

The committees meeting in common fulfil two statutory requirements:

- The HWB is a statutory Board of the Council required under the Health and Care Act 2012.
- Arrangements for Integrated Care Partnerships (ICP) as set out in the Local Government and Public Involvement in Health Act 2007 so that Integrated Care Boards (ICB) and all upper-tier local authorities that fall within the area of the ICB must establish an Integrated Care Partnership.

Wherever possible the Somerset HWB and the Somerset ICP will function as committees meeting in common through the Somerset Board. However, the two committees are legally and constitutionally distinct and there may be occasions where decisions of each committee need to be taken separately because of the limits on the functions of each.

### **Aim**

Its purpose is to understand the needs of the population and, collaboratively, with the community and all sectors in the county, determine and agree the longer-term strategic vision for the county, pushing forward agreed priorities to improve the lives of the Somerset population and directing how the assessed health and care needs for the population of Somerset are to be met.

The Somerset Board will provide strategic leadership to improve the health, care and wellbeing of the residents of Somerset leading the health and wellbeing agenda, deciding its strategic direction, and holding key organisations, agencies, and sectors to account to ensure the health and wellbeing, including a focus on improving the health and care of the local population is maximised. The Somerset Board will identify and unify to tackle some of the significant challenges facing the county over the medium and longer term.

The core roles and responsibilities of the Board and its members are as follows:

## **Responsibilities**

The Board, through the Somerset HWB or the Somerset ICP (as appropriate depending on the decision and as set out in each board's terms of reference), shall identify and agree health and wellbeing needs and priorities across Somerset through:

- a) Providing a structure for strategic local planning and challenge to the provision of health and wellbeing, and health and care related services across a range of sectors and providers.
- b) Assessing the needs of the local population and lead the statutory Joint Strategic Needs Assessment ('JSNA') with an annual refresh and publication of the Joint Strategic Needs Assessment (JSNA) to support evidence-based prioritisation, commissioning, and policy decisions.
- c) Ensuring that the JSNA drives the development of the Health and Wellbeing Strategy (Improving Lives), and the Health and Care Strategy and influences other key plans, strategies, commissioning, and service delivery across the County.
- d) Undertaking the Pharmaceutical Needs Assessment every three years or sooner if required.
- e) Preparing, agreeing and publishing of the Somerset Health and Wellbeing Strategy (SHWBS). The SHWBS will set a high level joint strategic vision for health and wellbeing, taking into account the JSNA and the Annual Public Health Report(s), as well as national policy developments and legislation. Organisations represented on the Board have a duty to take heed of the strategy, its outcomes and metrics and will be held to account for their contribution to delivery of outcomes.
- f) Preparing, agreeing and publishing of the Health and Care Strategy. The Health and Care Strategy will set a high level joint strategic vision for health and care, taking into account the JSNA and the Annual Public Health Report(s), as well as national policy developments and legislation. Organisations represented on the Board have a duty to take heed of the strategy, its outcomes and metrics and will be held to account for their contribution to delivery of outcomes.

- g) Actively engaging with the other key partnerships, and Boards to ensure the achievement of outcomes in all agreed areas and to extend the reach of the Improving Lives and Health and Care Strategies by ensuring alignment with other strategies and plans.
- h) Discharging all functions relating to the Better Care Fund that are required or permitted by law to be exercised by the Board including: Agreeing the Better Care Fund; and overseeing the delivery of the Better Care Fund and Improved Better Care Fund. This includes providing a regular written progress report on each of the schemes under the fund to the Board.
- i) Overseeing the implementation of the statutory requirement within the Children and Families Act 2014, for local services to work together providing care and support for children and young people with special educational needs and disabilities (SEND), ensuring that local services are fulfilling their role and that children are getting the care they need.
- j) Ensuring that the Local Integrated Care Board and Partnership, Local Authorities, NHS England, and Police demonstrate how the JSNA has driven decision making.
- k) Advocating for the integration of services where it is beneficial to do so.

In order to undertake the system leadership role, the Board will meet in public three times a year with a workshop programme for Board Members being delivered.

Accountability for the delivery of statutory duties and the Improving Lives and Health and Care Strategies will be through the organisations represented on the Board.

### **Roles of Board members:**

- Be Strategic, Representative and Effective
- Identify and report strategic issues, which the Somerset Board should be aware of
- Act to bring together intelligence, expertise and community and business support to identify priorities and develop solutions to maximise all determinants of health which impact on health and wellbeing.
- Ask challenging questions about and scrutinise performance.
- Deal honestly and robustly with under-performance.
- Minimise bureaucracy and build upon existing structures.
- Focus on the needs of the whole county, with an inclusive concern for all citizens, especially the marginalised and disadvantaged.

- Will seek to act in the best interests of the population of Somerset and the wider Integrated Care System (ICS) rather than representing the individual interests of any one constituent organisation, subject to any legal obligations to the contrary.
- Somerset Board members facilitate the delivery of the Health and Wellbeing, and Integrated Health and Care Strategies and are accountable for its delivery.
- Ensuring awareness of and commitment to strategic priorities, direction and undertakings
- Encouraging the alignment of planning, performance, and budgetary processes between partner organisations where practicable.
- Periodically reviewing the Strategy's Visions, Strategic Priorities, outcomes and metrics.

## **Membership**

Representation on the Somerset Board reflects the membership of the HWB and ICP and consists of the senior representatives (who have voting rights) detailed below:

- Up to 7 elected members of Somerset Council including the relevant Executive Members for Public Health, Equalities and Diversity, Adult Social Care and Children and Families, 1 member of the Opposition and 1 other Council member – all to be chosen by the Leader of the Council
- Chief Executive Officer Integrated Care Board
- Chief Medical Officer Integrated Care Board
- Chair Integrated Care Board
- 1 General Practice representative
- 1 Primary Care representative (not general practice)
- Chief Executive Officer, Somerset Council
- Executive Director Public and Population Health, Somerset Council
- Executive Director of Adults and Health, Somerset Council
- Executive Director of Children's Services, Somerset Council
- Executive Director of Strategy Workforce and Localities, Somerset Council
- 1 Representative nominated by NHS England
- Chief Executive Officer Somerset NHS Foundation Trust
- 1 x Non-Executive Director NHS Somerset Foundation Trust
- 2 Representatives from the Voluntary, Community, Faith and Social Enterprise (VCFSE) sector in Somerset
- 1 Representative of Registered Care Providers operating in Somerset
- 1 nominated volunteer representative of Healthwatch Somerset
- 1 Representative from Avon and Somerset Police
- 1 Representative from Devon and Somerset Fire Service
- 1 Representative from Southwest Ambulance Trust
- 1 Representative from Probation Service
- 2 Representatives from Education
- 1 Representative from the Somerset Association of Local Councils
- 1 Representative from the Business Sector

- 1 University representative

The composition of the Board will be as inclusive as practicable covering a wide range of partners balancing this with a realistic maximum size of the board necessary for it to be effective and strategic.

The Board will need to secure the involvement of all the appropriate partners, including the public, private, community and voluntary sectors. This should allow engagement of residents, community, other public sector and business interests that cannot be represented directly on the Board.

Membership of the Board represents personal commitment to the work of the Board, to attend meetings personally and regularly and to prioritise Board Business. Each Board member has equal voting rights.

Members of the Board must have sufficient delegated authority from their organisations to take a full part in the business of the Board.

It is expected that decisions or recommendations shall be reached by consensus. In exceptional circumstances where consensus cannot be achieved and a formal vote is required, the matter shall be decided by a simple majority of those members voting and present in the room at the time the proposal is considered. The vote shall be by a show of hands. If there are equal votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

Decisions within the terms of reference of each committee will be taken at Board meetings and are not subject to ratification or a formal decision process by partner organisations. However, where decisions are not within the delegated authority of either committee, these will be subject to ratification by the constituent bodies.

The Board may invite representatives of partner organisations to attend for, or to present, specific items as appropriate.

### **Procedural Rules for Board Meetings**

The procedure rules for HWB meetings set out in **Appendix C** will apply to the Somerset Board.

### **Chairing arrangements**

The Leader of the Council shall appoint the Chair of the Board annually from within the Council's representation on the Board. The Leader shall appoint up to two Vice-Chairs on an annual basis at least one of which shall come from within the health service representation on the Board.

In the event that the Chair is not present, but the meeting is quorate the voting members present at the meeting shall choose which Vice-Chair is to chair that meeting.

**Agreed Terms of Reference for Somerset's Health and Wellbeing Board  
April 2023**

**Introduction**

Under the Health and Social Care Act 2012 the Council must establish a Health and Wellbeing Board.

These terms of reference will cover the operation of the Somerset Health and Wellbeing Board (HWB) from May 2023. It will be revised if necessary, in accordance with legislative requirements.

**1. Aim**

- 1.1 The Somerset Health and Wellbeing Board will provide strategic leadership to improve the health and wellbeing of the residents of Somerset through the development of improved and integrated health, public health and adults and children's social care services.

**2. Functions**

- 2.1. The HWB, on behalf of the Somerset Council and the Somerset Clinical Commissioning Group (SCCG), shall identify and agree health and wellbeing needs and priorities across Somerset through:
- a) providing a structure for strategic local planning and challenge to the provision of health and wellbeing related services across a range of sectors and providers
  - b) assessing the needs of the local population and lead the statutory Joint Strategic Needs Assessment ('JSNA') with an annual refresh and publication of the Joint Strategic Needs Assessment (JSNA) to support evidence-based prioritisation, commissioning and policy decisions
  - c) ensuring that the JSNA drives the development of the Health and Wellbeing Strategy (Improving Lives) and influences other key plans and strategies across the county
  - d) undertaking the Pharmaceutical Needs Assessment every 5 years or sooner if required
  - e) preparing, agreeing and publishing the Somerset Health and Wellbeing Strategy (SHWBS). The SHWBS will set a high level joint strategic vision for health and wellbeing, taking into account the JSNA and the Annual Public Health Report, as well as national policy developments and legislation. Organisations represented on the Board have a duty to take heed of the strategy and will be held to account for their contribution to delivery of outcomes



- f) actively engaging with the other key partnerships to ensure achievement of outcomes in all agreed areas and to extend the reach of the Improving Lives Strategy by ensuring alignment with other strategies and plans
- g) discharging all functions relating to the Better Care Fund that are required or permitted by law to be exercised by the HWB including: Agreeing the Better Care Fund; and overseeing the delivery of the Better Care Fund and Improved Better Care Fund. This includes providing a regular written progress report on each of the schemes under the fund to the HWB
- h) overseeing the implementation of the statutory requirement within the Children and Families Act 2014 for local services to work together providing care and support for children and young people with special educational needs and disabilities (SEND), ensuring that local services are fulfilling their role and that children are getting the care they need
- i) ensuring that the Local Integrated Care Partnerships, Local Authorities, Clinical Commissioning Groups and NHS England, Police demonstrate how the JSNA has driven decision making.
- j) providing challenge and encouragement to put prevention central to everything we do in Somerset; with a relentless focus on issues that drive inequalities
- k) providing a forum for cross-system learning and support through the Health and Wellbeing Board development sessions and workshops

In order to undertake the system leadership role, the HWB will meet in public three times a year with a workshop programme for HWB Members being delivered.

Accountability for the delivery of statutory duties and the Improving Lives and Health and Care Strategies will be through the organisations represented on the HWB.

## 2.2 The HWB shall:

- a) Oversee, where appropriate, the use of resources across a wide spectrum of services and interventions, to ensure that the SHWBS and priority outcomes are achieved and, to drive a genuinely collaborative approach to commissioning, including the co-ordination of agreed joint strategies

- b) Support the inclusion of the public, patients and communities in the setting of strategic priorities, including (but not solely) through the involvement of local Healthwatch
- c) Communicate and engage with local people in how they can achieve the best possible quality of life and be supported to exercise choice and control over their own health and wellbeing and that of the people living around them
- d) Each board member has a responsibility to report and act upon the group or organisation they represent in order to maximise the impact they can make in terms of improving lives (promoting and delivering the health and wellbeing strategy)

In line with the Health & Social Care act 2012 the work of the HWB will be scrutinised through appropriate Somerset Council Scrutiny Committees.

### **3. Membership**

3.1 As outlined in the Health and Social Care Act 2012, the HWB is at a minimum to consist of:

- One councillor of the local authority
- The director of adult social services for the local authority
- The director of children's services for the local authority
- The director of public health for the local authority
- A representative of the Local Healthwatch organisation for the area of the local authority
- A representative of each relevant clinical commissioning group, and
- Such other persons, or representatives of such other persons, as the local authority thinks appropriate.

The full members of the HWB (ie with voting rights) shall comprise the following:

- Up to 7 elected members of Somerset Council including the relevant Executive Members for Public Health, Equalities and Diversity, Adult Social Care and Children and Families, 1 member of the Opposition and 1 other Council member – all to be chosen by the Leader of the Council
- Chief Executive Officer Integrated Care Board
- Chief Medical Officer Integrated Care Board
- Chair Integrated Care Board
- 3.2 1 General Practice representative
- 4.2 1 Primary Care representative (not general practice)
- 5.2 Chief Executive Officer Somerset Council
- 6.2 Executive Director Public and Population Health, Somerset Council
- 7.2 Executive Director of Adults and Health, Somerset Council
- 8.2 Executive Director of Children's Services, Somerset Council

- 9.2 Executive Director of Strategy Workforce and Localities, Somerset Council
  - 10.2 1 Representative nominated by NHS England
  - 11.2 Chief Executive Officer Somerset NHS Foundation Trust
  - 12.2 1 x Non-Executive Director NHS Somerset Foundation Trust
  - 13.2 2 Representatives from the Voluntary, Community, Faith and Social Enterprise (VCFSE) sector in Somerset
  - 14.2 1 Representative of Registered Care Providers operating in Somerset
  - 15.2 1 nominated volunteer representative of Healthwatch Somerset
  - 16.2 1 Representative from Avon and Somerset Police
  - 17.2 1 Representative from Devon and Somerset Fire Service
  - 18.2 1 Representative from Southwest Ambulance Trust
  - 19.2 1 Representative from Probation Service
  - 20.2 2 Representatives from Education
  - 21.2 1 Representative from the Somerset Association of Local Councils
  - 22.2 1 Representative from the Business Sector
  - 23.2 1 University representative
- 3.3 Other members may be co-opted by the HWB as required but will not be entitled to vote on decisions of the HWB.

### **Appointment of Members**

Where a member organisation is not listed by name, the appointment of that representative is delegated to the Monitoring Officer, Somerset Council in consultation with the HWB.

## **4. Chairing arrangements**

- 4.1 The Leader of the Council shall appoint the Chair of the HWB annually from within Somerset Council's representation on the HWB. The Leader shall appoint up to 2 Vice-Chairs on an annual basis one of whom must be the chair of the Somerset Integrated Care Board.
- 4.2 In the event that the Chair is not present but the meeting is quorate the voting members present at the meeting shall choose which Vice-Chair is to chair that meeting.

## **5. Quorum**

- 5.1 To ensure that sufficient members are present at all meetings for the effective conduct of business the quorum for the HWB will comprise over 50% of the current voting members and must include at least two voting members of Somerset Council and one two voting members of the Somerset Integrated Care Board. If a quorum is not present, matters may be discussed, and recommendations made but no decisions taken.

## **6. Substitutes**

- 6.1 No substitutes shall be allowed for voting members of the HWB.

## **7. Appointments**

- 7.1 If the Council wishes to change the voting membership of the HWB, then the Council must consult the HWB on the proposal. Council nominations must be in accordance with the legislation.

## **8. Governance and Accountability**

- 8.1 By law the HWB is a committee of Somerset Council and therefore the rules applying to meetings of the council apply in relation to the HWB. In particular, these rules cover matters such as
- a. The publication of information;
  - b. Admission of the press and public to meetings;
  - c. The conduct of board members at meetings
  - d. The appointment of committees and officers of the authority to discharge functions of the HWB;
- 8.4 The HWB shall produce an annual report, which will be presented to meetings of both Somerset Council and the Somerset Integrated Care Board. It shall also report as necessary to Somerset Council's Executive, Full Council and the Somerset Integrated Care Board as the business dictates.

## **9. Decisions**

- 8.1 The HWB shall be accountable for its actions to Somerset Council.
- 9.2 Members of the HWB must have delegated authority from their organisations to take a full part in the business of the HWB.
- 9.3 It is expected that decisions or recommendations shall be reached by consensus. In exceptional circumstances where consensus cannot be achieved and a formal vote is required, the matter shall be decided by a simple majority of those members voting and present in the room at the time the proposal is considered. The vote shall be by a show of hands. If there are equal votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

- 9.4 Decisions within the Health and Wellbeing Board's terms of reference will be taken at HWB meetings and are not subject to ratification or a formal decision process by partner organisations.

## **10. Procedural Rules to apply to Board Meetings**

- 10.1 Detailed procedural rules for HWB meetings are attached as Appendix C.

## **11. Establishment of Sub-Committees**

- 11.1 The HWB shall be responsible for the appointment of any sub-committees or working groups to assist with the fulfilment of its functions in accordance with any legislative requirements in relation to their establishment.
- 11.1 The HWB shall also be responsible for accepting reports as necessary from partnerships whose business relates to the functions of the HWB.

## **12. Board Members' Conduct**

- 12.1 All voting members of the HWB must comply with Somerset Council's Code of Conduct including the registration of disclosable pecuniary interests and personal interests.
- 12.2 The Monitoring Officer for Somerset County Council will maintain and publish a register of interests of HWB members.
- 12.3 The principles of these requirements are consistent with the requirements on members of the Somerset Integrated Care Board in relation to conflicts of interest.

## **13 Work Programme for the HWB**

- 13.1 The HWB shall be responsible for establishing and maintaining its work programme.

## **14. Review of the Constitution**

- 14.1 This constitution will be reviewed as and when required but at least annually by the Council in consultation with other constituent bodies and the HWB and with the Somerset Integrated Care Partnership. Any recommendations for changes to the constitution must be made to Somerset Council having consulted with the Council's Constitution Committee.

## **15. Administration of Meetings**

- 15.1 Meetings of the HWB will be convened by Somerset Council, who will also arrange the clerking and recording of meetings (a member of the Council's Democratic Services Team will act as Clerk).

**SOMERSET INTEGRATED CARE PARTNERSHIP (ICP)  
TERMS OF REFERENCE****1. Constitution**

Statutory arrangements for Integrated Care Partnerships (ICP) are set out in the Local Government and Public Involvement in Health Act 2007 (2007 Act) so that Integrated Care Boards (ICB) and all upper-tier local authorities that fall within the area of the ICB must establish an ICP.

For Somerset, the ICP is established jointly by the Somerset ICB and Somerset Council.

These Terms of Reference set out the membership, purpose, responsibilities, and reporting arrangements of the Somerset ICP.

**2. Purpose, Duties and Responsibilities**

Somerset ICP convenes stakeholders across health, care, public health, the voluntary, community and social enterprise sector, together with other public sector partners and public voices to facilitate cooperation and collaboration with the aim of improving health and care across the population of Somerset.

Members of the Somerset ICP will seek to act in the best interests of the population of Somerset and the wider Integrated Care System (ICS) rather than representing the individual interests of any one constituent organisation, subject to any legal obligations to the contrary.

As set out in the 2007 Act, the primary purpose of the ICP is to prepare, maintain and publish a strategy (an "Integrated Care Strategy") setting out how the assessed health and care needs for the population of Somerset are to be met by the functions of the partner organisations in the Somerset ICS. In drawing up the Integrated Care Strategy the ICP may set out its views on how arrangements for the provision of health-related services in Somerset could be more closely integrated with arrangements for the provision of health services and social care services in Somerset.

In doing so the ICP will:

- Consider the extent to which the needs could be met more effectively by the making of arrangements under Section 75 of the National Health Service Act 2006 (rather than in any other way)
- Involve Healthwatch Somerset
- Involve the people who live or work in Somerset.

And have regard to:

- The NHS Mandate
- Any guidance issued by the Secretary of State
- The Somerset Joint Strategic Needs Assessment.
- Somerset's Health and Wellbeing Strategy, Improving Lives

To deliver its primary purpose, the expectations of the ICP are:

1. To be a core part of the Somerset Integrated Care System (ICS), driving their direction and priorities
2. Be rooted in the needs of people, communities and places.
3. Create a space to develop and oversee population health strategies to improve health outcomes and experiences.
4. Support integrated approaches and subsidiarity.
5. Be open and inclusive in strategy development and leadership, involving people, communities and partners to utilise local data and insights

The Health and Care Strategy will set out how commissioners in the Somerset ICB and Somerset Council, working with providers and other partners, can deliver more joined-up, preventative, and person-centred care for the whole Somerset population, across the course of their life.

The Health and Care Strategy will complement the Somerset Health and Wellbeing Strategy and will build on existing work with regard to strategies that support integrated approaches to health and care.

The Health and Care Strategy presents an opportunity to do things differently, such as reaching beyond 'traditional' health and social care services to consider the wider

determinants of health or joining-up health, social care and wider services.

### **3. Authority, Accountability and Reporting Arrangements**

Statutory arrangements for ICPs are set out in the 2007 Act so that ICBs and all upper-tier local authorities that fall within the area of the ICB must establish an ICP.

Somerset ICB and Somerset Council are statutory members of the ICP and form an equal partnership. As statutory members, they are required to set up and run the ICP.

The Somerset ICP has no power to exercise any function other than to prepare, publish and maintain the Integrated Care Strategy as set out in section 2. The Somerset ICP has no other delegation to make decisions on behalf of Somerset Council, the Somerset ICB or any other partner bodies. Issues requiring decision outside the powers of the Somerset ICP must be referred to the constituent bodies.

The ICP will provide the ICB Board and Somerset Council with an Annual Report summarising its conclusions from the work it has done during the year.

#### **Establishment of Sub-Groups**

The ICP may establish working groups or task and finish groups to undertake work in line with its core purpose and responsibilities. The ICP shall determine the membership and terms of reference of any such groups but may not delegate any decisions to such groups.

The ICP may not formally establish sub-committees with delegated authority as there is no legislative provision to do so.

### **4. Membership**

As outlined in the 2007 Act, the Somerset ICP is at a minimum to consist of:

- One member appointed by the Somerset Integrated Care Board
- One member appointed by Somerset Council
- Any members appointed by the Somerset Integrated Care Partnership

The agreed membership of this ICP will be:

- Up to 7 members of Somerset Council including the relevant Executive Members for Health and Wellbeing, Adult Social Care and Children and Families, 1 member of the Opposition and 1 other Council member – all to be chosen by the Leader of the Council
- 5 nominees of the Somerset Integrated Care Board
- 1 General Practice representative



- 1 Primary Care representative
- Chief Executive Officer Somerset Council
- Executive Director Public and Population Health, Somerset Council
- Executive Director of Adults and Health, Somerset Council
- Executive Director of Children's Services, Somerset Council
- Executive Director of Strategy Workforce and Localities, Somerset Council
- 1 Representative nominated by NHS England
- Chief Executive Officer Somerset NHS Foundation Trust
- 2 Representatives from the Voluntary, Community, Faith and Social Enterprise (VCFSE) sector in Somerset
- 1 Representative of Registered Care Providers operating in Somerset
- 1 nominated volunteer representative of Healthwatch Somerset
- 1 Representative from Avon and Somerset Police
- 1 Representative from Devon and Somerset Fire Service
- 1 Representative from Southwest Ambulance Trust
- 1 Representative from Probation Service
- 2 Representatives from Education
- 1 Representative from the Somerset Association of Local Councils
- 1 Representative from the Business Sector
- 1 University representative

### **Appointment of Members**

Where a member organisation is not listed by name, the appointment of that representative is delegated to the Monitoring Officer, Somerset Council in consultation with the Somerset ICB.

### **Chairing Arrangements**

The Chair will be the Chair for the time being of the HWB.

There will be appointed up to two Vice-Chairs. The Vice-Chairs will be the Vice-Chairs for the time being of the HWB.

## **5. Quorum**

To ensure that sufficient members are present at all meetings for the effective conduct of business the quorum will comprise over 50% of the current voting members and must include at least two voting members of Somerset Council and two voting members of the Somerset ICB.

If the quorum is not reached, matters may be discussed and recommendations made but no decisions taken.

## **6. Decision Making and Voting**

Members must have delegated authority from their organisations to take a full part in the business of the ICP.

It is expected that decisions or recommendations shall be reached by consensus. In exceptional circumstances where consensus cannot be achieved and a formal vote is required, the matter shall be decided by a simple majority of those members voting and present in the room at the time the proposal is considered. The vote shall be by a show of hands and each member is allowed one vote. If there are equal votes for and against, the Chair will have a second or casting vote.

There will be no restriction on how the Chair chooses to exercise a casting vote.

Decisions within the terms of reference will be taken at Board meetings. The Somerset ICP has no power to make decisions outside its defined area of responsibility. Any issues requiring decision outside the remit of these terms of reference must be referred to the constituent bodies.

## **7. Procedural Rules and Administration of Meetings**

Detailed procedural rules will follow those laid out for the HWB (Appendix C).

An administering authority and Secretariat function will be appointed to support the ICP, aligned to the HWB.

## **8. Standards of Business Conduct and Managing Conflicts of Interest**

To ensure the best outcomes, the development of clear channels of communication and mutual respect for the roles and responsibilities of each party is essential. ICP members will act in good faith and follow the Seven Principles of Public Life; set out by the Committee on Standards in Public Life (the Nolan Principles).

ICP members will follow principles of good decision-making, including:

- Giving consideration to all options available
- Having regard to due consultation
- Giving consideration to professional advice from officers and executives
- Having clarity of aims and desired outcomes and that the action proposed is proportionate to the desired outcome

- Having respect and regard for human rights and the Public Sector Equality Duty
- A presumption in favour of openness, transparency and accountability
- Only relevant matters being taken into account
- Due weight being given to all material considerations (including opportunities and risks)

The ICP recognises and acknowledges that its members from partner organisations have legal responsibilities to the organisations which they represent and that this may give rise to conflicts of interest being present. However, discussions at the meetings are to be focussed on the needs of the Somerset population and health and care and members will not be excluded from engaging in discussions that will benefit the system as a whole.

The ICP shall adopt the following approach for managing any actual or potential material conflicts of interest.

- All members of the ICP remain bound at all times by their nominating organisation's governance framework for managing conflicts of interest, probity and decision making.
- All members, ex-officio members and those in attendance must declare any actual or potential conflicts of interest, which will be recorded in a register presented at each meeting, in accordance with Somerset Council and ICB policies and codes of conduct.
- Those present at ICP meetings must declare interests relating to items on the agenda which will be recorded in the minutes. Anyone with a relevant or material interest in a matter under consideration will be excluded from the discussion at the discretion of the Chair.
- For the Chair to take overall responsibility for managing conflicts of interest within meetings as they arise.
- If the Chair has a conflict of interest then the Vice-Chair or, if necessary, another member of the ICP will be responsible for deciding the appropriate course of action.

In advance of every meeting consideration will be given as to whether conflicts of interest are likely to arise in relation to any agenda item and how they should be managed. This action will be led by the Chair with support from the Secretary.

## **9. Monitoring of Effectiveness**

The effectiveness of the ICP shall be monitored at least annually through a review process.

The ICP will utilise a continuous improvement approach and will be encouraged to review the effectiveness of the meeting at each sitting.

## **10. Review**

These terms of reference will be reviewed at least annually and more frequently if required. The ICP has authority in law to amend its procedures but must submit proposed amendments to these terms of reference to the ICB Board and Somerset Council for comment before any motion to adopt the amendments is moved.

## **PROCEDURAL RULES FOR BOARD MEETINGS**

### **1. Introduction**

- 1.1 These rules also detail the rights of the public to be notified of meetings of the Board, to attend and participate in those meetings, and access agendas and papers before and after meetings of the Board.
- 1.2 The term 'clear days' in these rules excludes any Saturday, Sunday, Bank Holiday, Christmas Day or Good Friday, the day that an agenda is sent to the Members of the Board and the day of the meeting.

### **2. Rights of the public to attend Board meetings**

- 2.1 Members of the public may attend Board meetings subject only to the exceptions in these rules.

### **3. Notice of Board Meetings**

- 3.1 The Council shall give at least five clear days' notice of any public meeting of the Board via its website, the public notice board at County Hall, Taunton and at the venue for the meeting if held elsewhere.

### **4. Access to agendas and reports before Board meetings**

- 4.1 Copies of agendas and reports are made available for public inspection at County Hall (contact Democratic Services - 01823 355032 or email [democraticserviceteam@somerset.gov.uk](mailto:democraticserviceteam@somerset.gov.uk) for further details) at least five clear days before a meeting of Board. If an item is added to the agenda later, the revised agenda and any additional report(s) will be made available for public inspection as soon as they have been sent to members.
- 4.2 Board agendas and papers will also be available to access on the Council's website.

### **5. Exclusion of access by the public to Board meetings**

- 5.1 Confidential information - requirement to exclude public.
  - 5.1.1 The law on access to information and exclusion of the press and public from Council meetings will be applied when it is likely that confidential information would be disclosed.
  - 5.1.2 Confidential information means information given to the Council by a Government Department on terms forbidding its public disclosure or information which is prevented from being publicly disclosed by Court Order.

## 5.2 Exempt information - discretion to exclude public.

5.2.1 The Board may by resolution exclude press and public from meetings whenever it is likely that exempt information would be disclosed.

5.2.1 Exempt information means information falling within the following categories:

### Category Qualifications

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the Authority or a Minister of the Crown and employees of, or office holders under, the Authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the  
    Authority proposes –  
    (a) to give under any enactment notice under or by virtue of which requirements are imposed on a person;  
    or  
    (b) to make order or direction under any enactment.
- 3 Information relating to any action taken or to be taken in connection with the prevention, investigation, or prosecution of crime.
- 4 Information is not exempt information if it is required to be registered under the Companies Act, Charities Act etc.
- 5 Information is not exempt information if it relates to proposed development for which the Council may grant itself planning permission.

- 6 Subject to paragraphs 8 and 9 above, information which falls within paragraphs 1 to 7 of section 5.2.1 is exempt information if and so long as the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## **6. Exclusion of Access by the Public to Reports and Any Other Relevant Documents**

- 6.1 Reports containing confidential information will not be made available to the public in any circumstances. Such reports will be marked "Not for publication – Confidential Information".
- 6.2 Reports and documents containing exempt information will not normally be made available to the public. They will be marked "Not for publication" and will include the description of the category of exempt information applicable.
- 6.3 The Board has the option, when the report or documents described at paragraph 6.2 above come to a meeting of the Board, to make them available to the press and public and/or consider the report with the public present, in which case the report can at that stage be made available to the public present and for public inspection beyond the meeting.

## **7. Public Question Time**

- 7.1 The following rules relate to public question time at public meetings of the Board.
- (a) "Public question" is defined as the asking of any question, or making of a statement in relation to any item on an agenda.
  - (b) Petitions may be presented on any matter within the overall remit of the Board whether or not there is a relevant item on the agenda.
  - (c) Each Board agenda shall include an item to allow public questions to be taken early in the meeting. However, the Chair has discretion to take public questions when the relevant item is reached on the agenda.
  - (d) A person wishing to raise a matter under public question time is asked to inform the meeting administrator 5pm 3 clear working days before the meeting.
  - (e) The Chair will invite those who have given prior notice to introduce their question / or make their statement. The individual may speak for up to two three minutes or longer with the Chair's discretion.
  - (f) There will be no debate on any question or statement made. They will be answered at the time or noted for consideration when the relevant agenda item is reached. The Chair has discretion to allow a supplementary question.
  - (g) The time allowed for public question time will not normally exceed twenty minutes

unless the Chair directs otherwise.

- (h) Where there are a large number of questioners on the same subject, the Chair may ask those concerned to nominate one or more of their number to pose the appropriate question(s).
- (i) In exceptional circumstances the Chair may adjourn the meeting temporarily to allow views to be expressed more freely.

## **8. Media Attendance and Reporting at Public Meetings**

- 8.1 Media are welcome to attend public meetings of the Board and report on proceedings. In addition, social media journalists are welcome to record and transmit business at these meetings. This permission is subject to the activity not disrupting the business of the meeting. In the event that the meeting considers confidential or exempt business then all members of the public and press must leave the room as requested for the consideration of such business.



## **Part E – Executive Arrangements**

**Section 1     The Role of Executive**

**Section 2     Executive Arrangements**

**Section 3     Executive Procedure Rules**

**Section 4     Executive sub-committees**

**Section 5     Local Community Networks**

### **Introduction**

The Executive is a group of Councillors made up of the Leader of the Council, who is chosen by the full Council, and up to 9 other Councillors, called Lead Members, who are appointed by the Leader.

Apart from specific functions listed as Council functions in legislation all other responsibilities rest with the Leader and the Executive. These are called “executive functions”.

A specific area of responsibility is called a Portfolio and where a Councillor is assigned that area of responsibility that Councillor is also called a Lead Member.

The dates of Executive meetings are set out on the Council’s website. Members of the public can attend or watch all Executive meetings in accordance with the Access to Information Procedure Rules at Part B of the Constitution.

This Part E of the Constitution sets out in detail which functions are executive functions, the rules which govern how the Executive makes decisions, and how meetings of the Executive are run.

These rules are written in formal language. If you have specific questions our Democratic Services Team will be happy to help you.

## **1. The Role of Executive**

### Functions

1.1 The Local Government Act 2000 provides that the functions of a local authority are the responsibility of its Executive (referred to in the Act as the “Executive”) except for those which the law requires to be performed by the Council; always provided that such a decision is within the Council’s Budget and Policy Framework.

1.2 The Local Authorities (Functions and Responsibilities) (England) (Regulations) 2000 is the main piece of legislation governing the functions of a local authority and it lists the different functions which are detailed in the Schedules to the Regulations and can be categorised as:

Schedule 1 Functions which must not be the responsibility of the Executive;

Schedule 2 Functions which may be the responsibility of the Executive or of the Council - these are known as “local choice” functions:

Schedule 3 Functions which may not be the sole responsibility of the Executive;

Schedule 4 Circumstances in which functions which would normally be the responsibility of the Executive, are not to be the responsibility of the Executive.

1.3 As such, the Council has the discretion to decide which of the functions that fall into Schedule 2 will be the responsibility of the Council (Council Functions) and which will be the responsibility of the Executive (Executive Functions). The Council decides which of the local choice functions will be Council Functions and which of the local choice functions will be Executive Functions.

1.4 There are some other pieces of legislation which provide that certain matters must be dealt with by the full Council. These include:

(a) setting the Annual Budget and Council Precept;

- (b) agreeing the Council Plan;
- (c) approving the Council's Pay Policy Statement;
- (d) approving the Council's Investment Strategy.

#### Executive Functions

1.5 Except those Council functions listed at in Schedule 1 of the Regulations referred to in paragraph 1.2 above, the Council has decided that all other functions, including local choice functions, are to be executive functions.

1.6 Responsibility for executive functions rests with the Leader who will decide which functions they will perform personally, and which will be delegated to the Executive as a whole; to an Executive Sub-Committee; individual Lead Members or to Officers.

The Leader has retained the following responsibilities:-

- (a) To refer to Council for approval any proposed executive decision which is outside of the Council's Policy Framework or Budget, or the virement limits set by the Council.
- (b) To exercise any delegated executive decision-making responsibility including where a Lead Member wants to take a decision against officer advice, or where there is uncertainty as to who may take a decision.
- (c) In addition to any specific delegations to Lead Members and Senior Leadership Team Officers, to acquire land by agreement or, failing agreement, by compulsory purchase and to dispose of County Council land – see property purchase provisions 1 to 3 below.
- (d) To appoint any individual to an outside body or partnership or joint committee of two or more authorities where the appointments relate to executive functions.

(e) *The determination of an appeal against any decision made by or on behalf of the authority in respect of Early Years Providers. (Local choice function)*

(f) *The appointment of any individual :*

(i) *to any office other than an office in which they is employed by the authority;*

(ii) *to any body other than:*

- *the authority*
- *a Joint Committee of two or more authorities; or*
- *any Committee or Sub-Committee of such a body, and the revocation of any such appointment*

*(‘Local choice’ function for appointments falling under the responsibility of the Leader)*

Property Purchase Provision 1 - The Leader can only acquire land after having first considered the Chief Finance Officer’s advice and recommendations on the value and for a sum no greater than the maximum (if any) recommended by the Chief Finance Officer.

Property Purchase Provision 2 - When acquiring land or disposing of land, the Leader will comply with the relevant general procedures laid down by the Council including for dealing with capital payments or capital receipts.

Property Purchase Provision 3 - The Leader shall not re-delegate their power to acquire land, except:-

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

The Executive:

- (a) Makes recommendations to Council on the Policy Framework, except where the statutory responsibility for the submission of such recommendations rests with another body;

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

Functions for Lead Members and Officers are set out below and in the Officer Scheme of Delegation.

1.7 A decision on any delegated executive function may be referred to the whole Executive when: -

1.7.1 The Leader, an Executive Sub-Committee, Lead Member or Officer believes that due to the contentious or 'political' nature of the matter it should be considered and decided by the whole Executive;

1.7.2 The Lead Member takes a different view of the proposal in question and feels unable to be associated with it; or

1.7.3 The Lead Member or Officer believes that they are conflicted or may be accused of bias.

1.8 Under the provisions of the Localism Act 2011 a Lead Member cannot deal with any matter in which they have a "Disclosable Pecuniary Interest" and must take no action other than referring the matter on; usually via the Council's Monitoring Officer and Leader.

### Executive Arrangements

1.9 The following parts of this Constitution should be read in conjunction with the Council's:-

- Executive Procedure Rules
- Access to Information Procedure Rules
- Joint Arrangements
- Scrutiny Arrangements

## **2. Executive Arrangements**

### The Role of Executive

2.1 The Executive will carry out all of the executive functions

### Form and Composition

2.2 The Executive will consist of the Leader of the Council together with such number of elected Councillors of the Council not exceeding [9] as they may appoint to the Executive.

### Leader of the Council

2.3 The Leader will be a Councillor elected by Council for such term, not exceeding the date of the next elections to the Council. The Leader will hold office until:

2.3.1 they resigns from the office; or

- 2.3.2 they die;
- 2.3.3 they are removed from office by resolution of the Council on receipt of a Notice of Motion in accordance with the requirements for Motions as set out in the Council Procedure Rules; or
- 2.3.4 they are removed from office by simple resolution of the Council at the meeting of Council following a change in political control of the Council, as signalled to the Monitoring Officer. A change in political control is a change in the composition of the various political groups such that a different group or combination of groups now comprise a majority of the membership of the Council;
- 2.3.5 they are disqualified from being a Councillor;
- 2.3.6 should a situation arise where the Leader no longer holds office as mentioned above, the Deputy Leader will carry out the role and duties of Leader until such time as the Council elects a councillor to the position of Leader;

#### Deputy Leader of the Council

- 2.5 The Leader following their election will appoint one of the Members of the Executive as their Deputy.
- 2.6 The Deputy Leader may not vary the arrangements made by the Leader or alter any arrangements made by the Leader under this Constitution for the exercise of executive functions, except for:
  - 2.6.1 changes consequent upon the dismissal of a Leader during the period until the new Leader is elected;
- 2.7 The Deputy Leader shall be appointed by the Leader and shall hold office until:
  - 2.7.1 they resign from office; or

- 2.7.2 until the end of the Leader's term of office and the new Leader has been elected; or
- 2.7.3 they are no longer a Councillor; or
- 2.7.4 they are removed from office by the Leader who must give written notice of any removal to the Chief Executive. The removal will take effect two working days after receipt of the notice by the Chief Executive
- 2.7.5 they are disqualified from being a Councillor;

### **Other Executive Members**

#### **Lead Members**

- 2.8 Following their election, the Leader will appoint up to 9 further members of the Executive; one of whom will be the Deputy Leader.
- 2.9. Only councillors of Somerset Council may be appointed to the Executive. There may be no co-optees or substitutes for Lead Members. Neither the Chair nor Vice Chair of the Council may be appointed to the Executive, and Lead Members may not be members of the Scrutiny Committees.
- 2.10 Lead Members shall be appointed annually by the Leader and shall hold office until:
  - 2.10.1 the next annual meeting of the Council; or
  - 2.20.2 they resign from office; or
  - 2.20.3 they are no longer councillors; or
  - 2.20.4 they are removed from office by the Leader who must give written notice of any removal to the Chief Executive. The removal will take effect two working days after receipt of the notice by the Chief Executive.

### **Proceedings of the Executive**



- 2.11 Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out below in this Constitution.

### **Responsibility for Functions**

- 2.12 The Leader will determine which executive functions they are will discharge personally, which shall be retained for decision by the Executive, which shall be allocated to individual Lead Members, and (subject to any statutory requirements and in accordance with the Councils Scheme of Delegation of Officers) which executive functions shall not be retained for decision by the Executive and, therefore, shall be discharged by Officers.

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

- 2.13 These responsibilities may be amended by the Leader on written notice to the Monitoring Officer.

### **Children's Services - Lead Member arrangements**

- 2.14 In respect of Children's Services, the Leader shall designate a Lead Member as "Lead Member for Children's Services", in accordance with section 19(1), Children Act 2004. The Lead Member for Children's Services shall be responsible for the strategic direction of the Council's Children's Services and their effective overview and shall carry overall political responsibility for those services.

### **Associate Lead Members**

- 2.15 The Leader may appoint non-Executive Members as Associate Lead Members (provided that the total number of Associate Lead Members does not exceed the number of Lead Members) to advise and assist Lead Members in the discharge of their duties within their portfolio(s).

An Associate Lead Member is not authorised to make any decision normally made by a Lead Member or to deputise for a Lead member at Executive. Associate Lead Members will:

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

Where an Associate Lead Member is temporarily unable to perform their role e.g. due to illness, then the Leader is able to appoint a temporary Associate Lead Member, ensuring the Monitoring Officer is informed.

### **Scheme of Delegation to Executive Lead Members**

- 2.16 Where executive functions are not reserved to the Council, to Executive or delegated to Officers, they are Lead Member matters in accordance with this scheme and according to their portfolios.
- 2.17 The Monitoring Officer, in consultation with the Leader, shall determine the appropriate Lead Member to deal with a matter in cases of uncertainty.
- 2.18 The following areas of responsibility are included in the matters which may be determined by the appropriate Lead Member:
- 2.18.1 to consider reports prepared by officers and to make any decisions in accordance with the requirements of this Constitution;
  - 2.18.2 to consider draft reports to the Executive with the relevant Director and/or other relevant senior Officer;
  - 2.18.3 to determine how expenditure on services should be undertaken within approved budgets;
  - 2.18.4 to agree annual reports;
  - 2.18.5 to develop and approve service plans of services, including future budget requirements;
  - 2.18.6 to monitor the budget and performance for particular services;
  - 2.18.7 to determine policies for particular services, which are consistent with the Policy Framework;
  - 2.18.8 to agree responses to consultation papers;

2.18.9 to make payment of grants to outside bodies within the list approved by the Executive, except those which fall to the Executive itself to decide;

2.18.10 to approve decisions affecting a particular locality (i.e. which are not service-wide, Council-wide or otherwise corporate).

### **3. Executive Procedure Rules**

#### Executive Decision Making

3.1 The Leader may decide how the Executive performs its executive functions which may include decisions being made by:

3.1.1 the Executive as a whole;

3.1.2 an Executive Sub-Committee;

3.1.3 one or more Lead Members individually or jointly

3.1.4 an Officer (subject to the Scheme of Delegation to Officers);

3.1.5 joint arrangements;

3.1.6 another local authority.

#### The Leader's Delegation of Executive Functions

3.2 Each year the Leader will prepare a written record of the delegations of executive functions. The record of delegations will detail the executive functions which the Leader has delegated to the Executive, Executive Committees, specific Lead Members or Officers. The record of delegations will be presented to the Council at the Council's annual meeting and will be included into the Council's Scheme of Delegation which can be found at Part I of this Constitution. The record of executive functions delegations will include:-

The names, contact details and electoral area of those councillors appointed to the Executive by the Leader;

3.2.1 the executive functions to be performed by the Executive;

3.2.2 the executive functions to be performed by a specific Lead Member (including any limitations on their authority);

3.2.3 the terms of reference and constitution of any Executive Committee the Leader has appointed, and the names of the Lead Members appointed by the Leader to serve on any Executive Committee;

3.2.4 the nature and extent of any executive function delegated to any joint committee or body or any other local authority along with the names of the Lead Members appointed to any Joint Committee for the coming year;

3.2.5 any changes to any of the delegations of Officers, the title of the Officer(s) to whom the delegation is made and any limits on their authority.

#### Sub-Delegations of Executive Functions

3.3 Unless the Council says otherwise, where the Executive or an individual Lead Member is responsible for performing an executive function, they may subdelegate its performance to an Officer.

3.4 Where an executive function has been sub-delegated to an Officer it may still be performed by the person or body who made the sub-delegation.

#### The Council's Scheme of Delegation of Executive Functions

3.5 The record of delegation of executive functions to Lead Members may be amended by the Leader at any time during the year, but written notice must be provided to the Monitoring Officer and the Lead Member, body or Executive Committee concerned. The notice must set out the extent of the amendment and whether it involves the withdrawal of a delegation from the Lead Member,

body or Executive Committee concerned, or the Executive as a whole. Where the amendment concerns a change to the delegation to a joint Committee or other joint working arrangement, the Monitoring Officer will present to the Council at its next meeting the amendments made by the Leader.

- 3.6 Where the Leader seeks to withdraw a delegation from an Executive Committee, notice to do so will be considered as having been given to the Committee concerned when the Leader has given the notice to the Chair of the Committee.

### Conflicts of Interest

- 3.7 Where the Leader has a conflict of interest they are must ensure that they are does not influence the decision to be taken and that the decision is taken by a Lead Member who does not have such a conflict of interest.
- 3.8 If every Lead Member has a conflict of interest, consideration must be given to delegating the decision to the Chief Executive, appropriate Director or senior Officer, or to seeking a dispensation to taking the decision but dispensations are not available in respect of single Lead Member decision making.
- 3.9 Where a decision is being taken regarding a service which is commissioned by a Lead Member from an external service provider, Lead Members must be mindful of potential conflicts of interest arising if they also sit on the board of directors or trustees, or are otherwise involved in the governance of the external provider. In such circumstances Lead Members should seek advice from the Monitoring Officer before agreeing to sit on such a board or governance structure.
- 3.10 If the performance of an executive function has been delegated to an individual Lead Member or Officer and a conflict of interest arises, in the first instance the

executive function will be performed by the person or body by whom the delegation was made.

### **Executive Meetings**

- 3.11 Executive Meetings are convened and conducted in accordance with the Access to Information Procedure Rules which can be found at Part B of this Constitution

### **Time and Place of Executive Meetings**

- 3.12 The Executive will usually meet at least 10 times a year. The Monitoring Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules at Part B. At least 5 working days before a meeting, the Monitoring Officer will send a summons signed by him/her to every Member of the Council. The summons will give the date, time and place of each meeting; specify the business to be transacted and will be accompanied by such reports as are available.

### **Quorum for Executive Meetings**

- 3.13 The quorum for any Executive meeting is 50% of the Executive Members. If a quorum is not present within 10 minutes of the scheduled start of the meeting or such longer time as allowed by the Chair, the business of the meeting will be adjourned to the next Executive meeting.

### **How the Executive Makes Decisions**

- 3.14 Decisions as to the executive functions which have been delegated to the Executive will be decided by the Executive as a whole, and where a Key Decision is involved in accordance with the rules on Key Decision Making by the Executive and Individual Lead Members.

### Chair of Executive Meetings

- 3.15 The Leader, or in their absence the Deputy Leader, will chair Executive meetings. In the absence of both the Leader and the Deputy Leader, the Lead Members present at the meeting will choose from amongst themselves someone to preside at the meeting. The person presiding may exercise any power or duty of the Chair.

### Attendance at Executive Meetings

- 3.16 Members of the public and the press may attend all Executive Meetings in accordance with Council's Access to Information Procedure Rules, except:-

3.16.1 where, in accordance with Access to Information Procedure Rules, the Executive has decided that the public and the press should be excluded for all or part of the meeting because a matter to be considered is likely to result in the disclosure of exempt or confidential information.

3.16.2 where, in accordance with the Access to Information Procedure Rules, the person attending the meeting has been removed on the order of the Chair so as to prevent the disruption of the meeting.

- 3.17 Any non-Executive Member may attend an Executive Meeting as a member of the public in accordance with the Council's Access to Information Procedure Rules, except where excluded.

- 3.18 A non-Executive Member may only speak at an Executive Meeting if invited to do so by the Chair.

- 3.19 Officers are expected to attend Executive Meetings as follows:-

3.19.1 the Chief Executive and Executive Directors will attend Executive Meetings. Other Directors and Officers may attend Executive Meetings at the invitation of the Chief Executive and Executive Directors;



3.19.2 the Statutory Officers of the Council or their nominees may attend Executive Meetings and speak on issues affecting their statutory responsibilities as of right, or otherwise when requested to do so by the Chair.

3.20 Lead Members may not appoint substitutes to attend Executive Meetings in their place. The absence of a Lead Member will not prevent the consideration or making of decisions in respect of a matter. If a matter has been delegated to an absent Lead Member, it may be referred to the Executive as a whole for consideration and decisions to be made. An absent Lead Member may ask an Associate Lead Member to speak on their behalf, if permitted by the Chair but Associate Lead Members are not able to vote at Executive Meetings.

#### Order of Business of Executive Meetings

3.21 The following business will be conducted at each Executive Meeting:-

3.21.1 elect a person to preside if the Leader and Deputy Leaders are not present;

3.21.2 approve the minutes of the last meeting;

3.21.3 receive any apologies for absence;

3.21.4 receive any declarations of interest;

3.21.5 receive any statements from the Leader;

3.21.6 at the Chair's discretion, the allocation of time for non-Executive Members to question Lead Members;

3.21.7 consider petitions referred by full Council which relate to executive functions;

3.21.8 consider other matters set out in the meeting agenda. The agenda will indicate any matters which are key decisions or matters which are exempt or confidential and require the exclusion of the public and / or press.

### The Agenda for Executive Meetings

- 3.22 Except in the case of an urgent Executive meeting, the Monitoring Officer will deliver to Lead Members and make available to the public, the agenda for a Executive Meeting along with the summons setting out the date, time and place of the meeting at least 5 working days before the meeting takes place.

### Urgent Executive Meetings

- 3.23 In accordance with the Access to Information Procedure Rules, an urgent Executive Meeting may be held without 5 working days' notice if an urgent matter requires consideration.

### Consultation

- 3.24 All reports to the Executive from any Lead Member or an Officer which concern the Budget and Policy Framework or proposals which otherwise require a consultation, must include details as to the extent of the consultation and its outcome. The extent of a statutory consultation will be as required by the law; the extent of non-statutory consultations will be as appropriate.

### Minutes of Executive Meetings

#### Signing the Minutes

- 3.25 The Chair will sign the minutes of the proceedings of meetings of the Executive at the next Executive meeting. The Chair will move that the minutes of the previous Executive meeting be signed as a correct record. The only part of the minutes which can be discussed is their accuracy.

#### No Requirement to Sign Minutes of Previous Meeting at an Urgent Executive Meeting

- 3.26 Where an urgent Executive meeting is called in accordance with Rule 3.23, there is no requirement for the minutes of the previous Executive Meeting to be signed at the urgent meeting.

#### Form of Minutes

- 3.27 Minutes will contain all motions and amendments in the form and order the Chair put them.

#### Appointment of Substitute Members at Executive Meetings

- 3.28 The substitution rules do not apply to Executive meetings.

#### Generally

##### Disturbance by the Public

- 3.29 In accordance with the Access to Information Procedure Rules, if a member of the public interrupts the proceedings of a Executive meeting, the Chair will warn the person concerned. If they continue to interrupt, the Chair will order their removal from the meeting room, or if there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

##### Exclusion of the Public

- 3.30 Members of the public and press may only be excluded from a Executive Meeting in accordance with the Access to Information Procedure Rules in Part B of this Constitution.

#### Questions

- 3.31 Any Councillor may ask the Executive a question on any matter in relation to which the Council has powers or duties, or which affects the administrative area of the Council.

#### Content of Questions

- 3.32 In the opinion of the Chair all questions must:
- 3.32.1 not be unreasonable;
  - 3.32.2 contain no expressions of opinion;
  - 3.32.3 relate to matters on which the Council has or may determine a policy;
  - 3.32.4 not relate to questions of fact;

3.32.5 not require the disclosure of confidential or exempt information;

3.32.6 not relate to a matter which is of purely personal concern to an individual/family member.

#### Time Allowed for Councillor Questions

3.33 The number of questions asked and the total time allowed for consideration of such questions shall be determined by the Chair.

3.34 At the conclusion of the response to the question under consideration or at the expiry of such time period as determined by the Chair from the time when the first questioner started to speak, the Chair shall conclude the meeting or proceed to the next item of business.

3.35 Any remaining questions shall be responded to in writing before the next ordinary meeting of the Executive.

#### Order of Questions

3.36 Questions from Councillors will be asked in the order determined by the Chair.

#### Response

3.37 An answer to a question may take the form of:

3.37.1 a direct verbal answer;

3.37.2 where the desired information is in a publication of the Council or other published work, a reference to that publication; or

3.37.3 where the reply cannot conveniently be given verbally, a written response will be provided no later than 5 working days after the meeting.

3.37.4 copies of all questions and responses will be available on the Council's website with the minutes for the relevant meeting.

#### Suspension and Amendment of Executive Procedure Rules

##### Suspension

- 3.38 Where allowed by law all of these Executive Procedure Rules may be suspended by motion on notice or without notice if at least one half of the whole number of Lead Members are present. Suspension can only be for a single item or the duration of the Executive Meeting.

#### Amendment

- 3.39 Any motion to add to, vary or revoke these Executive Procedure Rules will, when proposed and seconded, stand adjourned without discussion to the next Executive Meeting.

#### Application of Executive Procedure Rules

- 3.40 All of the Executive Procedure Rules apply to Executive meetings and Executive sub-committees.

- 3.41 None of the Executive Procedure Rules apply to meetings of full Council, Committees or Sub-Committees.

#### Application of Access to Information Procedure Rules to Executive

- 3.42 The Access to Information Procedure Rules apply to the Executive. If the Executive meets to take a Key Decision, then it must comply with Access to Information Procedure Rules unless General Exception, Special Urgency or Major Emergencies rules apply. A Key Decision is defined in the glossary at Part A of this Constitution and as follows:

Key decisions are executive decisions (not those made by committee) and are defined in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) (Regulations) 2012 and are decisions which:-

- (a) Result in the Council incurring expenditure \*\* which is, or making savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
- (b) Are deemed significant in terms of their effect on communities living or working within the area of the Council.

\*\*There is no definition in the legislation of the word 'significant' in (a) above.

Therefore the Council has decided that the financial threshold at or above which a financial decision is significant (and a Key Decision) will be a total value of £500,000 for capital / revenue expenditure or savings. Money delegated to schools as part of the Scheme of Financial Management of Schools exercise is exempt from these thresholds once it is delegated to the school.

'Key Decisions' can be taken by the Leader, the Executive collectively, jointly by two Lead Members, individual Lead Members, Senior Leadership Team Officers, Executive sub-Committees and Joint Committees with delegated powers from the Executive.

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

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

## **LEAD MEMBER AND OFFICER KEY AND LEAD MEMBER NON-KEY DECISIONS – CONSULTATION REQUIREMENTS**

Before a Key Decision can be taken, the following must be consulted:

- (a) The relevant Lead Member(s), Associate Lead Member (where appropriate) and Senior Leadership Team Officer(s).
- (b) Any local Member whose electoral division is significantly affected. They must also be informed of any subsequent action / outcome.
- (c) The Chief Finance Officer and the Monitoring Officer and due regard given to their advice where there are likely to be financial, legal or standards implications.
- (d) The relevant Opposition Spokesperson / Leader
- (e) The Chair (or in their absence the Vice-Chair) of the relevant Scrutiny Committee.

Before a Lead Member Non-Key decision is taken, the consultation requirements at (a), (b) and (c) above must be met.

In addition, the relevant Opposition Spokesperson / Leader and the Chair (or Vice-Chair in their absence) of the relevant Scrutiny Committee must be informed of the decision.

### Procedure Before Taking Key Decisions

3.43 Subject to General Exception (3.49 below), Special Urgency (3.50 below) or Major Emergencies (se 3.51 below) rules below, a Key Decision may not be taken unless:

3.43.1 at least 28 clear days' notice has been published in connection with the matter in question this Notice will be given by means of the Forward Plan;

3.43.2 at least five clear days have elapsed since the publication of the notice of the decision, unless the decision taker has resolved that implementation of the decision is urgent in which case the decision can be implemented without delay;

3.43.3 where the decision is to be taken at a meeting of the Executive or a Sub-Committee, notice of the meeting has been given in accordance with Access to Information Procedure Rule (notice of meetings).

### The Forward Plan

3.44 The Leader will ensure that notice of all Key Decisions (by the Executive and by individual Lead Members) is given at least 28 clear days before they are due to be taken.

3.45 For ease the Council will list all Key Decisions once a month in a [Forward Plan] indicating which decisions the Executive anticipate that they will take during the next 4 months, together with any particularly significant Key Decisions which the Executive anticipates taking within the next 4 to 12 months. The Monitoring Officer may also include in the Forward Plan reference to such other decisions which are to be taken by the Council or any of its Committees or Sub-Committee or Officers as is considered appropriate.

- 3.46 The Forward Plan shall include the following information in respect of each key decision:
- 3.46.1 the matter in respect of which the decision is to be taken;
  - 3.46.2 the person or body by whom the decision is to be taken;
  - 3.46.3 the date on which, or the period within which, the decision is to be taken;
  - 3.46.4 notice, if appropriate, that the Council intends to take a decision in private because the decision contains confidential or exempt information.
- 3.47 Where the Executive anticipate taking a Key Decision on a matter, and inclusion of the matter within the Forward Plan would disclose confidential or exempt information and so prejudice the conduct of the Council's business, the Executive may limit the entry in the Forward Plan to such information as may be disclosed without prejudice provided that notice under rules above has been given.
- 3.48 The Executive shall normally review and update the Forward Plan at least once in every calendar month and shall make arrangements for the revised Forward Plan to be made available on its website.

#### General Exception

- 3.49 Subject to Special Urgency or Major Emergencies rules below, if a matter which is likely to be a key decision has not been advertised for a minimum of 28 clear days on the Council's website, then the decision may still be taken if:
- a the decision must be taken by such a date that it is impracticable to defer the decision until it has been possible for 28 clear days' notice to be given;
  - b the Monitoring Officer has informed the relevant Scrutiny Committee Chair in advance in writing and made copies of that notice available to



the public at the offices of the Council; and on the Council's website;  
and

- c at least five days have elapsed since the Proper Officer complied with  
(a) and (b) above.

### Special Urgency

- 3.50 If the Major Emergencies rule (3.51 below) does not apply and, by virtue of the date by which a decision must be taken Procedure Rule 3.49 (general exception) cannot be followed and the five days' notice of the decision cannot be given then the decision can only be taken if the decision taker (if an individual) or the Chair of the body making the decision, obtains the agreement of the Leader and the Chair of the relevant Scrutiny Committee that the taking of the decision cannot be reasonably deferred. Notice in writing of the application to the Chair of the appropriate Scrutiny Committee must be published on the Council's website and copies made available to the public at the offices of the Council. If there is no Chair of a relevant Scrutiny Committee, or if the Chair of the relevant Scrutiny Committee is unable to act, then the agreement of the Chair of the Council, or in their absence the Vice Chair will suffice.

### Major Emergencies

- 3.51 In a major emergency listed below, the Leader or Deputy Leader or in their absence the relevant Lead Member or, if appropriate, the Chief Executive or Director may take any immediate urgent decision required without consultation.
- 3.52 For the purposes of Rule 3.51, a major emergency is any event or circumstance (happening with or without warning) that causes or threatens death or injury, disruption to the community, or damage to property or to the environment on such a scale that the effects cannot be dealt with by the emergency services,

local authorities and other organisations as part of their normal, day-to-day activities.

### Report to Council

#### When a Scrutiny Committee Can Require a Report

3.53 If a Scrutiny Committee believes that a decision has been taken which:

3.53.1 was not publicised to ensure that appropriate notice was given of the decision; or

3.53.2 was the subject of the general exception procedure; or

3.53.3 was the subject of an agreement with a relevant Scrutiny Committee Chair, or the Chair/Vice Chair of the Council under Rule 3.50 (special urgency); or

3.53.4 was taken during a major emergency in accordance with Rule 3.51;

the Scrutiny Committee may require the Executive to submit a report to the Council within such reasonable time as the Committee specifies setting out the reasons for such urgency. The power to require a report rests with the Scrutiny Committee, but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the Scrutiny Committee when so requested by at least 50% of the members of the Scrutiny Committee. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Scrutiny Committee.

### Quarterly Reports on Special Urgency Decisions

3.54 In any event the Leader will submit quarterly reports to the Council on the Key Decisions taken in the circumstances set out in Rule 3.50 (special urgency) and/or Rule 3.51 (major emergencies) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken and the reasons for urgency.

### Record of Decisions

- 3.55 After any meeting of the Executive, the Monitoring Officer will produce a record of every decision taken at that meeting as soon as practicable. The record will include the date such a decision was made, a statement of the reasons for each decision and, where appropriate, any alternative options considered and rejected at that meeting. The notice will also advise whether the Monitoring Officer has agreed to make a dispensation where a conflict of interest was declared before the decision was taken.
- 3.56 Where an Officer under delegated powers takes an executive decision, a written statement will be produced and published on the Council's website recording the reasons for this decision.

### Executive Meetings Relating to Matters Which Are Not Key Decisions

- 3.57 The Executive have decided that meetings of Executive shall be held in public even when not relating to matters which are Key Decisions.
- 3.58 Where a Lead Member or Officer takes a decision other than a Key Decision they are shall keep such notes and records of the decision as they are considers appropriate in the circumstances and taking into account any requirements to produce such information to a Scrutiny Committee, if requested to do so.

### Decisions by individual Lead Members or by Directors (or Relevant Senior Officers)

#### Reports Intended to be Taken into Account

- 3.59 Except as referred to in Rule 3.51 (major emergencies) where a Lead Member receives a report which they are intends to take into account in making any key decision, then they are will not make the decision until at least five days after the receipt of that report.

#### Provision of Copies of Reports to Scrutiny Committees

- 3.60 On giving of such a report as detailed in Rule 3.59 to an individual decision maker, the person who prepared the report will give a copy of it to the Chair of

the relevant Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time, provided that such reports do not contain confidential or exempt information.

#### Record of Individual Decision

- 3.61 As soon as reasonably practicable after any decision has been taken by a Lead Member or in the case of a Director or relevant senior Officer taking a delegated executive decision which would have been taken by a Lead Member or the Executive, the Proper Officer shall prepare, and publish, a record of the decision; and, as appropriate, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Access to Information Procedure Rules 2.10 to 2.14 (inspection of documents after meetings) will also apply to the making of decisions by Lead Members, or to a decision taken by an Officer. This does not require the disclosure of exempt or confidential information.

#### Scrutiny Committees' Access to Documents

##### Rights to Copies

- 3.62 Subject to Rule 3.63 below, a relevant Scrutiny Committee (including any Sub-Committees) will be entitled to copies of any document which is in the possession or control of the Executive or its Committees and which contains material relating to:

3.65.1 any business transacted at a meeting of the Executive or its Committees;  
or

3.65.2 any decision taken by an individual Member of the Executive.

##### Limit on Rights

- 3.63 A Scrutiny Committee will not be entitled to scrutinise:
- a any document that is in draft form and not yet formally available for consideration by the Executive or an individual Lead Member except when this has been agreed by Executive or the Lead Member;

- b any part of a document that contains exempt or confidential information, unless the Monitoring Officer has determined that the information is relevant to an action or decision they are reviewing or scrutinising or is relevant to a decision which they have given notice of their intention to scrutinise.

#### Additional Rights of Access for Councillors

##### Material Relating to Previous Business

- 3.64 Subject to the Access to Information Procedure Rules all Councillors will be entitled to inspect any document which is in the possession or under the control of the Executive and contains material relating to any business previously transacted, except to the extent that it contains any exempt information as described in Access to Information Procedure Rules in Part B of the Constitution.

##### Material Relating to Key Decisions

- 3.65 Subject to the Access to Information Procedure Rules five days before a meeting of the Council's Executive, all councillors will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive or its Committees which relates to any key decision unless Rule 3.66 a. or b above applies.

##### Nature of Rights

- 3.66 These rights of a Councillor are additional to any other right they are may have.

## **4.0 Executive Sub-Committees**

### **Terms of Reference & Procedure Rules**

The Executive has delegated functions to the following Executive Sub-Committee. Procures and meetings arrangements will be in accordance with the Council's Constitution and its Executive Arrangements.

### **4.1 Planning and Transport Policy Sub-Committee of the Executive – Terms of Reference**

#### Membership and meeting arrangements

1. The Planning and Transport Policy sub-committee will oversee and monitor the review of Development Plan Documents, the Local Transport Plan and other planning policy and transport guidance and take delegated decisions on behalf of the Executive.
2. The sub-committee will be made up of 4 members: Lead Member for Economic Development, Planning and Assets; Lead Member for Transport and Digital; Lead Member for Environment and Climate Change; and Leader of the Council.
3. The quorum will be 3 members to include the Lead Member for Economic Development, Planning and Assets or Lead Member for Transport and Digital. Any substitute members must be from the Executive.
4. The Chair will be the Council's Lead Member for Economic Development, Planning and Assets. The Vice Chair will be elected by the sub-committee.
5. The sub-committee will determine its meeting arrangements and frequency of meetings and be governed by the Executive Procedure Rules.
6. The sub-committee will report annually to the Executive.

#### Functions

1. To oversee and monitor on behalf of the Council the review of the Development Plan as set out in the Town and Country Planning (Local Planning) (England) Regulations 2012 specifically:
  - (i) To approve the Regulation 18 (preparation) and Regulation 19 (publication) stages of a Local Plan for consultation.
  - (ii) To recommend the adoption of a Local Plan to Full Council with respect to Regulation 26.

2. To make a Neighbourhood Development Plan within 8 weeks of the referendum in accordance with Section 38(4) of planning and Compulsory Purchase Act 2004 and Section 18(A) of the Neighbourhood Planning (General) Regulations 2012 (as amended).
3. To approve the Local Development Scheme (Section 15 of the Planning and Compulsory Purchase Act 2004).
4. With respect to the Statement of Community Involvement (Section 18 of the Planning and Compulsory Purchase Act) and Supplementary Planning Documents (Regulations 11 to 16 of the Town and Country Planning (Local Planning) (England) Regulations 2012):
  - (i) To approve drafts for consultation.
  - (ii) To adopt the final version.
5. To consider and comment on documents that relate to the Development Plan and Local Transport Plan that could include (but are not restricted to):
  - (i) Policy options and draft policies having regard to available evidence.
  - (ii) Housing Delivery Action Plans.
6. To oversee matters on behalf of the Council arising from the Planning Act 2008 and subsequent legislation in connection with the Community Infrastructure Levy (CIL), including the approval of draft stages of the CIL Charging Schedule for consultation and to recommend the approval of the CIL Charging Schedule to Full Council.
7. To agree infrastructure priorities and approve Community Infrastructure Levy and s106 spending priorities to support the development of the area and infrastructure funding bids.
8. With respect to the Local Transport Plan (Section 9 of the Local Transport Act 2008):
  - (i) To approve the draft for consultation.
  - (ii) To adopt the final version.

## **4.2 Property and Investments Sub-Committee – terms of reference**

### Membership and meeting arrangements

1. The Sub-Committee takes decisions on behalf of the Executive in terms of commercial property and investments in accordance with the Council's plans, policies, strategies and procedures, including in particular the Non-Treasury Management Investment Strategy (the Strategy) and Financial Regulations.

2. The sub-committee will be made up of 5 members drawn from the Executive as follows:  
Leader of the Council  
Lead Member for Resources and Performance (Deputy Leader)  
Lead Member for Economic Development, Planning and Assets  
Lead Member for Transport and Digital  
Lead Member for Adults and Health

Any substitute members must be from the Executive.

3. The quorum shall be 3 members.
4. The Chair will be the Leader of the Council and Lead Member for Governance and Communications.
5. In the absence of the Chair, the Deputy Leader of the Council and Lead Member for Resources and Performance will chair the meeting and another member of the Committee will be appointed if they are absent.
6. The sub-committee will meet as and when required and be governed by the Executive Procedure Rules.
7. The sub-committee will report annually to the Executive.

#### Functions

1. The Sub-Committee will be responsible for advising the Executive and Council in respect of any strategy, policy or other arrangements required to ensure the Council has appropriate governance arrangements in place to protect and maintain the value of the Council's non-treasury and commercial investments (the Portfolio) and providing assurance that those arrangements, including in particular the management of risk, are operating properly and to the benefit of the Council.
2. The Sub-Committee will be responsible for all decisions relating to the Portfolio which would otherwise be taken by the Executive, noting that the usual scheme of delegations to the Executive Lead Members and officers of the Council continues to apply.
3. The Sub-Committee will meet as and when required to deal with real and personal property disposals or acquisitions and other matters within the scope of the Strategy.



#### Commercial Investment Property

4. The Sub-Committee will be responsible for establishing, maintaining and monitoring arrangements to ensure that the routine management of tenancies and licences within the Portfolio, is handled in a robust and agile manner and delegated appropriately and that adequate financial provision is made to meet the Council's responsibilities under such tenancies and licences. This includes, but is not limited to:
- The grant, variation, extension, renewal or termination of leases;
  - The grant, variation, extension, renewal or termination of new licences;
  - The conduct and agreement of all rent reviews, including the award of rent free periods;
  - The grant, variation, extension, renewal or termination of easements and wayleaves;
  - Agreement to changes of use;
  - The agreement of compensation claims where budgetary provision has already been made.

#### Companies

5. The Sub-Committee will be responsible for establishing, maintaining and monitoring arrangements to ensure that the arrangements in place for any joint ventures within the Portfolio are properly established, maintained and monitored. This includes, but is not limited to, arrangements for:
- The appointment and removal of Council appointed directors;
  - The appointment and removal of observers;
  - Granting or refusing consent for matters requiring the Council's consent as shareholder.

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## Part E - Local Community Networks

### Terms of Reference

The Council will establish 18 Local Community Networks to promote the development of stronger and more resilient communities across Somerset.

For the purposes of the Constitution, the Local Community Networks will be classed as Area Boards.

#### 1.0 Purpose, Role and Function of the Local Community Networks

1.1 The purpose of the Local Community Networks are to be the focus for community development, engagement and partnership working at a local level; improving outcomes for residents and establishing strong connections between the Council, our communities and our partners.

1.2 The Local Community Networks will have the following roles and functions:

- Establishing effective local community engagement and influence;
- Promote enhanced participation in democracy, active community decision making and scrutiny;
- Enhance collaboration by bringing together at a local level representatives from partner organisations, City, town and parish councils, community groups and others
- Ensure local influence over the Council and wider public service activity;
- Share information, ideas and solutions to enable services to be delivered to help meet local need;
- To inspire more responsibility for local place shaping;
- To identify evidence-based community priorities; across Economic, Social and Environmental issues;
- To create plans to reflect how the priorities will be addressed; and
- To identify and secure resource opportunities for local projects

#### 2.0 Local Community Networks Approach

2.1 The Local Community Networks will:

- a) Agree priorities and areas of focus for the local area on an annual basis
- b) Agree a tailored communication and engagement plan for actively involving residents and other local stakeholders

- c) Allocate any funding obtained by the Local Community Network as appropriate, and in accordance with rules and guidance set out by the Council's Contract Procedure Rules and Standing Orders
- d) Provide opportunities to ensure that the local community is able to respond to consultations in a timely manner.
- e) Provide opportunities to ensure good communications and information from Somerset Council, and partners, on local issues.
- f) Make recommendations to Somerset Council and/or other partners on funding local projects.
- g) Make recommendations to Somerset Council, and partners, on key local issues.
- h) Produce an annual report with a self-assessment of success in relation to delivery against the agreed priorities and areas of focus for the local area for the past 12 months.
- i) Hold an annual meeting to enable residents and local stakeholders to input into setting area priorities for the next 12 months and highlight local issues.

### 3.0 Composition

- 3.1 The Local Community Networks will be constituted as Area Boards. The minutes of the meetings of all Local Community Networks, along with any recommendations, will be considered by the Executive.
- 3.2 In the event of a Somerset Council Councillor being elected following a by-election, the Monitoring Officer has delegated authority to appoint the Councillor to the relevant Local Community Network and Council will be asked to ratify the appointment at its next available ordinary meeting.
- 3.3 Local Community Networks are established for 18 areas covering the county. Any changes to the names of the LCNs or their boundaries will need to be recommended to the Executive Lead Member for Transformation and Human Resources for approval.

### 4.0 Policy and Constitution

- 4.1 Local Community Networks must operate within the Council's Budget and Policy Framework and in accordance with the requirements of the Constitution.
- 4.2 Each Local Community Network may receive funding as determined from time to time by the Council, partners or through successful funding bids. Local Community Networks will allocate any funds in accordance with the Council's Procedure Rules.

- 4.3 Local Community Networks will be consulted on the development of strategic policies to make sure that local priorities and concerns are taken into account. The Local Community Networks will also be consulted where significant changes, reductions or closures of a service are planned in their local area.
- 4.4 Any key decision or policy proposal of the Council that has, or is likely to have, a significant impact in the local area will be discussed with the Local Community Network.
- 4.5 Where appropriate, Local Community Networks are able to set up Working Groups to cover particular topics. The results and outcomes from the Working Group will need to be fed back to the main meeting of the Local Community Network.
- 4.6 In the event of the topic spanning more than one Local Community Network area, the Working Group will be set up to include representatives from all appropriate Local Area Networks.
- 5.0 Membership & Representation
- 5.1 Each Local Community Network will comprise of the following core membership:
- 1) The elected Somerset Council Councillors representing the electoral divisions covered by the Local Community Network;
  - 2) A member from each City, Town or Parish Council and Parish Meeting within the area covered by the Local Community Network;
  - 3) Representatives from the following groups or organisations:
    - a) Local Neighbourhood policing team;
    - b) Somerset National Health Service
    - c) Devon and Somerset Fire and Rescue Service;
    - d) Education
    - e) Representatives from Voluntary, Community, Faith and Social Enterprise Organisations
    - f) Representatives from Businesses or Trade Groups
    - g) Others as may be considered locally important
- 5.2 The Executive Lead Member for Transformation and Human Resources will approve the core membership of each LCN. Each LCN will review their core membership at their first Annual Meeting and then at least annually and make any recommendations for changes to the Executive Lead Member for Transformation and Human Resources. The core membership list will be classed as the voting members of the Local Community Network.

- 5.3 Each Local Community Network will support and encourage wider participation and engagement from additional attendees. This could include, for example:
- Local Community and Voluntary Sector Organisations
  - Local Businesses or Trade Groups
  - Housing Associations or Housing Officers
  - Any other relevant local groups which could include youth groups, cultural organisations, environmental groups, older people's groups, disability groups, etc.

6.0 Other representation

- 6.1 Local Community Networks can invite any Executive Member to attend their meeting to discuss matters relating to their remit, if appropriate.
- 6.2 Invited Executive Members attending the Local Community Network as a guest will not have voting rights.
- 6.3 For the avoidance of doubt an Executive Member is entitled to vote as a standing Member of the Local Community Network in which their electoral division is located.

7.0 Officer Support

- 7.1 Each Local Community Network will be supported by a dedicated Officer from the Unitary Council and Democratic Services Officer(s).
- 7.2 Local Community Networks can ask other officers (including external partners officers) to attend their meetings to discuss items of business on their agenda.
- 7.3 Somerset Council Directors will provide an oversight role for the Local Community Networks, ensuring that officers in their directorates attend and engage with the LCNs as and when appropriate.

8.0 Order of business for the Annual Meeting of the Local Community Networks

- 8.1 The date and meeting arrangements for the first Annual Meeting for each Local Community Network shall be agreed by the Monitoring Officer in consultation with the Lead Member for Transformation and Human Resources. The Annual Meeting of the Local Community Networks will take place annually based on the commencement date of the Local Community Network.

- 8.2 Items of business for the Local Community Network Annual Meeting will be:
- a) To elect the Chair of the Local Community Network
  - b) To appoint the Vice-Chair of the Local Community Network
  - c) To receive any apologies for absence
  - d) Declarations of Interest
  - e) Public Question Time
  - f) Approve the minutes from the previous meeting
  - g) To consider the Annual Report on the Local Community Network's work in the last 12 months
  - h) To determine the priorities and areas of focus for the Local Community Network for the next 12 months
  - i) To consider any other business set out in the agenda
  - j) To agree the frequency of meetings
  - k) To agree the schedule of meetings for the next 12 months
- 9.0 Order of business for Ordinary meetings of the Local Community Networks
- 9.1 Items of business for the ordinary meetings of the Local Community Networks will be:
- a) To receive any apologies for absence
  - b) Declarations of Interest
  - c) Public Question Time
  - d) To approve the minutes from the previous meeting
  - e) To receive updates on any action points from previous meeting(s)
  - f) To consider any other business set out in the agenda
- 10.0 Process for electing the Chair of the Local Community Networks
- 10.1 Only members of the core membership are eligible to be nominated as the Chair. Either the Chair or Vice-Chair of the Local Community Network shall be a Somerset Council Councillor.
- 10.2 Election will take place annually at the Annual Meeting of the Local Community Network.
- 10.3 The Democratic Services Officer will call for nominations for the position of Chair of the Local Community Network.
- 10.4 Only voting members can make nominations. The nomination must be seconded to be valid.

- 10.5 An individual shall not be nominated in their absence without their written consent.
- 10.6 In the event of only one valid nomination being received, the person presiding will declare the nominated member elected.
- 10.7 In the event of two valid nominations, the Democratic Services Officer will ask for a show of hands for those members in favour of each nominated candidate and declare the candidate receiving the majority of votes (of the core membership present and voting) to be the winner.
- 10.8 In the case of an equal number of votes for the two candidates, a random electronic generator will be used by the Democratic Services Officer to determine the winner of the election and then declare the result.
- 10.9 In the case of three or more valid nominations being made, the Democratic Services Officer will call for a show of hands for each of the candidates. The Democratic Services Officer will then announce the candidate with the least number of votes and that candidate will be eliminated (in the event of a tie for the least number of votes, the Democratic Services Officer will use a random electronic generator to determine which candidate will be eliminated). A further vote shall be taken for the remaining candidates and after each vote the candidate with the least number of votes shall be eliminated until only two candidates remain and a final vote can be taken (following section 10.7 and 10.8 above).
- 10.10 The Chair and Vice-Chair will hold office until the next Annual Meeting unless they resign from the position. In the event of a resignation, an election for the Chair and/or Vice-Chair will take place at the next available meeting.
- 11.0 Chairing arrangements
- 11.1 The Vice-Chair will preside in the absence of the Chair and if neither is present, the Local Community Network will appoint a Chair from among its core membership (section 5.1) for that respective meeting.
- 11.2 The role of the Chair will include:
- a) Providing leadership to ensure that the objectives of the Local Community Networks are met.
  - b) Ensuring that the voices of the local community are at the heart of the work of the Local Community Networks.



- c) Working with Officers to set the agendas and to ensure that any action points are picked up and dealt with
- d) Chair the meetings effectively to ensure that its business can be carried out efficiently and that all parties have an opportunity to input
- e) Ensure that the meeting is a forum for debate of matters of interest and/or concern to the local community
- f) Represent the Local Community Network at the quarterly meetings with the Executive Member and Scrutiny Chair(s)
- g) Produce an annual report on behalf of the Local Community Network which will be considered by the Executive

## 12.0 Local Community Network links to the democratic process

This section will set out how the Local Community Networks will link to the democratic process within Somerset Council.

### *Council*

- 12.1 Somerset Council will review the Terms of Reference for the Local Community Networks at its Annual Meeting each year.

### *Executive*

- 12.3 Local Community Networks can escalate issues of concern to the Executive and/or the relevant Executive Member.
- 12.4 There will be a standing item on Executive agendas to consider and note any minutes from Local Community Network meetings that have taken place. This will include any recommendations that the Local Community Network wish the Executive to consider.
- 12.5 The Executive will also consider the Local Community Network annual report.
- 12.6 The Executive Member with remit for Local Community Networks will meet on a quarterly basis with the Local Community Network Chairs so that common themes and issues can be discussed. The Scrutiny Committee(s) Chairs are also included in this meeting.

### *Scrutiny Committee(s)*

- 12.7 Wherever possible the Scrutiny Committee(s) will avoid duplicating the work of the Local Community Networks.
- 12.8 However, issues of local concern may be identified and added to the Scrutiny workplan via the quarterly meetings with the Executive Member and Local Community Network Chairs.

### *Planning*

- 12.9 Planning matters that fall under the remit of the Planning Committee or Planning Sub-Committees will be out of scope of the Local Community Networks to avoid duplication.

### *Licensing and Regulatory*

- 12.10 Licensing and Regulatory matters that fall under the remit of the Licensing and Regulatory Committee, Licensing Sub-Committee and Regulatory Sub-Committee will be out of scope of the Local Community Networks to avoid duplication.

## 13.0 Voting

- 13.1 Local Community Networks will seek to reach decisions by consensus where possible, involving the core membership (listed in section 5.1). Prior to such a decision, the Chair may upon their discretion take an indicative vote of the representatives set out in section 5.3.
- 13.2 However, on the occasions where a formal decision needs to be made this will be recommended to the Somerset Council Executive for consideration.
- 13.3 Where a vote is required then this will be by a show of hands of the voting membership present.
- 13.4 Where the vote is tied, the Chair of the Local Community Network shall have a second or casting vote.

## 14.0 Quorum

- 14.1 Quorum will be 30% of the core membership (section 5.1).

15.0 Meeting frequency and location

15.1 Local Community Networks will meet 6-8 times a year, however this is at the discretion of each individual LCN.

15.2 Local Community Network meetings will be held in accessible venues and will be held in various locations within the local area (dependent on the numbers likely to attend the meeting).

16.0 Access to Information

16.1 Local Community Networks are subject to the Access to Information Rules set out in Part B of this Constitution.

16.2 For example:

- a) Agendas will be published on the Council website 5 clear days before the meeting
- b) Meetings will be open to members of the public and press
- c) Draft minutes will be published on the Council website within 5 working days following the meeting

17.0 Standards of Behaviour and Conduct

17.1 Somerset Council Councillors are subject to the Members Code of Conduct set out in section Y of this Constitution.

17.2 City, Town and Parish Councillors are reminded that they have been elected to the Local Community Network as a representative of their Council, and therefore should follow their Code of Conduct.

17.3 Local Community Network meeting attendees will at all times follow the Protocol on meeting etiquette.

18.0 Review of the Terms of Reference

18.1 The Terms of Reference for the Local Community Networks will be reviewed on an annual basis and agreed at the Somerset Council Annual Meeting. This is to ensure that the Terms of Reference appropriately reflect the role of the Local Community Networks as they evolve over time.

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## **Part F - Joint Arrangements**

### **Arrangements to promote wellbeing**

The Council, in order to promote the economic, social or environmental well-being of its area, may

- (a) enter into arrangements or agreements with any person or body
- (b) co-operate with or facilitate or co-ordinate the activities of, any person or body and
- (c) exercise on behalf of that person or body any functions of that person or body

### **Joint arrangements**

- (a) The Full Council may establish joint arrangements with one or more local authorities and / or their executives to exercise functions that are not executive functions in any of the participating authorities or advise the Full Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Executive may establish joint arrangements with one or more local authorities to exercise functions that are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.

### **Delegation to and from other local authorities**

- (a) The Council may delegate some functions to another local authority or, in certain circumstances, the executive of another local authority.  
.
- (b) the decision whether or not to accept such service delegations from another local authority is reserved to the Council meeting.

### **Contracting out**

The Council may contract out to another body or organisation functions which may be exercised by an officer, and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles.

The Council has established joint arrangements in respect of the following:

## **Joint Committees**

### **Avon and Somerset Police and Crime Panel**

The Police and Crime Panel is a statutory joint partnership and scrutiny body that supports and scrutinises the decisions and activities of the Avon and Somerset Police and Crime Commissioner and promotes openness in the transaction of Police business in the Avon and Somerset force area.

The Terms of Reference and Operating Arrangements can be found here <http://www.avonandsomersetpoliceandcrimepanel.org.uk/wp-content/uploads/2022/07/Panel-Operating-Arrangements-31.03.21.docx> and the Rules of Procedure here <http://www.avonandsomersetpoliceandcrimepanel.org.uk/wp-content/uploads/2022/07/Rules-of-Procedure-31.03.21.docx>

### **Five Councils Partnership Corporate Services Joint Committee**

Somerset Council shares some services with South Oxfordshire District Council, Vale of White Horse District Council, Hart District Council and Havant Borough Council. The Councils have formed a Joint Committee to carry out the strategic, financial and operational functions delegated to it by the Five Councils Partnership authorities. The Terms of Reference can be found here

### **Heart of the South West Joint Committee**

The Heart of the South West ('HotSW') Joint Committee is a Joint Committee of local authorities that comprise the HotSW area. The key purpose of the Joint Committee is to be the vehicle through which the HotSW partners will ensure that the desired increase in productivity across the area is achieved. The Terms of Reference can be found here <http://www.hotswjointcommittee.org.uk/panels-key-roles-and-responsibilities/>

### **Heart of the South West LEP Joint Scrutiny Committee**

The Joint Scrutiny Committee provides strategic overview and Scrutiny of the activities of the Heart of the South West (HotSW) Local Enterprise Partnership (LEP). The Terms of Reference can be found here <https://democracy.devon.gov.uk/mgCommitteeDetails.aspx?ID=456>

## **Integrated Care Partnership**

Integrated Care Boards and all upper-tier local authorities that fall within the area of the Integrated Care Boards must establish an Integrated Care Partnership. For Somerset, the Integrated Care Partnership is established jointly by the Integrated Care Board and Somerset Council. The Terms of Reference of the Integrated Care Partnership can be found here:

<https://somersetcc.sharepoint.com/sites/SCCPublic/Council%20Democracy/Forms/AllItems.aspx?id=%2Fsites%2FSCCPublic%2FCouncil%20Democracy%2FIntegrated%20Care%20Partnership%20%2D%20Terms%20of%20Reference%2Epdf&parent=%2Fsites%2FSCCPublic%2FCouncil%20Democracy&p=true&ga=1>

## **Yeovil Crematorium and Cemetery Joint Committee**

The Yeovil Crematorium and Cemetery Committee has been appointed to consider the operations of the Yeovil Crematorium and Yeovil Cemetery and make recommendations to the appropriate member authorities. The Terms of Reference can be found here. <https://www.yeovil.gov.uk/userfiles/files/Agenda130722.pdf>

## **Other Joint Arrangements**

### **Somerset Rivers Authority**

The Somerset Rivers Authority is a partnership between Somerset Council, the Parrett and the Axe Brue Internal Drainage Boards, the Environment Agency, Natural England and Wessex Regional Flood & Coastal Committee. The SRA (Somerset Rivers Authority) oversees the Flood Action Plan for the whole of Somerset and funds works that meet Flood Action Plan objectives. The Terms of Reference and Constitution can be found here <https://www.somsetriversauthority.org.uk/wp-content/uploads/2022/02/ITEM-5-2022-23-SRA-Local-Memorandum-of-Understanding-and-Constitution-4-March-2022.pdf>

### **Joint Scrutiny Panel – Somerset Rivers Authority**

The Joint Scrutiny Panel's purpose is to examine the activities of Somerset Rivers Authority and provide assurance to the SRA's constituent councils and partners that it is operating effectively. The Terms of Reference can be found here [SRA Joint Scrutiny Panel meetings and papers - Somerset Rivers Authority](#)

## **Standing Advisory Council for Religious Education (SACRE)**

The Somerset Standing Advisory Council on Religious Education is a statutory body set up and supported by Somerset Council to help monitor the standards, quality of teaching and provision for RE in local schools; the effectiveness of the locally Agreed Syllabus for RE; and the provision and quality of collective worship in local schools.

Its Terms of Refence can be found here <http://www.amvsomerset.org.uk/wp-content/uploads/2021/11/SACRE-Constitution-2011.doc>



## Part G – Overview and Scrutiny arrangements (Scrutiny Committees)

Every council with an executive management structure has to have an overview and scrutiny function. Somerset Council has appointed five scrutiny committees to perform this function:

- Adults and Health
- Children and Families
- Climate and Place
- Communities
- Corporate and Resources

All of the Scrutiny Committees will operate in accordance with the Committee procedure rules in Part D.

### Membership, Chair and Quorum of each Committee

Number of Members	13
Substitute Members Permitted	Yes
Political Balance Rules apply	Yes
Appointments/Removals from Office	By resolution of full Council
Restrictions on Membership	Executive Members cannot be members of a committee
Restrictions on Chair/Vice- Chair	None
Quorum	5 members
Number of ordinary meetings per Council Year	At least 6 per year

The scrutiny committees each fulfil a check and challenge function for decisions and policies made by the Executive.

This section gives more details about these committees and the rules which govern how they work.

These rules are written in formal language. If you have specific questions our Democratic Services Team will be happy to help you.

### **Functions and terms of reference**

- 1.1 The Council has appointed several Scrutiny Committees to fulfil the statutory “overview and scrutiny” functions of the Council, to influence the decision makers and drive improvement in public services in Somerset.
- 1.2 The Committees have no decision-making powers but have responsibilities delegated by Council. Each Committee can appoint a Task and Finish Group to undertake specific scrutiny review and recommendations back to it. A Task and Finish Group will operate in accordance with the Task and Finish Group Protocol.
- 1.3 At the annual meeting of the full Council, the Monitoring Officer in consultation with the Chief Executive will propose for the agreement of the Council, the number of Scrutiny Committees, the Terms of Reference and the number of scrutiny seats required to perform the scrutiny function for the forthcoming year. The Scrutiny Committees can work together on cross-cutting services or policies and their functional areas of responsibility are as follows:

### **Corporate and Resources**

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

- Finance and Procurement
- Strategic Asset Management
- ICT

- Partnerships and Localities
- Strategy and Performance
- Legal, Democratic and Governance
- Budget Monitoring and Financial Scrutiny
- Workforce
- Business Change and Transformation

### **Climate and Place**

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

Climate, Environment and Sustainability:

- Carbon Neutrality
- Climate Resilience and Adaptation
- Renewable Energy
- Country Parks, Local Nature Recovery Strategy, Local Nature Reserves, AONB Partnerships (Countryside Services)
- Biodiversity (and net gain) and Ecology
- Sustainability
- Waste Service
- Emergency Planning and Business Continuity
- Water Management
- Flooding Response
- Coastal Protection Authority
- Somerset Rivers Authority

Infrastructure & Transport:

- Highways Authority
- Public Rights of Way
- Parking
- Active Travel
- Traffic Management
- Transport
- Public Transport
- Fleet Management
- Contracted Transport
- Strategic Transport Planning
- Road Safety
- Infrastructure Commissioning

#### Economy, Employment & Planning:

- Economic Development
- Planning (conservation, enforcement, DM, local plan, waste and minerals, s106 allocations/CIL, Phosphates)
- Affordable Housing and Enabling
- City/Town Centre Management
- Trading Standards (Devon partnership)
- Skills
- Education Business Partnership
- Economic infrastructure , services and Innovation Centres
- Regeneration (non-housing)
- Major Projects
- Nuclear Power
- Scientific Services

#### **Children and Families**

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

- Investing in and improving school facilities
- Education, Training & Skills
- Improving the health of children & young people
- Supporting educational achievement and improved outcomes for children & young people
- Improving young people's prospects and skills
- Delivery of Personalisation Agenda and Personal Budgets
- Protect and care for the most vulnerable
- Support and recruit more adopters and fosterers of children
- Improve prospects of disadvantaged children and young people and their families, and those at risk of being disadvantaged
- Specialist services for children with disabilities
- Special Educational Needs
- Safeguarding children
- School admissions
- Academy conversions.
- Youth offending and targeted youth work
- Early years and children's centres
- Appointment of school governors

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

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

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

### **Scrutiny for Policies and Communities**

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

Housing:

- Strategy and HRA Business Plan
- Arms Length Management Organisation
- Homelessness - Rough Sleepers pathway
- Housing Options & Allocations – Homefinder Somerset
- Housing and Leaseholder Management
- Housing Maintenance - Responsive and Planned (capital programme), compliance, void management
- Housing Development & Regeneration
- Tenant Services –Worklessness & Tenancy Management (new tenancies, income, debt and benefit support, rent setting, service charges tenancy compliance)
- Sheltered and Extra Care
- Housing Property Service
- Registered Providers and Partnerships
- Gypsy, Traveller and Van Dweller Services
- People Displacement Schemes and Services

#### Customer Services:

- Customer Service Strategy and Standards
- Corporate Customer Services
- Compliments & Complaints, Ombudsman cases
- Local Service Centres
- Customer Engagement and Access

#### Cultural Services:

- Libraries, Museums, Theatres
- Leisure Centres, Facilities and Services (contract and direct)
- Sports Development Partnership
- Heritage Assets
- Arts Centres, Facilities, Services and Development
- Culture Facilities, Services and Development
- Tourism Facilities, Services and Development
- Community Facilities

#### Regulatory and Operational Services:

- Environmental Health and Licensing
- Registrars
- Coroners
- Environmental Protection and Enviro-crime
- Building Control
- Port Health Authority
- CCTV and anti-social behaviour
- Safety Advisory Group
- Private Sector Housing
- Street Cleansing
- Grounds Maintenance
- Unauthorised encampments
- Parks and Play Areas
- Public Toilets
- Dog Wardens
- Bereavement Services
- Fairs and Markets

- 1.4 The Scrutiny Committees are committed to the developing of a respectful relationship between themselves, the Executive and external partners. The work of the Scrutiny Committees is underpinned by the following six principles:-
- a. To contribute to sound decision-making in a timely way by holding councillors and key partners to account as a 'critical friend'.
  - b. Contribute to and reflect the vision and priorities of the Council.
  - c. Enable the voice and concerns of the public to be heard and reflected in the Council's decision-making process.
  - d. Engage in policy development at an appropriate time to be able to influence the development of policy.
  - e. To be agile and able to respond to changing and emerging priorities at the right time with flexible working methods.
  - f. For scrutiny to be a councillor led and owned function which seeks to continuously improve through self-reflection and development.
- 1.5 In addition to the principles set out at 1.2 above, in conducting its proceedings a Scrutiny Committee will have regard to the following principles:-
- a. At all times, while conducting its business in a tenacious matter, to do so with respect, equity, fairness, dignity and with regard to the principles of natural justice.
  - b. To ensure that all Members are given the opportunity to contribute to and speak at Scrutiny Committee meetings and to ask questions of those attending.
  - c. To conduct its business in a consensual, open, responsible and transparent manner across political divides and to avoid expressing views based purely on political considerations.
  - d. To conduct its business so as to maximise its efficiency.

- e. Not to seek to hold Officers and non-Lead Members to account for decisions taken by the Leader, Executive or Lead Members.
- f. To recognise that any question of officer discipline which may arise is to be dealt with through the appropriate employment procedures.

1.6 In respect of their functions, each committee will:

- (i) Advise the Executive, on the formative stages of key service developments and reviews;
- (ii) Influence planned key decisions before they are taken and make recommendations to the decision maker;
- (iii) Hold Executive decision-makers (including Officers) to account for Key decisions;
- (iv) Question members of the Executive and/or committees and senior officers about their decisions and performance standards;
- (v) Ensure that all the Council's performance management and assessment systems continually improve the Council's service delivery;
- (vi) Assist the Executive / Council in budget and policy development;
- (vii) Review delivery of key action plans (including external inspection action plans) and Council objectives through the achievement of outcomes;
- (viii) Consider any matter affecting the County of Somerset or its inhabitants (specifically children in the case of Scrutiny Children and Families);
- (ix) Ensure active engagement of Members, the public, media, stakeholders, partners and Officers in the work of the Council and the Committee and to enable the voice of the wider community to be heard within the Council;
- (x) Make reports and/or recommendations to the Full Council and/or the Executive, Council, other Committees and/or partner bodies;
- (xi) Scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to discuss their activities and performance.



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

1.8 **JOINT HEALTH SCRUTINY:** For significant proposals, eg, regional matters and ambulance NHS Trust matters or County wide Broadband, a Joint Overview and Scrutiny Committee of the relevant councils is appointed to provide a collective response. The Chief Executive approves the terms of reference, constitution and arrangements for such a Joint Committee on behalf of the Council.

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

1.10 **CHAIR:** The appointment of a Chair for each of the 5 Scrutiny Committees will be a member of an opposition party.

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

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

In conducting its business a Scrutiny Committee may:

- a. Undertake in depth analysis of a policy issue;
- b. Receive briefings and presentations on issues under consideration;
- c. Undertake research, community and other public engagement, particularly in the analysis of policy issues and possible options;
- d. Consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- e. Hold inquiries, workshops, public meetings and conduct public surveys;
- f. Invite advisors and assessors to assist them;
- g. Question Lead Members, Associate Lead Members and seek their views on issues and proposals affecting the Council's area;
- h. Question senior officers, and where appropriate suppliers and seek their professional views on issues, and / or their decisions and performance either in relation to service plans or in relation to particular decisions, initiatives or project;
- i. Liaise with national, regional or local external organisations operating in the Council's area so as to ensure that the interests of local people are enhanced by collaborative working;
- j. As part of any investigation, review and scrutinise the decisions made by, and performance of, the Executive, Lead Members and senior officers as regards both individual decisions and over time;
- k. Question and collect evidence from any other person (with their consent) and invite witnesses to attend Scrutiny Committee meetings, proceedings or events.

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

1.11 "Call-in" is a facility which Members can use to challenge Key Decisions where a scrutiny committee has not been involved prior to the decision being taken or where a Member believes a decision has been taken without the proper process having been followed.

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

- (a) General provisions:
  - (i) Call-in should be used on an exception basis and not to unnecessarily delay Council business;
  - (ii) An individual Key Decision should normally only be subject to scrutiny once, whether pre or post decision;
  - (iii) Key Decisions cannot be called in where the decision requires urgent implementation. Urgent implementation requires the approval of the Leader of the Council and the Chair of the relevant Scrutiny Committee;
  - (iv) Call-in only applies to decisions. Recommendations (for example, made by the Executive to Council) cannot be called-in.
- (b) Scrutiny of Key Decisions before they are taken: This should focus on ensuring that the decision-maker has all the necessary information, to take a fully informed decision and that any procedures have been properly followed. Any scrutiny review at this stage should not pre-empt the decision. The decision-maker must take the views of the relevant Scrutiny Committee into account before taking the decision.
- (c) Scrutiny of Key Decisions after they are taken but before they are implemented:
  - (i) Key Decisions are published to all Members and the public (via the website) within 2 working days of the decision date;
  - (ii) Key Decisions (unless urgency is agreed) must be called-in within 5 working days of publication or the decision will be implemented automatically.

- (iii) Any Member may request a call-in but the call-in must be supported by a Member of the relevant Scrutiny Committee and agreed by the Chair (or Vice Chair in their absence) of that Committee in order to be formally considered. The call-in must be submitted in writing or by email to the Chair of the relevant Committee;
  - (iv) The Chair of the relevant Scrutiny Committee will consider call-in requests against the principles of good decision-making and will either agree the request or detail their reasons for rejecting the request for report to the next available meeting of the relevant Committee;
  - (v) A call-in must specify the subject matter, the reason(s) for it, information required to enable full consideration and the preferred outcome;
  - (vi) Each call-in will be considered at the next meeting of the relevant Scrutiny Committee unless an alternative is agreed with the decision-maker;
  - (vii) The Scrutiny Committee having considered a call-in will report to the decision-maker. The Committee also has the option of reporting direct to the Council as well as or instead of the decision-maker;
  - (viii) Where an item has been subject to pre-decision scrutiny of the process, post decision call-in should normally only relate to the decision itself;
  - (ix) If there is no pre-decision scrutiny of an item then the process and/or the decision may be the subject of call-in.
- (d) Scrutiny of Key Decisions after implementation: This should only occur where the decision-maker was required to make a decision that was time critical or at a later stage to gauge the effect of the decision. Scrutiny in these circumstances is not part of the call-in process.

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

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

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

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

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

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

1.18 **Call for Action**

1.19. Any councillor shall be entitled to ask the Proper Officer for Scrutiny in writing to include any issue of concern to that councillor to be considered as part of the work programme of the appropriate Scrutiny Committee. In normal circumstances such a request must be made at least 10 clear working days before the meeting of the appropriate Scrutiny Committee.

1.20. At the meeting the councillor who has put the matter on the agenda may address the Committee on the matter. Members of the Committee should consider whether the issue raised is best addressed under the Councillor Call for Action (CCfA) procedure or another procedure (for example Call-In). In normal circumstances, the same issue will only be considered under one of these procedures. The Proper Officer for Scrutiny can advise Members of the Committee on this matter if requested.

1.21. Once determined as a CCfA matter, the following, in the order they appear on this list, (and if present) shall then respond:

- a. The relevant Lead Member and/or the Associate Lead Members;
- b. Another Lead Member;
- c. A senior officer with functional responsibility for the matter.

**All speakers may address the Committee for up to three minutes as determined by the Chair unless otherwise agreed by the Chair. The Chair shall then invite Members of the Committee to discuss the matter to question and to consider any recommendation which has been submitted by the councillor as part of the agenda item.**

1.22. The Committee may then:

- a. Resolve not to consider the matter further;
- b. Resolve to take no further action as the issue is one where an

individual or body has a statutory right to a review or appeal (or relates to an individual planning application or decision by a planning committee);

- c. Resolve to take no further action but at the meeting advise the councillor raising the matter what further action, if any, the councillor should take to resolve the matter;
- d. Refer the matter to the Lead Member or officer with responsibility for the matter to ask what can be done to resolve the matter;
- e. Place the item on its agenda for consideration by the Committee at a later meeting;
- f. Consider whether to commission a scrutiny task & finish group to consider the matter further;
- g. Make a report or recommendation to the Executive or Full Council, or to the appropriate executive body of any partner organisation.

### **Referrals from the Council or the Executive**

1.23. The Scrutiny Committees will consider any matter referred to them by the Council or the Executive and recommend any appropriate action. The Executive may request a Scrutiny Committee to look at topics to assist and inform Executive decision-making.

1.24. In reviewing draft policies, plans strategies and the draft budget, a Scrutiny Committee will in particular consider:-

- a. Whether any appropriate criteria has been used;
- b. Whether consultation (if any) responses and engagement conclusions have been taken into account;
- c. Whether the decision is in accordance with the Council's policy framework;
- d. Whether the decision is within the powers of the Council;
- e. Whether the decision is lawful;

- f. Whether the decision contributes to the efficient, effective and economic performance of the function in question.

## **Scrutiny Task and Finish Group Protocol**

### **What is a Scrutiny Task & Finish Group?**

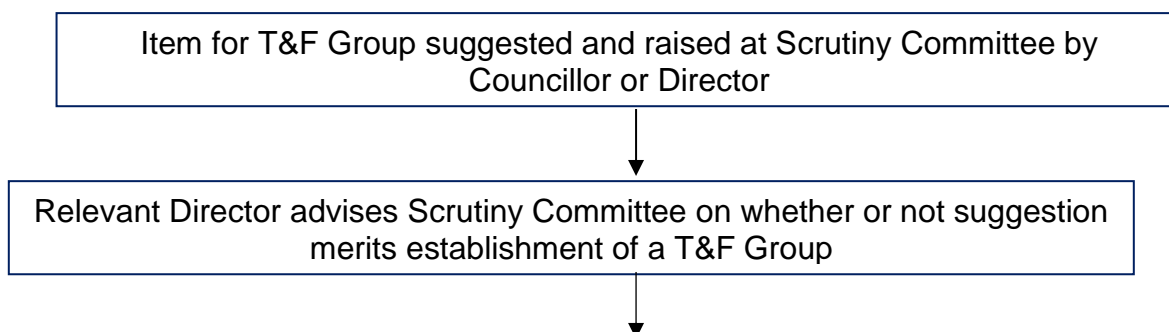
A Scrutiny Task & Finish Group is a small group of Councillors commissioned by a scrutiny committee to undertake a time limited review of a particular issue. As its title suggests the Group is set up for a specific purpose to undertake a review and report back within a defined timescale.

### **Background**

All Scrutiny Committees can establish Councillor Task and Finish (T&F) Groups. These Groups are especially useful in allowing Councillors to look at an issue in which they have a particular interest, in more detail. They can take a variety of forms, from a detailed review to a short, sharp concentrated focus on a high profile issue. They offer the opportunity to use a variety of more diverse working methods (working flexibly to adapt to the needs of different reviews), including making visits, and use of interviews and publicity events to encourage community participation and public engagement in scrutiny.

This protocol provides information relating to the commencement and completion of work by T&F Groups. In doing so, it defines the key role that Directors and Strategic Managers have in helping to manage the process.

### **Diagram 1 – Overview of Process**





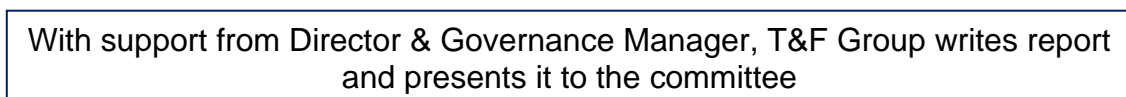
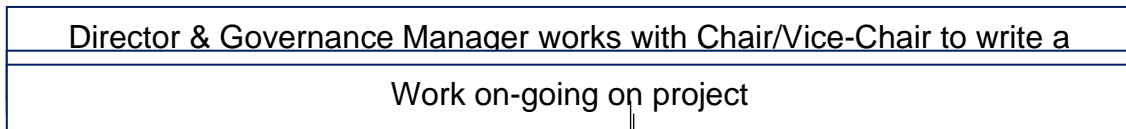


Diagram 1 illustrates the process from inception to completion for T&F Groups.

#### Guidelines on Process:

- Ideas for establishing T&F Groups will be raised at the appropriate Scrutiny Committee via the Chair.
- Consideration should be given to:
  - **external or national priorities;**
  - **priorities identified within the SCC County Vision & Business Plan and in key Somerset policies** such as the Joint Strategic Needs Assessment (JSNA), Children & Young People's Plan (CYPP) and Improving Lives Strategy (consideration should be given to which priorities may benefit from the intervention of scrutiny, for example, overview of progress against milestones or specific policy development in a priority area);
  - **key decisions** to be taken and the Cabinet and Scrutiny Committee's **Forward Plan**;
  - evidence from recent public consultation or a trend emerging from Councillors' case work which may be the subject of scrutiny.
- The Councillor or Director proposing the item for scrutiny should outline the proposed scope of the project and the desired outcomes. This discussion will be led by the relevant Director who will advise on the suitability/unsuitability

of the project. For example, if the proposal is too operational then the Director may recommend the project should not progress.

- If the Director and Members of the Committee agree there is merit within the item, a T&F Group can be created. The final decision of whether to form a T&F Group rests with Members of the Committee following careful consideration of the advice of the relevant Director.
- The Committee Chair & Vice-Chair (who may or may not chair the group) will work with the relevant Director & the Governance Manager to discuss the detailed scoping of the Group (see scoping document Appendix 1). This will then be agreed at the next meeting of the Scrutiny Committee as well as Group membership. The relevant Director should attend this meeting to answer any other questions members of the Group may have.
- As a guideline, T&F Groups will normally consist of three to five members depending on the nature and complexity of the review. Political balance of membership is not required. The Group should be chaired by a member of the scrutiny committee but this does not have to be its Chair or Vice-Chair. Substitute members should be discouraged, on the basis that members have built up a knowledge and expertise on the review subjects and it may be difficult for a new member to join the Group part way through a review or to attend single meetings and participate effectively.
- The Committee will decide if they wish to open up membership of the T&F Group to Councillors who are not on the Committee – it is good practice to make use of Councillor interest, experience or specialist knowledge.
- The Committee may also wish to make the T&F Group joint with the Council's other Scrutiny Committees or with partner organisations.
  - It is recommended that Councillors sit on no more than two Task and Finish Groups at any point in time.
  - Other Councillors and Non-Councillors may be co-opted to be members of a Task and Finish Group if they have specific knowledge or expertise.
  - Executive Lead Members and other members may be invited to the Group to give evidence.

- Meetings will take place as often as needed until the task is complete. Following the planning meeting, the Group should aim to hold the necessary meetings within as short a timeframe as possible so that findings are timely.
- Directors need not attend all meetings but they will be kept informed of progress from Democratic Services Officers. Notes of each meeting will be produced by Democratic Services Officers and comprise a record of the main facts gathered and points of discussion.
- As the T&F Group is completing its work, the relevant Director will review the Group's draft report and attend their final meeting to provide feedback.
- When the T&F Group has finished and agreed their report, the members of that Group will present their work to their relevant Scrutiny Committee. As part of this process, the Group will explain the work carried out and ask the Committee to support their recommendations. The Committee could also comment on the report or ask for further work to be done.
- Scrutiny Committee will then refer the report and recommendations to the Cabinet or relevant Cabinet Member for consideration.
- The Executive/Lead Member should then provide a formal response to the Scrutiny Committee within as short a timeframe as possible. A review of the Task & Finish Group outcomes by the Committee should be agreed accordingly by the Committee and the Executive/Lead Member.

### **Member Interests**

- Meetings of Scrutiny Task and Finish Groups require members to declare any personal interest in any matter being considered at a meeting of the T&F Group in accordance with the Code of Conduct and if the matter is also prejudicial, the member should withdraw from consideration of that issue. A member should not join a T&F Group if they have a prejudicial interest which is likely to arise so frequently at meetings that they will be unable to make a worthwhile contribution. It should be noted that Parent Governor and Church Representatives on the scrutiny committee which has responsibility for education matters are also required to observe the Councillor Code of Conduct.

## **Role of Members**

- Scrutiny Task and Finish Groups are member-led and members should control the direction of the review, but always in compliance with the defined terms of reference. All variations must be approved by the commissioning scrutiny committee.
- Members of the Group are responsible for setting the agenda within the above parameters.
- Members of the Group may question Cabinet Members, senior officers, and other contributors on issues related to the specific review subject.
- Members of the Group are responsible for making the recommendations in the final report (Officers are not part of the decision making process) and in so doing must observe the equality and diversity policies of the Council.

## SCRUTINY COMMITTEE - TASK AND FINISH GROUP SCOPING DOCUMENT

<b>Task and Finish Group Title:</b>	
Membership of Working Group:	
Service Area:	
Key Officer Contacts: [Lead and support]	
Scoping form completed by:	
T&F Group requested by:	
<b>Criteria for inclusion in work programme:</b>	(If yes please provide details)
External or National Priorities:	

Priorities identified in Council Vision, Business Plan or other Key Policies/Plans:	
Planned Key Decisions or Forward Plans:	
Evidence from Public Consultation or trend from Councillor Case Work:	
<p>Summary of anticipated benefits and outcomes:</p> <p>[Give a brief description of what we hope undertaking the review will achieve e.g. improved performance, amended policy, efficiencies or increased footfall]</p>	
<p>Indicators of success:</p> <p>[Include details of desired indicators of success and how these can be measured]</p>	
<b>Scope:</b>	
<p>In Scope:</p> <p>[Define what the scope of review is]</p>	
Excluded from Scope:	

[Define the exclusions from the scope of the review]	
<b>Council and Partner Involvement:</b>	
Who would need to be involved from the Council?	
Which of our partners, stakeholders and Members of the community should we discuss this with?	
<b>Review of Resources:</b>	
Evidence:  [Background Information and documents to look at]	
Witnesses:  [Who to see and when]	
Site visits:  [Details of site visits and when they will be held if appropriate]	
Democratic Services & Other Service Resource:	
Consultation:	

[Is there any consultation which needs to be undertaken to feed into the review?]	
<p>Expert Advice:</p> <p>[Do the Group require expert advice support due to the nature of the review? Note: if a cost is involved the senior officer will need to agree payment]</p>	
<b>Risks:</b>	
What are the risks to the review?	
<b>Timescales:</b>	
Anticipated Review Start Date:	
Anticipated Reporting Date:	
Frequency of Meetings:	
<p><i>Date to evaluate impact:</i></p> <p>[A review of the outcomes by the Committee should be agreed]</p>	



accordingly by the Committee and the Executive/Lead Member]	
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## Part H - MEMBER ROLE DESCRIPTIONS

### All Members of Council

Representative democracy elements	Participative democracy elements
<p>Political Representative</p> <ul style="list-style-type: none"> <li>• Uses political and democratic processes to deliver group manifesto</li> <li>• Provides peer support to other Members / spreads best practice</li> </ul> <p>Community Leader</p> <ul style="list-style-type: none"> <li>• Sets direction, make choices and delivers community needs and aspirations at both strategic and local levels</li> <li>• Balances Officer recommendations against community aspirations when making decisions</li> </ul> <p>Transformer of Services</p> <ul style="list-style-type: none"> <li>• Leads, supports, co-ordinates partners and partnerships at the local level</li> <li>• Proactively works and supports outcomes across the tiers of government and key partners</li> <li>• Works effectively and in partnership with officers</li> <li>• Influences spending / decision-making in the locality through devolution of resources / decision making – through making representations <u>before</u> decisions are made</li> <li>• Challenges decision-makers / service providers</li> <li>• Varies / enhances / monitors</li> </ul>	<p>Voice of the Local Community</p> <ul style="list-style-type: none"> <li>• For all sectors of the community - challenges the Council / partners</li> <li>• Ensures that the community's voice is heard within the Council</li> </ul> <p>Community Leader</p> <ul style="list-style-type: none"> <li>• Makes community led developments happen – supports local projects</li> <li>• Educates local people about the Council and why they should get involved</li> <li>• Promotes the Council and the services it provides</li> <li>• Contributes to and inspires community participation at a local level, including through consultation / mediation</li> <li>• Community champion promoting leadership, direction and vision in local groups and building support for that vision</li> <li>• Freedom to act on local (public realm) issues and resolve / assist through Community Budgets</li> <li>• Be proactive in enabling local people and groups to access services and in responding to enquiries / complaints from constituents</li> </ul> <p>Transformer of Services</p> <ul style="list-style-type: none"> <li>• Enable communities to take</li> </ul>

service standards • Measures impact of outcomes on communities  Knowledge Champion • Real source of local knowledge – to the public and to the Council • Uses local information to challenge performance / maximise community benefit • Develops / maintains a working knowledge of other local organisations and services	action to meet local problems /needs
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### **Somerset Council Member role description**

#### **Summary**

**Somerset Councillors represent their local communities, championing the needs and interests of residents and working to make a difference to the people, place and prosperity of their local area and Somerset as a whole. It is a position of critical importance and great responsibility, and Councillors are held to account by the full Council and by the residents they serve.**

#### **Main purpose and responsibilities**

##### **Community Leader**

- To represent and provide visible leadership to local constituents, and the community of Somerset as a whole, and to balance those roles as necessary and appropriate.
- To signpost constituents, and to facilitate them in achieving appropriate support within the Council and with partners, and support constituents with day-to-day service issues.
- To engage the community of Somerset in the work we do, seeking feedback on our services and understanding the needs of residents (including young people) to enable us to deliver better services and make better decisions and also to ensure our residents know how they can influence our decisions.
- To support the development of diverse and sustainable communities who have the skills and are empowered to better help themselves.

- To proactively identify opportunities for us to improve the services we offer our residents and the people and prosperity of Somerset, balancing and respecting the needs of both urban and rural, as well as constantly striving to make the best use of public money in delivering our services in the most efficient way.
- Local Community Networks will be fundamental to how Somerset Council Members will fulfil their community leadership role, influence service delivery and advocate for local communities. LCNs will have real influence as committees of the new Council. Each Somerset Council member will have a seat on the LCN(s) for the area that their division comes within. LCNs will create across Somerset a new type of community engagement and partnership, while enabling tailored innovative services locally designed to meet the needs of present and future communities.
- Through their role on LCNs, Members will be well placed to listen to communities and work with them to harness their strengths and align the support that the council can bring to address local priorities. Members will be able to speak on behalf of and be accountable for the full range of local government services in Somerset and to argue the case for their area. They will have a key role in supporting, establishing and developing close links with other local public services, including the NHS, schools, the voluntary sector and other key partners.

#### Influencing and Shaping Services

- To identify opportunities for different groups to work together or partner for the benefit of our communities, including other public sector services, the private sector, the voluntary sector and community representatives.
- To work with other Members, irrespective of political allegiance, in the best interests of Somerset.
- To influence the work of the Council through positive engagement in the wide the range of avenues available to them (e.g. motions to Council, scrutiny).
- To scrutinise and challenge decision makers, acting as a critical friend, holding them to account and providing constructive feedback – maximising opportunities to reflect the voices of your community.
- To carry out the range of corporate responsibilities required of the role e.g. being a corporate parent; upholding safeguarding responsibilities;

promoting equality, diversity and fairness; taking an active part in setting the Council's budget and policy framework; considering the impacts of climate change in decision making and their everyday role; explaining decisions made by the Council; attending learning and development events to support in the delivery of their role and acting as a Member of the fire authority.

- Working across Somerset to raise awareness and understanding of how public services are changing, and how that relates to Somerset's communities.

#### Representative, advocate and knowledge champion

- To attend and participate in meetings of the Council and its committees as appointed by the Council, the Leader or the Group Leader or relevant democratic process and to contribute constructively using their local insight and experience.
- To represent the Council, as appropriate, at City, Town and Parish Councils, including agreeing with them the best way to achieve positive and meaningful engagement, and identifying opportunities to support greater devolution from Somerset Council to the local councils.
- As appropriate, to represent and be an advocate of the Council on national or outside bodies and at national events.
- Foster professional and positive working relationships with officers
- Commit to continuing to develop and enhance their personal skills and knowledge throughout their term of office and encourage others to develop;
- ensure the highest standards of conduct and ethics and to comply at all times with the Council's Code of Conduct
- identify and embrace the development of new and innovative ways of doing things including new technologies, processes and working practices; and
- oversee trends and developments, both at county and national level, and ensure that these are taken into account through the Council's decision-making process.

## **VALUES**

To be committed to and promote high standards of conduct and ethics through upholding the Principles of Public Life and complying with the Council's Code of Conduct:-

- Selflessness – to serve only the public interest and never improperly confer an advantage or disadvantage on any person.
- Honesty and Integrity – to not place themselves in situations where their honesty and integrity may be questioned, to not behave improperly and avoid the appearance of such behaviour.
- Objectivity – to make decisions on merit, including when making appointments, awarding contracts or recommending individuals for rewards or benefits.
- Accountability – to be accountable to the public for their actions and the manner in which they carry out their responsibilities and to cooperate fully and honestly with any scrutiny appropriate to their particular office.
- Openness – to be as open as possible about their actions and those of their authority, and to be prepared to give reasons for those actions.
- Leadership – to promote and support these principles by leadership, and by example, and act in a way that secures or preserves public confidence.

To further observe the following principles:-

1. Duty to uphold the law – to uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.
2. Personal judgement – to take account of the views of others, including their political groups, but to reach their own conclusions on the issues before them and act in accordance with those conclusions.
3. Respect for others – to promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. To respect the impartiality and integrity of the authority's statutory officers and its other employees. To help encourage respect between the Council and other organisations.
4. Stewardship – to do whatever they are able to do to ensure that their authorities use their resources prudently, and in accordance with the law.

#### Rights and Duties

- a. Members will 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. Members will not make public information which is confidential or exempt without the consent of the Council, or divulge information given in confidence to anyone other than a Member or Officer entitled to know it. For these purposes the terms "confidential" and "exempt" shall have the meanings given to them in Local Government Act 1972.

#### **SKILLS**

No specific or formal qualifications are required to be a Councillor. The most important qualification is a clear passion for improving the way we support the residents, community, businesses and local organisations of Somerset but knowledge and experience picked up through personal and professional life are important to the role. Such knowledge may include, but is not limited to, housing, regeneration, the needs of specific groups, financial and business planning, legal and regulatory procedures. All Councillors will receive support, as appropriate, to support them in delivering their role.

Equally, having, or being able to develop the following skills, knowledge and attributes will help in the delivery of the role:-



- Communication –the ability to communicate clearly both orally and in writing; to demonstrate active listening and responding; public speaking; negotiation; mediation; peaceful resolution of conflict; knowledge of common communications methods including skype, social media and creativity in delivering messages to different groups.
- Relationship building and teamwork – the ability to create and maintain positive, trusting and constructive relationships across the community including interaction with constituents, the police, health service, charities and voluntary bodies, City, Town and Parish Councils and Council officers.
- Problem solving and analytical skills –acting as a facilitator to enable issues to be resolved; thinking of innovative ways to resolve challenges and differences, being able to bring together different approaches or people to bring varying perspectives on issues, highlighting advantages and disadvantages of different options and acknowledging the potential friction between local and strategic priorities.
- Organisational skills – this includes workload and time management, planning activities, keeping up to date with Committee responsibilities and lines of working, making and keeping appointments and meeting deadlines.
- Information technology skills – including the ability to use email (outlook) and other software such as Microsoft Teams to receive and respond to correspondence from a range of sources and to access information on the internet.

### **Anticipated hours required to perform the role**

National figures show that unitary Members spend on average 27 hours a week on the role. There are formal meetings you will be expected to attend, but much of the work will be in your division when constituents contact you with a problem. The work includes:

- Resolving problems raised by your constituents;
- Attending council and policy making meetings;
- Attending City, Town and Parish council and LCN meetings in your division;
- Representing the council on outside bodies.

Members who have additional regulatory, licensing, scrutiny or executive responsibilities or other special responsibilities will be expected to work additional hours.

The time unitary Members will need to carry out the role will depend on many things:

- If you have lots of meetings to attend, you are likely to spend more time travelling;
- If you are a new Member you will have to spend a lot of time being trained to enable you to carry out the role;
- If you have a particular interest you may choose to become more involved in committees associated with these matters;
- If there are important or controversial issues in your division, they may occupy a lot of your time.

## **Chair of Council**

### *Election of / Purpose*

The Chair of Council is elected annually by the Council.

The Chair's role is to:

- preside at formal meetings of the Council and other Council events
- conduct the affairs of Council and any other duties with no political or personal bias
- represent the Council in ceremonial and similar events
- advance the interests of the Council and of Somerset.

### *Key responsibilities*

1. To chair all meetings of Full Council and provide effective management of the business to achieve good governance and clear decision making;
2. To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members of Council are able to hold the Leader, Executive, Lead Members and Officers (where Officers have taken Key Decisions) to account.
3. To uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
4. To promote public involvement in the Council's activities.
5. To be the conscience of the Council;
6. To preside at other meetings in connection with the Council's activities, as required.
7. To delegate functions to the Vide-Chair of Council as the Chair sees fit.
8. To help ensure that all Members of Council are able to discharge their responsibilities to the best of their ability.
9. To maintain regular contact with Political Group leaders and any Members who do not belong to a Political Group.

10. To represent the Council and, when appropriate, the County of Somerset, at civic and similar functions, and to host such functions on behalf of the Council as necessary.
11. To act as host to royalty, civic dignitaries and similar visitors to the County or the Council.

## **Vice-Chair of Council**

### *Appointment / Purpose*

The Vice-Chair of Council is appointed annually by full Council.

The Vice-Chair of Council provides the Chair of Council with a dedicated source of support.

### *Key Responsibilities*

1. In the absence of the Chair, to chair meetings of Full Council.
2. At the Chair's request, to preside at other meetings in connection with the full Council's activities.
3. As appropriate, to assist the Chair in the management of Council meetings.
4. To maintain regular contact with Political Group leaders and any Members who do not belong to a Political Group.
5. At the Chair's request, to represent the Council and, when appropriate, the County of Somerset, at civic and similar functions, and to host such functions on behalf of the Council.
6. At the Chair's request, to act as host to royalty, civic dignitaries and similar visitors to the County or the Council.

## **Leader of Council**

### *Appointment/Purpose*

The Leader is appointed by Full Council for a term of four years. The Council, has however, retained the ability to replace the Leader during that period if it so wishes.

In accordance with statute and the Council's Constitution, the key purpose of the Leader's post in summary is to provide the political focus and leadership within and outside of the Council.

### *Key responsibilities*

1. To provide the political leadership to the Council including leading the Executive in the development and delivery of the Council's Policy Framework and Budget.
2. To be the Council's key contact for outside organisations (including Central Government, Local Authority Associations and Council partners), and the media.
3. To provide political direction and leadership to his / her group of Members.
4. In respect of the Executive:
  - To have ultimate responsibility and accountability for the executive decision making arrangements of the Council and for any such decisions that they take under these arrangements
  - To appoint and lead the Executive and ensure that its work and that of the individual Lead Members is planned and conducted in accordance with relevant legislation and the Council's Constitution
  - To ensure the effective integration of roles, responsibilities and functions within the Executive Membership and with Officers via the Executive Scheme of Delegation
5. To communicate the Administration's policies and priorities to the Senior Leadership Team and, in particular to work closely with the Chief

Executive to secure co-ordination of the Council's leadership and management.

6. To communicate the Administration's policies, priorities and actions to all Members of the Council and to promote effective working relationships across the Council's Party Groups.
7. Working with the Chief Executive, the Leader has ultimate responsibility for ensuring that overall partnership working is effective.
8. To ensure that arrangements are in place to enable the views of Members of Council and of other key influencers to be heard and taken into account when Council policy is being formed and decisions taken.
9. To develop effective working relationships with the Scrutiny Committees and other Committees of the Council.
10. To promote and support good governance of the Council and its business.

## **Deputy Leader of Council**

### *Appointment / Purpose*

The Deputy Leader is appointed by the Leader for a four year term of office, although the Leader may remove the Deputy Leader from office at any time. In the event of the removal of a Deputy Leader from office, the Leader must appoint another Deputy Leader for the remainder of the four year term of office.

The primary purpose of the Deputy Leader is to assist and work with the Leader and to deputise for him / her accordingly.

### *Key responsibilities*

1. To deputise for the Leader, as necessary, unless statutory requirements prevent this or the Leader provides otherwise.
2. To discharge other roles and functions, including decision-making responsibilities, as agreed by the Leader.
3. To establish effective working relationships with other Members, particularly Lead Members and including the Chairs of Committees.

4. To establish effective working relationships with the Chief Executive, Senior Leadership Team officers and other staff.



## **Lead Member**

### *Appointment / Purpose*

Lead Members are appointed by the Leader of the Council. Their titles and areas of responsibility are also agreed by the Leader. In addition, the Lead Member with responsibility for children's services has specific statutory responsibilities beyond the roles described below.

### *Key Responsibilities*

Lead Members have a range of corporate (as a Member of the Executive) and individual service responsibilities.

In respect of the corporate role and as a member of the Executive:

1. To promote the Council and its interests inside and outside of the Council on partnerships and outside bodies.
2. To assist in the shaping and development of the Council's strategic priorities and vision.
3. To participate effectively as a member of the Executive, taking joint responsibility for actions and being accountable collectively with other Lead Members.
4. To balance his / her specific service responsibilities with the wider interests of the Council.
5. To promote and support good governance of the Council and its business.

For his / her service responsibilities:

1. To develop expertise, knowledge and take responsibility for a specific service area or areas.
2. To take decisions as delegated by the Leader within the Executive Scheme of Delegation and to be accountable for those decisions.
3. To provide political focus and leadership for the Political Group as the lead spokesperson and 'first' political contact for Opposition Group

Spokespersons, other Members of Council, the public, press and Officers.

4. To represent the Council on external bodies as necessary.
5. To bring forward policy proposals and operational issues for decision, utilising support from scrutiny as necessary, present them for approval as necessary and ensure implementation.
6. To be aware of developments at national, regional and local level and participate as necessary in relevant networks.
7. To maintain an overview of the performance, efficiency and effectiveness of the service(s) and promote excellence in service development and provision.
8. To provide leadership to sub-regional and local partnerships as necessary – in the pursuit of common aims and priorities
9. To assist the activities of the Scrutiny Committees and other Committees of the Council.
10. To keep other Members of Council informed about their activities,
11. To maintain effective working relationships with Senior Leadership Team officers and other Officers.

### **Associate Lead Member**

#### *Purpose and Key Responsibilities*

Associate Lead Members are appointed by the Leader of the Council. Their titles and functions are also agreed by the Leader. Their primary role is to provide advice, policy development and support to their Lead Member.

Associate Lead Members will be allocated specific service areas to lead and advise the Executive and relevant Lead Member. They are not able to take decisions. They will:

1. Support their relevant Lead Member to provide clear political leadership both within and outside of the Council in order to help advance and deliver the Council's priorities and key outcomes

2. Focus on information gathering and understanding key policy / service delivery in their areas of responsibility
3. Assist with the development of options and policies for consideration by the Executive and relevant Lead Member taking into account national policies and local circumstances
4. Brief and make recommendations to Executive and their relevant Lead Members and others on relevant issues in relation to policy and strategy development, service improvement or changes and decision making.
5. Represent or deputise for their relevant Lead Member at meetings or events as necessary.
6. Promote and support good governance of the Council and its business.
7. Keep other Members of Council informed about their activities
8. Maintain effective working relationships with Senior Leadership Team officers and other Officers.
9. Create and maintain effective relationships with partners and organisations to deliver the Council's priorities
10. Be accountable to their relevant Lead Member, and ultimately the Leader of the Council, for the development and delivery of policies and strategies to meet the outcomes required by the Council and the Executive.
11. Be accountable to their relevant Lead Member for supporting the commissioning and delivery of services to meet the outcomes required by the Council and the Executive. This includes supporting the delivery of Council Plan priorities and Medium Term Financial Plan savings
12. Play a key role in supporting transformational programmes within their areas of responsibility
13. Play a key role in the delivery of specific projects within their areas of responsibility

## **Chair of a Scrutiny Committee**

### *Role Purpose*

Each of the Scrutiny Committees have a Chair that is elected by Full Council.

The Committee Chairs primary role is to provide leadership for the Council's scrutiny function and in particular for the Scrutiny Committees' activities and meetings.

### *Key responsibilities*

1. To promote the role of scrutiny (as the Council's lead spokesperson) within and outside of the Council and ensure that the Committee's role is understood by all Members of Council, other agencies and the public.
2. To ensure the effectiveness of the scrutiny process and encourage the participation of all Members of the Council in that process.
3. To publicise the Committees' activities to other Members.
4. To lead on the generation and organisation of business for the Committees' work programme and the scrutiny function generally.
5. To ensure that there are effective arrangements in place and applied to hold decision makers to account (Members and Officers – in relation to Key Decisions) through the scrutiny process.
6. To chair the meetings and provide effective management of the business to achieve good governance and clear decision making.
7. To ensure that the Vice-Chair of the relevant Scrutiny Committee is adequately briefed on key issues.
8. To ensure implementation of the Committees' actions through effective monitoring.
9. To establish effective working relationships with the Leader, Executive, Lead Members and the Chair and Vice-Chair of Full Council and Committees of the Council.
10. To establish effective working relationships with the Senior Leadership Team officers and other Officers.

## **Vice-Chair of a Scrutiny Committee**

### *Appointment / Purpose*

Each Scrutiny Committees' Vice-Chair is appointed by Full Council.

The primary purpose of the Vice-Chair is to provide a source of support to the Chairs of the Scrutiny Committees.

### *Key responsibilities*

1. To assist the Chair with the operation and management of the scrutiny function and the management of the relevant Committee's meetings.
2. To chair meetings of the Committee or undertake other responsibilities of the Chair where the Chair is unable to act.
3. To assist the Chair with any aspects of the Council's scrutiny function and / or the relevant Committee's activities including the implementation and monitoring of the Committee's actions and planning / developing scrutiny activity.
4. To establish effective working relationships with the Leader, Executive, Lead Members and the Chair and Vice-Chair of Full Council and Committees of the Council.
5. To establish effective working relationships with Senior Leadership Team officers and other Officers.
6. This is in addition to the responsibilities undertaken as a Scrutiny Committee spokesperson (if appropriate).

## **Scrutiny Committee Spokesperson**

### *Appointment / Purpose*

Each of the political groups who do not hold the chair of a Scrutiny Committee may appoint a formal spokesman for their group from amongst their members on the Committee, to lead for the Group in respect of scrutiny activities.

### *Key Responsibilities*

1. To act as the Political Group's lead spokesman at meetings of a Scrutiny Committee and in respect of other scrutiny business.
2. In co-ordination with the Group Leader, to act as the Political Group's spokesman to the public and press about matters coming to scrutiny and the relevant Scrutiny Committee.
3. To act as the primary point of contact for Council Officers in respect of the Political Group's input to the work of the Scrutiny Committee.
4. To contribute to the generation and planning of business for the Committee's meetings and to attend the Chair's pre-meeting briefing.
5. To maintain an awareness of the contents of the Forward Plan of Key Decisions and of Key Decisions subsequently taken and implemented.
6. To ensure that there are effective arrangements in place and applied to hold decision makers to account [Members and Officers (in relation to Key Decisions))] through the scrutiny process.
7. To establish an effective working relationship with the Chair of a relevant Scrutiny Committee.
8. To establish effective working relationships with Senior Leadership Team officers and other Officers.
9. To liaise with and report back to other Members of their Group about the activities of the Scrutiny Committees and to arrange substitutes as necessary for Group Members.

## **Chair of Regulation Committee**

### *Appointment / Purpose*

The Regulation Committee Chair is elected by the Full Council.

The Chair's primary role is to chair meetings and manage the business of the Committee.

### *Key responsibilities*

1. To chair meetings of the Regulation Committee and provide effective management of the business to achieve good governance and clear decision making.
2. To ensure that applicants and other interested parties are satisfied as to the transparency of the regulatory process.
3. To be the Council's lead spokesperson for the Committee within the Council and externally with partners and individuals.
4. To ensure that the Vice-Chair of the Committee is adequately briefed on relevant issues.
5. To develop and maintain a working knowledge of the Committee's functions and the procedures and practices that govern its operation.
6. To give guidance to Officers as necessary about the Committee's business.
7. To respond to Officers' requests for advice on issues they propose to deal with under delegated powers.
8. To help ensure that all the Committee's Members are adequately trained to discharge the Committee's functions.
9. To establish effective working relationships with Senior Leadership Team officers and other Officers involved in the functions exercised by the Committee.

## **Vice-Chair of Regulation Committee**

### *Appointment / Purpose*

The Regulation Committee's Vice-Chair is appointed annually by the Full Council.

The Vice-Chair's primary role is to support the role of the Chair.

### *Key responsibilities*

1. As appropriate to assist the Chair in managing the Committee's meetings.
2. In co-ordination with the Committee Chair, to act as a Council spokesperson in respect of the Committee's activities.
3. As and when necessary, to chair meetings of the Regulation Committee.
4. Where the Chair is unable to act, to respond to Officers' requests for advice on issues they propose to deal with under delegated powers.
5. To develop and maintain a working knowledge of the Committee's functions and the procedures and practices that govern its operation.
6. To establish effective working relationships with Senior Leadership Team officers and other members of staff involved in the Committee's functions.



## **Chair of the Pensions Committee**

### *Appointment / Purpose*

The Chair of the Pensions Committee is elected by the Full Council.

The Chair's primary role is to chair meetings and manage the business of the Committee.

### *Key responsibilities*

1. To chair meetings of the Committee and provide effective management of the business to achieve good governance and clear decision making.
2. To acquire and maintain sufficient knowledge of the background to the Committee's responsibilities to ensure that the Committee discharges its functions effectively.
3. In chairing Committee meetings, to have regard to the requirements of relevant Regulations which regulate the Committee's activities.
4. To build effective relationships with other Committee members, the Section 151 Officer, Senior Leadership Team and other relevant staff, and any bodies which help the Committee discharge its functions.
5. On behalf of the Committee, to prepare an annual report for inclusion in the Somerset Council Pension Fund Annual Report and Accounts.
6. To keep all Members of Council informed about the work of the Committee.

## **Chair of the Audit Committee**

### *Appointment / Purpose*

The Audit Committee's Chair is elected annually by the Full Council.

The Chair's primary role is to chair meetings and manage the business of the Committee.

### *Key responsibilities*

1. To promote the role of the Audit Committee within the Council and ensure that the Committee's role is understood by all Members of Council, relevant external agencies and the public.
2. To publicise the Committee's activities to other Members, including presenting an annual report to the Annual Meeting of Full Council.
3. To lead on the generation and organisation of business for the Committee.
4. To chair the Committee's meetings and provide effective management of the business to achieve good governance and clear decision making.
5. To ensure that the Vice-Chair of the Committee is adequately briefed on relevant issues.
6. To ensure Committee Members have appropriate training to undertake their role and to arrange for such training to be provided as necessary.
7. To ensure implementation of the Committee's actions through effective monitoring.
8. To establish effective working relationships with external and internal audit, inspection agencies and other relevant bodies.
9. To establish effective working relationships with the Leader, Executive, Lead Members and the Chair of the Scrutiny Committee.
10. To establish effective working relationships with the Senior Leadership Team officers and other Officers.

## **Vice-Chair of the Audit Committee**

### *Appointment / Purpose*

The Audit Committee's Vice-Chair is appointed annually by the Full Council.

The Vice-Chair's primary role is to support the role of the Chair of the Committee.

### *Key responsibilities*

1. As appropriate to assist the Chair in managing the Committee's meetings.
2. In co-ordination with the Committee Chair, to act as a Council spokesperson in respect of the Committee's activities.
3. As and when necessary, to chair meetings of the Committee and in doing so provide effective management of the business to achieve good governance and clear decision making.
4. To develop and maintain a working knowledge of the Committee's functions and the procedures and practices that govern its operation.
5. To establish effective working relationships with external and internal audit, inspection agencies and other relevant bodies.
6. To establish effective working relationships with the Leader, Executive, Lead Members and the Chair of the Scrutiny Committee.
7. To establish effective working relationships with Senior Leadership Team officers and other members of staff involved in the Committee's functions.

## **Chair of the Constitution & Governance Committee**

### *Role Purpose*

The Chair of the Constitution & Governance Committee is appointed annually by the Council.

The Chair's primary role is to chair meetings and manage the business of the Committee.

### *Key responsibilities*

1. To promote the role of the Committee within the Council and ensure that the Committee's role is understood by all Members of Council and the public.
2. To publicise the Committee's activities to elected Members, including presenting an annual report to the Annual Meeting of Full Council.
3. To lead on the generation and organisation of business for the Committee.
4. To chair the Committee's meetings and provide effective management of the business to achieve good governance and clear decision making.
5. To ensure that the Vice-Chair of the Committee is adequately briefed on relevant issues.
6. To ensure implementation of the Committee's actions through effective monitoring.
7. To establish effective working relationships with the Chair of the Council, the Leader of the Council and other key members of the Council including the Leader of the Opposition and the Chairs of the Committees.
8. To establish effective working relationships with the Monitoring Officer and other Officers as necessary.

## **Chair of the Standards Committee**

### *Role Purpose*

The Chair of the Standards Committee is appointed annually by the Council.

The Chair's primary role is to chair meetings and manage the business of the Committee.

### *Key responsibilities*

1. To promote the role of the Standards Committee within the Council and ensure that the Committee's role is understood by all Members of Council and the public.
2. To publicise the Committee's activities to elected Members, including presenting an annual report to the Annual Meeting of Full Council.
3. To lead on the generation and organisation of business for the Committee.
4. To chair the Committee's meetings and provide effective management of the business to achieve good governance and clear decision making.
5. To ensure that the Vice-Chair of the Committee is adequately briefed on relevant issues.
6. To ensure implementation of the Committee's actions through effective monitoring.
7. To establish effective working relationships with the Chair of the Council, the Leader of the Council and other key members of the Council including the Leader of the Opposition and other political group leaders.
8. To establish effective working relationships with the Monitoring Officer and other Officers as necessary.

## **Leader of the Opposition**

### *Role Purpose*

The leader of the largest Opposition Group on the Council is formally designated 'Leader of the Opposition' by the Council.

This designation acknowledges that the Council's largest political group forms the Council's 'Administration' and that the other political groups are not part of that activity. It identifies the Member responsible for providing the focus for those groups' role in opposition.

### *Key responsibilities*

1. To support the democratic process by ensuring that the activities and decisions of the Administration are examined and, where appropriate, challenged.
2. To bring forward alternatives to policies or operational decisions proposed by the Administration, as appropriate.
3. To ensure that the political group sets their expectations of the Group Leader and that those expectations are delivered.
4. To provide political direction and leadership to his/her group of Members, setting standards and expectations and encouraging Members to play a full part in the running of the Council and being effective community leaders.
5. To provide guidance and support to Opposition Group Spokespersons and Committee Chairs / Vice-Chairs as appropriate.
6. To liaise with the Leader of any other political group in Opposition on the Council as appropriate.
7. To be aware of the views of Opposition Members of Council and of other key influencers and use those views in delivering the key responsibilities of the post.
8. To establish effective working relationships with the Leader of Council and the Chair of the Council and its Committees.

9. To establish effective working relationships with Senior Leadership Team officers and, as appropriate, other staff.

## **Deputy Leader of the main Opposition Group**

### *Purpose of the Post*

As the Leader of the largest Opposition Group on the Council is also formally designated Leader of the Opposition, the purpose of the Deputy Leader of the main Opposition Group is to support the Group Leader and to aid the Group's organisation and activities.

### *Key responsibilities*

1. As required by the Leader, to support the role and activities of the Leader and the Group.
2. To undertake the role of and assume the responsibilities of the Leader in the absence of the Leader or where the Leader is unable to act.
3. To establish effective working relationships with Senior Leadership Team officers and, as appropriate, other staff.



## **Leader of an Opposition Political Group**

### *Purpose of the Post*

The purpose of the statutory requirement to designate a Group Leader is to identify and publicise a member of the Group to act as a focal point for the Group and its activities.

### *Key responsibilities*

1. To ensure that the political group sets their expectations of the Group Leader and that those expectations are delivered.
2. To provide political direction and leadership to their group of Members, setting standards and expectations and encouraging Members to play a full part in the running of the Council and being effective community leaders.
3. Together with other opposition group leaders, to support the democratic process by ensuring that the activities of the administration are examined and, where considered necessary, challenged.
4. To provide support and advice to any members of the Group who are Chairs or Vice-Chairs of Committees.
5. When appropriate, to bring forward alternatives to policies or operational decisions proposed by the Administration.
6. To liaise with the Leader of any other political group in opposition on the Council.
7. To establish effective working relationships with the Leader of Council and the Chair of the Council and its Committees.
8. To establish effective working relationships with Senior Leadership Team officers and, as appropriate, other staff.

## **Opposition Group Spokespersons**

### *Purpose*

These posts are held by members of the largest Opposition Political Group on the Council. The sphere of interest of each corresponds with that of a Lead Member. The primary role of the post is to provide an effective political counter-balance to the role of the Lead Member.

### *Key responsibilities*

In respect of the service area(s) for which the post-holder has an interest:

1. To develop expertise and knowledge.
2. To provide political focus and leadership within the Group's membership.
3. To be the Group's lead spokesperson and 'first' political contact for other Members of Council, the public, press and Officers.
4. To lead the development of approaches to policy and operational approaches on behalf of the Group and to present them at member-level meetings, as appropriate.
5. To be aware of policies being developed and decisions being taken by the Administration, including those taken by individual Lead Members, and to challenge/contribute to them as necessary via mechanisms provided for in the Constitution.
6. To keep members of the Group informed.
7. To establish and maintain effective working relationships with Senior Leadership Team officers and other Officers.
8. To establish appropriate contacts with other bodies and with individuals to exchange views and information.

## **Somerset Council Members Code of Conduct**

### **Introduction**

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to city, town and parish councils.

### **Definitions**

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

### **Purpose of the Code of Conduct**

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

## **General principles of councillor conduct**

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

## **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring

Officer.

## **Standards of councillor conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

### **General Conduct**

#### **1. Respect**

##### **As a councillor:**

**1.1 I treat other councillors and members of the public with respect.**

**1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

#### **2. Bullying, harassment and discrimination**

##### **As a councillor:**

**2.1 I do not bully any person.**

**2.2 I do not harass any person.**

**2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and

contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### **3. Impartiality of officers of the council**

**As a councillor:**

#### **3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

### **4. Confidentiality and access to information**

**As a councillor:**

#### **4.1 I do not disclose information:**

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
  - i. I have received the consent of a person authorised to give it;**
  - ii. I am required by law to do so;**
  - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - iv. the disclosure is:**
    - 1. reasonable and in the public interest; and**
    - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
    - 3. I have consulted the Monitoring Officer prior to its release.**

#### **4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

#### **4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **5. Disrepute**

### **As a councillor:**

#### **5.1 I do not bring my role or local authority into disrepute.**

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in you or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of position**

### **As a councillor:**

#### **6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

#### **6.2 I will not take part in the scrutiny of any decision I have been involved in making. However, I may provide evidence or opinion to those undertaking any scrutiny process.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. Use of local authority resources and facilities**

### **As a councillor:**

#### **7.1 I do not misuse council resources.**

#### **7.2 I will, when using the resources of the local authority or authorising their use by others:**

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support

- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **7B Consideration of advice**

**As a councillor:**

**7B.1 I will, when reaching decisions on any matter, consider and pay due regard to any relevant advice provided to me by:-**

- a) the Council's Chief Finance Officer (S151) and/or**
- b) the Council's Monitoring Officer or the Council's Monitoring Officer and legal advisor (if separate individuals);**

**in accordance with their legal requirements.**

**7B2 I will give reasons for departing from the advice of the Chief Finance Officer (S151) or Monitoring Officer/legal advisor**

It is extremely important for you as a councillor to have regard to advice from your Chief Finance Officer or Monitoring Officer where they give that advice under their statutory duties. As a councillor you must give reasons for all decisions in accordance with any legal requirements and any reasonable requirements imposed by your local authority.

## **8. Complying with the Code of Conduct**

**As a Councillor:**

**8.1 I undertake Code of Conduct training provided by my local authority.**

**8.2 I do not make trivial or malicious complaints against other councillors.**

**8.3 I cooperate with any Code of Conduct investigation and/or determination.**

**8.4 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings including the complainant and any witnesses.**

**8.5 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.



### 8 Interests

#### As a councillor:

#### 8.4 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

**Appendix B** sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## **9 Gifts and hospitality**

### **As a councillor:**

- 9.4 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 9.5 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 9.6 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 that I have been offered but have refused to accept within 28 days of the offer.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## **Appendices**

### **Appendix A – The Seven Principles of Public Life**

The principles are:

#### **Selflessness**

Holders of public office should act solely in terms of the public interest.

#### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

#### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office or within 28 days of your interests changing you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

**"Disclosable Pecuniary Interest"** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

### Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

## Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
- a. your own financial interest or well-being;
  - b. a financial interest or well-being of a relative or close associate; or
  - c. a financial interest or wellbeing of a body included under Other Registerable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
- a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

In the event that your non-registerable interest relates to -

- (1) an unpaid directorship on a company owned by your authority or
- (2) another local authority of which you are a member,

subject to your declaring that interest, you are able to take part in any discussion and vote on the matter.

10. Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	<p>Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out their duties as a councillor, or towards their election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
<b>Contracts</b>	Any contract made between the councillor or their spouse or civil partner or the person with whom the

	<p>councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
<b>Land and Property</b>	<p>Any beneficial interest in land which is within the area of the council.</p> <p>‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or their spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
<b>Licenses</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
<b>Corporate tenancies</b>	<p>Any tenancy where (to the councillor’s knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or their spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
<b>Securities</b>	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor’s knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) ) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were</p>

	spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.
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\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## **Table 2: Other Registrable Interests**

You must register as an Other Registerable Interest :

- a) any unpaid directorships
  - b ) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
  - c) any body
    - (i) exercising functions of a public nature
    - (ii) directed to charitable purposes or
    - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)
- of which you are a member or in a position of general control or management



## Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

**Best practice 1:** Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

**Best practice 2:** Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.

**Best practice 3:** Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

**Best practice 4:** An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

**Best practice 5:** Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

**Best practice 6:** Councils should publish a clear and straightforward public interest test against which allegations are filtered.

**Best practice 7:** Local authorities should have access to at least two Independent Persons.

**Best practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to

review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

**Best practice 9:** Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

**Best practice 10:** A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

**Best practice 11:** Formal standards complaints about the conduct of a city, town or parish councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

**Best practice 12:** Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

**Best practice 13:** A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

**Best practice 14:** Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

**Best practice 15:** Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

***The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.***

## **Appendix D**

### **Guidance on Bias and Predetermination –This does not form part of the Code of Conduct**

- Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life, you may participate in a decision on the issue in your political role as a councillor. However, you must not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
- The courts have sought to distinguish between situations which involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a 'closed mind' approach and likely to leave a decision susceptible to challenge by Judicial Review. Whereas being predisposed on a matter is acceptable provided you remain open to listening to all the arguments and changing your mind in light of all the information presented at the meeting.
- Section 25 of the Localism Act 2011 provides that a councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter.
- In the circumstances, when making a decision, consider the matter with an open mind and on the facts made available to the meeting at which the decision is to be taken.
- As a councillor you will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that you were biased. If you have predetermined your position, you should withdraw from being a member of the decision-making body for that particular matter.

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## **Part H - PROTOCOL FOR MEMBER / OFFICER RELATIONS**

### **Content:**

1. Introduction
2. Members
3. Officers
4. The Relationship: General
5. Family Relationships
6. Officer advice to Party Groups
7. Provision of Support Services to Members and Party Groups
8. Members' Access to Information and to Council Documents
9. Officer – Executive/Chair Relationships
10. Specific Member Roles / Officer Relationships
11. Conduct at meetings
12. Press and Media
13. Correspondence
14. Involvement of local County Councillors
15. Elections
16. Breaches of this Protocol
17. Monitoring, Review and Further Advice

## **1. Introduction**

- 1.1 The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another. The Protocol's intention is to build and maintain good working relationships between Members and Officers as they work together.
- 1.2 A strong, constructive, and trusting relationship between Members and Officers is essential to the effective and efficient working of the Council.
- 1.3 This Protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared object of these Codes is to enhance and maintain the integrity of Local Government and they therefore demand very high standards of personal conduct.
- 1.4 The following extract from the Local Government Association ("LGA") guidance on the 2020 Local Government Association Model Councillor Code of Conduct states that:

*"Both Councillors and officers are servants of the public and are indispensable to one another. Together, they bring the critical skills, experience and knowledge required to manage an effective local authority."*

*At the heart of this relationship, is the importance of mutual respect. Councillor-officer relationships should be conducted in a positive and constructive way. Therefore, it is important that any dealings between Councillors and officers should observe reasonable standards of courtesy, should show mutual appreciation of the importance of their respective roles and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.*

*Councillors provide a democratic mandate to the local authority and are responsible to the electorate whom they represent. They set their local authority's policy framework, ensure that services and policies are delivered and scrutinise local authority services.*

*Councillors of the executive, chairs and vice chairs of committees have additional responsibilities. These responsibilities will result in increased expectations and relationships with officers that are more complex. Such Councillors must still respect the impartiality of officers and must not ask them to undertake work of a party-political nature or compromise their position with other Councillors or other officers.*

*Officers provide the professional advice and managerial expertise and information needed for decision making by Councillors and to deliver the policy framework agreed by Councillors. They are responsible for implementing decisions of Councillors and the day-to-day administration of the local authority.*

*The roles are very different but need to work in a complementary way.*

*It is important for both sides to respect these differences and ensure that they work in harmony. Getting that relationship right is an important skill. That is why the code requires Councillors to respect an officer's impartiality and*

*professional expertise. In turn officers should respect a Councillor's democratic mandate as the people accountable to the public for the work of the local authority.*

1.5 The provisions of this Protocol are designed to complement the LGA Guidance and LGA Model Code of Conduct and will be interpreted having regard to the requirements of the Members' Code of Conduct, the Officers' Code of Conduct, the Council's Whistleblowing Policy and the Council's policies, procedures and processes. This Protocol sets out how the relationship works and what both Members and Officers can expect in terms of mutual respect and good working relationships.

1.6 Definitions in this document:

- Members: refers to elected or co-opted Members
- Senior Officer: refers to members of the Council's senior leadership team
- Officers: refers to officers employed by the Council
- Administration: refers to the largest ruling political group on the Council.
- Opposition Group: refers to the largest political group in opposition on the Council.

## **2. Members**

2.1 Mutual respect between Members and Officers is essential to good Local Government. Overly close personal familiarity between individual Members and Officers can damage this relationship and can be perceived as inappropriate or favouritism by the public or other Members and Officers.

2.2 It is important that any dealings between Members and Officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position.

2.3 In line with the Members' Code of Conduct, a Member must treat others with respect, must not bully or harass people and must not do anything which compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, the Council.

2.4 Officers can expect Members:

- to give political leadership and direction and to seek to further their agreed policies and objectives with the understanding that Members have the right to take the final decision on issues based on advice
- to act within the policies, practices, processes and procedures established by the Council
- to work constructively in partnership with Officers acknowledging their separate and distinct roles and responsibilities
- to understand and support the respective roles and responsibilities of Officers and the associated workloads, pressures and reporting lines

- to treat them fairly and with respect, dignity and courtesy
- to act with integrity, to give support and to respect appropriate confidentiality
- to recognise that Officers work to the instructions of their Senior Officers and not to individual Members or political groups
- not to subject them to intimidation, harassment, or put them under undue pressure. Members will have regard to the seniority of Officers in determining what are reasonable requests, having regard to the relationship between the Member and Officer, and the potential vulnerability of Officers, particularly at junior levels
- not to request them to exercise discretion which involves acting outside the Council's policies and procedures
- not to authorise, initiate, or certify any financial transactions or to enter into any contract, agreement or undertaking on behalf of the Council or in their role as a Member without proper and lawful authority
- not to use their position or relationship with Officers to advance their personal interest or those of others or to influence decisions improperly
- to comply at all times with the Members' Code of Conduct, the law, the Constitution and such other policies, procedures, protocols and procedures agreed by the Council.

2.5 It is important that Members of the Council:

- respect the impartiality of Officers and do not undermine their role in carrying out their duties
- do not ask Officers to undertake work, or act in a way, which seeks to support or benefit a particular political party or gives rise to an Officer being criticised for operating in a party-political manner
- do not ask Officers to exceed their authority where that authority is given to them in law, by the Council or by their Senior Managers

2.6 The Head of Paid Service, the Monitoring Officer and the Chief Finance (section 151) Officer and other Statutory Officers including the Director of Adult Services, Director of Children Services, Public Health Director and the Scrutiny Officer have specific responsibilities placed on them by law. These responsibilities go beyond their obligations as employees of the Council. Where an Officer is discharging their responsibilities under any statutory office Members shall not:

- improperly interfere with or obstruct the Officer in exercising those responsibilities
- victimise any Officer who is discharging or has discharged their responsibilities of Statutory Office
- compromise or attempt to compromise their impartiality and must allow them to carry out their duties in a neutral, non-biased and non-partisan way



### **3. Officers**

- 3.1 The primary role of Officers is to advise, inform and support all Members and to implement the lawfully agreed policies of the Council.
- 3.2 Officers are responsible for day-to-day managerial and operational decisions within the Council. Members should avoid inappropriate involvement in such matters.
- 3.3 In performing their role Officers will act professionally, impartially and with political neutrality. Whilst Officers will respect a Member's view on an issue, the Officer should not be influenced or pressured to make comments, or recommendations which are contrary to their professional judgement or views.
- 3.4 Officers must:
  - implement decisions of the Council and its Committees which are lawful, which have been properly approved in accordance with the requirements of the law and the Council's Constitution and are duly recorded.
  - work in partnership with Members in an impartial and professional manner
  - treat Members fairly and with respect, dignity and courtesy
  - assist and advise all parts of the Council. Officers must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.
  - respond to enquiries and complaints in accordance with the Council's procedures.
  - be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public.
  - act with honesty, respect, dignity and courtesy at all times.
  - provide support and learning and development opportunities for Members to help them in performing their various roles.
  - not seek to use their relationship with Members to advance their personal interests or to influence decisions improperly.
  - comply, at all times, with the Officer Code of Conduct, and such other Policies or procedures approved by the Council.
  - Officers have the right not to support Members in any role other than that of Member, and not to engage in actions incompatible with this Protocol. In particular, there is a statutory limitation on Officers' involvement in political activities.

#### **4. The Relationship: General**

- 4.1 Members and Officers are indispensable to one another. However, their responsibilities are distinct. Members are accountable to the public, whereas Officers are accountable to the Council as a whole.
- 4.2 At the heart of the Codes, and this Protocol, is the importance of mutual confidence and trust and also of civility. Member/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position nor seek to exert undue influence on the other party. It is also important that such dealings take place only when Members and Officers are acting in their official capacity. It is important that both parties respect the other's free time.
- 4.3 Members should not raise matters relating to the conduct or capability of an Officer, or of Officers collectively, in a manner that is incompatible with this Protocol at meetings held in public, on social media or in the press. Officers do not necessarily have the same right of reply to such comments as Members do and Members should take care not to abuse or exploit this imbalance.
- 4.4 A Member who is unhappy about the actions taken by, or conduct of, an officer should:
- avoid personal attacks on, or abuse of, the officer at all times
  - ensure that any criticism is well founded and constructive
  - ensure that any criticism is made in private
  - take up the concern with the appropriate Senior Manager
  - If the matter is of a particularly serious nature inform the Chief Executive Officer.
- 4.5 Neither should an officer raise with a Member matters relating to the conduct or capability of another Officer or to the internal management of the service in a manner that is incompatible with the objectives of this Protocol.
- 4.6 Potential breaches of this Protocol are considered at paragraph 15 below.

#### **5. Family relationships and friendships on Social Media**

- 5.1 Any family relationships between Members and Officers (e.g. parent/child, spouse/partner) must be disclosed as soon as reasonably practicable to the Chief Executive Officer who will then decide how far this needs to be disclosed to others.
- 5.2 A Member should not take up a decision-making role where it would give them decision-making responsibility for any Officer to whom they are closely related so as to avoid any perceptions or accusations of preferential treatment or a lack

of objectivity.

- 5.3 If a Member or Officer is in any doubt about what is appropriate or not in relation to 5.1 or 5.2 above, then they should seek the advice of the Monitoring Officer.
- 5.4 Members and Officers should carefully consider the appropriateness of forming friendships on social media and whether this will infer a friendship between the Officer and Member that could create a perception of lack of objectivity.

## **6. Officer Advice to Party Groups**

- 6.1 There is statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to such considerations by party groups.
- 6.2 The support provided by Officers can take many forms, ranging from a briefing meeting with a member of the Executive or shadow Executive or Chair prior to a Committee meeting, to a presentation to a full party group meeting. Whilst in practice such Officer support is likely to be in most demand from the Administration, such support is available to all party groups.
- 6.3 Any requests for advice or attendance are to be directed through the Group Leaders, Executive Members (or their shadows) or Chairs for the relevant Committee. The request shall be made to the relevant Senior Officer or, in their absence, to their deputy or the next appropriate lower tier Officer. An Officer accepting an invitation to one political group or individual will not decline an invitation to advise another political group or individual on the same subject. However, the Officer is not obliged to offer to advise another political group on the same subject.
- 6.4 Certain points must however be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:
  - (i) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not expected to be present at meetings, or parts of meetings, when matters of *party* business are to be discussed;
  - (ii) Party Group Meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such, particularly having regard to the risk of challenge on the grounds of pre-determination;

- (iii) The presence of an Officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so;
- (iv) Similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Council meeting, Committee or Sub-Committee when the matter in question is considered.

#### 6.5 In relation to budget proposals;

- (a) The Administration shall be entitled to confidential discussions with Officers regarding options and proposals. These will remain confidential until determined by the Administration or until published in advance of the Executive /Council meetings, whichever is the earlier;
- (b) The opposition groups shall be entitled to confidential discussions with officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Executive/Council meetings, whichever is the earlier.

#### 6.6 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons will not be bound by the Council's Codes of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons, Officers will only attend in these circumstances where the request has been made to, and agreed by, a Senior Officer. It must then be understood that Officers may not be able to provide the same level of information and advice as they would to a 'Members only' meeting.

#### 6.7 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group, unless agreed otherwise.

#### 6.8 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive Officer who will discuss them with the relevant group leader(s).

### **7 Provision of Support Services to Members and Party Groups**

#### 7.1 Officers provide support services and resources to Members as agreed by the Council to enable them to undertake their various roles. This includes the provision of direct Personal Assistant support to the Leader, Executive and Chair of Council which is provided on a part-time basis.

#### 7.2 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport, etc.) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or

campaigning activity or for private (including business) purposes.

## **8 Members' Access to Information and to Council Documents**

- 8.1 Members are free to approach any service area of the Council to provide them with such information, explanation and advice (about the service area's functions) as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a service areas activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Senior Manager for the service area concerned.
- 8.2 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law. Further details on this and the use of Council information that is provided to a Member are set out in the Protocol on Members' Access to Information and other Confidentiality Issues.
- 8.3 Members are expected to give reasonable notice of requests for information and to have regard to the cost of producing detailed information.

## **9 Officer – Executive Member/Chair Relationships**

- 9.1 It is clearly important that there should be a close working relationship between the relevant Executive Member or Chair of a Committee and the Senior Officers who support that Portfolio or Committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers' ability to deal impartially with other Members and other party groups.
- 9.2 Under the Constitution, individual Members of the Executive may, in some situations, take decisions. The Council has put in place mechanisms to ensure that the individual Executive Member seeks advice from relevant Members and Officers before making a decision within their delegated authority. This includes taking legal advice, financial advice and professional officer advice.
- 9.3 The Council's delegation scheme and resolutions passed at Executive or Committee meetings may authorise a named Officer to take action, sometimes in consultation with one or more Members such as the Executive Member or Chair and Vice-Chair of a Committee. In these circumstances it is the Officer, rather than the Member, who takes the decision or action and it is the Officer who is accountable for it.
- 9.4 Finally, it must be remembered that Officers within a service are accountable to their Senior Officer and that, whilst Officers should always seek to assist a Executive Member or Chair (or indeed any Member) they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Senior Officer.

## 10.1 Leader & Chief Executive Officer / Senior Officers

The Leader gives political direction and leadership to the Council. The role encompasses:

- Setting standards of conduct and expectations for their group of Members and resolving any instances of misconduct by a member of that group that has been referred to him/her from the Standards Committee / Hearing Panel.
- Appointing their Executive and allocating responsibilities to Executive Members and Officers under the Executive Scheme of Delegation
- Encouraging all Members to play a full part in the running of the Council and being effective community leaders.
- Working closely with the Chief Executive Officer to ensure proper coordination of the Council's leadership and management. The Leader and Chief Executive Officer have ultimate responsibility for the corporate working of the Council. They also have responsibility for ensuring that overall partnership working is effective.
- The Chief Executive Officer is responsible to the Leader for the corporate, strategic and operational management of the Council.
- The Council will provide sufficient support and resources to enable the Leader to perform their role effectively.

## 10.2 Executive Members and Officers

- Executive Members will develop the expertise, knowledge of and responsibility for the service(s) allocated to them by the Leader. This includes taking decisions delegated to them by the Leader within the Executive Scheme of Delegation. The nature of this role means that Executive Members will work closely with their relevant Senior Officer(s) particularly on policy development, decision-making, service delivery and performance issues.
- For their area of responsibility, the Executive Member provides political focus and leadership for their political group and is the lead spokesperson and 'first' political contact for opposition group spokespersons, other Members of Council, the public, press and Officers.
- The Council will provide sufficient support and resources to enable the Executive Member to perform their role effectively.

The Leader of the largest political group in opposition on the Council has several key roles including:

- supporting the democratic process by ensuring that the activities of the Administration are appropriately examined, contributed to and, where considered necessary, challenged through mechanisms provided for in law and within the Constitution;
  - bringing forward alternatives to policies or operational decisions proposed by the Administration, as appropriate;
  - giving political direction and leadership to their group of Members, setting standards of conduct and expectations and resolving any instances of misconduct by a member of that group referred to him/her by the Standards Committee / Hearing Panel
  - liaising with the leaders of other minority political groups on the Council.
- 
- The office-holder should establish effective working relationships with particularly the Chief Executive Officer and Senior Leadership Team officers and other Officers, as appropriate.
  - The Council will provide appropriate support, resources and advice to enable the office-holder to perform their role effectively.
  - In addition, other minority Group Leaders will play a similar role as set out above in respect of the members of their own groups.

#### 10.4 Scrutiny Members and Officers

Members of the Council's Scrutiny Committees shall:

- obtain the advice of the Monitoring Officer where they consider there is doubt about the vires for a decision or they consider a decision of the Leader, Executive, Executive Member or an Officer might be outside the policy and / or budget framework.
- when considering calling Officers to give evidence, consult the relevant Senior Officer to identify as to the most appropriate Officer to attend.
- when asking Officers to give evidence, confine questions, so far as possible, to questions of fact and explanation relating to policies and decisions. Officers may be asked to give a professional opinion, but Officers must not be asked questions relating to political views.
- where they consider it appropriate, ask Officers to explain and justify advice given to Members prior to decisions being taken and justify decisions they themselves have taken under the Council's Constitution.
- not question Officers in such a way as to be in breach of the Members' Code of Conduct nor deal with matters which are of a personal or disciplinary nature.

of Members or Officers. Neither is it the role of Officers to become involved in what would amount to disciplinary investigations on a Scrutiny Committee's behalf. This means:

- (a) Overview & Scrutiny's questioning about the conduct of individuals should be in the sense of establishing the facts about what occurred in the making of decisions or implementing of Council policies, not to imply criticism or blame;
- (b) In these circumstances, it is for the Chief Executive Officer to institute a formal enquiry, and Overview & Scrutiny may ask (but not require) him/her to do so.

Overview & Scrutiny should not act as a "Court of Appeal" against decisions or to pursue complaints by individuals, as other procedures exist for this. These are internal, for example, the Council's corporate complaints procedure, and external/statutory, for example the Local Government Ombudsman or appeal to the Courts. However:

- (a) Overview & Scrutiny may investigate the manner in which decisions are made but should not pass judgement on the merits or otherwise of a decision in individual cases;
- (b) They can comment on the merits of a particular policy affecting individuals.

Wherever possible Overview & Scrutiny should provide written questions or details of indicative topics to someone invited to appear before the Committee to ensure they have adequate time to prepare for the meeting. In addition, invitees ought to be told the general line that further questioning is likely to take. Questioning should not stray outside the subject area that the Committee has previously indicated.

Officers shall:

- maintain political impartiality at all times when commenting on the Executive's / Council's policies and actions.
- be prepared to explain and justify advice given to Members of the Executive and the Council prior to decisions being taken and justify decisions they themselves have taken under the Council's Constitution.
- ensure that appropriate Officers appear before the relevant Council body.

## **11. Conduct at meetings of the Council**

11.1 Officers should respect Members in the way they respond to Member' questions. Members should not question Officers in a way which could be interpreted as harassment.

11.2 Proceedings must not be used to question the capability or competence of Officers, or to criticise them in public. Chairs and Members need to make a distinction between reviewing the policies and performance of the Council and its services, and appraising the personal performance of Officers (particularly at scrutiny meetings.) The latter is not an appropriate role for Members.



- 11.3 Senior Officers have the right to present reports and give advice to Committees and sub-committees of the Council. All reports to Council meetings include the name of a contact officer, and Members are encouraged to approach that Officer for any query or issue they wish to raise prior to the meeting.
- 11.4 Members on a Committee or sub-committee shall take decisions within the remit of that body, and will not instruct Officers to act otherwise.
- 11.5 At meetings of the Council, a resolution may be passed which authorises a named Officer to take action between meetings in consultation with the Chair, other Member(s) of that body or other Officers. In these circumstances it is the Officer, not the Chair, who takes the action and is responsible for it. Neither the Chair nor any other Member, or group of Members, (other than Executive Members) has any legal power to take decisions on behalf of the Council; neither should they apply inappropriate pressure on the officer.

## **12. Press and Media**

- 12.1 Local Authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Council, explaining its objectives and policies to the electors and customers. Local Authorities use publicity to keep the public informed and to encourage public participation. The Council needs to tell the public about the services it provides. Good effective publicity should aim to improve public awareness of the Council's activities. Publicity is a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant.
- 12.2. The Council must comply with the provisions of the Local Government Act 1986 ("the Act") regarding publicity. All media relations work will comply with the national Code of Practice for Local Government Publicity. The Code is statutory guidance and the Council must have regard to it and follow its provisions when making any decision on publicity.
- 12.3 All Council press releases should be in accordance with the Council's agreed Media Guidelines and must be issued through the Council's Communications Team.
- 12.4 Members or political groups have the right to issue political press releases but these shall not be prepared or issued using the Council's resources of any kind. If a Member is contacted by, or contacts, the media on an issue, they should:
- indicate in what capacity they are speaking (e.g. as a local County Councillor, in a personal capacity, as a Executive Member, on behalf of the Council, or on behalf of a party group);
  - if necessary, and always when they would like a press release to be issued on a non-party political nature seek assistance from the Council's Communications and Marketing Team;
  - consider the likely consequences for the Council of their statement (e.g. commitment to a particular course of action, image, allegations of predetermination);
  - never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter;

- consider whether to consult other relevant Members; and
- take particular care in what they say in the run-up to local or national elections to avoid giving the impression of electioneering, unless they been contacted as an election candidate or political party activist.

It is important for Members to comply with their general obligations in the Code of Conduct when dealing with the press and media and recognise that as a representative of the Council their actions impact on how the Council as a whole is viewed by the public.

- 12.5 Lead Members with special responsibilities will receive training in handling the media and shall receive additional support as required and as appropriate for their roles from the Communications and Marketing Team.
- 12.6 Any press release that may be necessary to clarify the Council's position in relation to disputes, major planning developments, court issues or individuals' complaints should be approved by the appropriate Senior Manager and/or the Monitoring Officer.
- 12.7 Members should have regard to their obligations under 4.3 above when making any statements to the press or media.

## **13 Correspondence**

### **13.1 Use of Paper**

- 13.1.1 The paper containing the Council's corporate identity image must be used for all correspondence written on behalf of the Council. When Members are writing in their capacity as a Member they must make it clear whether they are writing on behalf of the Council or as the divisional member. Members must never use paper or electronic communications containing the Council's corporate identity image for personal, party political or business matters.

### **13.2 Correspondence between Members and Officers**

- 13.2.1 Correspondence from an individual Member to an Officer will not normally be copied by the Officer to any other Member unless it is the intention of the Member that it should be so (e.g. representations made in relation to a planning application). Where, exceptionally, and having sought the advice of a Senior Officer, it is considered appropriate to copy the correspondence to another Member, then the original Member should be given prior notification and be told to whom it is proposed to be copied and the reasons for this proposed course of action. The decision of whether another Member should be sent the correspondence is ultimately for the Chief Executive Officer to take.
- 13.2.2 Particular care needs to be taken with email correspondence where the Council's use of email policy should be followed. For example, when dealing with constituency email correspondence be careful when copying emails when using 'cc' or 'bcc' or 'reply to all'. Only copy your email to those people that really need to see it, don't inadvertently forward confidential information and don't forward a constituent's email to other officers even within the Council without having first obtained their consent.

## **14. Involvement of Local County Councillors**

- 14.1 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the division or divisions affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the relevant local County Councillors should be notified at the outset of the exercise.

## **15. Elections**

- 15.1 Particular rules apply around elections and by-elections. These are contained in the Somerset Election Protocol.

## **16. Breaches of the Protocol**

- 16.1 This paragraph of the Protocol should be read in conjunction with the Council's Whistleblowing Policy.
- 16.2 Where the relationship between Members and Officers breaks down or becomes strained, every effort will be made to resolve matters informally, through conciliation by an appropriate Senior Officer or Members.
- 16.3 Where a **Member** is dissatisfied with the conduct, behaviour or performance of an Officer, the matter should be raised with the relevant Senior Leadership Team Officer. Where the Officer concerned is a Director, the matter should be raised with the Chief Executive Officer. Where the employee concerned is the Chief Executive Officer, the matter should be raised with the Monitoring Officer.
- 16.4 The Senior Officer will acknowledge the complaint and advise on next steps. The timescale for dealing with such a complaint will be in accordance with the Council's normal complaints procedure.
- 16.5 Members have a right to know if action has been taken to address a matter, but they must not, either:
- influence, or seek to influence, the level of disciplinary action to be taken against an Officer, nor
  - insist (nor be seen to insist) that an Officer is disciplined.
- 16.6 Members have a right to be told the outcome of any disciplinary case, but have no entitlement to detailed information about the hearing or its conduct aside from those Members of the Officer Appeals Committee where specific cases are considered by the Committee.
- 16.7 Where an **Officer** feels that they have not been properly treated with respect and courtesy, and wishes to make a complaint under the Members' Code of Conduct this should be made to the Monitoring Officer. In the event of the concerns being raised informally, the Monitoring Officer may refer the matter to the leader of the relevant party or to the Member concerned. In the event of a formal complaint, the Monitoring Officer will consider whether the

complaint should be referred for investigation, other action or whether no further action should be taken and the Council's procedures for dealing with Members' Code of Conduct complaints will be followed as set out in the Constitution.

- 16.8 Breaches of this Protocol by a Member may constitute a breach of the Members' Code of Conduct.
- 16.9 Breaches of this Protocol by an Officer may be referred for disciplinary action.

## **17 Monitoring, Review and further Advice**

- 17.1 The application and implementation of this Protocol will be monitored and reviewed by the Council's Standards Committee in consultation with the Council's Monitoring Officer.
- 17.2 Further advice on the interpretation of this Protocol is available from the Chief Executive Officer or Monitoring Officer.

## **Somerset Council Scheme of Members' Allowances 2024/25**

### **1. INTRODUCTION**

1.1 The Council's Scheme provides for payment of:

- a Basic Allowance (BA), a flat rate payable to each Councillor;
- a Special Responsibility Allowance (SRA) for Members undertaking "special responsibilities", as defined by the Council;
- a Carer's Allowance (CA) to reimburse expenditure incurred by Members (a) in providing child care arrangements and (b) on professional care for elderly, sick or dependent relatives to enable them to undertake approved duties; and
- Travel Allowances and Subsistence Allowances for Members undertaking 'approved duties'.

### **2. GENERAL POINTS**

2.1 The term "Member" in these notes means a Somerset Council Councillor.

2.2 Members have the option of not claiming all or part of an allowance. The Finance Director must be notified in writing if a Member wishes to pursue this option.

2.3 Where the Member's term of office or appointment to a post qualifying for SRA begins or ends during the financial year, he/she is entitled to the appropriate proportion of the annual payment.

2.4 In the case of a Council election year, all positions / posts held by Members on the Council (including posts qualifying for SRA) remain valid until the day of the Annual Meeting of the Council (the first meeting of the new Council following the election) and therefore Members holding those posts will continue to receive allowances. This is until a replacement is appointed, unless the post-holder ceases to be a Member of the Council in which case any appointment is invalid from that point and any associated allowance payment will cease.

2.5 All enquiries relating to members allowances should be made to the Democratic Services team on 01823 357628 or by emailing [DemocraticServicesTeam@somerset.gov.uk](mailto:DemocraticServicesTeam@somerset.gov.uk)

### **3. BASIC ALLOWANCE (BA)**

- 3.1 A BA of £15,500 per annum has been approved for 2024/25 and will be paid to all Members in monthly instalments. This will increase in-year at the same percentage increase as the average Somerset Council officer pay award for 2024/25.
- 3.2 Definition of BA: BA recompenses Members for time devoted to their work as a councillor, and is intended to cover:-
- constituency and community duties, including use of the Members home;
  - dealing with correspondence; - single Member duties;
  - attendance at single party/political meetings;
  - attendance at formal meetings of the Council (including travelling time to and from meetings);
  - attendance at seminars, conferences and training sessions;
  - attendance on 'outside bodies' as a Council representative; and
  - other incidental costs, for which no other specific provision is made.
- 3.3 The annual sum for 2024/2025 is based on comparator data from comparable unitary authorities, with a Basic Allowance of £15,500.

### **4. SPECIAL RESPONSIBILITY ALLOWANCE (SRA)**

- 4.1 **SRA** is:
- paid to Members who are elected or appointed to positions of special responsibility on the Council;
  - allocated on the basis of degree of responsibility and upon a perceived call on Members time, as agreed by the Council;
  - paid in addition to the BA which the Member continues to receive; and
  - paid in monthly instalments for as long as the Member has the responsibility.
- 4.2 **SRA** payments cover:-
- individual and collective decision-making and service responsibilities of Executive Members
  - policy review and development activity
  - meetings with Officers;
  - attendance at County Hall and other Council premises to undertake official Council business;
  - meetings with fellow Chair's or decision-makers and other single party meetings;
  - dealing with correspondence;
  - visits directly connected to the performance of an SRA duty e.g.

- headteacher interviews

- official openings
    - familiarisation / fact findings visits;
  - press meetings;
  - any other official Council business carried out by the Member in the role.
- 4.3 The Council has adopted multiples of the BA as the base for the calculation of the SRA bandings contained within this Scheme. The top banding of SRA which applies to the post of Leader of Council reflects the importance and responsibility of this role. The Leader's Allowance is based on a multiple of 2.5 x the BA.
- 4.4 Other SRAs are banded below the Leader's Allowance reflecting levels of responsibility associated with those specific roles.
- 4.5 A full list of the posts approved for SRAs is attached at **Appendix 1**. This Appendix sets out the bandings and payments for 2024/2025.
- 4.6 The number of Opposition Spokespersons receiving SRAs shall total no more than the number of Executive Members receiving SRAs at that time. The maximum number of Executive Members who can receive SRA is 10 – in accordance with the legislation which prescribes a maximum of 10 members for a local authority 'executive'.
- 4.7 An individual Member may only receive one SRA at any one time.

## **5. PARENTAL LEAVE AND CARERS ALLOWANCE (CA)**

### **5.1 Parental leave**

- 5.2 Parental Leave refers to the period of absence taken by an elected Member following the birth or adoption of a child.

a) Members are entitled to up to 52 weeks Maternity/Adoption leave and must notify their intention and the date on which the leave will commence in the same way as paid employees;

b) The Council will ensure that Members on Parental Leave are aware of the requirements under section 85 of the Local Government Act 1972 to attend at least one meeting in any six-month period, and are aware of which meetings are qualifying meetings and the process by which they may apply for dispensation, following which the Council may exercise its right to waive expulsion if non-presence relates to Parental



Leave being a reason approved by the authority before the expiry of the six-month period;

c) Absences from Council meetings during any period of Parental Leave will be noted as such, rather than being attributed to general absence;

d) During Parental Leave Members will continue to receive the Basic Allowance without deduction but any Special Responsibility Allowance will be reduced over time, as follows:-

i) for the first 6 weeks, 90% of the normal SRA will be paid;

ii) for weeks 7 to 18, 50%; and

iii) for weeks 19 to 52, 0%.

e) Where Councillors have made Shared Parental Leave arrangements, the Council will make every effort to replicate such arrangements in terms of leave from the Council;

f) The Council will facilitate any arrangements made by relevant Members which allow for the case work of a Member on Parental Leave to be completed by a Ward/Division colleague or another Member of the relevant Council Group;

g) The Council will ensure that Members have access to adequate IT provision to allow them to work from home while on Parental Leave and upon returning to their role, and will explain, at the start of the Paternity Leave, the “staying in touch” arrangements put in place for that Member;

h) The Council will facilitate any arrangements made by relevant Members which allow for the case work of a Member on Parental Leave to be completed by a Ward/Division colleague or another Member of the relevant Council Group.

5.3 Where another Member takes on the Special Responsibilities of a Member on Parental Leave, that Member will receive the full SRA in accordance with the Council’s usual policies.

5.4 Members shall be entitled to take 2 weeks Paternity Leave if they are the biological father or nominated carer of their partner/spouse following the birth of their child(ren). During this period Members will continue to receive their basic allowance and any special responsibility allowances without deduction.

**5.5 Carers' Allowance**

5.6 The Scheme provides for the payment (by way of reimbursement) of expenditure incurred by Members

(a) in arranging child-care and

(b) on professional care for elderly, sick or dependent relatives to enable them to undertake approved duties. [Please note that these payments are not covered by any special exemptions for taxation purposes. They are treated as emoluments (remuneration) of the 'office' and are taxed accordingly].

5.7 Expenditure on child care is reimbursed in accordance with the following requirements:-

a) Payments are restricted to registered childminders (other than a close relation) and other statutory approved child care providers who are not related to the Member;

b) Payments are restricted to the care of children up to their 14th birthday who normally reside with the Member; and

c) No payments are made in respect of the care of children of compulsory school age during school hours except where the child is absent from school due to illness.

**5.8 Care of dependants**

5.9 The reimbursement of expenditure on professional care for an elderly, sick or disabled dependent, including children with complex needs (of any age), normally residing with the Member, to undertake approved duties, is subject to payment being restricted to agencies or persons qualified to provide the care, other than close relations.

**5.10 General Conditions**

5.11 The following conditions apply to both child care and care of dependents:-

a) Payments are made on the basis of the reimbursement of actual expenditure incurred up to a maximum of three times the prevailing national living wage hourly rate for someone aged 25 or over;

b) Members must support their claims with receipts showing they have incurred expenditure in accordance with the scheme;

- c) Qualifying meetings be restricted to those defined as an “approved duty” in **Appendix 3** to the Scheme of Members’ Allowances; and
- d) That neither the Member nor the person being cared for receives and allowance for care from any other source.

## **6. TRAVEL ALLOWANCE (TA)**

### **6.1 TA:**

- can only be claimed for an approved duty, or for any duty covered by a special responsibility payment and for ‘normal allowable journeys.
- is claimed monthly on the Members claim form (except for ‘low claimers’ see para 9.1 below) and receipts, including fuel VAT receipts, should be submitted to support expenditure.
- is payable at the rates shown in **Appendix 2**.

### **6.2 List of ‘Approved Duties’**

The list of approved duties is set out in **Appendix 3**.

### **6.3 Definition of ‘normal allowable journey’**

The **normal allowable journey** (for which mileage can be reimbursed) is from a member’s home to council offices and then back again. ‘Council offices’ will often be County Hall but could relate to any building where a member is undertaking an ‘approved duty’ under the Scheme, including, for example, attending a parish meeting.

The mileage that members can claim for is the **actual additional mileage** as a result of council business that the member incurs on any journey. The **maximum** the member can claim for is the normal allowable journey mileage.

### **6.4 TA - additional information**

- Train Fares are reimbursed at 2nd Class rate.

NB - Members who are aged over 60 and who regularly use the train for Council business may reclaim the cost of a Senior Rail Card.

- The car mileage rate may be claimed for any journey, providing the following criteria can both be met:

- travel by car represented the best option in order to undertake the approved duty
- travel by car could be justified on cost grounds

In all other cases, payment will be made at the public transport rate.

- Wherever possible all claims should be supported by a valid VAT receipt. Fuel receipts submitted should pre-date the first date claimed for on the relevant claim form. It is also acceptable for a single fuel receipt to cover more than one month's claim as long as the value of the receipt is equivalent to expenditure of at least 10p per mile claimed.
- If a VAT fuel receipt is not provided in support of mileage then the level of reimbursement will be at a lower rate.
- A cycle allowance is payable to Members who use a bicycle to attend an approved duty.
- It is essential that Members minimise the need for travel wherever possible by combining trips, sharing transport, undertaking business by 'phone, including by conference calls or by email.
- A Member who is claiming mileage should always bear in mind the need to be able to demonstrate that the journey was wholly and necessarily in relation to his/her role as a Member.
- Additional payments of 5p per person per mile are payable for passengers carried. This payment is only claimable for a passenger who would have been entitled to submit their own claim to the Council. It is not payable for passengers who are members of the public or could make claims from another organisation.
- Reimbursement of taxi fares may be made in exceptional circumstances. A receipt must be provided.
- Reimbursement may be claimed for expenditure on tolls, ferries, parking fees etc. A receipt should be provided, if available.

## **7. SUBSISTENCE ALLOWANCES (SA)**

### **7.1 SA is**

- paid at the same rates as those paid for Officers;
- claimable for any approved duty exceeding 4 hours which spans the agreed meal time periods (specified in **Appendix 2**);
- claimable for the actual cost of the meal or the overnight expenses up to the maximum allowed;
- claimed monthly via the Members claim form; receipts should be submitted to support expenditure;
- only claimable for meals or overnight expenses for approved duties / SRA duties undertaken **outside** Somerset;
- not claimable if a meal is provided by a host free of charge;
- only claimable for a members own meal. There is no provision in the scheme for reimbursing claims for hospitality for other people;
- reimbursed at the rates shown in **Appendix 2**.

## **8. NON-CLAIMABLE DUTIES**

### **8.1 For the avoidance of doubt, the following duties are not approved for the purpose of claiming Travel Allowances and Subsistence Allowances:-**

- single Member duties except where the Scheme provides otherwise
- attendance at single party meetings e.g. group meetings, except where the Scheme provides otherwise
- constituency meetings and duties.
- duties relating to outside organisations that are not Board, committee, subcommittee or working group meetings. e.g. book launches, openings etc.
- attendance at party political conferences
- social functions including religious meetings / church services
- acting as governors of primary or secondary schools; and
- where an outside body to which the member has been appointed itself pays members expenses.
- where the member attends an outside body but in circumstances where they have not been appointed as an official representative of the Council, i.e. appointed either by the Council or the Leader of the Council.

## 9. CLAIMS

### 9.1 How to Claim

- BA and SRA are paid automatically after completion of initial details.
- CA, SA and TA must be claimed on the Members' Electronic Claim Form for allowances.
- Claims must be submitted monthly to the authorising officer by 8th of the month in order to meet payroll deadlines.
- All claims and fixed entitlements are paid together on the last working day of that month.
- Late claims will result in late payment unless notification is given in advance. Claims older than 2 months will be referred for approval to pay to the Finance Director, in consultation with the Leader and appropriate Executive Member, and payment may be delayed or refused unless there is good cause for the lateness. Claims older than 3 months will not be reimbursed.
- A master copy of members electronic claim forms can be obtained from the Democratic Services team by phoning 01823 357628, or emailing [DemocraticServicesTeam@somerset.gov.uk](mailto:DemocraticServicesTeam@somerset.gov.uk)
- Allowances must not be claimed where the member is entitled to receive payment from another body.
- To cater for changes in circumstances that occur during the year and to ensure that no individual cases of exceptional hardship are experienced, the Director, in consultation with the appropriate Executive Member, can temporarily agree SRAs for individual Members as considered necessary. Note: The exception to the requirement to submit monthly claims relates to low claimers. 'Low claimers' have the option of only having to submit claims once every three months. The following rules apply to 'low claimers':
  - Low claimers are defined as members submitting claims under a likely value of £100 over the 3 month period. If a member thinks that they are likely to fall into this category they should inform the Democratic Services team.
  - Low claimers are now only required to submit 1 claim for every 3 months, 4 in total for the year **BUT** all claims for a particular financial year must be submitted by the end of that financial year.
  - Any claims over 3 months old will be rejected.

## 9.2 **Payment of Claims**

- Payments are made through the council's computerised salaries and wages system to assist with the deduction of income tax and national insurance.
- An advice slip is provided giving details of allowances paid, an email address must be provided to enable this to be electronically sent.
- Payment will be made direct to a bank or building society account.

## 9.3 **Tax and National Insurance (NI)**

- BA, SRAs and CA are taxable and are subject to national insurance.
- Members should complete the Tax Details declaration on the Council's Personal Information form which will be completed to enable payroll records to be set up. Alternatively, a recent P45. If available can be supplied. Once the payroll record is set up, HMRC will provide the Council with tax code changes automatically.
- Details of meals paid for are given to HMRC who may adjust individual personal tax codes as a result.
- Mileage rates are in accordance with limits set within the HMRC's Fixed Profit Scheme.
- The Council's HR Admin and Payroll team will automatically cease the deduction of employees NI, if a Member is of State Pension Age
- Married women, who have remained in the same marriage, who opted into the reduced rate NI scheme prior to April 1977 may be entitled to pay reduced rate NI. The exemption card should be provided to the Council.
- For further information please contact the Democratic Services team on 01823 357628.

## 9.4 **Members Allowances and Benefits**

Members who receive Universal Credits or any other benefits should note that the allowances received for their role as a member are likely to be taken into account when calculating any benefits due. Members are advised to contact the relevant Benefits office.

#### 9.5 **Sickness absence and Statutory Sick Pay (SSP)**

Members who are unwell and unable to attend scheduled meetings should advise Democratic Services of the first and last day of their sickness. This will be notified to HR Admin and Payroll. If the absence exceeds 3 days, and earnings have met the required national insurance threshold, SSP will be paid. Please note that Members who receive a monthly allowance will not receive SSP on top of this allowance, instead it will be offset against the normal payment.

#### 9.6 **Statutory Maternity Pay (SMP), Maternity Allowance, Paternity Pay (PP), Adoption Pay and Shared Parental Pay (SPP) and Leave Entitlements**

Members are entitled to claim statutory payments for family absence if they meet the required statutory criteria. Time off will also apply. Members not entitled to SMP may be entitled to maternity allowance. This is a benefit and is claimed via MA1 claim form that can be found on the .GOV website. Members wishing to claim statutory payments and leave for maternity, paternity or shared parental absence should advise Governance Services who will ensure that HR Admin and Payroll notify the member of their entitlements and the requirements of the allowance being claimed.

#### 9.7 **Backdating of Allowances**

Where there is an amendment made to the Scheme of Allowances, that amendment may be applied retrospectively by the Council to the beginning of the financial year.

Where a Member takes on duties entitling them to a different level of allowances, the new entitlement may be applied retrospectively to the date the changes were effective from.

### 10. **CO-OPTED MEMBERS**

Co-opted Members to Somerset Council Committees and/or Partnership Boards are entitled to be paid an allowance and reasonable expenses, and that the allowance has been set at £1,000 a year for the current year.

All co-opted members may claim travel and subsistence for approved duties at the same rate as elected Members, as may non-elected representatives appointed to outside bodies by the Council.



A Financial Loss allowance (FLA) may be paid to co-opted members (and to nonelected representatives appointed to outside bodies) for loss of earnings and expenses incurred by them in the performance of any approved duty. Such loss of earnings would normally be supported by a certificate supplied by the employer or such other evidence as to enable the loss of earnings to be determined.

# APPENDIX 1

Member Role	Rate of SRA from 1/4/24 (BA £15,500)		
	Band	Multiplier £	Total £
Council Leader	1	2.5	38,750
Deputy Leader	2	1.5	23,250
Lead Member x 8	3	1.3	20,150
Opposition Leader (Conservative)	4	1.0	15,500
Chair of Council	4	1.0	15,500
Chair of Strategic Planning Committee	5	0.5	7,750
Chair of Planning Sub- Committee North	5	0.5	7,750
Chair of Planning Sub- Committee East	5	0.5	7,750
Chair of Planning Sub- Committee South	5	0.5	7,750
Chair of Planning Sub- Committee West	5	0.5	7,750
Chair of Licensing and Regulatory Committee	5	0.5	7,750
Chair Constitution and Governance Committee	5	0.5	7,750
Chair of Audit Committee	5	0.5	7,750
Chair of Scrutiny Adults and Health Committee	5	0.5	7,750
Chair of Scrutiny Children and Families Committee	5	0.5	7,750
Chair of Scrutiny Communities Committee	5	0.5	7,750
Chair of Scrutiny Climate and Place Committee	5	0.5	7,750

Chair of Scrutiny Corporate and Resources Committee	5	0.5	7,750
Chair of Pensions Committee	6	0.25	3,875
Chair of Standards Committee	6	0.25	3,875
Chair of Pension Fund	6	0.25	3,875
Vice-Chair of Council	6	0.25	3,875
Associate Lead Members x 9	6	0.25	3,875
Vice-Chair of Constitution and Governance Committee	6	0.25	3,875
Vice-Chair Strategic Planning Committee	6	0.25	3,875
Vice-Chair Licensing and Regulatory Committee	6	0.25	3,875
Vice-Chair Audit Committee	6	0.25	3,875
Vice-Chair of Scrutiny for Policies, Adults and Health Committee	6	0.25	3,875
Vice-Chair of Scrutiny for Policies, Children and Families Committee	6	0.25	3,875
Vice-Chair of Scrutiny for Policies, Environment Committee	6	0.25	3,875
Vice-Chair of Scrutiny for Policies, Place Committee	6	0.25	3,875
Vice-Chair of Scrutiny for Policies and Communities Committee	6	0.25	3,875
Vice-Chair of Planning Sub-Committee North	6	0.25	3,875
Vice-Chair of Planning Sub-Committee East	6	0.25	3,875
Vice-Chair of Planning Sub-Committee South	6	0.25	3,875
Vice-Chair of Planning Sub-Committee West	6	0.25	3,875

Opposition Group Spokespersons and Deputy Leader (Conservative)	6	0.25	3,875
Group Leader Labour	6	0.25	3,875
Group Leader Independent	6	0.25	3,875
Group Leader Green	6	0.25	3,875

Co-opted member allowance £1,000

**SUMMARY OF RATES OF ALLOWANCES FOR MEMBERS**

1	<b>TRAVELLING ALLOWANCE</b>	<b>Pence per mile</b>
	Mileage rate up to 10,000 miles	
	45.00 Over 10,000 miles	
	25.00	
	Passenger supplement (5p per person per mile)	
	Motor Cycle	24.00
	Bicycle Allowance	20.00
2	<b>SUBSISTENCE ALLOWANCE</b>	
	<ul style="list-style-type: none"> <li>Breakfast allowance (more than 4 hours away from the normal place of residence before 11 am) – up to a maximum of £9.01;</li> <li>Lunch allowance (more than 4 hours away from normal place of residence, including the lunchtime period between 12 noon and 2 pm) – up to a maximum of £12.40;</li> <li>Tea allowance (more than 4 hours away from normal place of residence, including the period 3 pm to 6 pm) – up to a maximum of £4.82;</li> <li>Evening meal allowance (more than 4 hours away from the normal place of residence, ending after 7 pm) – up to a maximum of £15.36.</li> </ul>	
	These payments only apply to duties undertaken outside of Somerset. Subsistence cannot be claimed for duties undertaken in Somerset.	
3	<b>OVERNIGHT ABSENCE</b>	<b>£</b>
	maximum	144.45
		162.91 (within London)
4	<b>CO-OPTED MEMBERS FINANCIAL LOSS</b>	<b>£</b>
	(evidence based)	
	up to 4 hours	27.65
	over 4 hours	55.31

**LIST OF APPROVED DUTIES**

1. Attendance:-
  - a) at formal meetings of the Council including Committees, the Executive, Committees, and Sub-Committees, and any other authorised meeting of these bodies or organised by these bodies.
  - b) at ad-hoc formally constituted Working Groups / Panels (e.g. scrutiny task and finish groups), where named members of the body or formally invited to participate.
  - c) at County Hall or other Council establishment for a meeting with either a member in receipt of an SRA or an Officer for the purpose of discussing matters relating to Council business in which it is reasonable to expect the member to have an interest.
  - d) as the Council's named representative on bodies to which the Council makes appointments except where the body itself pays allowances to the Council's representative. The approval relates to meetings of the body itself, its standing committees / sub-committees but not to other activities of the body.
  - e) at a meeting of any body that the Council is required to, or has agreed to, provide Council attendance at, acting as the Council's nominee or representative.
  - f) at local briefing meetings at the invitation of an Officer of the Council provided that the members of at least two political groups have been invited.
  - g) at a formal meeting of a District or Parish Council – where not a member of that Council:-
    - where formally invited to attend or where the Member has a specific interest in any/ all of the business on the agenda
  - h) at conferences where the Council has agreed to meet the conference fees or where the Member agrees to meet the conference fees
  - i) at Member induction, learning and development events / sessions organised by the Council
  - j) at up to 12 single party officer briefing / training events per annum

- k) at open days, sports days and similar events at Council establishments by formal or official invitation where the Member is performing a specific function.
- l) Attendance at any civic or ceremonial event at the specific invitation of the Chair of Council, the Lord Lieutenant or High Sheriff.
- 2. Duties authorised by Council or Leader of the Council, including briefing meetings, site visits, meetings with outside bodies or individuals, tours of inspection, and general information visits, visits to Council premises.
- 3. Duties carried out arising out of a Member holding an office:-
  - a) to which a SRA applies or such a duty carried out by their nominee,
  - b) as a named Member Champion, including attendance at County Hall or other Council establishments for any purpose which he/she considers necessary.
- 4. The undertaking of any duty associated with the Council where invited by or on behalf of the Scrutiny Committee.
- 5. Any duty for which express authority is given by the Chief Executive in the event of an emergency.
- 6. Any other attendance for which prior approval has been given by the Service Director for Finance and Property after consultation with the Executive Member for Resources.

Note 1:

The term 'Council' covers Council, Committee, Sub-Committee and Executive business unless otherwise indicated.

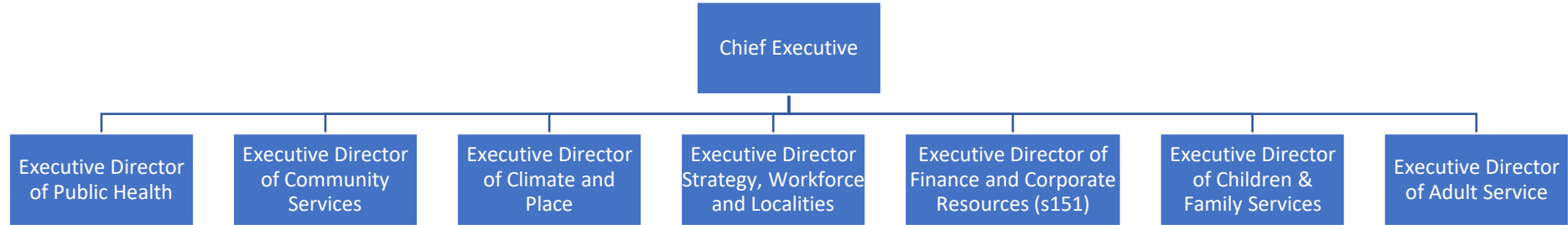
Note 2:

A duty cannot be approved, in retrospect, for the purpose of paying allowances.

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Part I – Senior Management Structure



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## Part I - Scheme of Delegation to Officers

### 1. Introduction

- 1.1 All functions of the Council, except those decisions that are specified as member decisions in the Terms of Reference of the Full Council, a Committee or the Executive, or which by law have to be made by members, are delegated to officers.
- 1.2 This Scheme therefore sets out the powers of officers of the Council to discharge the functions of the Council, including making those decisions. The basis for delegation is contained within Section 101 of the Local Government Act 1972, Section 9D and 9DA of the Local Government Act 2000, and the Local Authorities (Functions and Responsibilities) Regulations 2000 as amended.
- 1.3 Officers acting under delegated powers can exercise the full range of powers necessary to discharge the Council's functions, including taking decisions, implementing decisions, managing the services, contracts and staff for which they are responsible.
- 1.4 In this Scheme, executive powers have been delegated to officers by the Leader of the Council under the Local Government Act 2000. Non-executive powers are delegated by the Council under section 101 of the Local Government Act 1972.
- 1.5 In addition to this Scheme, the Full Council, Committees and the Executive may delegate powers to officers, unless their Terms of Reference prohibit further delegation. Such delegations include the full range of powers to discharge the function, unless the decision of the member body limits these powers.

### 2. Limitations

- 2.2 Any exercise of delegated powers is subject to the following overriding limitations.

#### 2.1 Member Consultation

- 2.1.1 Officers set out in the Scheme are expected to: -
  - maintain a close liaison with the appropriate lead Executive member (“Lead Member”) or in their absence the Leader;
  - consult relevant Lead Members when exercising key decision delegations;
  - inform relevant Lead Members when exercising non key delegations;
  - ensure the divisional councillors are consulted or advised of the exercise of any delegated powers that particularly affect their area; and
  - ensure that the Chief Executive (Head of Paid Service), Executive Director of Finance (Section 151 Officer) and the Service Director: Governance, Democratic & Legal Services (Monitoring Officer) are

consulted and advised of any decisions as necessary.

2.1.2 Lead Members for the relevant area should be consulted on the exercise of a delegated power in all cases where:

- there is likely to be significant opposition from members of the public save that this does not relate to objections to planning applications, building control applications, decisions on planning enforcement, proposals to modify the definitive map and statement and commons register or licensing decisions;
- there are significant political sensitivities;
- there is likely to be significant media (including social media) interest; or
- A key decision is being taken.

## **2.2 Using a Delegation**

2.2.1 Before exercising any delegated power, officers must consider in accordance with paragraph 2.1.2 whether or not they need to consult with the relevant Lead Member on the exercise of delegated powers or not to exercise delegated powers but to refer the matter to the relevant Lead Member or Council Body to decide.

2.2.2 The Leader Lead Member or Committee Chair (depending on where the decision sits) may at any time, following consultation with the Chief Executive and relevant officer, require a particular issue or any aspect of delegated powers to be referred to the appropriate Council Body for a decision. This does not limit the general requirements set out elsewhere in the constitution to consult with relevant divisional members, scrutiny chairs and interested groups in reaching decisions.

2.2.3 The Chief Executive can at any time exercise any power delegated to any officer whether specified in this Scheme or otherwise unless expressly prohibited by law. At any time that the Chief Executive is unavailable or absent, or the post is vacant, then any of the Executive Directors can exercise any such power.

2.2.4 The powers and responsibilities are delegated to the officers referred to by title within this Scheme of Delegation. This means that the delegations apply to whoever holds that post title at any time. The powers are automatically transferred to any successor officer to that post. Also, at various times, an officer post may be left vacant, posts may be combined and/or the title changed. For the purposes of this Scheme, reference to any post that is vacant, combined with any other and/or has its name changed shall be construed as referring to the officer post which for the time being takes on the relevant responsibilities of the original post.

2.2.5 Where a delegation to an officer overlaps with any other delegation, then the delegation can be exercised by the officer without reference to any other officer or members and free of any restriction and/or limitation.

2.2.6 These general provisions apply not only to named officers but also to anyone else authorised or nominated by them to exercise delegated authority on their behalf. In

authorising others to act on their behalf attention should be drawn to the requirements of these provisions.

2.2.7 Nothing in this Scheme shall prevent an officer from deciding not to exercise a power and to refer it to some other body /member who also has power to exercise it.

2.2.8 Where a proposed exercise of delegated authority is such that the Leader should be consulted and the Leader is absent or otherwise unavailable then the Deputy Leader can be consulted. Similarly, in the absence of the Chairman of a Committee the Vice-Chairman can be consulted. In the absence of a Lead Member the Leader could be consulted as an alternative.

## **2.3 Reservations**

2.3.1 The scheme does not delegate to officers:

- any matter reserved to Full Council;
- any matter which by law may not be delegated to an officer; or
- Any matter expressly withdrawn from delegation by the Council, Committees, the Leader or Executive.

## **2.4 Restrictions**

2.4.1 Any exercise of delegated powers is subject to:

- any statutory restrictions;
- the Budget and Policy Framework;
- any provision contained in this Constitution including the Procedure Rules;
- the Council's approved budget;
- any strategy or policy set by the Council or its committees, the Executive or the Chief Executive; and
- the Code of Conduct for Employees.

## **3. Delegations and Proper Officers**

3.1 Council decisions are made by elected members but for the Council to be able to function on a day-to-day basis, the law enables the various executive and non-executive functions to be delegated to officers. In addition, there are some functions which the law says must be exercised by specific officers.

3.2 The Council operates a cascade principle of delegation to ensure that decisions are taken at the most appropriate level closest to those who will be affected. This means that the vast majority of the Council's decisions and actions will fall into the category of

operational day to day decisions taken by its officers.

- 3.3 To ensure the smooth functioning of the Council and the efficient delivery of services, the Chief Officers and other named officers have been delegated various powers that they need to perform their roles. Reference to Chief Officers means the Chief Executive, Executive Directors and Service Directors.
- 3.4 Certain officers have specific duties and/ or formal functions to ensure that the Council acts within the law, uses its resources wisely and exercises its powers properly. These officers are known as “Statutory” or “Proper” Officers. A list of Statutory and Proper Officers and their authorised deputies appointed by the Council are attached at Appendix C, together with details of their functions.
- 3.5 This Scheme delegates to officers all the powers and duties relevant to their areas of responsibility detailed within:
- the areas of responsibility in Table A below;
  - the general delegations set out in clause 4;
  - as assigned in specific delegations set out in clause 5; or
  - which have been delegated or granted to the officer from time to time.

## Areas of Responsibility

Table A

**A link to be provided to this rather than set out in the document**

Chief Officer	Main Functions and Areas of Responsibility
<b>Chief Executive</b>	<p>Strategic management of the Authority</p> <p>Head of Paid Service</p> <p>Electoral Registration Officer</p> <p>Returning Officer</p> <p>Development of the culture and standards of the Authority</p> <p>Leading and developing partnerships with the public, private and third sector.</p> <p>Advisor to all members (via the political groups)</p>
<b>Executive Director : Community Services and relevant Service Director for area of responsibility</b>	<p><b>Housing</b></p> <ul style="list-style-type: none"> <li>• Strategy and Housing revenue Account Business Plan</li> <li>• Arms Length Management Organisation</li> <li>• Housing Options &amp; Allocations – Homefinder Somerset</li> <li>• Homelessness – Rough Sleepers pathway</li> <li>• Housing and Leaseholder Management</li> <li>• Housing Maintenance - Responsive and Planned (capital programme), compliance, void management</li> <li>• Housing Development &amp; Regeneration</li> <li>• Tenant Services – Worklessness &amp; -Tenancy Management (new tenancies, income, debt and benefit support, rent setting, service charges, tenancy compliance)</li> <li>• Somerset Independence Plus and financial assistance – Disabled Facility Grant, loans, advice</li> <li>• Housing Property Service</li> <li>• Registered Providers and Partnerships</li> <li>• Sheltered and Extra Care</li> <li>• Gypsy, Traveller and Van Dweller Services</li> <li>• People Displacement Schemes and Services</li> </ul>

	<p><b>Cultural Services</b></p> <ul style="list-style-type: none"> <li>• Libraries and Local Offer</li> <li>• Museums</li> <li>• Theatres</li> <li>• Leisure Centres, Facilities and Services (contract and direct)</li> <li>• Sports Development Partnership</li> <li>• Heritage Assets</li> <li>• Arts Centres, Facilities, Services and Developments</li> <li>• Culture Facilities, Services and Developments</li> <li>• Tourism Facilities, Services and Development including cafes</li> <li>• Community Facilities</li> </ul> <p><b>Customer Services</b></p> <ul style="list-style-type: none"> <li>• Customer Service Strategy and Standards</li> <li>• Corporate Customer Services</li> <li>• Contact Centre</li> <li>• Compliments &amp; Complaints, Ombudsman cases</li> <li>• Local Service Centres</li> <li>• Customer Engagement and Access</li> </ul> <p><b>Regulatory and Operational Services</b></p> <ul style="list-style-type: none"> <li>• Environmental Health and Licensing</li> <li>• Registrars</li> <li>• Coroners</li> <li>• Environmental Protection and Enviro-Crime</li> <li>• Port and Harbour Authority</li> <li>• CCTV and anti-social behaviour</li> <li>• Safety Advisory Group</li> <li>• Private Sector Housing Standards Enforcement</li> <li>• Street Cleansing</li> <li>• Grounds Maintenance</li> <li>• Beach Management</li> <li>• Unauthorised encampments</li> <li>• Parks and Play Areas</li> <li>• Public Toilets</li> <li>• Dog Wardens</li> <li>• Operational Service to Partners</li> </ul>
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	<ul style="list-style-type: none"> <li>• Bereavement Services</li> <li>• Fairs and Markets</li> </ul>
<p><b>Executive Director: Climate and Place and relevant Service Director for area of responsibility</b></p>	<p><b>Climate Environment and Sustainability</b></p> <ul style="list-style-type: none"> <li>• Strategy and Partnership development</li> <li>• Carbon Neutrality</li> <li>• Climate Resilience and adaptation</li> <li>• Renewable Energy</li> <li>• Country Parks, Local Nature Recovery Strategy, Local Nature Reserves, AONB Partnerships (Countryside Services)</li> <li>• Biodiversity (and net gain) and Ecology</li> <li>• Sustainability</li> <li>• Waste Service</li> <li>• Emergency Planning and Business Continuity</li> <li>• Water Management</li> <li>• Lead Local Flood Authority and Land Drainage</li> <li>• Flooding Response</li> <li>• Somerset Rivers Authority</li> <li>• Coastal Protection Authority</li> </ul> <p><b>Infrastructure &amp; Transport</b></p> <ul style="list-style-type: none"> <li>• Highways Authority (including highway maintenance, asset management, bridges and structures, highway lighting and electrical assets and contract management)</li> <li>• Public Rights of Way</li> <li>• Active Travel</li> <li>• Parking</li> </ul>

	<ul style="list-style-type: none"> <li>• Traffic Management</li> <li>• Transport</li> <li>• Public Transport</li> <li>• Fleet Management</li> <li>• Contracted Transport</li> <li>• Strategic Transport Planning</li> <li>• Highways Major Projects</li> <li>• Road Safety</li> <li>• Delivery Programme Management</li> <li>• Infrastructure Commissioning</li> </ul> <p><b>Economy, Employment &amp; Planning</b></p> <ul style="list-style-type: none"> <li>• Economic Development</li> <li>• Planning (conservation and heritage at risk, enforcement, Development Management, Local Plan, waste and minerals, S106 allocations, community infrastructure levy, Phosphates)</li> <li>• Affordable Housing and Enabling</li> <li>• City/Town Centre Management</li> <li>• Building Control</li> <li>• Trading Standards (Devon partnership)</li> <li>• Skills</li> <li>• Education Business Partnership</li> <li>• Economic Infrastructure, services and Innovation Centres</li> <li>• Regeneration (non-housing)</li> <li>• Major Projects</li> <li>• Nuclear Power</li> <li>• Scientific Services</li> </ul>
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<p><b>Executive Director: Strategy, Workforce &amp; Localities and relevant Service Director for area of responsibility</b></p>	<p><b>Partnership and Localities</b></p> <ul style="list-style-type: none"> <li>• Local Community Networks (LCNs}</li> <li>• Strategic Partnerships</li> <li>• City, Town and Parish Council Liaison</li> <li>• Local devolution - Community Asset Transfers, Service devolution</li> <li>• Community, Voluntary Faith, Social Enterprise Strategy and Engagement</li> <li>• Volunteering Services</li> <li>• Consultation and Engagement</li> <li>• Locality management, delivery, partnerships and projects</li> <li>• One Teams</li> <li>• Community Development</li> <li>• Special Projects</li> <li>• Grants &amp; Lotteries</li> </ul> <p><b>Strategy and Performance</b></p> <ul style="list-style-type: none"> <li>• Strategy and Policy</li> <li>• Transformation</li> <li>• Performance and Benchmarking</li> <li>• Communications</li> <li>• Programme Management</li> <li>• Project Management</li> <li>• Change and Improvement</li> <li>• Business Intelligence and Analysis</li> <li>• Legislation and Horizon Scanning</li> <li>• Statutory Returns</li> <li>• Data Visualisation &amp; Complex Analytics,</li> <li>• Data Management /warehousing</li> </ul>
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	<ul style="list-style-type: none"> <li>• Digital – Development and Service</li> <li>• Commissioning Framework and Development</li> <li>• Address Management (LLGP, LGS, Street Naming and Numbering)</li> <li>• Land Charges</li> <li>• GIS</li> <li>• Corporate Equality and Armed Forces Covenant</li> </ul> <p><b>Governance, Democratic &amp; Legal Services (Monitoring Officer)</b></p> <ul style="list-style-type: none"> <li>• Member Services and Casework</li> <li>• Lieutenancy</li> <li>• Democratic Services</li> <li>• Legal Services</li> <li>• Elections Operation and Elections Registration</li> <li>• Information Governance and Records Management including GDPR, FOI, RIPA</li> <li>• Corporate governance Framework</li> <li>• Annual Governance Statement</li> <li>• Whistleblowing</li> <li>• Officer Code of Conduct</li> <li>• School Admission, Exclusion and Transport Appeal Hearings</li> <li>• Civic and Ceremonial Duties</li> </ul> <p><b>Workforce</b></p> <ul style="list-style-type: none"> <li>• Workforce Strategy and Planning</li> <li>• Organisational Health and Wellbeing</li> <li>• Operations</li> <li>• Business Partnering</li> </ul>
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	<ul style="list-style-type: none"> <li>• Payroll &amp; Pensions</li> <li>• Organisation Learning and Organisation Development</li> <li>• Corporate/Duty Holder Health and Safety</li> <li>• Staff Benefits</li> <li>• Policy &amp; Reward</li> <li>• Organisational Equality, Diversity and Inclusion</li> <li>• Change Management</li> </ul>
<p><b>Executive Director: Resources &amp; Corporate Services (s151) and relevant Service Director for area of responsibility</b></p>	<p><b>Finance &amp; Procurement</b></p> <ul style="list-style-type: none"> <li>• Finance Services (inc. Business Partners)</li> <li>• Revenues and Benefits</li> <li>• Pension Fund</li> <li>• Capital Management</li> <li>• Treasury &amp; Corporate Debt Management</li> <li>• Housing Revenue Account Financial Strategy</li> <li>• Internal Audit</li> <li>• Procurement</li> <li>• External Audit</li> <li>• Financial Systems</li> <li>• Risk &amp; Insurance Management</li> <li>• Direct Payments</li> <li>• Financial Assessment and Deputyship</li> </ul> <p><b>Strategic Asset Management</b></p> <ul style="list-style-type: none"> <li>• Corporate Landlord function (land and property asset management)</li> <li>• Asset Management Strategy</li> <li>• Estates and Valuations</li> <li>• Rural estate management</li> <li>• Site acquisition, disposal and development</li> <li>• Property records &amp; database</li> <li>• Commercial investment property</li> </ul>

	<ul style="list-style-type: none"> <li>• Facilities management, premises contracts, property maintenance &amp; helpdesk</li> <li>• Premises compliance &amp; risk management, site security and management</li> <li>• Estate decarbonisation strategy and delivery</li> <li>• Schools &amp; general fund condition programme</li> <li>• Closed Churchyards</li> <li>• Construction project delivery – schools and major projects advice &amp; internal consultancy support</li> </ul> <p><b>Information Communication Technology</b></p> <ul style="list-style-type: none"> <li>• Strategy and Architecture</li> <li>• Operations &amp; Security</li> <li>• Support</li> <li>• Infrastructure</li> <li>• Telephony</li> <li>• Technical Project Delivery</li> <li>• Application Development</li> <li>• Innovation, research and development</li> <li>• Project Pipeline</li> <li>• Supplier Management</li> <li>• Service Management</li> <li>• Future Technology</li> </ul>
<p><b>Executive Director: Public Health and relevant Service Director for area of responsibility</b></p>	<p><b>Public Health (Deputy Director Public Health)</b></p> <ul style="list-style-type: none"> <li>• Provision of Specialist Public Health advice to the system</li> <li>• Influencing policy, practice and commissioning to improve health &amp; wellbeing</li> <li>• Inequality, Inclusion and Diversity (Strategy and Engagement)</li> <li>• Somerset Health and Wellbeing Board (HWBB &amp; ICP)</li> <li>• Protection of the Public's Health</li> </ul>

	<ul style="list-style-type: none"> <li>• Health Improvement</li> <li>• Tackling Health Inequalities</li> <li>• Healthcare Public Health</li> <li>• Specialist public health advice and support to Primary Care Networks/LCNs</li> <li>• Public Health Commissioning</li> <li>• Public Health Nursing</li> <li>• Healthy Lifestyle Services</li> <li>• Provision of Public Health training/lecturing</li> <li>• Centre for Specialist Registrar Training</li> <li>• Behavioural Insights</li> <li>• Public Health Research and Evaluation &amp; links with academia</li> <li>• Health and Care Knowledge, Intelligence &amp; Clinical audit (preferably joint for ICS)</li> <li>• Population Health</li> <li>• Community Safety Partnership</li> <li>• Domestic Abuse</li> <li>• VRU/VAWG</li> </ul>
<p><b>Executive Director: Children's Services and relevant Service Director for area of responsibility</b></p>	<p><b>Children and Families</b></p> <ul style="list-style-type: none"> <li>• Children Looked After and Care Leavers</li> <li>• Assessment and Safeguarding</li> <li>• Youth Justice</li> <li>• Children with Disabilities</li> <li>• Preventative Services</li> <li>• Quality Assurance</li> <li>• Principal Social Worker</li> <li>• Local Safeguarding Partnership</li> </ul> <p><b>Commissioning and Performance</b></p> <ul style="list-style-type: none"> <li>• Commissioning</li> <li>• Business Support</li> <li>• Partners and Market Development</li> </ul> <p><b>Inclusion</b></p> <ul style="list-style-type: none"> <li>• Special Educational Needs</li> </ul>

	<p>and Disability</p> <ul style="list-style-type: none"> <li>• Access &amp; Additional Learning Needs</li> <li>• Virtual School &amp; Learning Support Service</li> <li>• Special Educational Needs Advisory Services &amp; Educational Psychologist</li> </ul> <p><b>Education, Partnerships and Skills</b></p> <ul style="list-style-type: none"> <li>• Support services for Education</li> <li>• Early Years</li> <li>• School Improvement</li> <li>• School Place Planning</li> </ul> <ul style="list-style-type: none"> <li>• Somerset Association for Headteachers</li> </ul>
<p><b>Executive Director: Adult and Health Services and relevant Service Director for area of responsibility</b></p>	<p><b>Operations</b></p> <ul style="list-style-type: none"> <li>• Acutes</li> <li>• Safeguarding</li> <li>• Partnership</li> <li>• Neighbourhoods/Communities</li> <li>• Integration</li> <li>• Carers</li> <li>• Care/Alarm Lines and Rapid Responders</li> </ul> <p><b>Commissioning</b></p> <ul style="list-style-type: none"> <li>• Market development</li> <li>• Joint commissioning</li> <li>• Community and Innovation linked to Neighbourhoods</li> <li>• Assurance/inspection</li> <li>• Brokerage</li> <li>• Quality &amp; Performance</li> </ul> <p><b>Transformation</b></p> <ul style="list-style-type: none"> <li>• Adults' transformation programme</li> <li>• Delivery of legislative change</li> </ul>



	<ul style="list-style-type: none"> <li>• Adults' strategy and alignment with ICS strategy</li> <li>• Service governance and forward planning</li> <li>• Communications</li> </ul>
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#### **4. General Delegations**

##### **Delegations to all officers**

- 1 To act as a witness:
  - (a) on behalf of the Council in any proceedings in which the Council is directly involved; and/or
  - (b) where so directed by a court, tribunal, hearing or other inquiry with power so to do; and/or
  - (c) in any other circumstance with the prior written approval of the Monitoring Officer.
- 2 To undertake all action required by or identified in Financial Regulations and/or Contract Procedural Rules as applicable to that officer.
- 3 To undertake all action relevant to any matter to which an officer is given a role, power or activity pursuant to any provision set out in the Constitution where the officer is exercising a role as a Proper Officer as identified in Appendix C;

##### **Delegations to Chief Officers**

- 4 These general delegations include all powers and duties under all legislation present and future relating to their area of responsibility and all powers and duties incidental to that legislation including but not limited to the following:

##### **General Delegation**

- 5 Authority to the Chief Executive, ~~and~~ Executive Directors and Service Directors to discharge the functions and exercise the responsibilities, powers and duties relevant to their areas of responsibility, including the making of key decisions, allocated to them. This includes matters dealt with by them or their staff except for matters specifically reserved
  - To the Executive
  - Committee's or
  - Full Council

This reservation, or limitation, shall be subject to the urgency or emergency provisions set out at paragraphs 39.

- 6 To discharge the functions and exercise the responsibilities, powers and duties relevant to their areas of responsibility, including the making of key decisions, allocated to them. This includes matters dealt with by them or their staff except for matters specifically reserved

- To the Executive
- Committee's or
- Full Council

This reservation, or limitation, shall be subject to the urgency provisions set out at paragraph 39.

- 7 Authority to the Chief Executive, Executive Directors and Service Directors to implement decisions of the Council, Executive, Committees and Subcommittees in the discharge of the Councils functions.
- 8 Authority to the Chief Executive, Executive Directors and Service Directors to take all managerial or professional decisions relevant to their areas of responsibility as detailed in Table A including but not limited to the following:
  - Commencing proceedings
  - Seeking planning permission
  - Approving contracts
  - Making amendments to policies

### **Powers in relation to property**

- 9 Authority to enter, inspect and survey land, buildings or premises and issue as necessary any evidence or authority as may be required in order for them to execute their duties in accordance with the Council's statutory powers.
- 10 Authority to undertake all action in connection with the issuing and serving of any notice for the purposes of securing information relating to any function of the Council, including any notice:
  - under Local Government (Miscellaneous Provisions) Act 1976; and
  - relating to any town and country planning function of the Council.

### **Powers in relation to planning**

- 11 Agree operational requirements for Agreements made under S106 of the Town and Country Planning Act 1990 or other similar agreements with no financial limit, providing suitable on-going revenue support and exit strategies are in place.
- 12 Agree the completion of Section 106 Agreements on behalf of the Council or other similar agreements with no financial limit, providing suitable on-going revenue support and exit strategies are in place.
- 13 Approve responses to consultation papers.

- 14 Carry out any relevant consultation on behalf of the Council.
- 15 Make appropriate planning applications.
- 16 Approve promotional and marketing campaigns.
- 17 In consultation with the relevant Lead Member, respond to consultations and processes under the Planning Act 2008 concerning nationally significant infrastructure projects, including Community Consultations, draft Statements of Community Consultation, draft scoping reports, draft Development Consent Orders and draft s106 planning obligations, and all pre-examination and examination outputs including Adequacy of Consultation, Relevant Representations, Written Representations, Statement of Common Ground, Local Impact Report, and responses to Examining Authority questions.
- 18 Respond to proposed non-material and material changes to Development Consent Orders and to include all necessary input to Transport Works Act Orders processes including their agreement.
- 19 The discharge of requirements and obligations on consented Development Consent Orders and Transport Works Act Orders as appropriate.
- 20 To discharge the interests of the Council at meetings connected with Nationally Significant Infrastructure Projects with a Development Consent Order.
- 21 Compulsory Purchase Orders

### **Powers in relation to Partnerships, External Bodies and Boards**

- 22 Approve operational frameworks for delivery level partnership / joint working arrangements and Local Community Networks with other public, private, voluntary and community sector organisations.
- 23 When representing the Council or the Executive on a partnership or outside body, take decisions on behalf of the Council subject to the limits of their delegated authority.
- 24 Approve officer appointments to partnership / working groups including with other public, private, voluntary and community sector organisations.

### **Financial Powers**

- 25 Following approval of service revenue and capital budgets, incur expenditure within those budgets.

- 26 Incur expenditure within the revenue and capital budgets in accordance with the virement procedures and delegated limits set out in Financial Regulations and Contract Procedure Rules.
- 27 Accept tenders for contracts in accordance with the Contract Standing Order Rules.
- 28 To approve payments to suppliers prior to the receipt of goods in accordance with the limits set out in Financial Regulations.
- 29 To prepare and submit any application for external grants/funding and/or determine whether to accept the award of any external grant/funding (including any related conditions and/or limitations) provided:
- i) that any costs (including any match funding) to the Council required as part of any grant/ funding being available from a budget within the control of the Chief Officer; and
  - ii) there is prior approval of the Section 151 Officer where s/he is required to sign off on any requirements relating to the grant/funding.
- 30 Direct the delivery of services in compliance with the:
- Constitution
  - Council policy and planning and performance frameworks
  - Schemes of Delegation
  - Financial Regulations
  - Contract Standing Orders
  - Statutory requirements
  - Service budget allocations
- 31 Develop and propose policy changes for service delivery and ensure they identify and agree with the financial implications of all new proposals for new spending and that the relevant Executive Member and, where appropriate, Executive is advised of those implications.
- 32 Responsibility for:
- Ensuring that all staff in their areas of responsibility are aware of their responsibilities under Financial Regulations and other internal regulatory documents and that they comply with them.
  - The accountability and control of staff and the security, custody and control of all resources within their areas of responsibility.
  - Maintaining a record of financial responsibilities delegated to members of staff in their areas of responsibility.
- 33 Authority for all officer decision making is limited according to the financial thresholds below (unless otherwise stated in the specific delegations or sub-delegated in accordance

with paragraph 6.1:

- i) **Decisions involving total expenditure or delivering savings over £250,000 of capital or revenue resources and up to £5 million \*** – Only the Chief Executive and/or Executive Directors and/or Service Directors and for any expenditure over £500,000 in consultation with the relevant Lead Member
- ii) **Decisions involving total expenditure or delivering savings up to £250,000 of capital or revenue resources \*** – Executive Directors and/or Service Directors
- iii) **Decisions involving total expenditure or delivering savings up to £50,000 of capital or revenue resources \*** - All Managers and Officers at Tier 5 or above
- iv) **Decisions involving total expenditure or delivering savings up to £10,000 of capital or revenue resources \*** – All officers at Tier 7 or above
- v) **Up to £500 of capital or revenue resources \*** – All Council officers.

\* These financial threshold figures will relate to total expenditure or savings and not annual figures. All decisions should be taken in accordance with Contract Standing Orders, Financial Regulations and the Council Constitution.

## **Powers in relation to Contracts and procurement**

- 34 Commission, procure, award contracts, review and vary contracts, terminate contracts, acquire goods, works and services to meet the business needs of the Council in accordance with Contract Procedure Rules.
- 35 Give approval to proceed to tender on a contract.

## **People Management**

- 36 Take any action in accordance with the Council's agreed policies and procedures with respect to the recruitment, appointment, promotion, training, grading, discipline, dismissal, determination of wages and salary scales, determination of allowances, determination and application of conditions of service, including but not limited to allocation of leave, honorariums, ill health retirement and determination of establishment.
- 37 Engage temporary staff and consultants to meet business needs where within existing budget allocations.
- 38 Approve changes to the number and distribution of posts for which they are responsible subject to financial provision for the current and future years being available. Where changes are proposed to the Chief Officer structure a report to the Chief Executive will be required before any such changes are implemented. All other changes to structures remain delegated to Chief Officers.

## **Urgency**

- 39 Subject to reporting back to Full council or to the Executive as soon as practicable, a power to the Chief Executive and Executive Directors to act in matters of urgency and to take any decision which could be taken by the Council, the Executive or a Committee as follows:
- At Executive level-in consultation with the relevant Lead Member, where practicable or in their absence the Leader
  - At Committee level-in consultation with the relevant Chair where practicable
  - To make proper officer appointments in cases of interim appointments or in cases of urgency, subject to report to full council where appropriate.
  - Signing of key documents jointly with the Leader of the Council including the annual statement of internal control, annual governance statement and codes of corporate governance.

## **Emergencies and Major Incidents**

- 40 When acting in a decision-making capacity at the Local Resilience Forum's Strategic Co-ordinating Group (Gold), Tactical Co-ordinating Group (Silver), various Recovery Co-ordinating Groups (Gold and Silver) or when operating as the Council's Gold/Silver Chief Officers are authorised for the purposes of the declared emergency to commit the appropriate resources and to suspend aspects of business as usual to comply with the Council's duties in all relevant legislation. Records of emergency spending must be maintained and claims submitted promptly.

## **Complaints**

- 41 To undertake all action in connection with the preparation and issuing of any information and/or response to a complaint against the Council made pursuant to the Council's formal complaints procedure or Ombudsman complaint.
- 42 To resolve a complaint, including the approval of compensation in respect of:  
(a) any complaint made through the Council's complaint procedure; and/or  
(b) any finding of maladministration by the Local Government and Social Care Ombudsman, including the power to incur expenditure from balances and /or reserves subject to prior approval of the Section 151 Officer.
- 43 Subject to prior consultation with the Monitoring Officer to settle any claim or potential claim made by or against the council in a sum not exceeding £50,000 including power to authorise expenditure from balances and/or reserves subject to the prior approval of the S151 Officer.

## **5. Specific Delegations**

## **The Chief Executive**

### **Areas of Responsibility**

- 44 To exercise all powers and duties of the Head of Paid Service under the Local Government and Housing Act 1989.
- 45 To carry out the powers and duties of any of the officers in their absence or in consultation with them.
- 46 To exercise or carry out any functions, powers or duties of the Council not specifically allocated under this Scheme to any other officer (whether in relation to legislation coming into force after the date of adoption of this Scheme or otherwise).
- 47 To incur expenditure in the event of a civil emergency.
- 48 In cases of urgency to take any decision which could be taken by the Council, the Executive or a Committee, in consultation with the Leader or relevant Chair.
- 49 In cases of emergency to take any decision which could be taken by the Council, the Executive or a Committee, in consultation with the Leader or relevant Chair, to include cases which fall short of a declared emergency but are nevertheless situations in which there will be a risk of significant detriment to the wellbeing of residents if action is not taken.
- 50 To appoint members to Boards, Committees, Local Community Networks and other Council bodies, to fill casual vacancies, in accordance with the wishes of the Leaders of the political groups which have nomination rights and in accordance with statutory rules on proportionality.
- 51 To agree changes to appointments to outside bodies arising from changes in the Executive, members or group nominations.
- 52 To alter the areas of responsibility of the Executive Directors set out in the Areas of Responsibility Table A section of this scheme.
- 53 To make arrangements for the appointment of Chief Officer roles.
- 54 Subject to no objection being raised by the Leader, Executive Member or Committee of the Council, to discharge any function of the Council, Leader, Executive and Lead Members not otherwise delegated to a Chief Officer, including elections, and civic and ceremonial functions of the Council.
- 55 To be the Council's Returning Officer and Electoral Registration Officer, and in particular to decide on the action to be taken in respect of the following in relation to



district and parish elections:

- Any issue relating to nomination papers
- Any alleged infringement of electoral law or practice
- Matters relating to the administration of the election, counting of votes or anything done by any candidate or agent
- Matters relating to Parish Polls
- Matters relating to Neighbourhood Planning Referendums.

- 56 To make Proper Officer appointments in accordance with the Council's Constitution and legislation.
- 57 To ensure that each of the Council services adopt and manage robust Strategic Planning (Corporate, Business and Service Planning) and performance management processes, customer and service reviews to ensure alignment with the priorities of the Council Plan and that services are managed in accordance with the Council's Operating Model.
- 58 To determine any change to the whole or any part of the employee establishment/structure of the Council including power to incur expenditure subject to prior consultation with the Section 151 Officer.
- 59 In consultation with Group Leaders to make temporary appointments to inquorate Parish, Town and City Councils along with the making of the necessary Order under section 91 of the Local Government Act 1972.
- 60 To carry out powers and duties as an employer under the Health and Safety at Work etc. Act 1974.
- 61 To be the Council's Accountable Person under the Building Safety Act 2022 in relation to Westfield House, Bridgwater.
- 62 To exercise any power delegated to any officer whether specified in this officer scheme or otherwise unless solely limited to exercise by that officer by law.

## **Executive Director: Strategy, Workforce and Performance**

### **Areas of Responsibility**

- 63 To discharge the Council's functions and responsibilities relating to Assets of Community Value.

## **Service Director: Governance, Democratic & Legal Services (Monitoring Officer)**

## **Areas of Responsibility**

- 64 Carry out all statutory functions of the Monitoring Officer and any functions allocated to the Monitoring Officer under the Council's Constitution or any of its procedural rules.
- 65 After consulting with the Head of Paid Service and S151 Officer, to report to the Council and to the Executive in any case where s/he is of the opinion that any proposal or decision of the authority has given rise to or is likely to or would give rise to any illegality, maladministration or breach of statutory code under Sections 5 and 5A of the Local Government and Housing Act 1989 (LGHA 89).
- 66 Investigate any matter which s/he has reason to believe may constitute, or where s/he has received an allegation that a matter may constitute, a reportable incident under Sections 5 and 5A of the LGHA 89.
- 67 Appoint a statutory scrutiny officer.
- 68 Execute all documents and take all actions and decisions deemed necessary to enable his/her responsibilities as set out above to be effectively discharged.
- 69 Sign any notice, order, contract or other document on behalf of Somerset Council and to affix the Common Seal of the Council to any document.
- 70 Determine which documents, that are not otherwise determined by statute, should be sealed by the affixing of the Common Seal of the Council that are not otherwise determined by statute.
- 71 Obtain the opinion of counsel on any question of doubt or difficulty concerning the business of Somerset Council and to instruct counsel to represent the Council in any form of proceedings.
- 72 Instruct solicitors and/or experts to provide advice and/or to represent Somerset Council.
- 73 In consultation with those Officers and Members stipulated in the Petition Scheme to determine whether any petition received by the Council should be excluded from the Petition Scheme for any of the reasons referred to in the Petition Scheme.
- 74 To grant exemptions on the political restrictions of Officer posts under the Localism Act 2011
- 75 Grant dispensations to councillors in accordance with the Localism Act 2011 with the power to refer any request for a dispensation back to the Standards Committee.

- 76 Maintain the register of Members' and Officers' interests and register of Gifts and Hospitality;
- 77 Act as the Proper Officer for the preparation, publication and retention of records of decisions taken by or on behalf of the Council and the Executive;
- 78 Undertake minor amendments to update the Council's Constitution and / or to take account of legislative changes provided that it does not involve material changes to principles previously approved by Council (or Leader of Council in respect of the Council's executive arrangements and the part of the Council and Executive Scheme of Delegation that is the responsibility of the Leader) and subject to consultation with the Constitution Committee.
- 79 Interpret the Constitution where the meaning is uncertain or there is a dispute about its meaning.
- 80 Appoint members of School Admissions Appeal Panels in accordance with the Education (Admission Appeals Arrangements) (England) Regulations 2002 as amended.
- 81 Serve statutory notices to ascertain the legal interest in land of any person.
- 82 Institute any proceedings, defend, conduct, withdraw, settle or appeal any legal proceedings or process on behalf of the Council. For the avoidance of doubt this authority shall extend to the taking of all procedural steps, including the service of notices, statutory or otherwise, counter notices, and notices to quit.
- 83 To authorise officers to amend, remove, seek not to contest reasons for refusal of planning applications at appeal.
- 84 In conjunction with the team dealing with Rights of Way to determine applications affecting the register of commons and village greens (under the Commons Act 2006 and any subsequent legislation).-In the case of contested applications affecting the register of commons and village greens ~~matters or matters~~ which require oral representation or an inquiry, an independent inspector shall be appointed.
- 85 Authorise officers of the Council to prosecute or defend or appear in any legal proceedings by virtue of the provisions of Section 222 and 223 of the Local Government Act 1972.
- 86 Authorise officers to amend, remove, seek not to contest reasons for refusal at appeal.
- 87 Authorise the giving of any indemnity by the authority.

- 88 Authenticate documents and contracts on behalf of the authority.
- 89 Exercise the function of Senior Information Risk Owner
- 90 Exercise the function of RIPA SIRO and Authorising Officer under the Regulation of Investigatory Powers Act 2000, to appoint the RIPA Co-ordinator and to designate such other Authorising Officers as he/she considers to be necessary and competent for the purposes of the Act.
- 91 Act as Proper Officer for the Data Protection Act 2018 and the Freedom of Information Act 2000
- 92 Maintain, manage, provide advice and guidance, put in place systems and resources to manage and implement the Council's responsibilities under Freedom of Information and Data Protection legislation
- 93 Act as Proper Officer for receipt and acknowledgement of complaints of failure to comply with the Members' Code of Conduct under the Council's adopted local arrangements.
- 94 Receive, ~~and~~ review and determine complaints received in respect of any alleged breach by a Member of the Code of Conduct for Members and act in accordance with the Council's adopted local arrangements.
- 95 Arrange for investigations to be conducted into alleged breaches of the Members' Code of Conduct and, as appropriate, submit such reports to the relevant Committee in accordance with the adopted local arrangements.
- 96 Undertake resolution of such complaints in accordance with the adopted local arrangements.
- 97 Recruit independent persons to the Standards Committee subject to the appointments being confirmed by Full Council
- 98 Form the Independent Panel on Members' Remuneration subject to the appointments being confirmed by Full Council.
- 99 To act as Company Secretary (or to authorise others to act) in relation to the Council's wholly owned companies.

**Service Director Economy, Employment and Planning**

## **Areas of Responsibility**

### **Development Management and Planning Policy**

100 To appoint the Chief Planning Officer.

### **Economic Development**

- 101 Management, delivery and implementation of Economic Development functions and promotion of inward investment and enterprise including skills and employment and tourism activity
- 102 Liaising with and represent the Council in relevant Economic Development groups and wider structures
- 103 Administration of grant schemes
- 104 Delivering business support and promotion

### **Building Control**

- 105 In accordance with the Building Act 1984 and Building Safety Act 2022 and any regulations made under those Acts:
- Set charges and carry out any necessary enforcement action
  - Determine all applications made to the Council
  - Discharge the Council's functions, related to the acceptance or rejection of Initial Notices and / or Amendment Notices submitted by approved inspectors under Section 47 of the Building Act 1984
  - Approve, reject or rescind plans of proposed work deposited with the Council
  - Give notice and take such steps as are necessary to remove danger, in respect of dangerous buildings or structures under Section 77 and 78 of the Building Act 1984
  - Consult and process Demolition Notices under Sections 80 and 81 of the Building Act 1984
  - Authorise the issue and ~~service~~ serving of all notices and orders required.
  - Authorise the issuing of all certificates required.
  - Prepare, submit and present the Council's case at appeals instituted by or against the Council.

### **Chief Planning Officer**

- 106 Determine planning applications submitted under the Town and Country Planning Act 1990, grant permission, refuse permission, publicise applications, comment or make

representations on applications, notifications and consultations, to raise objections, to require documentation and information, to take appropriate action on enforcement, to defend planning appeals, to negotiate, authorise sealing, complete, vary, discharge or amend planning obligations and agreements. This authority shall not apply to the determination of applications where;

- a. The applicant is a Member of the Council or is directly related to a Member of the Council:
- b. The applicant is one of the following Council officers:
  - i. members of the Council's Senior Leadership Team,
  - ii. where the applicant is a member of staff or is directly related to a member of staff in the Economy, Employment and Planning service,
  - iii. any employee who has direct involvement with the planning process in the course of their duties
- c. The Service Director Economy, Employment and Planning considers they should be determined by the Planning Committee due to their size, nature, or impact, or any other reason
- d. The Council's own development (excluding minor alterations to Council owned assets)
- e. Waste and Mineral applications that are a departure from adopted Waste and minerals development plans and recommended for approval by officers (excluding S.73 applications).
- f. Applications referred by any Member or the Town or Parish Council for the relevant division or adjoining area Town/Parish Council area where their view is contrary to the officer's recommendation in accordance with the Planning Committee Procedure Rules and Planning Protocol.

107 To treat applications as finally disposed of if there has been no activity on the case and the timeframe for an appeal against non-determination has passed.

108 At the discretion of the Chief Planning Officer to refuse applications where the S106 legal agreement has not been completed within six months of resolution to grant planning permission by the Planning Committee.

109 The authority to decide, whether it is expedient to take enforcement action, and to prepare, issue, serve, amend or withdraw enforcement notices, stop notices, breach of condition notices under relevant legislation.

110 All powers necessary to progress and manage Development Plan Documents (including the Local Plan, Waste and Mineral Plans) , Supplementary Planning Documents and other planning policy documents and related evidence base.

- 111 Provide advice and assistance to community and neighbourhood plans provided for under the Localism Act 2011.
- 112 Approve the terms and manage Planning Performance Agreements (including those for Nationally Significant Infrastructure projects) which include the provision of financial resources by the Developer to this Council.
- 113 Approve or refuse details submitted as part of compliance applications submitted in relation to adopted Local Development Orders and to (1) Issue compliance certificates unconditionally or (2) issue compliance certificates with conditions or (3) refuse compliance applications and withhold compliance certificates. For the Gravity LDO this will be in accordance with the agreed governance structure and in consultation with the Enterprise Zone/Local Authorities Board.
- 114 Make decisions on all matters relating to the following functions of the Council not dealt with above including:
- Heritage and conservation including listed buildings, conservation areas and historic environment, protection and enhancement of listed buildings including Heritage at Risk (building preservation notices in case of emergencies), identification and modification of conservation areas
  - Sustainable Urban Drainage Systems
  - Community Infrastructure Levy expenditure in accordance with priorities set by the Planning Policy Sub Committee and enforcements
  - Advertisement Consent
  - Prior Approvals, Prior Notification and permitted development
  - Permission in Principle (PIP), Technical Details and Follow On Decisions
  - Approval of details reserved by condition
  - Pre-application advice and Planning
  - Planning Performance Agreements and Extension of Time Agreements
  - Certificates of lawfulness of development (CLOPUDS and CLEUDS)
  - Control of demolition
  - Non material amendments
  - Planning Enforcement
  - Any applications for works to trees, hedgerow removal or high hedges
  - Authority to issue, vary, modify or revoke tree preservation orders and authority to make decisions on the confirmation of tree preservation orders, with or without modifications, except where objections have been received and have not been withdrawn, which are reserved for decision to the planning committees
  - Hazardous substance consents
  - Environmental impact assessment, screening and scoping opinions
  - Determinations under the Town and Country Planning Act 1990 Section 106A (3) and (6) relating to the modification of planning obligations and variations to planning obligations secured under Town and country Planning Act 1990 Section 106 save where the modification applied for or variation proposed

would result in a significant departure from the terms of the Committee resolution under which the original obligation was secured.

- S39 agreements under the Wildlife and Countryside Act 1981 with respect to land management and S111 of the Local Government Act 1972 with respect to receipt payments
- Certificates of Lawfulness existing or proposed
- Other functions under Town and Country Planning and Localism legislation and policy guidance except as delegated to any other officers
- Other forms of regulation under environmental and planning legislation
- Determining applications for S.106 agreement expenditure in accordance with priorities determined by the Planning Policy Sub-Committee
- The discharge of requirements relating to Development Consent Orders

## **Service Director: Infrastructure and Transport**

### **Areas of Responsibility**

- 115 Discharge the powers and duties of the Highway Authority and Local Transport Authority including:
- a) Management of Highways.
  - b) Passenger Transport
  - c) The making of agreements for the execution of highways works under the Highways Act 1980 including powers to negotiate, authorise sealing, complete, vary, discharge or amend highways agreements.
  - d) Local Transport Plan Strategy and Implementation Plan and associated policies and plans.
  - e) Fleet Management.
  - f) Network Management.
  - g) Highways Maintenance (including public rights of way).
  - h) Infrastructure development and delivery.
  - i) Parking
- 116 To hold and exercise of the Council's statutory function of Traffic Manager in accordance with the Traffic Management Act 2004 and in accordance with powers delegated by the Traffic Commissioner.
- 117 To determine applications for Traffic Regulation Orders in accordance with the criteria of the Department of Transport and Council Policy.
- 118 To carry out all functions of the Council relating to public rights of way, common land and town or village greens, with the exception of the following in consultation with the Service Director: Governance, Democratic & Legal Services (Monitoring Officer):
- a) the decision as to whether or not to make a public path or evidential definitive map modification order, and



- b) the decision as to whether or not to register a new town or village green, will be determined by the Strategic Planning Committee in exceptional circumstances. Whether or not exceptional circumstances exist in a) and b) will be determined by the Executive Director; Climate and Place, in consultation with the Chair of the Strategic Planning Committee, considering the magnitude, nature, and impact of the decision; and
- c) requests from applicants for definitive map modification order applications to be taken out of turn from the adopted Statement of Priorities will be determined by the Strategic Planning Committee.

## **Executive Director : Community Services**

### **Areas of Responsibility**

- 119 Oversight of development and implementation of the Cultural Strategy
- 120 Oversight of development and implementation of the Customer Services Strategy
- 121 Proper Officer for Registrars
- 122 Proper Officer under the Building Safety Act 2022
- 123 Oversight of 30 year Housing Revenue Account Business Plan

## **Service Director : Housing**

### **Areas of Responsibility**

- 124 Housing and homelessness strategy and all other related statutory and non-statutory strategies and policies.
- 125 Temporary accommodation, homelessness (all functions under the Housing Act 1985 as amended), housing options, and homelessness prevention, rough sleeping, van dwellers.
- 126 Gypsy and traveller Services.
- 127 All powers necessary to ensure the efficient day to day operation of the Council's Lettings/Homefinder functions including:
  - a. Working with housing organisations to operate the Homefinder Somerset – Choice Based Lettings system;
  - b. Attending and contributing to the success of the Homefinder Somerset Board
  - c. Making decisions under Part 6 of the Housing Act 1996 (as amended);
  - d. Considering and determining housing register applications for social housing under

Part 6 of the Housing Act 1996;

- e. Considering and determining reviews of housing register application decisions under Part 6 of the Housing Act 1996;
- f. Advertising available social housing accommodation held by Somerset Council;
- g. Advertising available housing accommodation held by registered providers landlords.

- 128 All powers necessary to ensure the efficient day to day operation of the Council's Housing Landlord functions including:-
- i. Authority to co-operate with housing associations, wherever possible, in order to provide and maintain accommodation for those in housing need
  - ii. Performing several 'core' housing management functions including
    1. Allocating and letting properties to new tenants;
    2. Collecting rent and service charges and dealing with arrears;
    3. Managing estates and individual tenancies;
    4. Tackling anti-social behaviour;
    5. Involving tenants in designing, improving and scrutinising their services;
    6. Providing support services to people residing on our sheltered housing and extra care housing schemes;
    7. Providing money and debt advice;
    8. Helping people to work and training.

#### **Housing Capital Programme**

- 129 All powers necessary to ensure the efficient day to day operation of functions relating to the Council's Housing Capital Programme

#### **Housing Property Compliance**

- 130 All powers necessary to ensure the efficient day to day operation of the Council's Housing Property Compliance Functions.

- 131 Dealing with all matters arising under the Building Safety Act 2022.

#### **Housing Asset Management**

- 132 Managing all land and property assets relating to Housing Revenue Account (HRA) including strategic and estate management.
- 133 To oversee and manage the contract with Homes in Sedgemoor in accordance with their Management Agreement.
- 134 To exercise the obligations of Homes in Sedgemoor under their Management

Agreement in the event of termination or suspension of the Management Agreement.

- 135 All powers necessary to ensure the efficient day to day operation of the Council's HRA Asset Management Functions Including:
- i. Review of fees for leases, licences, agreements, permissions;
  - ii. Approving and acting upon the Council's valuers' reports in respect of properties included in a compulsory purchase order;
  - iii. Serving the requisite written notice(s) to seek deemed permission on behalf of the Council for the development of HRA land;
  - iv. Determining any requests to use Council-owned land;
  - v. Determining applications relating to HRA land including wayleaves from public utility providers, applications for gate licences;
  - vi. Disposal of Council properties under the Right to Buy scheme including the issuing and signing of documents;
  - vii. Issuing Certificates of Compliance, Deeds of Covenant, Certificates of Pre-Emption, Deeds of Postponement in relation to former Right to Buy properties;
  - viii. Removal of Restrictions, Charges or Notices registered at HM Land Registry;
  - ix. Purchasing properties previously owned by the Council.
- 136 All other functions of the Council in relation to housing excluding private sector housing standards enforcement.

#### **Service Director: Customer Services**

##### **Areas of Responsibility**

- 137 Customer Insight and Intelligence.
- 138 Customer Experience, Consultation & Feedback.
- 139 Customer services and customer access – including Contact Centre.
- 140 Complaints, compliments and ombudsman cases.

#### **Service Director: Regulatory and Operational Services**

##### **Areas of Responsibility**

- 141 Registration Services.

#### **Environmental Health and Licensing**

- 142 Environmental Health functions including measures to protect public health.
- 143 Housing Standards functions and Environmental Health functions relating to dwellings

(including enforcement of standards in housing stock, responding to housing condition complaints, issuing financial civil penalty notices), advice and improvements to customers regarding homes, HMO licensing and inspection of other high-risk HMO's, residential caravan mobile home and camping sites.

- 144 Dealing with applications and all functions in respect of HMO licensing including setting charges, standards and conditions and any necessary enforcement action.
- 145 All powers under the Housing Act 1985, Housing Act 2004, Housing and Planning Act 2016 and associated Regulations. Including powers of entry, serving notices and orders, executing works in default, recovering expenses, agreeing execution of works, issuing financial penalty notices, granting refusing or revoking of licenses, making of schemes, revocation procedures.
- 146 Operational function of anti-social behaviour service, utilising tools and powers as prescribed in the Anti-Social Behaviour Act 2004 and Anti-Social Behaviour, Crime and Policing Act 2014.
- 147 CCTV operations in accordance with Code of Practice and Regulation of Investigatory Powers Act 2000 legislation.
- 148 To undertake inspections, investigate complaints, serve notices including fixed penalty notices, undertake enforcement action and take prosecutions.
- 149 Bathing water regulation.
- 150 Environmental protection including noise and other statutory nuisance, dark smoke, air pollution, drainage, land pollution, environmental permitting.
- 151 Pest control.
- 152 Air Quality and Control of Pollution.
- 153 Contaminated Land including inspections and ensuring appropriate remediation.
- 154 Private water supply safety.
- 155 Food safety and investigation of infectious diseases.
- 156 Health and Safety enforcement (other than in relation to the Council's duties as an employer).
- 157 Public safety.

- 158 Removal and disposal of abandoned vehicles.
- 159 Investigation and enforcement of waste related offences and other enviro-crime including the use of fixed penalty notices.
- 160 To seize and detain and transfer ownership of stray dogs and if required by veterinary advice, to authorise euthanasia of injured, ill or distressed dogs in accordance with relevant legislation.
- 161 Functions under the Licensing Act 2003, Gambling Act 2005 and all functions of the Council in relation to Licensing including but not limited to hackney carriage, private hire, animal licensing activities, dangerous wild animals, zoo licensing, sex establishments, hypnotism, film certification, street trading applications for licenses. certificates, permits, temporary event notices or registrations including effecting registration, granting, refusing or revoking. Licensing Act 2003 decisions to be taken in accordance with Appendix A. Gambling Act 2005 decisions to be taken in accordance with Appendix B.
- 162 In consultation with the Monitoring Officer to suspend or revoke a hackney or private hire driver's license in the following circumstances: (i) if the driver is charged with, cautioned for, or convicted of an offence under, or otherwise fails to comply with any of the provisions of, the Town Police Clauses Act, 1847 or Part II of the Local Government (Miscellaneous Provisions) Act, 1976; (ii) if the driver is charged with, cautioned for, or is convicted of an offence involving dishonesty, indecency or violence; or (iii) any other reasonable cause including if the driver is charged with or cautioned for an offence under the Town Police Clauses Act 1847 or Part II of the Local Government (Miscellaneous Provisions) Act 1976, or for an offence involving dishonesty, indecency or violence;. until such time as the matter can be considered by the Licensing Sub-Committee.
- 163 To suspend a Hackney Carriage License or a Private Hire Vehicle License where the vehicle fails to meet the requirements of the conditions contained in the Council's policy until such time as the conditions are complied with or the matter is considered by the relevant Licensing Sub-Committee.
- 164 Use powers under the Local Government (Miscellaneous Provisions) Act, 1976 to deal with dangerous trees.
- 165 Approve Public Spaces Protection Orders, unless they are likely to be considered to be sensitive or significant.
- 166 Investigation and enforcement of unauthorised encampments on publicly

owned/managed land.

- 167 Bereavement Services including the arranging of public health funerals where no suitable arrangements have been made or are being made pursuant to the Public Health (Control of Diseases) Act 1984 and the provision of burial and cremation services, both interment and exhumation.
- 168 Civil parking enforcement

#### **Coastal Port and Beaches**

- 169 To oversee the management the functions of pilotage and navigation for the Ports of Bridgwater, Minehead, Watchet and Bridgwater Docks.
- 170 To manage the Council's beaches and to restrict access where deemed necessary to protect public safety.

#### **Harbour Master**

- 171 To fulfill the role and duties of the Harbour Master and manage the functions of pilotage and navigation for the Ports of Bridgwater, Minehead, and Watchet and Bridgwater Docks on a day to day basis, within approved budgets, to serve any appropriate statutory notices, undertake investigations, inspections and issue relevant Notices, Orders and to undertake all appropriate action under appropriate statutory powers and to ensure compliance with the Port Marine Safety Code, the relevant Port Operations Plan and any local or national legislation or regulations pertaining to the Port(s).
- 172 To control all marine emergencies within the Ports and for the issue of specific directions to shipping as necessary.
- 173 To adjudicate when required on matters relating to navigational safety issues and pilotage when there is a disagreement between the duty pilot and the master of the vessel to be piloted.
- 174 To act as a panel member when required in relation to any examination, disciplinary investigation, or hearing involving a pilot or holder of a pilot exemption certificate, or an application for a pilot exemption certificate. Undertake expert witness, marine consultancy and survey work.

#### **Executive Director: Climate and Place**

## **Areas of Responsibility**

- 175 To produce, maintain and deliver the climate emergency strategy
- 176 Emergency planning, business continuity and civil contingencies. Including the appointment of emergency planning officers and other support officers as are required to undertake the various functions and duties to meet the needs of the Council
- 177 To ~~deal~~ lead liaison with National Grid, Somerset Rivers Authority, Connecting Devon and Somerset, Heart of the Southwest Local Enterprise Partnership, Heart of the South West Joint Committee and Devolution work, Peninsula Transport Board and Superfast Broadband.
- 178 To undertake maintenance and repair of water courses, culverts and flood defence schemes where the Council has responsibility for them.  
Investigation and enforcement of waste related offences and other enviro-crime environmental offences including the use of fixed penalty notices.
- 179 To be accountable for the statutory responsibilities of the Lead Local Flood Authority or Coastal Protection Authority.
- 180 To implement decisions of the Climate and Environment Sub-Committee of the Executive

Service Director: Climate, Environment and Sustainability

## **Areas of Responsibility**

### **Climate Emergency**

- 181 Provide clear leadership to deliver the Council's strategic priorities and meet the Council's financial targets, as a member of the Council's Senior Leadership Team.
- 182 Advise & guide Elected Members in respect of planning, operational and policy issues

- 183 in relation to the Climate, Environment and Sustainability Services teams.
- 184 Engage in strategic partnerships and promote and communicate the Council's services in respect of the Climate and Ecological Emergency.
- 185 Function as an ambassador for the Council promoting, both internally and externally, the Council's vision, strategic aims, and values in respect of the Climate and Ecological Emergency.
- 186 Ensure compliance with all relevant legislation, organisational policy, and professional codes of conduct to uphold standards of best practice.

### **Lead Local Flood Authority and Coastal Protection Authority**

- 187 Ensure compliance with all statutory duties pursuant of the Flood and Water Management Act (2010), namely:
- Preparation and maintenance of a Local Flood Risk Management Strategy
  - Carry out works to manage flood risk within Somerset
  - Maintain a register of assets that have a significant impact on flooding
  - Investigate and report on significant flooding incidents in Somerset
  - undertake a statutory consultee role providing technical advice on surface water drainage to local planning authorities major developments (10 dwellings or more)
  - co-operate with other Risk Management Authorities
  - play a lead role in emergency planning and recovery after a flood event. Local authorities are 'category one responders' under the Civil Contingencies Act and must have plans to respond to emergencies, and control or reduce the impact of an emergency.
- 188 Undertake powers under the Land Drainage Act (1991) to regulate watercourses to maintain 'proper flow' by:
- issuing consents for altering, removing or replacing certain structures or features on ordinary watercourses; and
  - enforcing obligations to maintain flow in a watercourse and repair watercourses, bridges and other structures in a watercourse
- 189 Ensure the lead on coastal erosion risk management activities in the area.
- 190 Accountable for developing Shoreline Management Plans (SMPs).

### **Civil Contingencies**

Set strategy, and co-ordinate at the tactical level, activity when responding to internal and external emergencies/major incidents.

Coordinate training and exercises commensurate with Strategic Officer responsibilities



including but not limited to Multi-agency Gold Incident Commander (MAGIC).

### **Somerset Rivers Authority**

Ensure the effective management of the Somerset Rivers Authority and that its actions and operation are in accordance with its defined purpose and constitution.

### **Biodiversity and Ecology**

Ensure duty to have regard to biodiversity when developing policy

Ensure adherence to Biodiversity Net Gain obligations pursuant of the Environment Act (2021)

Ensure regard to biodiversity and nature recovery within the planning system

### **Local Nature Recovery Strategy**

Ensure the development and delivery of the Local Nature Recovery Strategy in accordance with the Environment Act (2021)

### **Areas of Outstanding Natural Beauty**

In accordance with s89(2) of the Countryside and Rights of Way Act 2000 (the Act), be accountable for the preparation and publication of a plan which formulates its policy for the management of the AONB and for the carrying out of its functions in relation to it.

In accordance with s89(9) of the Act ensure the review of the AONB Management Plans every five years.

### **Waste**

Ensure adherence of all statutory obligations with regard to the collection and disposal of household waste, including garden and food waste

### **Service Director: Strategy and Performance**

#### **Areas of Responsibility**

191 Business Intelligence.

192 Development of the Council Plan.

- 193 Internal and External Communications.
- 194 Marketing, events and campaigns.
- 195 Strategic Planning (Corporate, Business and Service Planning).
- 196 Commissioning Framework.
- 197 All powers necessary to ensure the efficient day to day operation of the Council's Land Charges functions

#### **Service Director: Human Resources**

##### **Areas of Responsibility**

- 198 Supporting Human Resources Committee.
- 199 Determine any compensation payable on early termination of a contract of employment by reason of redundancy, early retirement or in the interests of efficient exercise of the Council's functions and application for early payment of pension benefits to officers in consultation with the relevant Chief Officer.
- 200 Industrial relations and employment matters.

#### **Executive Director: Resources & Corporate Services (s151)**

##### **Areas of Responsibility**

- 201 The proper administration of the Council's financial affairs under Section 151 of the Local Government Act 1972 and to exercise any statutory powers and duties and section 114 of the Local Government Finance Act 1988.
- 202 Borrowing and lending within the limits approved by the Council.
- 203 Developing and overseeing the implementation of the Council's Medium Term Financial Plan, Housing Revenue Account 30 year business plan and Annual Budget.
- 204 To set fees and charges.
- 205 To agree the funding of the capital programme.

- 206 Overall management of the internal audit function in accordance with the Accounts and Audit Regulations 2003 (or any amending or substituted legislation, or legislation with a similar purpose or made for similar purposes) and instructing investigations in accordance with the Council's corporate Fraud policy where appropriate.

#### **Service Director: Strategic Asset Management**

##### **Areas of Responsibility**

- 207 Take all steps necessary for the effective management of the Council's General Fund land and property portfolio including:
- i. freehold acquisitions and disposals where either the capital payment does not exceed £500,000 or the annual rental does not exceed £100,000;
  - ii. authority to declare land and property surplus to the Council's requirements; and
  - iii. authority to enter into leases, grant or vary leases, licenses, dedications, wayleaves, easements of or over any land.
- 208 Authority to sell land or property at an undervalue not exceeding £100,000 (expressed as a capitalised figure) or 20% of the unrestricted value, whichever is the lower.
- 209 To manage leases granted or entered into by the Council including lease renewals, rent reviews, applications for consents and schedules of dilapidations.

#### **Service Director: Finance and Procurement**

##### **Areas of Responsibility**

- 210 Manage Financial Services.
- 211 Manage corporate loans, investments and cash.
- 212 Authorise (following consultation with the relevant Executive/Service Director and the Monitoring Officer) the making of any ex-gratia payment up to £10,000 per event in circumstances where there is no legal liability.
- 213 Manage Microsoft Dynamics system and authorised officer lists.
- 214 Manage procurement strategies in consultation with Commissioning Officers.

- 215 Manages strategic and service-based procurement and purchasing activities.
- 216 Manage the Council's Contract Standing Orders and the register of authorised officers for commissioning, procurement and contract awards.
- 217 Determine liability, demand payment, make arrangements for collection and take action for recovery of Council Tax and Non-Domestic Rates
- 218 Accept external funds and grants to the Council and authorise grants and funding from the Council.
- 219 Maintain, manage, provide advice and guidance, put in place systems and resources to deliver the Council's Governance Framework, including the Annual Governance Statement and Strategic Risk Management.
- 220 To deal with all insurances relating to the Council, any of its services and functions and its Members including the areas of cover, the extent of cover, the negotiation and acceptance of conditions of cover, and settlement of claims against the insurer or by a claimant (so far as permitted by the insurer).
- 221 Undertake all action for the collection of income, interest and costs due to the Council including the power to issue and recover any penalties relating to such matters and/or write off irrecoverable debts in accordance with the limits set out in the Council's Financial Procedure Rules.
- 222 Exercise any other powers conferred on him/her under the Council's Contract or Financial Procedure Rules from time to time.
- 223 Authorise the National Non-Domestic Rates 1 Returns (NNDR1)
- 224 Make decisions on applications for the reduction or remittance of non-domestic rates and discretionary rate relief in accordance with the relevant policy(s) of the Council.
- 225 Pay salaries and allowances and implement salary awards to employees.
- 226 The discharge of mortgages
- 227 All Treasury Management matters including the borrowing of money, management of investment funds and to take all executive decisions on borrowing, investment or financing and to act in accordance with CIPFA's Code of Practice on Treasury Management in Local Authorities.
- 228 To administer the Council's functions in relation to the collection of non-domestic

rates in accordance with the Local Government Act 1988 (as amended) and all relevant regulations made thereunder including the granting of relief under the Act.

- 229 To be responsible for the billing collection and enforcement of council Tax in accordance with Government Regulations and Council policy.
- 230 The Registration of charging orders against properties the subject of rate arrears.
- 231 The determination of benefit claims in accordance with the appropriate regulations.
- 232 To agree in conjunction with the Lead Member amendments to fees and charges unless a key income line identified as requiring Executive approval.
- 233 To exercise any powers and duties relating to the administration of the housing benefits and council tax benefits system within adopted Council policy(s).
- 234 To be responsible for decision making on matters of discretion associated with the benefits system under the adopted Council policy(s).

#### **Executive Director and Service Director: Public Health**

##### **Areas of Responsibility**

This is a joint appointment with the Secretary of State to:

- 235 Act as an Independent advocate for the health and wellbeing of the local population and reduce the inequalities experienced.
- 236 Monitor and publish an independent Annual Report of the Director of Public Health
- 237 Provide system leadership and assurance that robust arrangements are in place to protect the health and wellbeing of the local population
- 238 In the case of an outbreak or emergency to ensure all necessary public health actions are in place to protect the health of the population.
- 239 Provide leadership across partners to influence and develop strategy and policy to improve population health and wellbeing.
- 240 Act as the principal advisor to the Health & Wellbeing Board and development of the Health and Wellbeing Strategy

- 241 Undertake the Joint Strategic Needs Assessment and Pharmaceutical Needs Assessment
- 242 Undertake the public health statutory duties on behalf of the Council
- 243 Commissioning of public health services including sexual health, substance misuse, lifestyle and public mental health services.
- 244 Leadership and management of the Somerset Public Health Nursing Service
- 245 Commissioning of Community Safety and Domestic Abuse Services
- 246 Provide specialist public health analytical support to ensure NHS commissioning of healthcare is in line with the needs of the local population.
- 247 Monitor strategy and outcomes in relation to the population's public health.
- 248 Equality and diversity activities.
- 249 Facilitate the function and manage statutory responsibilities of the Safer Somerset Partnership (Crime and Disorder Act 1998, Police and Justice Act 2006.
- 250 Manage the delivery of the Safer Somerset Partnership's responsibility to reduce reoffending (Police and Crime Act 2009).
- 251 Deliver Council's responsibilities under the Police, Courts, Sentencing Act 2022 serious violence duty.
- 252 Designated role for the Prevent Duty.
- 253 Manage the Council's response to Modern Slavery
- 254 Responsibility for delivering against the Duty in the Domestic Abuse Act 2021 including service commissioning, managing and leading the Domestic Abuse Partnership Board, publishing Strategy(s) and conducting needs assessments.
- 255 Managing and commissioning for the undertaking of Homicide Reviews on behalf of the Safer Somerset Partnership (Domestic Violence, Crime and Victims Act 2004).

## **Executive Director: Children's Services**

### **Areas of Responsibility**

- 256 Exercise the statutory functions and social services functions (Director of Children's Services statutory role) of the authority under section 18 of the Children Act 2004 (where these are executive functions).
- 257 Provide strategic leadership in the delivery of services to individuals and families including safeguarding and harm reduction services for children, support to those with special educational needs, learning and physical disabilities, sensory impairment and mental health problems and the strategic leadership of schools and learning services.
- 258 Responsible for the strategic direction, operational commissioning, policy and practice of the Council in relation to the safety and protection of individual children and young people at risk of abuse; developing preventative and early intervention approaches working across agencies and professional groups while maintaining and developing robust joint agency partnership arrangements. Responsible also for regulated services provided by the Council for children and young people including placement services and fostering and adoption services to the Regional Adoption Agency (Adopt South West) ensuring that services provided are safe, efficient and effective to meet required regulatory standards and working with commissioners to prepare services for future delivery models
- 259 Exercise on behalf of the Council, the Leader of Council, the Executive and Executive Members the statutory functions and management of services in relation to:
- The authority's role in relation to Education (as the Local Education Authority).
  - Needs analysis.
  - Strategy and policy development.
  - Facilitate Commissioning Strategy implementation.
  - Supporting Families (formerly known as Troubled Families).
  - Children & Young People's Plan.
  - Academy conversions.
  - School Admissions.
  - School Place planning and sufficiency of school places.
  - Children's safeguarding policy and statutory duties (as defined in statute or guidance in relation to the role of the Council / Director of Children's Services).
  - Commission services to meet the needs of children and young people (0-19 year olds).

- Early Help services.
- Special Educational Needs services.
- School Transport services.
- School Improvement services.
- Monitor strategy and outcomes.

## **Service Director- Children and Families**

### **Areas of Responsibility**

- 260 To exercise the management of services on behalf of the Council, the Leader of Council, the Executive and Executive Members, and to direct and / or ensure the effective management of a range of services as specified by the Lead Commissioner Children & Learning and ensure that the services are delivered in accordance with the required quality and performances either in house or by contract with a third party.
- 261 Responsible for the strategic direction, operational commissioning, policy and practice of the Council in relation to the safety and protection of individual children and young people at risk of abuse; developing preventative and early intervention approaches working across agencies and professional groups while maintaining and developing robust joint agency partnership arrangements. Responsible also for regulated services provided by the Council for children and young people including placement services and fostering and adoption services ensuring that services provided are safe, efficient and effective to meet required regulatory standards and working with commissioners to prepare services for future delivery models.
- 262 To exercise statutory functions and responsibility for managing the following services:
- Social Work Assessment and child protection.
  - Emergency Duty Team.
  - Young Carers.
  - Fostering.
  - Adoption agency functions (ADM – Adoption Decision Maker) in relation to Adopt South West.
  - Children Looked After.
  - Children with disabilities.
  - Leaving Care Service.
  - Family Intervention Service.
  - Route one Advocacy Service.
  - Youth Offending Team.
  - Early Help Services as they relate to Social Care responsibilities.
  - Council's Caldicott Guardian responsibilities (in respect of Children).



- Any other services commissioned by the Director of Children's Services.

## **Service Director: Commissioning and Performance**

### **Areas of Responsibility**

- 263 To exercise the statutory functions and management of services on behalf of the Council, the Leader of Council, the Executive and Executive Members, and to direct and/ or ensure the effective management of a range of services as specified by the Executive Director of Children's Services and ensure that the services are delivered in accordance with the required quality and performance either in house or by contract with a third party. The services to include:
- 264 Commissioning Joint Strategic Needs Analysis as it relates to the Director of Children's Services responsibilities.
- 265 Strategy and policy development with responsibility for the Children's and Young People's Plan.
- 266 Commissioning of Early Help & Prevention Services
- 267 Commission services to meet the needs of children and young people (0-19- year olds), where required jointly with NHS bodies.
- 268 Commission education and care provision for vulnerable children
- 269 Commission housing provision for Care Leavers jointly with Housing Authorities
- 270 Commissioning of Drug, Mental Health and Domestic Abuse Services as they relate to the responsibilities of the Director of Children's Services. Facilitate Commissioning Strategy implementation.
- 271 Monitor strategy and outcomes.
- 272 Troubled Families. (Supporting Families from 2021)

## **Service Director: Inclusion**

### **Areas of Responsibility**

- 273 To exercise the management of services on behalf of the Council, the Leader of

Council, the Executive and Executive Members, and to direct and / or ensure the effective management of a range of services as specified by the Director of Children's Services and ensure that the services are delivered in accordance with the required quality and performances either in house or by contract with a third party.

- 274 Responsible for the Council's functions in relation to inclusive education, special educational needs and disabilities, alternative education provision, educational outcomes for children in care and under achieving groups ensuring the delivery of efficient, effective, and safe learning services that represent best value.
- 275 To exercise statutory functions and responsibility for managing the following services:
- School Admissions and School Admission Appeals.
  - Commission services to meet the needs of children and young people (0-19-year olds).
  - Special Educational Needs services
  - Early Help Services as they relate to education responsibilities
  - School Transport services and School Transport Appeals
  - Electively Home Educated.
  - Gypsy, Romany and Traveller education.
  - Pupil Referral Units.
  - SEN Services.
  - Educational Psychology Services.
  - Home to School Transport (SEN).
  - Autism Services.
  - Physical, Sensory and Occupational Therapy Services (SPOT).
  - Education Attendance.

### **Service Director: Education, Partnership and Skills**

#### **Areas of Responsibility**

- 276 To exercise the management of services on behalf of the Council, the Leader of Council, the Executive and Executive Members, and to direct and / or ensure the effective management of a range of services as specified by the Director of children's Services and ensure that the services are delivered in accordance with the required quality and performances either in house or by contract with a third party.
- 277 Responsible for the Council's functions in relation to educational efficiency and effectiveness including performance management and oversight of Local Authority maintained schools, statutory responsibilities for early years funding and sufficiency, coordinated action to improve standards in partnership with educational stakeholders,

commissioning and delivering interventions to improve leadership, governance, curriculum, pedagogy and assessment practices in educational settings, long-term place planning and capital investment in mainstream schools and education strategy development for education for pupils age 2 to 19. Oversight of traded services for education.

278 To exercise statutory functions and responsibility for managing the following services:

- The authority's role in the provision of Education.
- Strategy and policy development for education 2-19 in relation to functions below.
- Education partnership governance and communications.
- System leadership development.
- Education traded services.
- School improvement function.
- Early years improvement function.
- Early years sufficiency.
- Careers and programmes to support pupils 16-19.
- School place planning and reorganisation.
- Subject leadership for SACRE and RE syllabus and Music Hub.
- Standard/s and moderation for evidence-based curriculum, pedagogy and assessment, including early reading.
- Academy conversions.
- Capital investment programme for mainstream schools including creation of free schools.

## **Executive Director: Adult Services**

### **Areas of Responsibility**

279 Exercise the statutory functions and social services functions (Director of Adult Social Services statutory role) of the authority (where these are executive functions), other than those for which the Lead Commissioner Children & Learning (Director of Children's Services statutory role) is responsible under section 18 of the Children Act 2004.

280 Management of services in relation to:

- Needs analysis.
- Strategy and policy development.
- Commissioning.
- Facilitate Commissioning Strategy implementation.
- Safeguarding adults.
- Personalisation and direct payments.

- Functions exercisable on behalf of an NHS body, so far as those functions relate to adults.
- Arrangements to protect and promote the welfare of vulnerable adults, including vulnerable young people moving into adulthood.
- Monitor strategy and outcomes.
- Supporting People.
- Voluntary Sector Support.
- Learning & Disability services commissioning

### **Service Director: Operations**

#### **Areas of Responsibility**

- 281 Adult Assessment and Care Management.
- 282 Occupational Therapy.
- 283 Active Living.
- 284 Council's Caldicott Guardian responsibilities (in respect of Adults)
- 285 Any other services commissioned by the Adults and Health Commissioner.

### **Service Director: Commissioning**

#### **Areas of Responsibility**

- 286 Needs analysis.
- 287 Strategy and policy development.
- 288 Commissioning all adult services.
- 289 Integration and Better Care Fund.
- 290 Facilitate Commissioning Strategy implementation.
- 291 Monitor strategy and outcomes.
- 292 Learning & Disability services and Mental Health commissioning
- 293 Quality assurance of care

## **6. Officer Decision-Making**

### **Officer Delegation**

- 6.1 Any delegation to an Executive Director or Service Director or an officer includes authority for any further sub-delegation within the relevant area of responsibility (including cross-directorate delegation where appropriate). Officers shall devolve responsibilities for service delivery and management to those staff who represent the nearest practicable point of delivery to the service user.
- 6.2 All Executive and Service Directors will establish a list of authorised officers for the functions / services / budgets that they manage on behalf of the Council.
- 6.3 Where any authorised officer is absent for any period, their immediate line manager or Senior Leadership Team officer with management responsibility for that officer may nominate in writing another officer to act in his or her place and shall make a record of all such nominations with the Council's Monitoring Officer. Alternatively, the line manager for an authorised officer who has overall responsibility for that function may take the decision.

### **Recording and Publishing Officer Decisions**

- 6.4 The following paragraphs establish a system to document certain decisions taken by officers under delegated authority.

### **Types of officer decisions**

- 6.5 An 'Executive decision' is one made in connection with the discharge of a function which is the responsibility of the Leader and Executive and which has been delegated to officers.
- 6.6 A 'Non-Executive decision' is one made in connection with the discharge of a function that is the responsibility of Full Council and its committees and which has been delegated to officers.

### **Key Decisions**

- 6.7 Key Decisions are Executive decisions that are likely to:
- 6.8 (a) result in expenditure or savings of £500k or more; or
- 6.9 (b) have a significant effect on communities living or working in an area comprising two or more wards.
- 6.10 As soon as reasonably practicable after a Key decision has been made, officers must produce a written statement, available for inspection at the Council's offices and published on the Council's website, that includes details of:

- the decision and the date it was made;
- the reasons for it;
- any alternative options considered and rejected;
- any conflicts of interests declared by any Lead Member consulted by the officer and any dispensations granted by the Chief Executive in respect of any declared conflict;
- the report considered by the decision-maker;
- any background documents disclosing facts or matters on which the decision was based and which were relied on to a material extent in making the decision.

## **Records of officer decisions**

- 6.11 The significance of decisions taken under delegated powers will vary, and officers authorised to make delegated decisions need to exercise judgment in determining whether decisions are significant enough to require formal recording and publishing. Advice of the Monitoring Officer should be taken into account in reaching this conclusion.

## **Decisions over £500k AND / OR where they have a significant effect on communities living or working in two or more Councillor divisions**

- 6.12 These decisions qualify as key decisions and officers must liaise with the Democratic Services team at the earliest opportunity in order to comply with the necessary pre-publication and consultation requirements ahead of a key decision being taken by an officer, a Lead Member, by two Executive Members or the Executive.
- 6.13 Specific guidance notes and report templates are available for key decisions on the intranet and from Democratic Services. Democratic Services retain decision records and background papers for at least 6 years.

## **Decisions involving between £50k and £499k spend / savings, going out to tender (all contract values over £50k), declaring assets/property surplus to requirements (all assets over £50k in value) and consultation responses**

- 6.14 Where officer decisions result in total expenditure or savings of between £50k and £499k (Capital or Revenue) then officers are required to complete the necessary decision record for approval by an authorised officer. The authorised officer signs the record to give their approval. A copy of the completed and signed decision record must be given to the Democratic Services. In all other circumstances, the service will be required to retain a copy of the decision record / evidence of compliance with the Scheme of Delegation and the Council's decision-making requirements.

- 6.15 Specific guidance notes and the decision record template for these decisions are available on the intranet and from Democratic Services. Democratic Services will retain the decision records for at least 6 years, as should report authors.

### **Decisions involving less than £50k spend / savings**

- 6.16 Where officer decisions result in expenditure or savings of less than £50k (Capital or Revenue) then officers are required to produce and keep their own decision records, supporting information and background papers for at least 6 years. Report authors can choose to use the officer decision report template for decisions between £50k and £499k if they so wish, but a copy does not have to be sent to Democratic Services.
- 6.17 The only exceptions to the above arrangements are:
- Provision of SEN services to individuals
  - Provision of Safeguarding and Care services to individuals
  - Agreed inflationary increases on contracts within Safeguarding and Care
  - The purchase of service packs

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**Part I**

**SPECIFIC DELEGATIONS FOR THE LICENSING FUNCTIONS**

<b>MATTER TO BE DEALT WITH</b>	<b>FULL COMMITTEE</b>	<b>SUB-COMMITTEE</b>	<b>OFFICERS</b>
Application for personal licence		If a police objection is made and not withdrawn	If no objection
Application for personal licence, with unspent convictions		All cases	
Application for Premises Licences/Club Premises Certificate		If a relevant representation is made and not withdrawn	If no relevant representation
Application for provisional statement		If a relevant representation is made and not withdrawn	If no relevant representation
Application to vary Premises Licences/Club Premises Certificate		If a representation is made and not withdrawn	If no representation
Application to vary Designated Premises Supervisor		If a police objection is made and not withdrawn	All other cases

<b>MATTER TO BE DEALT WITH</b>	<b>FULL COMMITTEE</b>	<b>SUB-COMMITTEE</b>	<b>OFFICERS</b>
Application for transfer of Premises Licences		If a police objection is made and not withdrawn	All other cases
Application for an interim authority notice where the Licence holder dies, becomes mentally incapable, becomes insolvent or, is no longer entitled to work in the UK		If a police objection is made and not withdrawn	All other cases
Application to review Premises		All cases	

Licences/club premises registration			
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of an objection to a temporary event notice		If a representation is made and not withdrawn	
Application for a minor variation			All cases

MATTER TO BE DEALT WITH	FULL COMMITTEE	SUB-COMMITTEE	OFFICERS
Application to remove the requirement for a Designated Premises Supervisor and personal licence at a community premises			All cases
Decision to make, vary or revoke an Early Morning Restriction Order	Yes		
Decision to publish a cumulative impact assessment	Yes		
Hearing and determining applications for a Hackney Carriage and Private Hire Vehicle Driver's Licence or Private Hire Operator's Licence Including applications to renew any such licence		Where Officers have material concerns as to whether the applicant is a "fit and proper" person to hold such licence	All other cases

To grant delegated authority to officers to suspend or revoke Hackney Carriage or Private Hire Driver's Licences when required to do so with immediate effect to ensure public safety			All cases
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## APPENDIX B

### TABLE OF DELEGATIONS OF LICENSING FUNCTIONS- GAMBLING ACT 2005

MATTER TO BE DEALT WITH	FULL COMMITTEE	SUB-COMMITTEE	OFFICERS
Three-year licensing policy	Yes		
Policy not to permit casinos	Yes		
Fee Setting - when appropriate	Yes		
Application for premises licences		If a relevant representation is made and not withdrawn	If no relevant representation
Application for a variation to a licence		If a relevant representation is made and not withdrawn	If no relevant representation
Application for a transfer of a licence		If a relevant representation is made and not withdrawn	If no relevant representation
Application for a provisional statement		If a relevant representation is made and not withdrawn	If no relevant representation
Review of a premises licence		Yes	
Application for club gaming /club machine permits		If a relevant representation is made and not withdrawn	If no relevant representation
Cancellation of club gaming/ club		If a relevant representation is made and not withdrawn	If no relevant representation

machine permits			
Applications for other permits		If a relevant representation is made and not withdrawn	If no relevant representation
Cancellation of licensed premises gaming machine permits		If a relevant representation is made and not withdrawn	If no relevant representation
Consideration of temporary use notice		If a relevant representation is made and not withdrawn	If no relevant representation
Decision to give a counter notice to a temporary use notice		If a relevant representation is made and not withdrawn	If no relevant representation
Determination as to whether a person is an Interested Party			All case
Determination as to whether representations are relevant			All cases
Determination as whether a representation is frivolous, vexatious, or repetitive			All cases

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**Part I3 - The Statutory and Proper Officers – Designated Posts**

<b>Legislation</b>	<b>Function</b>	<b>Designated Officer</b>	<b>Deputy(s) in their absence</b>
Section 4(1) Local Government and Housing Act 1989	Head of Paid Service	Chief Executive	As appointed by the Chief Executive
Section 151 Local Government Act 1972	Chief Finance Officer (Section 151 Officer)	S151 Officer	Service Director – Finance and Procurement
Section 5(1) Local Government and Housing Act 1989	Monitoring Officer	Monitoring Officer	As appointed by the Monitoring Officer
Section 9FB of the Localism Act 2011 (Sch 2)	Scrutiny Officer	Service Manager - Scrutiny	Service Manager – Democratic Services
Section 28 and 35 Representation of the People Act 1983	Returning Officer	Chief Executive	As appointed by the Chief Executive
Section 28(5) Representation of the People Act 1983	Deputy Returning Officer(s)	As appointed from time to time by the Returning Officer	
Section 8 Representation of the People Act 1983	Electoral Registration Officer	Chief Executive	Service Director – Governance, Democratic and Legal Services and Elections Managers
Section 6(1) Local Authority Social Services Act 1970	Director of Adult Social Services	Executive Director – Adult & Health Services	Service Directors for Adult Operations, Commissioning and Transformation
Section 18 Children Act 2004	Director of Children's Services	Executive Director – Children's Services	Service Directors for Children and Families, Commissioning and Performance, Inclusion and Education Partnerships and Skills

Section 532 Education Act 1996	Chief Education Officer	Executive Director – Children’s Services	Service Directors for Children and Families, Commissioning and Performance, Inclusion and Education Partnerships and Skills
National Health Service Act 2006 S73A(1) and Health and Social Care Act 2012	Director of Public Health	Executive Director – Public Health	Deputy Director Public Health
Data Protection Act 2018 General Data Protection Regulations	Data Protection Officer	Data Protection Manager	Service Director – Governance, Democratic and Legal Services



## Proper Officer Functions – Schedule of Appointments

### Local Government Act 1972

SECTION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER	DEPUTY(S) IN THEIR ABSENCE
13 (3)	Parish Trustee where no Parish Council.	Chief Executive	Executive Director – Strategy, Workforce and Localities
83 (1) to (4)	To witness and receive declarations of acceptance of office of Chair, Vice- Chair or councillor. .	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s)
84	To accept written notice of resignations from councillors.	Chief Executive	Service Director – Governance, Democratic and Legal Services and Monitoring Officer
88 (2)	Convening meetings of the Council for the purpose of filling a casual vacancy in case of Chair of the Council.	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s)
89 (1)(b)	Receipt of notice from electors requiring election to fill casual vacancy occurring in the office of councillor.	Service Director – Governance, Democratic and Legal Services	Elections Managers

		and Monitoring Officer	
99 and Sch 12	To give notice and send summonses and receive formal notifications from councillors in respect of any Council meeting	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s)
100 (A)to (F)	The provision of information about the decisions made or to be made by councillors including access to agenda, reports, background papers, members additional document access rights, minutes and records of decisions	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s)
100 (G)	Register of Elected Members; List of Delegated powers of officers; Written summary of rights to attend meetings and to inspect and copy documents.	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s)
115 (2)	Person to whom all officers shall pay monies received by them and due to Council.	Executive Director – Resources and Corporate Services and S151 Officer	Service Director – Finance and Procurement and Deputy S151 Officer(s)
137(a)	Gives the proper officer power to require a voluntary organisation or similar body to supply information to them, where a local authority uses its powers under Section 137 to give financial assistance to that voluntary organisation or similar body above a relevant minimum	Executive Director – Resources and Corporate Services and S151 Officer	Service Director – Finance and Procurement and Deputy S151 Officer(s)

138	Emergency disaster powers	Chief Executive	Executive Director – Resources and Corporate Services and S151 Officer
146 (1)(a)	Statutory declarations and issue any certificate in relation to securities on change of name of authority or change of area.	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s)
151	Officer having responsibility for the administration of the Council's financial matters.		
191	Receipt of notices from Ordnance Survey in relation to ascertaining or locating Local Authority boundaries.	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s)
210(6) and (7)	Appoints the proper officer to be vested with certain powers in respect of charities	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s)
223	Authorising officers to attend court and appear on behalf of the Council under Local Government Act 1972 and the County Courts Act 1984	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	County Solicitor, Legal Services Managers and Head of Legal Services

225 (1)	To receive and give receipt for any document required to be formally deposited.	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s)
229 (5)	Certification of photographic copies of documents for use in legal proceedings.	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	County Solicitor, Legal Services Managers and Head of Legal Services
233	The officer to receive documents required to be served on the Council	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	County Solicitor, Legal Services Managers and Head of Legal Services
234	The signing of any notice, order or other document which a local authority are authorised or required to give under any enactment on behalf of the authority.	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	County Solicitor, Legal Services Managers, Head of Legal Services and Deputy Monitoring Officers
236 (9) and (10) and 238	Send copy byelaws to Parish Councils and Certifying of printed copies of byelaws.	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	County Solicitor, Legal Services Managers and Head of Legal Services

248	The Officer responsible for keeping the roll of freemen	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	County Solicitor, Legal Services Managers and Head of Legal Services
Para 4 of Part 1 of Schedule 12	Officer who may sign a summons to council meetings and Officer who may receive notice from a member of address to which a summons to a meeting is to be sent	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s)
Schedule 14, Para. 25(7)	Certification of copy resolutions under the Public health Acts 1875-1925.	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s)
Schedule 29 Para 41	Proper Officer for Births, Marriages and Deaths.	Service Director - Regulatory and Operational Services	Service Manager – Registration Services

### Local Government Act 1974

<b>SECTION</b>	<b>BRIEF DETAILS OF RESPONSIBILITY</b>	<b>PROPER OFFICER</b>	<b>DEPUTY(S) IN THEIR ABSENCE</b>
30	Receipt of Local Ombudsman Reports and giving of public notice thereof.	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s)

### Local Elections (Principal Areas) (England and Wales) Rules 2006 and Local Elections (Parishes and Communities) Rules 2006

<b>Regulation</b>	<b>BRIEF DETAILS OF RESPONSIBILITY</b>	<b>PROPER OFFICER</b>	<b>DEPUTY(S) IN THEIR ABSENCE</b>
	Retention and public inspection of documents after an election	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s)

### Local Government (Committees and Political Groups) Regulations 1990

<b>Regulation</b>	<b>BRIEF DETAILS OF RESPONSIBILITY</b>	<b>PROPER OFFICER</b>	<b>DEPUTY(S) IN THEIR ABSENCE</b>
	For the purposes of the composition of committees and nominations to political groups	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s)

### Local Authorities Cemeteries Order 1977

Regulation	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER	DEPUTY(S) IN THEIR ABSENCE
10	To sign exclusive rights of burial	Executive Director of Community Services	Service Director - Regulatory and Operational Services

### Public Health Act 1961

Regulation	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER	DEPUTY(S) IN THEIR ABSENCE
37	Disinfection or destruction of verminous article	Executive Director of Community Services	Service Director - Regulatory and Operational Services

### Representation of the People Act 1983

Regulation	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER	DEPUTY(S) IN THEIR ABSENCE
	All proper officer functions identified in the legislation	Chief Executive	Deputy Returning Officer(s)

### Building Act 1984

<b>Regulation</b>	<b>BRIEF DETAILS OF RESPONSIBILITY</b>	<b>PROPER OFFICER</b>	<b>DEPUTY(S) IN THEIR ABSENCE</b>
78 and 93	To take action in relation to dangerous buildings and structures and the giving of notices.	Executive Director – Climate and Place	Service Director – Economy, Employment and Planning

### Local Government Finance Act 1989

<b>SECTION</b>	<b>BRIEF DETAILS OF RESPONSIBILITY</b>	<b>PROPER OFFICER</b>	<b>DEPUTY(S) IN THEIR ABSENCE</b>
114 and 115	Responsibility for Chief Financial Officer Reports.	Executive Director – Resources and Corporate Services and S151 Officer	Service Director – Finance and Procurement and Deputy S151 Officer(s)
116	Notification to auditor of date, time and place of meeting to consider Section 114 report and of decision of such meeting.	Executive Director – Resources and Corporate Services and S151 Officer	Service Director – Finance and Procurement and Deputy S151 Officer(s)
139A	Provision of information to the Secretary of State in relation to the exercise of his powers under this Act as and when required.	Executive Director – Resources and Corporate Services and S151 Officer	Service Director – Finance and Procurement and Deputy S151 Officer(s)



### Local Government and Housing Act 1989

SECTION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER	DEPUTY(S) IN THEIR ABSENCE
2(4)	Officer with whom the list of politically restricted posts shall be deposited.	Service Director Workforce	Service Director – Governance, Democratic and Legal Services
3A	Officer responsible for the grant and supervision of exemptions from political restriction	Service Director Workforce	Service Director – Governance, Democratic and Legal Services
15 -17	To undertake all matters relating to the formal establishment of political groups within the membership of the Council.	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s)

### Local Government Act 2000

REGULATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER	DEPUTY(S) IN THEIR ABSENCE
3	Producing a written statement of executive decisions made at meetings.	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s)
5	Making a copy of written statements of executive decisions and associated reports available for inspection by the public.	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s)

6	Making available for inspection a list of background papers.	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s)
11(2)	Exclusion of whole or part of any report to the Executive where meeting is likely not to be open to the public.	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s)
11(7)(c)	Provision to the press of other documents supplied to members of the Cabinet in connection with the item discussed.	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s)
34	Officer responsible for publication of number of local government electors required to support a petition	Electoral Registration Officer	Deputy Electoral Registration Officer(s) and Elections Managers
81	Establish and maintain a Register of Interests.	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s)
	All references to the Proper Officer in the Local Government Act 2000 and subordinate legislation	Chief Executive	

**Local Government (Referendums) (Petitions) (England) Regulations  
2011**

<b>REGULATION</b>	<b>BRIEF DETAILS OF RESPONSIBILITY</b>	<b>PROPER OFFICER</b>	<b>DEPUTY(S) IN THEIR ABSENCE</b>
4	Officer who publishes the number that is equal to 5 per cent of the number of local government electors for the authority's area	Electoral Registration Officer	Deputy Electoral Registration Officer(s) and Elections Managers

**Local Government (Miscellaneous Provisions) Act 1976**

<b>SECTION</b>	<b>BRIEF DETAILS OF RESPONSIBILITY</b>	<b>PROPER OFFICER</b>	<b>DEPUTY(S) IN THEIR ABSENCE</b>
16	Notices requiring details of interest in land	Any Chief Officer of the Council	
41(1)	The officer to certify copies of any resolution, order, report or minutes of proceedings of the Authority as evidence in any legal proceedings	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s) and Head of Legal Services or Legal Services Managers

**The Local Authorities (Executive Arrangements) (Access to Information)  
(England) Regulations 2012**

<b>SECTION</b>	<b>BRIEF DETAILS OF RESPONSIBILITY</b>	<b>PROPER OFFICER</b>	<b>DEPUTY(S) IN THEIR ABSENCE</b>
9 (1)	Officer responsible for publishing the information relating to key decisions.	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s)
12(1)	Officer responsible for producing a written statement of all executive decisions made at a public or private meeting of Executive, including the information.	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s)
14	Officer responsible for ensuring that a copy of the following documents is available for public inspection: the written statement referred to in regulation 12 above part or all of any report considered by the decision maker and relevant to the decision made	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s)
15	Officer responsible for compiling a list of background papers to the report referred to in regulation 14 above.	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s)
20	Officer who may exclude whole or part of any report provided for public inspection, where the part excluded relates to a matter for which the proper officer considers a meeting is not	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s)

	likely to be open to the public and Officer who may form an opinion as to whether a document contains or is likely to contain information confidential information or exempt information or the advice of a political advisor or assistant.		
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### **Health and Safety at Work etc Act 1974**

<b>SECTION</b>	<b>BRIEF DETAILS OF RESPONSIBILITY</b>	<b>PROPER OFFICER</b>	<b>DEPUTY(S) IN THEIR ABSENCE</b>
19	Inspector for enforcement of relevant statutory provisions	Chief Executive	Service Director - Workforce

### **Local Land Charges Act 1975**

<b>SECTION</b>	<b>BRIEF DETAILS OF RESPONSIBILITY</b>	<b>PROPER OFFICER</b>	<b>DEPUTY(S) IN THEIR ABSENCE</b>
3 and 19	Maintenance of the Local Land Charges Register	Executive Director – Strategy, Workforce and Localities	Service Director – Strategy & Performance

### Public Health (Control of Diseases) Act 1984 as amended

<b>SECTION</b>	<b>BRIEF DETAILS OF RESPONSIBILITY</b>	<b>PROPER OFFICER</b>	<b>DEPUTY(S) IN THEIR ABSENCE</b>
48	Preparation of certificate to Justice of Peace for removal of body to mortuary and for burial within a prescribed time or immediately.	Executive Director – Community Services	Service Director – Regulatory and Operational Services
61	Right to enter premises to ascertain whether there has been a contravention of a provision of the 1984 Act or a Part 2A order made pursuant to the 1984 Act.	Executive Director – Community Services	Service Director – Regulatory and Operational Services
	Council's Medical Advisor on Environmental Health and Proper Officer for notifiable diseases	UK Health Security Agency South West Consultants in Health Protection	

### Health Protection (Notification) Regulations 2010

<b>Regulation</b>	<b>BRIEF DETAILS OF RESPONSIBILITY</b>	<b>PROPER OFFICER</b>	<b>DEPUTY(S) IN THEIR ABSENCE</b>
2, 3 and 6	Receipt and disclosure of notification of suspected notifiable disease, infection or contamination in patients and dead persons.	UK Health Security Agency South West Consultants in Health Protection	

### The Civil Evidence Act 1995

Section	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER	DEPUTY(S) IN THEIR ABSENCE
9	To certify Council records for the purposes of admitting the document in evidence in civil proceedings.	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s) and Head of Legal Services or Legal Services Managers

### Local Government (Contracts) Act 1997

Section	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER	DEPUTY(S) IN THEIR ABSENCE
1-4	Certification of relevant powers to enter into contracts.	Executive Director – Resources and Corporate Services and S151 Officer	Service Director – Finance and Procurement and Deputy S151 Officer(s)

### Food Safety Act 1990

SECTION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER	DEPUTY(S) IN THEIR ABSENCE
49(3)	Any document authorised or required by or under this Act to give, make or issue may be signed on behalf of the authority by the proper officer of the authority as respects documents relating to	Executive Director – Community Services	Service Director – Regulatory and Operational Services

	matters within his province.		
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**Health Act 2006 and Smoke Free (Premises and Enforcement)  
Regulations 2006**

<b>SECTION</b>	<b>BRIEF DETAILS OF RESPONSIBILITY</b>	<b>PROPER OFFICER</b>	<b>DEPUTY(S) IN THEIR ABSENCE</b>
10 (Reg 3)	To carry out the functions of an enforcement authority under Regulation 3	Executive Director – Community Services	Service Director – Regulatory and Operational Services

**Landlord and Tenants Acts**

<b>SECTION</b>	<b>BRIEF DETAILS OF RESPONSIBILITY</b>	<b>PROPER OFFICER</b>	<b>DEPUTY(S) IN THEIR ABSENCE</b>
S23 of the Landlord and Tenant Act 1927 and S66 of the Landlord and Tenant Act 1954	To be the proper officer to serve and receive notices on behalf of the Council.	Executive Director – Resources and Corporate Services and Executive Director Community Services	Service Director Asset Management and Service Director Housing



### Building Safety Act 2022

SECTION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER	DEPUTY(S) IN THEIR ABSENCE
S72	Accountable Person for higher-risk buildings.	Executive Director – Resources and Corporate Services and Executive Director Community Services	Service Director Asset Management and Service Director Housing

### Weights and Measures Act 1985

SECTION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER	DEPUTY(S) IN THEIR ABSENCE
72(1)(a)	Chief Inspector of Weights and Measures	Executive Director – Climate and Place	Service Director – Economy, Employment and Planning

### The Freedom of Information Act 2000

SECTION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER	DEPUTY(S) IN THEIR ABSENCE
36	Qualified person who determines exempt information	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s)

## Regulation of Investigatory Powers Act 2000

<b>SECTION</b>	<b>BRIEF DETAILS OF RESPONSIBILITY</b>	<b>PROPER OFFICER</b>	<b>DEPUTY(S) IN THEIR ABSENCE</b>
30	Officers entitled to grant authorisations	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s) and Head of Legal Services or Legal Services Managers
Covert Surveillance & Property Interference Revised Code of Practice and Covert Human Intelligence Sources Revised Code of Practice	Senior Responsible Officer	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s) and Head of Legal Services or Legal Services Managers

## GDPR and Data Protection Act 2018

<b>SECTION</b>	<b>BRIEF DETAILS OF RESPONSIBILITY</b>	<b>PROPER OFFICER</b>	<b>DEPUTY(S) IN THEIR ABSENCE</b>
	Senior Information Risk Owner	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s) and Head of Legal Services or Legal Services Managers

### Other Miscellaneous Proper or Statutory Officer Functions

SECTION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER	DEPUTY(S) IN THEIR ABSENCE
	Any other miscellaneous proper or statutory officer functions not otherwise delegated by the Council	Chief Executive or their nominee	
	Gas Safe Duty Holder (Gas Engineers)	Executive Director – Communities	Service Director - Housing
	Duty Holder Electric, NICEIC (Electrical Engineers)	Executive Director – Communities	Service Director - Housing
	Asbestos Competent Person	Executive Director – Communities	Service Director - Housing
	Company Secretary and Directors at Homes in Sedgemoor (company wholly owned by Somerset Council, staff and elected members named)	Service Director – Governance, Democratic and Legal Services and Monitoring Officer	Deputy Monitoring Officer(s) and Head of Legal Services or Legal Services Managers
Social Housing Regulation Bill 2022	Responsible person Consumer Standards (Regulator for Social Housing)	Executive Director – Community Services	Service Director for Housing

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## **Part I – Officer Code of Conduct**

### Introduction

Somerset Council's reputation, trust, and confidence in its integrity is of vital importance. It must discharge its day-to-day responsibilities with openness and honesty, this philosophy is captured in this code. These principles are presented to assist staff in carrying out their day-to-day responsibilities in accordance with legal requirements placed upon them and any policies adopted by the Council. The Council has a responsibility to take appropriate action where employees feel that they are subject to inappropriate action by a third party.

Provisions relating to the conduct expected of local government employees are also embodied in national agreements such as the 'Green Book' for Local Government Services Employees. These are further supported by the codes of ethical behaviour of various professional bodies.

This document may be supplemented by departmental or sectional practice notes, which will give more detailed guidance on particular areas. If further guidance is needed on any aspect of these Standards, it can be obtained initially by approaching a manager.

This policy does not form part of the Somerset Council Terms and Conditions and may be subject to change.

### Status of these Standards of Conduct "Code of Conduct"

These Standards are based on a document drawn up by the Local Government Management Board on behalf of the local authority associations. They were adopted in 1993 after consultations with Chief Officers and employee representatives. Whilst not themselves amounting to a disciplinary code, any failure to follow the standards set in this document may, depending upon circumstances, give rise to disciplinary action.

### Who are the Standards aimed at?

The Standards apply to all employees of Somerset Council, except for those employed under Teachers Terms and Conditions to which separate standards apply.

Employees must provide services or advice to the best of their ability, within the rules of their relevant professional conduct of any relevant professional or trade body. Employees should consistently offer objective professional and technical advice and always carry out their responsibilities in an impartial manner. Employees are entitled to expect that no Officer or Member of the Council will seek to pressure or persuade them to do otherwise. Where it is alleged that such action has taken place, the Council will investigate the allegation if requested to do so under the appropriate procedures.

There may be occasions when employees, carrying out their duties for the Council, find themselves at odds with national government advice or guidance. In such circumstances it is particularly important that they are seen to behave with complete objectivity and impartiality obtaining managerial and professional advice and guidance where appropriate. Employees are entitled to expect to receive the unequivocal support of senior managers in so doing.

### Guiding Principles

In conducting Council business employees should act in accordance with three key guiding principles:

- Ensure that their conduct complies with this Protocol, the spirit of this Protocol, the Council's policies, and the law
- Ensure that their conduct is never influenced by personal gain
- Ensure that their conduct could not give anyone reason to question their motive

### Confidentiality and Openness

In general, employees should act on the presumption that open government serves the public better than secrecy.

Wherever it might be relevant to their job, employees should be aware of and implement relevant statute and common law that provides for either confidentiality or rights of access to information for Councillors, auditors, and citizens (and in some cases regulatory bodies and government departments).

Any express or implied responsibility to keep information confidential should be respected by employees and there should be awareness that such responsibility might arise from the nature of the information itself, for example, its commercial or

personal sensitivity. It will be extremely rare that employees will be entitled to accept confidences in the course of their duties that cannot be shared with their manager.

Employees should not use information obtained in the course of their employment for personal gain or benefit nor should they pass it on to others who might use it in such a way. When employees obtain confidential information belonging to the Council then they must not disclose that information to any person not authorised to receive it. When employees receive from Councillors information not belonging to the Council or information belonging to the Council, which is confidential, then they must not disclose that information without the appropriate consent of a Senior Leadership Team Director or Strategic Manager.

In their dealings with employees, Councillors and Chief Officers should ensure that communication is as open and informative as possible within the constraints imposed by the law, by their terms and conditions of employment, by the Council's Constitution, policies, procedures, protocols, commercial considerations, and personal sensitivity.

#### Protection of Public Funds

Employees must use public funds entrusted to them to the best advantage of the Council and the community they serve, always trying to ensure value for money for the local taxpayer.

#### Political Neutrality

It is important for the proper functioning of the Council that all Members have trust and confidence in the political impartiality of employees (except in the case of political assistants/political support officers if the Council decides to have such post holder(s)).

All employees of the Council are required to be politically neutral in the completion of their duties and certain posts are politically restricted or politically sensitive. This means that employees in politically restricted or politically sensitive roles may not participate in any formal political activity. The controlling political group may change, and it is important that employees show no bias or personal preference, whatever their personal political beliefs may be.

Employees need to know whether their post is subject to the political restrictions placed on certain post holders by the Local Government and Housing Act, 1989 this can be found in the Recruitment Policy. Relevant employees should be aware of the nature of those restrictions and ensure that they abide by them.

## Relationships

All employees must comply with the Member/Officer Protocol and, in this context, particularly the section relating to Personal and Family relationships. Similarly, all employees must comply with the Officer Code of Conduct. For further information or clarification in relation to this issue, please contact the Monitoring Officer or Deputy Monitoring Officer(s).

### Elected Councillors

Employees are responsible to the Council. For many, their job is to give advice to Councillors and the Council and all are there to carry out the Council's work. Mutual respect between Councillors and staff is essential to good local government. Close personal familiarity between individual Councillors and employees should be avoided as it can damage the relationship and prove embarrassing to other Councillors and employees (National Code of Local Government Conduct paragraphs 23 to 25).

### The Local Community and Service Users

Employees should remember their responsibilities to the community they serve and ensure courteous, high quality, efficient, and impartial service delivery to all groups and individuals within that community. Such courtesy and efficiency should be shown to all persons with whom employees deal remembering that all opportunities need to be taken to enhance the reputation of the Council whether locally, nationally, or internationally.

### Appointments and Employee Relationships

Employees should ensure that appointments are made based on merit and in accordance with the Council's policies and procedures. Merit is determined by matching the chosen candidate with the job specification and ignoring all other extraneous considerations. Employees in the course of their duties should not be involved in the appointment, pay adjustment, approval of expenses, promotion, or discipline of partners, relatives, or close friends.

Close personal relationships between employees should not be permitted to influence the way services are provided if that is or could be detrimental to services.

Employees should not be put under pressure by work colleagues, particularly those in a position of seniority, or Councillors to act or not to act so as to breach these standards or any other national, local, or departmental rules of conduct. If such pressure is exerted, it should be reported to the relevant Chief Officer.

### Contractors

Relationships with contractors or potential contractors should be made known in accordance with the legal requirements to declare financial interests (Section 117



Local Government Act 1972). Advice on this can be obtained from the Monitoring Officer.

Contracts must be awarded on merit in fair competition against other tenders and no favouritism should be shown to businesses run by friends, partners, or relatives, nor should there be improper discrimination against individuals, groups, or sections of the community. Employees who monitor the performance of contractors should behave in a fair and equitable fashion towards all contractors, including in-house contractor organisations, and should not show favouritism to, or improperly discriminate against, any contractor or breach any duty of confidentiality.

Employees who engage or supervise contractors for the Council and who wish to engage a contractor with whom they previously had or currently have a relationship in a private or a domestic capacity should declare that relationship. Employees should not use, in a private or domestic capacity, a contractor with whom they have had official dealings as employees of the Council, without declaring it to his/her Corporate Manager. Similarly, Contractors should be required to disclose private or domestic relationships with any officer or Member. The Council will seek to ensure that the attention of contractors is drawn to the requirements of the Local Government Act 1972 and these Standards.

#### Other Employments

Any employee considering additional employment should discuss this with their line manager to determine whether there may be a conflict of interests, consider whether the additional role is manageable, and whether this may negatively affect the employee's wellbeing. If a potential conflict of interest, working times regulations issue or wellbeing concern is found, please contact HR Advisory to discuss this further. Employees will be required to complete the Register of Officer Interests.

#### Equal Opportunities

All employees must comply with both the spirit and letter of the Equality Act 2010 and the Council's Equal Opportunities policy, treating all members of the public and colleagues with respect and fairness.

#### Health and Safety

The Council has a legal obligation to protect the health and safety at work of all its employees and others in the workplace. Equally, employees should always be aware of, and fulfil, their legal responsibility to protect their own and others health and safety at work.

### Post-Employment Duties

The duty of fidelity which each employee owes to the Council, and which requires an employee to act in an honest fashion and not in a manner which will harm the Council, may in certain respects, continue following the end of that employee's employment. For example, even though the Council no longer employs them, a former employee must not disclose trade secrets or confidential information that belongs to the Council.

Certain employees may have access to intellectual property (such as copyrighted materials), which belong to the Council. An employee might even have contributed to the creation of that intellectual property during the period of employment. However, where part or whole of that property belongs to the Council it cannot be used by a former employee for any purpose without the Council's written agreement. Such intellectual property rights may sometimes be difficult to define but Council or departmental guidance will be issued to cover specific categories.

### Personal Interests

An employee must declare as soon as reasonably practicable, to their line manager and Chief Officer any personal interest (whether financial or otherwise) which they have which may conflict, or may be perceived reasonably as conflicting with, the interests of the Council. The Registration of Officers Interests Form must be completed by the employee, this will then be sent to the line manager and Chief Officer to confirm the interest has been officially registered.

Personal interests may be financial, relate to property or concern any other matter; they may concern the employee themselves, family members, or close associates or they may relate to any body including, external organisations, individual persons, or the Council itself.

The obligation to disclose a personal interest only applies when the employee is aware of it or ought reasonably to have been aware of, it may, in some cases, be unreasonable to expect an employee to be aware of or to research the employment, business interests and other activities of family members and close associates. However, employees must not ignore the existence of interests, which, from the point of view of the reasonable person, they should have been aware. Employees are therefore under an obligation to make such inquiries as a reasonable person would think prudent in the circumstances.

### Disclosable Interests

Employees must, in accordance with any Council arrangements, register membership of any organisation not open to the public which requires of members any form of

commitment or allegiance, and which has secrecy about rules, membership or conduct.

### Gifts and Hospitality

There is a separate policy for Registering Gifts and Hospitality.

### Interpretation

Several parts of this protocol refer to a reasonableness test. The Chair of the Council's Standards Committee shall be the ultimate arbiter of what is reasonable in relation to the operation of this protocol.

The "proper business and/or interests of the Council" may include but are not limited to: carrying out the proper functions of the Council and doing anything which is incidental or conducive to carrying out the proper functions of the Council.

The following meanings have been adopted which are consistent with national guidance on the Members' Code of Conduct:

- A "family member" should be given a very wide meaning. It includes a spouse, civil partner or an individual an employee lives with in a similar capacity, parents, parents-in-law, children or stepchildren, grandparents, grandchildren, nephews and nieces and the spouses or partners of these people.
- A person with whom you have a "close association", as defined above, is someone that you are in contact with, regularly or irregularly, and who is more than just an acquaintance. It is someone a reasonable member of the public might think you would be prepared to favour or disfavour. It may be a friend, colleague, business associate, or someone you know through general social contacts.

Version	1
Date	
Relevant Legislation	Local Government Act 1972 Equality Act 2010 Working Time Regulation 1998 National Code of Local Government Conduct

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## Part I - Officer Employment Procedures / Arrangements

This section incorporates the Mandatory Standing Order requirements in the Local Authorities (Standing Orders) (England) Regulations 1993 and 2001

### 1 APPOINTMENT OF OFFICERS:

1.1 The function of appointment, dismissal and taking disciplinary action against, an officer of the council must be discharged, on behalf of the council, by Chief Executive Officer (the head of paid service) or their nominee.

1.2 This does not however apply to the following posts:

- (a) The Chief Executive (Head of paid service)\*
  - (b) Executive Director – Resources and Corporate Services (Section 151 officer)\*
  - (c) Service Director – Governance, Democratic and legal Services (monitoring officer)\*
  - (d) Executive Director of Children and Family Services\*
  - (e) Executive Director of Adult Services\*
  - (f) Executive Director of Public Health\*\*
  - (g) Executive Director – Strategy, Workforce and Localities
  - (h) Executive Director – Community Services
  - (i) Executive Director – Climate and Place
- And additionally;
- (j) any officer who reports or is directly accountable to the officers listed in (a) to (i) above

Note

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

\*\* This post carries statutory responsibility and authority. Any appointment or dismissal process is undertaken jointly with the Secretary of State for Health in accordance with National Health Service Act 2006.

3 The Chief Executive has authority to approve changes to the terms and conditions of all post specified in (b)-(j) in 1.2 above on the recommendation of the Appointments Panel or the Appointments Committee or on his / her own initiative and having obtained the agreement of the Leader of the Council . All decisions taken

by the Chief Executive on such matters will be the subject of a formal Officer Decision which will be published on the Council's website as soon as it is confirmed

1.4 The Chief Executive has authority after having sought the agreement of the Leader, and after appropriate consultations, to agree:

- (i) acting up arrangements into the positions specified in (b)-(j) in 1.2 above to cover periods of temporary absence either planned or unplanned
- (ii) (ii) emergency cover arrangements for the post specified in (b)-(j) in 1.2 above where these positions become vacant between Full Council meetings. Any such agreement will be subject to review and confirmation at the next available Full Council meeting

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

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

## **2 Recruitment**

All appointments will be made on merit and in accordance with HR procedure for recruitment which includes :

1. a requirement that any candidate for an appointment as an officer must state in writing whether they have any relationship with any councillor or officer of the Council
2. No candidate so related to a councillor or a senior officer will be appointed without the authority of the relevant Executive Director or an officer nominated by the Executive Director
3. The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
4. No councillor will seek support for any person for any appointment with the Council.

### **2.1 Appointment of Officers to post specified in Para 1.2**

Appointments to these posts will involve elected Members.

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

## **2.2 Appointments Panel**

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

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

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

## **2.3 Appointments Committee**

The Committee comprises a maximum of 5 Members including:

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

Notes:

- (a) It is a statutory requirement that at least 1 member of an Appointments Committee must be a Member of the Executive.
- (b) The Committee appoints its own Chair.
- (c) All Members of the Committee must have up-to-date knowledge of and have received training in the areas of Recruitment and Equalities.

(d) The selection process must be conducted in accordance with the Council's agreed Code of Practice

2.4 The Committee will:

- (a) Interview all short-listed candidates and either
- (b) Appoint a suitable candidate to the post; or

©In the case of the Chief Executive make a recommendation to the Full Council who must approve the proposed appointment before an offer of appointment is made; or  
(d) Follow any other course of action decided upon by the Appointments Panel.

2.5 An offer of employment to these posts shall only be made where no justifiable objection has been made by the Lead Member/Executive.

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

## **2.7 Voting on appointment**

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

## **2.8 Other Officers**

Appointment of all other Officers is the responsibility of the Chief Executive as the Head of the Paid Service, or the relevant Officer specified in 1.2 or such officer authorised by one of them. Members cannot be formally involved in these appointments but leading members may be involved on an informal basis. Guidance on this involvement is available from the Service Director-Workforce

## **3 DISCIPLINARY ACTION (INCLUDING DISMISSAL) IN RELATION TO OFFICERS**

3.1 DEFINITION: 'Disciplinary action' means any action confirmed in relation to alleged misconduct and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body.



It only includes failure to renew a contract of employment for a fixed term where the Council has undertaken to renew such a contract.

3.2 GENERAL: The rules set out below are subject to:

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

### **3.3 Disciplinary action in relations to post specified in 1.2**

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

3.3.2 A proposal for a dismissal of an officer specified in 1.2(d)-(j) will be determined by the Council on the recommendation of a special Panel of 6 Members appointed by the Leader of the Council (or their nominated representative) and comprising:-

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

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

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

3.3.5 Any question of disciplinary action in relation to a Chief Officer or the Monitoring Officer shall be determined by the Special Members' Panel appointed in accordance with 3.3.4 above.

3.3.5 The Special Members' Panel referred to in 3.3.4 above, when a proposal is made to dismiss one of these statutory post-holders, shall decide whether there is any justification to the proposal and therefore whether it needs to be investigated. If the decision is that an investigation is necessary the Panel will appoint an investigator. If the investigation confirms a potential dismissal, the Panel will refer the matter to the IPs' Panel for consideration and report to Council. If the investigation recommends disciplinary action then the Special Members' Panel shall consider and decide whether disciplinary action is justified and if so agree any action to be taken.

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

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

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

3.3.9 An Officer specified in 1.2 can be suspended for the purpose of investigating potential gross negligence or gross misconduct where such suspension is considered:

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

3.3.10 Any such suspension shall be on full pay and terminate no later than 2 months beginning on the day on which the suspension takes effect. The power to suspend a SLT Officer rests with the Chief Executive, in consultation with the Leader. If the Chief Executive is the subject of the proposed suspension, then the Leader shall have the power to suspend the Chief Executive following consultation with the other group leaders and on the advice of the Service Director-Workforce.

### **3.4 OTHER OFFICERS**

3.4.1 As authorised by the Chief Executive as Head of the Paid Service, any Officer specified in (a)-(j) or a Senior Officer nominated by them, can suspend any employee suspected of potential gross negligence or gross misconduct where such suspension is considered:

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

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

3.3.3 As authorised by the Chief Executive, any Officer specified in 1.2 or their nominated Senior Officer, can dismiss an employee:-

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

3.3.4 An Officer specified in 1.2 or their nominated Senior Officer, can:-

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

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

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

### **GRIEVANCES**

Any grievance by a member of staff will be dealt with in accordance with the Council's agreed procedures

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# Part I - Contract Procedure Rules

For the Supply of Goods, Provision of  
Services and Execution of Works

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# Contract Procedure Rules and Standing Orders for the Supply of Goods, Provision of Service and Execution of Works

## SECTION A: **PRELIMINARY**

### 1. **Definitions**

- 1.1. In these Contract Procedure Rules and Standing Orders the following words and expressions will have the following meanings assigned to them:

<b>Defined term</b>	<b>Definition</b>
Award Criteria	Shall mean the criteria by which the Contract is to be awarded to the successful Supplier
Award Decision	Shall mean the procedure by which the Officer is able to decide to award the Contract to a particular Supplier/s
Best Value	Means the optimum balance of cost, efficiency and effectiveness in the delivery of a council function
Executive Member	Shall mean any Councillor appointed to the Executive by the Leader of Council for the time being, or such Officer as they may duly authorise to act on their behalf or may be authorised to act on their behalf under the Council and Executive Scheme of Delegation
Call-off Contract	Shall mean a Contract awarded under a Framework Agreement or Dynamic Purchasing System



Candidate	Shall mean any and all suppliers participating or expressing an interest in participating in the Council's Quick Quotes, Quotations, Selection Questionnaire and ITT activity
Competitive Dialogue	Shall mean as referred to in regulation 30 of the Procurement Regulations
Competitive Procedure with Negotiation	Shall mean as referred to in regulation 29 of the Procurement Regulations
Constitution	<p>Shall mean the constitutional document approved by the Council which:</p> <ul style="list-style-type: none"> <li>• allocates decision making powers and responsibilities within the Council and with partners</li> <li>• delegates authority to act through the Council and Executive Scheme of Delegation and</li> <li>• regulates the behaviour of individuals and groups through rules of procedure, codes and protocols</li> </ul>
Contract	Shall mean a legally binding agreement concluded in writing for consideration (whatever the nature of the consideration, whether by payment or some other form of reward) under which the Council engages a Supplier to provide Goods, Works or Services and where the context requires a Contract shall refer to an order made/call-off contract entered into under a Framework Agreement. All Contracts are let on behalf of the Council as a whole and no service, team, unit or other part of the Council has the legal capacity to enter independently into any Contract
Contracting Authority	Shall mean Somerset Council or any entity over which Somerset Council has control

Contracts Register	Shall mean the Council's repository of Contracts as held on the Council's Electronic Tendering System
Council	Shall mean Somerset Council
Dynamic Purchasing System	Shall mean as referred to in regulation 34 of the Procurement Regulations
Electronic Tendering System	Shall mean the system approved by the Commercial and Procurement team for the purposes of conducting procurement activities electronically
Electronic Signing Software	Shall mean software for the electronic completion of Contracts which complies with the requirements in the Electronic Communications Act 2000
Financial Instructions	Shall mean the Financial Regulations and Financial Procedures, and any subsequent guidance, outlining the Officer's responsibilities for financial matters as issued by the Section 151 Officer in accordance with the Constitution
Find a Tender Service	Shall mean the web-based portal provided for the purpose of 6organization high value contract opportunities as per the Procurement Regulations <a href="http://www.gov.uk/find-tender">www.gov.uk/find-tender</a>
Framework Agreement	Shall mean an agreement or other arrangement between one or more contracting authorities and one or more economic operators which establishes the terms (in particular the terms as to price and, where appropriate, quantity) under which the economic operator will enter into one or more contracts with a contracting authority in the period during which the framework agreement applies
Goods	Shall mean physical products purchased or manufactured on request

Governance Board	Shall mean a Council Officer meeting which oversees the annual governance statement and keeps the Constitution and democratic arrangements fit for purpose. It must be noted that this is an advisory and not a decision-making meeting
Grant Agreement	Means an arrangement for the provision of funding to cover, in whole or in part, the running costs of an organization whose work complements the Council's policy objectives and where the arrangement has the following characteristics: <ul style="list-style-type: none"> <li>• the funding is provided in order to achieve agreed outcomes</li> <li>• the recipient has no obligation to spend the funding made available under the arrangement</li> <li>• the recipient will have discretion over the spending of that funding within limits agreed between the Council and the recipient of the funding</li> <li>• the recipient will be liable to repay any funding spent outside the agreed limits</li> <li>• the recipient will be required to pay back any unspent funds either at agreed points during or at the end of the arrangement.</li> </ul>
Innovation Partnership	Shall mean as referred to in Regulation 31 of the Procurement Regulations
Invitation to Tender (ITT)	Shall mean the document in the form required by these Rules to seek Tenders from candidates
Key Decision	Shall mean a decision to be taken by the Council with an associated cost or savings value at or above £500,000

Leader of the Council	Shall mean the Councillor appointed by the Council to the position of Leader for the time being or any such Officer as they may duly authorise or may be authorised to act on their behalf under the Council and Executive Scheme of Delegation
Legal Services	Shall mean the Council's internal legal advisory department
Light Touch Regime	Shall mean the rules set out in regulations 74 to 76 of the Procurement Regulations regulating the award of Contracts for social and other services
Member	Shall mean any Councillor appointed to the Council for the time being
Most Economically Advantageous Tender (MEAT)	Shall mean evaluation criteria that reflect the qualitative, technical and sustainable aspects of a Tender submission as well as price, which can be used when reaching a Contract award decision
Negotiated Procedure without Prior Publication	Shall mean as referred to in regulation 32 of the Procurement Regulations
Non-commercial Considerations	Shall mean factors that must not be taken into account at the Award Decision stage, such as the introduction of Selection and Award Criteria that have not been disclosed out the outset of the procurement or that do not meet the principle of MEAT
Non-key Decision	Shall mean a decision to be taken by the Council with an associated cost or savings value of less than £500,000
Officer	Shall mean a person employed by the Council whose responsibility it is to commission or procure Goods, Services or Works or ensure that Officers that they have line or matrix management responsibility for commissions or procures Goods, Services or Works in accordance with these Rules

Open Procedure	Shall mean as referred to in Regulation 37 of the Procurement Regulations
Passport to Procure	Shall mean the procurement training available via The Learning Centre
Procurement Documents	Shall mean the documents provided to candidates at the outset or during the procurement process, the purpose of which is to explain the procurement opportunity, the Selection and Award Criteria, the means of making an Award Decision, the submission requirements and the terms and conditions of contract
Procurement Officer	Shall mean an Officer that has completed the Passport to Procure training and which is employed to Commercial and Procurement
Procurement Regulations	The Public Contracts Regulations (SI: 2015/102) as amended, updated or replaced
Procurement Regulations Threshold	The values specified in regulation 5 of the Procurement Regulations
Quick Quote	Shall mean the procurement process to be followed within the Council's Electronic Tendering System that allows the Officer to seek Quotations from a minimum of three candidates
Quotation	Shall mean the document in the form required by these Rules to seek Quotations from candidates

Relevant Contract	<p>Shall mean a Contract to which these Rules applies, which includes:</p> <ul style="list-style-type: none"> <li>• the supply or disposal of Goods</li> <li>• the hire, rental or lease of Goods or equipment</li> <li>• the provision of Works and the supply of works materials</li> <li>• the provision of Services including consultancy services</li> <li>• the granting of Works Concessions or Services Concessions Contracts.</li> </ul> <p>But does not include:</p> <ul style="list-style-type: none"> <li>• dealings in the money market or obtaining finance.</li> </ul>
Relevant Legislation	<p>Means:</p> <ul style="list-style-type: none"> <li>• the Procurement Regulations;</li> <li>• the Subsidy Control Act 2022;</li> <li>• the Data Protection Act 1998;</li> <li>• the Freedom of Information Act 2000;</li> <li>• the Environmental Information Regulations 2004;</li> <li>• the Fraud Act 2006;</li> <li>• the Equalities Act 2010;</li> <li>• the Bribery Act 2010;</li> <li>• the Modern Slavery Act 2015;</li> <li>• the Public Services (Social Value) Act 2012;</li> <li>• any legislation pertaining to money laundering;</li> </ul> <p>as amended, updated or replaced.</p>
Relevant Policy	<p>Shall mean the policy referred to in <i>Section 16. Relevant Policy</i> and any documents superseding that referred to</p>
Restricted Procedure	<p>Shall mean as referred to in Regulation 28 of the Regulations</p>

Scheme of Delegation	<p>(The Council and Executive Scheme of Delegation) shall mean the high level overarching scheme contained within the Constitution which set outs delegations to directors.</p> <p>(The Officer Scheme of Delegation) shall mean the scheme which sits underneath the Council and Executive Scheme of Delegation, but which is not contained within the Constitution, which sets out the level of delegations below the main scheme and covers Officer delegations</p>
Section 151 Officer	Shall mean the Officer employed in the position of chief finance officer or such Officer as they may duly authorised to act on their behalf
Selection Criteria	Shall mean the Authority's minimum requirements by which the Tenderer is to be assessed as being suitable to deliver the requirements of the contract
Selection Questionnaire	Shall mean the questions to be asked of candidates to assess their suitability as issued by the Crown Commercial Services, an executive agency of the Cabinet Officer; and/or the first stage document of a two-stage procurement process used to assess applications for inclusion in the shortlist of candidates who will be invited to submit a final proposal in every Restricted procedure
Services	Shall mean the supply of time, effort, and/or expertise instead of a tangible product
Services Concession Contract	Shall mean a Contract concluded in writing where the payment is simply that the concessionaire has the right to profit from the Works/Services that are the subject of the Contract

Social Value	Shall mean additional benefit to the community from a commissioning / procurement process over and above the direct purchasing of Goods, Services and outcomes
Standstill Period	Shall mean the minimum ten (10) day period between the notification date of unsuccessful candidates and the date of contract award
Subsidy	Means a subsidy as defined by section 5 of the Subsidy Control Act 2022
Supplier	Shall mean the successful Candidate
Sustainable Procurement	Shall mean the act of adopting social, economic and environmental factors alongside the typical price and quality considerations into the organisation's handling of procurement processes and procedures
Tender	Shall mean the document response from a Candidate in the form required the Invitation to Tender issued by the Council
The Learning Centre	Shall mean the Council's electronic training system
Total Contract Value	The whole of the value or estimated value (in money or equivalent value) for a single purchase or Contract
Transfer of Undertaking (Protection of Employment) ("TUPE")	Shall mean the legislation that applies where either a business transfer or a service provision change takes place. The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) apply to protect UK employees when one of these 'relevant transfers' takes place and the business changes to a new owner
Transparency Code	The Local Government Transparency Code 2015



Works	Shall mean the construction of structures of all kinds, such as buildings, highways, bridges, as well as structural renovations, extensions, and repairs
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## SECTION B: **GENERAL INFORMATION**

### **2. Introduction**

- 2.1. The Local Government Act 1972 section 135 requires the Council to have standing orders for how it enters into contracts. These Contract Procedure Rules (the "Rules") are the standing orders required by the 1972 Act. They form part of the Council's Constitution and are, in effect, the instructions of the Council, to officers and elected members, for entering into contracts on behalf of the Council.
- 2.2. These Rules are the Contracting Authority's (the "Council") rules for the buying, renting and leasing of Goods, Services and Works and apply to all procedures for procuring and entering into Relevant Contracts made by the Council unless otherwise specified herein.
- 2.3. The aim of these Rules is to assist Officers in achieving best practice and lawful procurement, to ensure that the Council fulfils its duty of delivering Best Value for its council taxpayers and excellent outcomes for its service users.
- 2.4. The Rules also provide a basis for fair competition by providing transparent and auditable procedures to protect the Council's reputation from any suggestion of dishonesty or corruption.
- 2.5. These Rules apply to all Officers of the Council and all companies or organisations within the Council's control. They are part of the Council's Constitution and therefore Officers have a duty to ensure they have fully understood them and have sufficient authority prior to commencing any procurement or contracting activity (see *Section 12. Pre-Procurement Authorisations*).
- 2.6. Officers must also ensure that any persons or organisations acting on behalf of the Council fully comply with these Rules.
- 2.7. These Rules are mandatory and shall govern and regulate the Council's procurement and contract award procedures. Officers must also refer to the Commercial and Procurement Team ("Commercial and Procurement") for more detailed guidance throughout the procurement process.

- 2.8. The expectation is of compliance to these Rules and in any cases of doubt advice must be sought from Commercial and Procurement. Failure to follow these Rules may be dealt with as a breach of the Council's standards of conduct and in certain instances may be treated as gross misconduct and give rise to action under the Council's disciplinary policy and procedure (see *Section 46. Non- compliance to the Rules*).
- 2.9. If upon reading the Rules the Officer discovers a lack of clarity or wishes to ensure their comprehension and compliance, they must consult with Commercial and Procurement for advice and guidance. The Officer shall not be excused from these Rules on grounds of a lack of understanding.
- 2.10. The administration, monitoring and governance of these Rules shall be the responsibility of Commercial and Procurement.

### **3. The Procurement Sourcing Strategy**

- 3.1. For procurement processes with a Total Contract Value in excess of the Procurement Regulations Threshold the Officer must consult with Commercial and Procurement to develop the procurement sourcing strategy.
- 3.2. The procurement sourcing strategy must, as a minimum, appraise a proposed procurement in a manner commensurate with its complexity, risk and value, by:
  - a. taking into account the requirements from any relevant Best Value review
  - b. considering the Social Value sought
  - c. taking in to account any lessons learned from any market engagement activities and/or audit findings
  - d. defining the key commercial principles, objectives of the procurement, taking into account user requirements and all Relevant Policy and Relevant Legislation
  - e. considering any related risks and impacts
  - f. considering the need to obtain specific assurances regarding any incumbent contractors' business continuity plans and arrangements
  - g. appraising the need for the expenditure and its priority
  - h. considering all of the associated costs, to include initial purchase costs, operating and maintenance costs, costs of associated

consumables, any associated training costs, the cost of disposal and the costs of exiting the contract

- i. taking in to account any tax or VAT issues that may arise
- j. when the purchase of new Goods is proposed, assessing the alternative options for repair, re-use or recycling
- k. considering all lawful means of achieving the anticipated outcomes.

3.3. The procurement sourcing strategy shall result in clear recommendations, as follows:

- a. the proposed scope, key commercial principles and the procurement route to be followed
- b. the relevant evaluation criteria, including the MEAT ratios
- c. the relevant timescales
- d. the means by which the Contract shall be monitored and managed
- e. the resources required.

3.4. The procurement sourcing strategy shall be signed off by the Officer and Commercial and Procurement. Where a change is required to a procurement sourcing strategy that has already been signed off, such changes shall be incorporated in as a variation to the original, agreed between the parties and signed off by the Officer and Commercial and Procurement.

3.5. A template procurement sourcing strategy can be obtained from Commercial and Procurement.

3.6. For those procurements falling within the Light Touch Regime, the Officer must consult with Commercial and Procurement to agree the most appropriate procurement approach, and if a procurement strategy is required.

#### **4. Basic principles**

4.1. All procurement and contracting activity and contract and

supplier management must:

- a. comply with these Rules and Financial Instructions
- b. achieve Best Value for public money spent
- c. be consistent with the highest standards of integrity
- d. comply with the Relevant Legislation (including the Council's statutory duties and powers)
- e. comply with any relevant Council policies
- f. support the Council's corporate and departmental aims
- g. ensure that Non-Commercial Considerations do not influence the Award Decision.

4.2. All procurements must comply with the following principles of the Procurement Regulations and UK procurement law and policy:

- a. mutual recognition
- b. non-discrimination
- c. openness and transparency
- d. equal treatment
- e. proportionality.

## **5. Officer responsibilities**

5.1. The Officer is responsible for the commissioning, procurement, mobilisation/transition, contracting activity, Contract, supplier management and must:

- a. comply with and ensure that their Officers comply with these Rules and Financial Instructions
- b. comply with the Relevant Legislation
- c. ensure that any persons or organisations acting on behalf of the Council also fully comply
- d. take account of all necessary legal, financial, procurement, technical and any other professional advice
- e. complete mandatory, role specific training, as directed by the

Commercial and Procurement team.

5.2. Prior to commencing a procurement or contracting activity the Officer must:

- a. consider options for delivery of the required Goods, Services or Works
- b. ensure that there is appropriate Council authority to procure and sufficient budgetary provision approved and in place
- c. identify the size, scope, commercial principles, term and specification of the Goods, Services and Works required
- d. check whether the Council already has an available and appropriate Contract in place in the Contracts Register, or an appropriate national, regional or other collaborative contract, Framework Agreement or Dynamic Purchasing System is available for use, by reference to the Commercial and Procurement team
- e. check whether any employee, either of the Council or of a service provider, may be affected by any transfer arrangement and ensure that any Transfer of Undertaking (Protection of Employment) ("TUPE") issues are considered and obtain legal and HR advice
- f. for procurement processes with a Total Contract Value above £50,000 the Officer must conduct the procurement activity in conjunction with a certified Procurement Officer of Commercial and Procurement
- g. for procurement processes with a Total Contract Value at and above Procurement Regulations Threshold there must be an accompanying procurement sourcing strategy in line with *Section 3. The procurement sourcing strategy*.

5.3. Officers must ensure that the appropriate Governance process for spending approval is followed. Please refer to the Officer Decision Making guidance on the Council's intranet for the latest advice.

5.4. Officers must ensure that all commitments to suppliers are made in the form of a valid Purchase Order, prior to delivery of goods and services, consulting Commercial and Procurement to determine the most effective means of ordering and monitoring of spend against contracts. Any exceptions to this must be agreed with Finance and Procurement of be

covered by the PO exemption policy.

## **6. Procurement Officer responsibilities**

- 6.1. All Officers employed within the Procurement team will complete the Passport to Procure training, which is available through the Learning Centre. Additional and specialist training may also be required in more specialist procurement roles. Once the appropriate training has been completed those Officers will be certified as a Procurement Officer and approved to complete specific procurement activities.
- 6.2. Any Council officer proposing to engage in a procurement process for goods or services above £50,000 shall also complete the Passport to Procure training, before being permitted to participate in any procurement activity.
- 6.3. Officers who have not undertaken the relevant training are not permitted to undertake procurement activity on behalf of the Council without prior consultation with the Commercial and Procurement team.

## **7. Member responsibilities**

- 7.1. The Member must:
  - a. comply with and ensure that Officers comply with these Rules and Financial Instructions
  - b. comply with the Relevant Legislation
  - c. ensure that any persons or organisations acting on behalf of the Council also fully comply
  - d. take account of all necessary legal, financial, procurement, technical and any other professional advice
  - e. comply with the Members' Code of Conduct.

## **8. Prevention of corruption and collusion**

- 8.1. All Officers have a duty in law to avoid any form of behaviour that might distort or restrict competition or call in to question the award of a Contract.
- 8.2. Officers must always comply with the Council's standards of conduct and must not offer, promise, give or receive any gift or reward in respect of

the award or performance of any Contract.

- 8.3. Officers are advised that any behaviour that is deemed to be in contravention of the provisions of the Bribery Act 2010, the Fraud Act 2006 and any amending legislation, and all legislation relating to money laundering may be dealt with as a breach of the Council's standards of conduct. In certain instances this may be treated as gross misconduct and give rise to action under the Council's disciplinary policy and procedure, such as dismissal. Such activity may also be reported to the Police.
- 8.4. Officers are advised to take practical steps to reduce the risk of anti-competitive behaviour, as highlighted by the Office of Fair Trading:
  - a. include non-collusion clauses in Contracts
  - b. ensure sufficient credible candidates, where practicable
  - c. identify and investigate for suspicious bidding patterns
  - d. keep notes of all discussions with candidates.

## **9. Conflicts of interest**

- 9.1. All Officers, Members and key stakeholders involved in a procurement exercise must immediately declare in writing to the Head of Commercial and Procurement any conflicts of interests relating to the procurement activity where they, or their spouse or civil partner, or person with whom they are living as husband and wife or civil partner, have a vested interest that could conflict with the best interests of the Council.
- 9.2. Where a conflict of interest exists the Head of Commercial and Procurement, in consultation with Legal Services, shall consider any appropriate mitigation(s) to be put in place to ensure that such conflicts do not compromise the outcome of the procurement exercise, or whether such Officer, Member or key stakeholder must excuse themselves from the procurement.
- 9.3. Commercial and Procurement officers shall maintain a record of all declarations of interest and mitigations in a procurement exercise as notified by Officers, Members and key stakeholders and shall share the declarations of interest record with Legal Services and Democratic Services. Further advice and guidance can be obtained from the Commercial and



Procurement team.

## **10. Localism Act 2011**

- 10.1. Under the Localism Act 2011 and any amending legislation, community organisations can submit to local authorities an expression of interest to run local services, commonly known as the Community Right to Challenge.
- 10.2. If such an expression of interest is accepted by the Council this will trigger procurement or contracting activity, which is subject to these Rules.

## **SECTION C: PRE-PROCUREMENT**

### **11. Market engagement**

- 11.1. The Officer may, prior to commencing the procurement process, consult potential candidates in general terms about the nature, level and standard of the supply and Contract and seek market views and intelligence that can be used in the planning and conduct of the procurement process provided that this does not result in the violation of the Procurement Regulations principles, prejudice any other interested supplier/s not consulted and/or have the effect of distorting competition, which might manifest itself as:
  - a. a conflict of interest
  - b. evidence of collusion
  - c. a situation which is incapable of being resolved as a result of providing information to other potential candidates.
- 11.2. The Officer shall take advice from Commercial and Procurement to ensure that the proposed method of engaging the market or particular potential candidates does not preclude them from participating in any subsequent procurement activity so as to ensure that the approach does not undermine Best Value, lead to the award of a dissatisfactory Contract or increase the risk of a procurement legal challenge. The proposed method of engaging the market or particular potential candidates must also not prevent the Council from choosing a supplier that offers the best balance between the whole life cost (from acquisition to disposal) of goods and services against predefined requirements.
- 11.3. Suppliers consulted during market engagement activities shall only be excluded from the procurement process where there are no other means to

ensure compliance with this section in its entirety. Potential candidates must be given the opportunity to prove that their involvement in market engagement activities is not capable of distorting competition.

- 11.4. All potential candidates must be informed in advance by the Officer that any information shared as part of such an engagement may be declared as commercially confidential where this applies but that the Council reserves the right to share all information in order to comply with principles of Section 4.2 above. Further advice can be obtained from Commercial and Procurement.

## **12. Pre-procurement authorisations**

- 12.1. Officers must ensure, before entering into any process that will or may result in the incurring of any expenditure for the supply of Goods, Services or Works, be it capital or revenue, that:
- a. the Strategic Commissioning Group is consulted as part of compliance with the Commissioning Gateway activity for all procurement and contracting activity above £50,000 total contract value
  - b. adequate financial provision is included in the Council's approved revenue budget or capital programme and that such expenditure continues to be available in accordance with the Financial Regulations
  - c. the Council does not already have an available and appropriate existing Corporate Contract, Framework Agreement or Dynamic Purchasing System
  - d. there is no other available and appropriate Contract, Framework Agreement or Dynamic Purchasing Systems that has been procured on the Council's behalf
    - (i) through collaboration with other public bodies, where a competitive process has been followed that complies with the rules of the lead organisation and any Relevant Legislation, but which does not necessarily comply with these Rules or
    - (ii) by a regional or national contracting authority or buying consortia where the process has been conducted in compliance with any Relevant Legislation;
  - e. the Council is not already undertaking a procurement process that

- is within the scope of the proposed procurement; and
- f. all proposed expenditure is reported as a Non Key Decision Report.
- 12.2. Procurement processes may only be carried out once the Non Key Decision Reports has been countersigned by the appropriately empowered officer as set out in the Council's Scheme of Delegation.
- 12.3. The Officer must consult with Commercial and Procurement prior to preparing the Non Key Decision Report.

### **13. Total Contract Value**

- 13.1. The Total Contract Value is calculated as the whole of the value or estimated value of the Contract as follows:
- a. the total amount payable as estimated by the Council and including any additional options, lots, renewals and/or extensions
  - b. 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 four years and be based on the value of contracts of the same or similar type awarded during the preceding period
  - c. the estimated value of a Framework Agreement or Dynamic Purchasing System shall be the total value of all of the Contracts that may be awarded against that Framework Agreement or Dynamic Purchasing System
  - d. the value of a Concession Contract shall be the best estimate of the financial value to the Contractor that shall be made over the life of the arrangement
  - e. the estimated value of an Innovation Partnership shall be the total estimated value, inclusive of the research and development activities to take place during all stages of the envisaged partnership, as well as the Goods, Services or Works to be developed and procured at the end of the envisaged partnership.
- 13.2. The general rules when calculating the Total Contract Value are as

follows:

- a. purchases of the same or similar type must be aggregated wherever practicable. The value of the Contract shall not be calculated with the intention of excluding it from the scope of the Rules
- b. where there is a common requirement across the Council, the Total Contract Value shall be the aggregate of all purchases across the Council
- c. a Contract shall not be sub-divided with the effect of preventing it from falling within the scope of the Rules
- d. the estimated value shall be calculated as at the moment at which the advertisement is sent or when the Council commences the procurement procedure, whichever is the latter; unless
- e. the estimated value at the point that a Concession Contract to which the Relevant Legislation applies is awarded is more than 20% higher than the previous estimate, in which case the higher value applies.

13.3. When calculating the estimated value of the contract to determine whether the regulations apply, the contract value estimation should be inclusive of VAT irrespective of any VAT exemptions or recovery rates.

## 14. Procurement Thresholds

14.1. The table below sets out the Council's competition requirements.

<b>Contract type</b>	<b>Total Contract Value</b>	<b>Specification Requirements</b>	<b>Procurement process</b>
Goods, Services and Works	Up to £25,000	Purchasing requisition, specification	Recommended three written quotes, minimum 1 written quote ensuring Best Value  <i>See section 20</i>
Goods, Services and Works	Over £25,000 up to £50,000	Purchasing requisition, specification	Minimum of three written quotes  <i>See Section 20</i>
Goods and Services	Over £50,000 up to £100,000	Specification, evaluation criteria, terms and conditions	Quick Quote via the Council's Electronic Tendering System  <i>See Section 21</i>
Works	Over £50,000 up to £250,000		

<b>Contract type</b>	<b>Total Contract Value</b>	<b>Specification Requirements</b>	<b>Procurement process</b>
Goods and Services	Over £100,000 and less than the Procurement Regulations Thresholds	Tender docs, specification, evaluation criteria, terms and conditions	Invitation to Tender via the Council's Electronic Tendering System  <i>See Section 22</i>
Works	Over £250,000 and less than the Procurement Regulations Threshold		
Goods, Services and Works	At and above the Procurement Regulations Threshold	Tender docs, specification, evaluation criteria, terms and conditions	Invitation to Tender as per the Relevant Legislation and via the Council's Electronic Tendering System  <i>See Section 23</i>

## **15. Relevant Legislation**

- 15.1. When planning and preparing all procurement and contracting activities the Officer shall have regard to the Relevant Legislation, relevant to the Service being procured as well as procurement activities.
- 15.2. The aims and objectives outlined in the Relevant Legislation shall, where appropriate, be incorporated into the procurement sourcing strategy, award methodology and terms and conditions of contract.

## **16. Relevant Policy**

- 16.1. When planning and preparing all procurement and contracting activities the Officer shall have regard to the Council's Relevant Policy and duties including, but not limited to, the following:

- a. the County Plan
- b. Value for Money Strategy
- c. Sustainable Procurement
- d. Social Value Policy
- e. Fairness and Equality for All
- f. Medium Term Financial Plan
- g. the Climate Emergency
- h. the relevant Service Plan(s)
- i. Managing Contractors policy
- j. Relevant Service commissioning strategy.

16.2. The aims and objectives outlined in the Relevant Policy shall, where appropriate, be incorporated into the procurement sourcing strategy, award methodology and terms and conditions of contract.

16.3. The Local Government Transparency Code 2015 sets out the minimum data that local authorities should be publishing, the frequency it should be published and how it should be published. Procurement will ensure that all contract awards are published in accordance with the Transparency Code.

16.4. Purchase Orders of £5,000 and above will only be approved once Procurement and Finance have checked them. Procurement will examine all off-contract spend and target reductions in discretionary areas of spend and challenge those that should be using existing contracts.

## **17. Collaborative procurement**

17.1. Where the Council takes the lead procurement role in a collaborative procurement these Rules shall apply, as a minimum. Where another public body takes the lead procurement role the Rules of the lead organisation and any Relevant Legislation shall apply.

17.2. Where the Council enters into any formal collaborative procurement arrangements any related collaboration agreement must protect the Council to a level proportionate to the complexity, risk and value involved, whilst at the same time providing the basis for the collaborative approach and delivery of Best Value. As a minimum the collaboration agreement should clearly state:

- a. the nature and extent of the arrangement
- b. legal roles and responsibilities
- c. arrangements for governance, accountability, and dispute resolution
- d. the exit strategy
- e. the auditing arrangements
- f. the cost sharing mechanisms
- g. the process for the induction of new partners.

17.3. Where the Council takes the lead procurement role in a collaborative procurement the Officer shall prepare such a collaboration agreement and ensure that it is countersigned by all partner organisations.

17.4. Where no such formal collaboration agreement exists the Officer must consider how the arrangements meet the requirements of these Rules, which must be documented and approved by the appropriately empowered Officer as set out in the Council's Scheme of Delegation.

## **18. Use of Framework Agreements and Dynamic Purchasing Systems**

18.1. Where an appropriate Council Framework Agreement or Dynamic Purchasing System exists, the Officer must use it for the making of the proposed Purchase.

18.2. Where the Council seeks to establish a Framework Agreement or Dynamic Purchasing System it shall be let and used in full accordance with the Relevant Legislation and terms of the Framework Agreement or Dynamic Purchasing System.

18.3. The use of another relevant organisation's Framework Agreement or Dynamic Purchasing System may be used, subject to consultation with Commercial and Procurement.

18.4. The use of a Framework Agreement or Dynamic Purchasing System may be appropriate where:

- a. Quotations or Tenders are regularly obtained for the same or similar types of Goods, Services or Works and
- b. it is not practical or appropriate that the Goods, Services or Works



in question be aggregated into a single requirement and/or competed under one procurement and

- c. the Total Contract Value of the Goods, Services or Works, if aggregated, would exceed the Procurement Regulations Threshold.

## **19. Standard Procurement Documents**

- 19.1. The Officer must use standard Procurement Documents or relevant Framework Agreement or Dynamic Purchasing System documents to conduct any procurement or contracting activity that will or may result in the incurring of any expenditure for the supply of Goods, Services or Works.
- 19.2. Standard Procurement Documents are stored and maintained by Commercial and Procurement and can be obtained in consultation with a certified Procurement Officer.
- 19.3. Where it is necessary to vary the standard Procurement Documents or relevant Framework Agreement or Dynamic Purchasing System documents the Officer must consult with Commercial and Procurement.
- 19.4. Where it is necessary to vary the standard terms and conditions of contract or relevant Framework Agreement or Dynamic Purchasing System documents the Officer must consult and agree any variations with Legal Services.

## **20. Procurement process for lower value purchases**

- 20.1. For Contracts up to the Total Contract Value of £50,000, where there is a suitable corporate Contract, Framework or Dynamic Purchasing System that corporate Contract, Framework Agreement or Dynamic Purchasing System shall be used, provided that such a course of action achieves the principles of Best Value.
- 20.2. Where no suitable Framework Agreement, Dynamic Purchasing System or corporate Contract is available then achieving Best Value is the primary objective and the Officer is required by these Rules to achieve the following to demonstrate compliance:

- up to £25,000 - recommend three written quotes, minimum one written quote

- ensuring Best Value
  - over £25,000 up to £50,000 - minimum of three written quotes.
- 20.3. Where the Officer is unable to select a potential candidate and/or demonstrate Best Value as outlined above, the Officer must consult with Commercial and Procurement on the most appropriate way forward.
- 20.4. Acceptance will be notified to the successful supplier by issue of a Purchase 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, for example a specific stand-alone contract in which case the Purchase Order shall make separate reference to these.
- 20.5. 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.
- 20.6. The Officer must inform Commercial and Procurement in a timely manner of the Contract details for any Contract made in excess of £5,000, such that a record can be made on the Council's Contracts Register, in line with the Transparency Code.

## **21. Quick Quote**

- 21.1. For Contracts with a Total Contract Value over £50,000 up to £100,000 for Goods and Services up to £250,000 for Works where there is a suitable corporate Contract, Framework or Dynamic Purchasing System that corporate Contract, Framework Agreement or Dynamic Purchasing System shall be used.
- 21.2. Where no suitable Framework Agreement, Dynamic Purchasing System or corporate Contract is available then achieving Best Value remains the primary objective and the Officer is required by these Rules to achieve a minimum of three Quotations via the Quick Quote process on the Council's Electronic Tendering System, unless a suitable external Framework Agreement or Dynamic Purchasing System is identified and agreed with Commercial and Procurement.
- 21.3. The Officer must not include two stages within a procurement of this

nature (Selection Questionnaire and ITT).

- 21.4. In the event that no suitable candidates can be found on the Council's Electronic Tendering System the Officer may choose to place an advertisement via the system and in Find a Tender so as to attract appropriate candidates to bid.
- 21.5. The Procurement Documents must include:
- a. the Council's standard terms and conditions of contract, the standard form of contract and/or bespoke terms;
  - b. the specification
  - c. the pricing schedule
  - d. the ordering procedures
  - e. commercially confidential information schedules
  - f. completion requirements
  - g. the Selection Questionnaire
  - h. the Award Criteria
  - i. the submission requirements
  - j. a named contract manager.
- 21.6. Acceptance will be notified to the successful supplier by issue of a Purchase 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, for example a specific stand-alone contract in which case the Purchase Order shall make separate reference to these.
- 21.7. 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.
- 21.8. A Contract award record must be made on the Council's Contracts Register and Find a Tender.

## **22. Procurement processes requiring Invitations to Tender**

- 22.1. For Contracts at and above the Total Contract Value over £100,000 for Goods and Services and over £250,000 for Works but less than the

Procurement Regulations Thresholds where there is a suitable corporate Contract, Framework or Dynamic Purchasing System that corporate Contract, Framework Agreement or Dynamic Purchasing System shall be used.

- 22.2. Where no suitable corporate Framework Agreement or Dynamic Purchasing System is available the Officer is required by these Rules to invite Tenders from any and all qualified candidates by advertising the opportunity via the Council's Electronic Tendering System and in Find a Tender, unless a suitable external Framework Agreement or Dynamic Purchasing System is identified and agreed with Commercial and Procurement.
- 22.3. The Officer must not include two stages within a procurement of this nature (Selection Questionnaire and ITT).
- 22.4. The advertisement must include:
  - a. the time period within which interested parties may express an interest in Tendering; and
  - b. the method by which such interest shall be expressed.
- 22.5. An Invitation to Tender shall be sent to all parties who have expressed an interest, specifying a reasonable period for Tenders to be returned.
- 22.6. The Procurement Documents must include:
  - a. instructions to candidates
  - b. the Council's standard terms and conditions of contract, the standard form of contract and/or bespoke terms
  - c. form of tender
  - d. certificate of non-collusion
  - e. the specification
  - f. the pricing schedule
  - g. commercially confidential information schedules
  - h. completion requirements
  - i. the Selection Questionnaire
  - j. the Award Criteria

k. the submission requirements.

22.7. The successful supplier and unsuccessful candidates shall be notified of the outcome by issue of a letter sent electronically via the Council's Electronic Tendering System. Unsuccessful candidates shall at their request be given the reason why they were unsuccessful without breaching the commercial confidentiality of other candidates.

22.8. A Purchase Order must be raised.

22.9. A Contract award record must be made on the Council's Contracts Register and Find a Tender.

### **23. Procurement processes over the Procurement Regulations Threshold**

23.1. For Contracts at and above the Procurement Regulations Threshold where there is a suitable Framework Agreement or Dynamic Purchasing System approved by Commercial and Procurement, that Framework Agreement or Dynamic Purchasing System shall be used.

23.2. Where no suitable Framework Agreement or Dynamic Purchasing System is available the Officer is required by these Rules to invite Tenders from any and all qualified candidates as required in accordance with the agreed procurement process being followed (open, negotiated etc.) by advertising the opportunity via the Council's Electronic Tendering System, in Find a Tender (the UK e-notification service).

23.3. Advice on the most appropriate procedure to the specific case must be obtained from Commercial and Procurement, in conjunction with Legal Services where required.

23.4. In all cases the Relevant Legislation shall be followed to conduct the procurement and contracting activity.

23.5. The Procurement Documents must include:

- a. instructions to candidates
- b. the Council's standard terms and conditions of contract, the standard form of contract and/or bespoke terms
- c. form of tender

- d. certificate of non-collusion
  - e. the specification
  - f. the pricing schedule
  - g. commercially confidential information schedules
  - h. completion requirements
  - i. the Selection Questionnaire
  - j. the Award Criteria
  - k. the submission requirements
  - l. any other requirements as mandated by the Relevant Legislation.
- 23.6. The successful supplier and unsuccessful candidates shall be notified in accordance with the Relevant Legislation and a Standstill Period shall be observed.
- 23.7. A Purchase Order must be raised by the Officer.
- 23.8. A Contract award record must be made on the Council's Contracts Register, in Find a Tender (the UK e-notification service).

## **24. Light Touch Regime**

- 24.1. Certain Services Contracts, as defined in the Relevant Legislation, are not subject to its full rigour. However, the Council will remain bound by the requirement to ensure such procurements do not result in the violation of the Procurement Regulation principles and therefore Officers must ensure that the procedure used is compliant in all respects.
- 24.2. As a minimum the Officer must invite Tenders from any and all qualified candidates by advertising the opportunity via the Council's Electronic Tendering System and in Find a Tender (the UK e-notification service).
- 24.3. Where the Officer believes that their Contract falls within the Light Touch Regime they must consult with Commercial and Procurement prior to commencing any procurement or contracting activity.

## **25. Selection 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 and will be

included within the procurement documentation for all contracts over £100,000.

- 25.2. For Contracts with a Total Contract Value of up to £50,000 the Officer may choose to include the Selection Questionnaire within Quotations and may take advice from Commercial and Procurement where necessary.
- 25.3. In any case where the Selection Questionnaire is used its use must be relevant and proportionate to the subject matter of the Contract (going no further than is needed to achieve the Council's objective). In particular, where the Total Contract Value is less than the Procurement Regulations Threshold, the Officer must make an assessment of the requirements of the Contract and decide how far it would be appropriate to use any or all of the questions in the Selection Questionnaire.
- 25.4. Where the Total Contract Value is at or above the Procurement Regulations Threshold the questions in Part 3 of the Selection Questionnaire are optional and should be used only if each such question is:
  - a. relevant to the subject-matter of the procurement
  - b. proportionate.
- 25.5. Selection Criteria must not include:
  - a. award criteria
  - b. non-commercial considerations
  - c. criteria that are not related and proportionate to the subject matter of the Contract.
- 25.6. The Officer shall consult with Commercial and Procurement for advice and guidance on the appropriate use of the Selection Questionnaire and Selection Criteria prior to issuing the Procurement Documents.
- 25.7. The selection of candidates shall only be on the basis of the Selection Questionnaire and only where the Selection requirements are made available to potential candidates within the Procurement Documents.
- 25.8. The Officer may reject candidates that fail against the mandatory and discretionary criteria as detailed within the Selection Questionnaire only in conjunction with Commercial and Procurement and Legal Services, where

relevant.

## **26. Award Criteria**

- 26.1. The Officer shall include the Award Criteria within the Procurement Documents, using these to assess a candidate's ability to deliver the Council's requirements under the Contract, achieving Best Value.
- 26.2. The Contract shall be awarded to the candidate whose Tender best meets the Award Criteria. on the basis of Most Economically Advantageous Tender (MEAT), taking criteria that are proportionate to and linked to the subject matter of the Contract.
- 26.3. The Officer shall consult with Commercial and Procurement for advice and guidance on the appropriate use of the Award Criteria prior to issuing the Procurement Documents.
- 26.4. The award of the Contract shall only be on the basis of the Award Criteria and only where the Award requirements are made available to potential candidates within the Procurement Documents.

## **27. Most Economically Advantageous Tender**

- 27.1. In selecting a preferred supplier, the Council must comply with the general principles of proportionality, mutual recognition, transparency, non-discrimination and equal treatment. In doing so all contract awards must be based on the Most Economically Advantageous Tender (the "MEAT").
- 27.2. The MEAT may be identified by using a price-quality ratio and the default position for such evaluations is a ratio of 60:30:10, 60% price, 30% quality and 10% social value.
- 27.3. However, in discussion with Commercial and Procurement, Officers must ensure the approach used to achieve MEAT is by the best means, using a methodology which is relevant and proportionate to the particular procurement being undertaken.
- 27.4. It is essential to ensure that the methodology used is;
  - a. relevant and proportionate for what is being purchased
  - b. one that will work within that particular market



- c. modelled before publication to ensure it meets the above requirements and does not result in any reporting anomalies.

27.5. Where the Officer fails to gain agreement with their counterpart in Commercial and Procurement on the methodology to be applied, the first point of review is a Strategic Manager in Commercial and Procurement. If agreement still is not achieved, the Officer must develop a business case justifying their approach detailing how it does comply with the requirements as per 27.1 and 27.4 above and obtain the approval of the Executive Director of Resources & Corporate Services of the approach before proceeding with the procurement.

## **28. Performance bonds and parent company guarantees**

28.1. The Officer must consult the Section 151 Officer concerning whether a performance bond is needed where:

- a. the Total Contract Value is at or above £1,000,000 or
- b. 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.

28.2. The Officer must consult the Section 151 Officer concerning whether a parent company guarantee is needed where:

- a. the Total Contract Value exceeds the Procurement Regulations 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 candidate.

## **29. Terms and Conditions of Contracts**

29.1. 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.

29.2. Whilst some of the terms of the Contract are able to be amended or deleted, the following clauses are mandatory and must be included:

- a. no assignment of the Contract without the written consent of the Council
- b. no sub-contracting of the Contract without the written consent of the Council
- c. cancellation in the event that gratuities, inducements or any other type of consideration in relation to the Contract are offered to an employee, member or any persons or organisations acting on behalf of the Council
- d. compliance with all Relevant Legislation
- e. a statement of the Council's obligations towards its transparency requirements under the Freedom of Information Act 2000
- f. compliance to health and safety regulations
- g. contract exit on expiry (including transfer of the Council's data to the any new contractor and protection against risks to the council arising from the application of TUPE)
- h. termination:
  - (i) in the event of bribery or corruption, the Contract must include a clause empowering the Council to terminate the Contract and to recover from the Supplier the amount of any loss resulting from such termination, and
  - (ii) for all Contracts in excess of the Procurement Regulations Threshold the Contract must include the termination provisions set out in the Relevant Legislation
  - (iii) to include on termination, the repatriation of personal data to the Council as the data controller
- i. indemnity and insurance which adequately protects the Council against risk
- j. protection of personal data including measures required to ensure lawful processing of data in other jurisdictions
- k. confidentiality of sensitive commercial information
- l. dispute procedure
- m. authorised users
- n. governing law

- o. prompt payment and the obligation for Suppliers to pay their sub-contractors promptly, in accordance with the Small Business, Enterprise and Employment Act 2015
  - p. employee vetting, where appropriate and
  - q. where the Contract is for the employment of persons or organisations acting on our behalf, a statement that obliges them to fully comply with these Rules.
- 29.3. Where the Contract provides for the appointment of a nominated sub-contractor the Officer will ensure that the terms and conditions of contract are passed to the main contractor in a way that ensure that they are responsible for ensuring that the nominated sub-contractor is subject to and meets the same requirements as the main contractor, including, but not limited to, the following:
- a. the mandatory clauses identified in these Contract Procedure Rules and Standing Orders
  - b. supporting the local economy and promotion of local employment
  - c. vetting to Enhanced Disclosure level where required.

### **30. Protection of personal data**

- 30.1. Officers must take all reasonable steps, including incorporation of clauses into Contracts with Suppliers, to ensure that the personal data of individuals is protected in accordance with the General Data Protection Regulation (GDPR), Data Protection Act 2018, allied legislation and Codes of Practice from the Information Commissioner's Office (ICO). Officers must ensure the Councils' obligations and risks, in respect of personal data, are considered and indemnities are sought where appropriate. Where under the Contract Personal Data is to be processed outside the UK or EU specific advice must be obtained from legal services before the Contract is entered into.

### **31. Confidentiality of sensitive commercial information**

- 31.1. Officers must take all reasonable steps, including incorporation of clauses into Procurement Documents and Contracts with Suppliers, to ensure that the confidentiality of sensitive business information such as details of pricing and trade secrets are protected in accordance with the Relevant Legislation and guidance. Officers must ensure the Councils' obligations

and risks, in respect of the business information of both the Council and Suppliers, are considered and indemnities are sought where appropriate. More information and guidance can be obtained from Legal Services and the Information Governance Team.

## **32. Submission, receipt and opening of Tenders**

- 32.1. All Contracts above the Total Contract Value of £50,000 shall be submitted electronically through the Council's Electronic Tendering System.
- 32.2. 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 12:00:00.
- 32.3. Submissions shall be verified and opened on the Council's Electronic Tendering System by an appropriately empowered Procurement Officer as set out in the Council's Officer Scheme of Delegation.

## **33. Evaluation of Quotations and Tenders**

- 33.1. All submissions received for Contracts above the Total Contract Value of £50,000 shall be evaluated in accordance with the pre-determined Selection and Award criteria, as set out in the Procurement Documents.
- 33.2. The Officer shall ensure that subject-matter experts or appropriately experienced Officers evaluate all submissions in accordance with the pre-determined Selection and Award criteria.
- 33.3. The Officer is obliged to check the arithmetic in compliant submissions. Where arithmetical errors are found they must be notified to the candidate, who must be requested to confirm or withdraw their submission.
- 33.4. The Officer must notify all candidates in writing simultaneously and as soon as possible of the intention to award the Contract. Where the Total Value of the Contract is in excess of the Procurement Regulations Threshold, then the Relevant legislation shall be adhered to in respect of the content of the letter and the Standstill Period.
- 33.5. Apart from the debriefing required or permitted by these Rules the confidentiality of submissions and the identity of candidates must be preserved at all times and information about one candidate's submission must not be supplied to another.

- 33.6. The results of the Tender evaluation must be recorded and retained on the Tender file in accordance with the Council's records management, retention and disposal requirements.

### **34. Abnormally low bids**

- 34.1. The Officer may reject a Tender as being abnormally low, but only after they have first:
- a. been presented with the candidate's commercial information from Commercial and Procurement and consulted with a Procurement Officer
  - b. requested in writing an explanation from the candidate for those parts of the Tender considered abnormally low
  - c. taken account of the evidence provided in response to such a request
  - d. verified to the candidate those parts of the Tender considered abnormally low
  - e. and only where the explanation provided by the candidate does not satisfactorily account for the low price or costs proposed.
- 34.2. Where the Officer establishes that the Tender is abnormally low because the candidate has obtained a Subsidy, the Tender will be rejected on that basis, but only after the Officer has first:
- a. consulted with the candidate
  - b. consulted with Legal Services
  - c. where the candidate is unable to prove that the aid in question is compatible with the regulations governing Subsidies.
- 34.3. Where the Officer rejects a Tender on the basis of its incompatibility with the rules on Subsidies they will inform the Legal Services and Commercial and Procurement to agree the next steps.

### **35. Clarification**

- 35.1. Seeking clarification of a Tender to candidates is only permitted by a member of Commercial and Procurement and should in the first instance take place in writing via the Council's Electronic Tendering System. If sufficient clarification cannot be obtained in this manner further means can be

- a. at a meeting, provided that a written record is made of the meeting and
  - b. in a way that is fair, transparent, and equal to all candidates.
- 35.2. There must be no significant variation of the Procurement Documents or standard terms and conditions of contract following such clarification.
- 35.3. Where a clarification would result in a fundamental change to the specification or terms and conditions of contract the Contract must not be awarded but re- tendered.

### **36. Electronic auctions**

- 36.1. Electronic auctions may be used as part of the procurement process as a means of driving additional commercial benefits and as part of the Award Criteria.
- 36.2. The use of electronic auctions must be specified within the Procurement Documents and the Award Criteria associated with the auction must be clearly defined. The auction will be undertaken by Commercial and Procurement using the Council's e-tender system.
- 36.3. Where the Council uses an electronic auction to enable candidates to adjust their Tender price in the light of information from the Tender prices submitted by competing candidates then all such alterations to candidates' pricing will be accepted as permitted by the auction process.

## **SECTION E: CONTRACTAWARD**

### **37. Intention to award a Contract**

- 37.1. For Contracts over the Procurement Regulations Threshold, Officers must allow candidates a mandatory minimum Standstill Period of ten (10) calendar days for electronic Tenders from notification to all candidates 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.
- 37.2. Following any Standstill Period, if appropriate, an award notice must be placed by Commercial and Procurement.

- 37.3. 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.
- 37.4. Additional written or verbal debriefing must not be offered to candidates. Where debriefing is requested by candidates the Officer must obtain advice from Commercial and Procurement before responding to the request.
- 37.5. Any complaints, correspondence threatening challenge or formal court proceedings challenging the decision, received from unsuccessful candidates or other third parties must be immediately submitted to Commercial and Procurement and Legal Services for review and response.
- 37.6. A Standstill Period is not necessary for Tenders below the Procurement Regulations Threshold or where they have been subjected to the Light Touch Regime. However, the Officer may use their discretion and include such a period as is required. Such discretion shall only be granted where the Officer has consulted with Commercial and Procurement. Where Commercial and Procurement advises that a Standstill Period is necessary to minimise the risk of a legal challenge, the Officer will include the period in the procurement process. In any case, all candidates must be simultaneously notified in writing of the outcome of the Tender.
- 37.7. Where an unsuccessful candidates requests debrief information the Officer may use their discretion in deciding whether or not to comply with the request; there is no legal obligation imperative on the Officer to do so for under Procurement Regulations Threshold Tenders.

### **38. Approval to award**

- 38.1. Approval to award a Contract, Framework Agreement or Dynamic Purchasing System can only be given as follows:

<b>Total Contract Value</b>	<b>Approval to award</b>
Over £250,000	Only the Chief Executive and/or Executive Directors and Service Directors (Grades 1-3)

Up to £250,000	All Strategic Managers and officers at Grade 6 or above
Up to £50,000	All Service Managers and Officers at Grade 8 or above
Up to £10,000	Officer scale 11 or above
Up to £500	All Council officers

- 38.2. Where approval is sought to award a Framework Agreement or Dynamic Purchasing System, approval may also be sought to award the subsequent Call-off Contracts as part of the same decision report. Where this is not observed, Officers must seek the appropriate approval to award Call-Off Contracts in accordance with the contract value.

## **39. Signing of Contract**

- 39.1. Officers must ensure that all the necessary permissions are in place (e.g. funding commitments, licences, and leases) before the Contract is entered into.
- 39.2. All Contracts made on behalf of the Council must be in writing. Officers must ensure that:
- for Contracts up to and including the Total Contract Value of £25,000 a Purchase Order referring to the Council's standard terms and conditions of contract is in place before any Goods, Services or Works are requested or allowed to begin; or
  - for Contracts over the Total Contract Value of £25,000 a Purchase Order and a signed Contract is in place before any Goods, Services or Works are requested or allowed to begin.
- 39.3. For Contracts with a Total Contract Value of £100,000 or below for Goods and Services and £250,000 for Works they must always be signed by an Officer with the authority to do so under the Council's Scheme of Delegation (except where the Contract is in the form of a deed in which case paragraph 42.4 applies). If the Officer with responsibility for the decision to enter the Contract is not available to sign the Contract then another Officer with the equivalent level of authority may sign the Contract or it can be signed by any Officer who has been duly authorised.



- 39.4. For Contracts in the form of a deed or with a Total Contract Value over £100,000 for Goods and Services and £250,000 for Works (except where Section 39.7 of these Contract Procedure Rules and Standing Orders requires that the Contract must be sealed with the common seal of the Council) they must always be signed by two (2) Officers, one of which must have the authority to do so under the Council's Scheme of Delegation. If the Officer with responsibility for the decision to enter the Contract is not available to sign the Contract then another Officer with the equivalent level of authority may sign the Contract. The second signatory must be a Procurement Officer with the authority to do so under the Council's Scheme of Delegation or any Officer acting with appropriate delegated authority.
- 39.5. Contracts which these Rules require to be signed may be:
- a. signed electronically and exchanged by email. Where a Contract is signed and exchanged in this way the Officer responsible for securing signatures must follow guidance on electronic signatures issued by Legal Services and must retain a copy of the email from the contractor containing the signed Contract and must provide a copy to the Commercial and Procurement team; or
  - b. signed using Electronic Signing Software. Where Electronic Signing Software other than the Council's designated software is used the Officer authorised to sign the Contract is responsible for checking the compliance of the software to be used.
- 39.6. The Officer responsible for securing signatures must ensure that the person signing on behalf of the Supplier has the authority to bind it.
- 39.7. A Contract must be sealed with the common seal of the Council where:
- a. 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
  - b. there is any doubt about the authority of the person signing for the other party; or
  - c. the contract is required to be sealed by law.
- 39.8. Where Contracts are completed by each side adding their formal seal, the fixing of the Council's seal must be witnessed by or on behalf of the Monitoring Officer. Every Council sealing will be consecutively numbered,

recorded and signed by the person witnessing the seal and a final completed original copy must be returned to Legal Services for storage. The seal must not be affixed without the appropriate authority in accordance with the Council's Constitution.

#### **40. Letters of intent**

- 40.1. Letters of Intent shall only be used in exceptional circumstances and may only be signed by Officers with delegated authority to do so under the Council's Scheme of Delegation. Such exceptional circumstances shall only be determined by Commercial and Procurement in conjunction with Legal Services and as such the Officer must obtain advice on their acceptable use.

#### **41. Early Termination of Contract**

- 41.1. The date on which the Contract will terminate, and the terms on which the Contract may be terminated early (e.g. for breach of Contract) must be clearly described within the Contract.

#### **42. Variation, extension, assignment and novation**

##### **42.1. Variation**

- a. A variation to a Contract may involve:
  - (i) a change to the specification
  - (ii) a one-off item of work or particular service or
  - (iii) change in terms affecting the Contract.
- b. Variations must not exceed the scope, financial value or duration of the advertised Contract.
- c. Where the Officer considers that a proposed variation may materially change or exceed the specification, price or duration of a Contract, advice must be obtained from Commercial and Procurement and Legal Services.
- d. Variations to Contracts must be approved and signed by the relevant officers in accordance with the Council's Officer Scheme of Delegation.

## 42.2. Extension

### a. Extensions of Contracts may only be made where:

- (i) there is budgetary provision
- (ii) Best Value can be clearly demonstrated and
- (iii) for Contracts below the Procurement Regulations Threshold:
  - the extension is within the scope (description of Goods, Services or Works, duration and Total Contract Value) and
  - there is a provision stipulated in the original Contract for an extension
  - the extension does not cause the Total Contract Value to exceed the relevant Procurement Regulations Threshold or
  - a waiver request form is completed where no specific provision exists in the Contract
- (iv) for Contracts at or over the Procurement Regulations Threshold:
  - the extension is within the scope (description of Goods, Services or Works, duration and Total Value) of the original Contract and
  - the original Contract Notice advertised and the Contract permits the extension.

### b. Where the Officer considers that a proposed extension may materially change or exceed the specification, price or duration of a Contract, advice must be obtained from Commercial and Procurement and Legal Services. Extensions to Contracts must be approved and signed by the relevant officers in accordance with the Council's Officer Scheme of Delegation.

## 42.3. Assignment and Novation

### a. In the event of the Officer becoming aware that a Supplier is entering into a change of control, insolvency, bankruptcy, receivership or liquidation the Officer must inform Commercial and

Procurement and Legal Services immediately. The Supplier shall only be permitted to assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof with the prior written consent of the Council. The Council reserves the right to decline a Supplier that is deemed to be not suitable. If a suitable alternative is not identified the Contract must be re-Tendered.

#### 42.4. General

- a. Any approved variation or extension must be by deed or Contract variation, which will be contractually binding on both parties.
- b. Variations, extensions, assignments and novations must only be signed by officers with the delegated authority to do so by reference to the Council's Officer Scheme of Delegation.

### **43. Supplier Resilience**

- 43.1. Contract Managers are required to undertake regular supplier resilience checks. For Tier 1 and Tier 2 contracts, this should be undertaken as a minimum on an annual basis and include checks on the supplier's operational, financial and reputational resilience including business continuity, insurance provision, financial credit rating, identification and management of key risks and emergency planning arrangements such as disaster recovery.
- 43.2. Evidence of review and testing of supplier Business Continuity Plans should be received regularly, for all Tier 1 and Tier 2 contracts at least annually and consideration given to how supplier failure may impact a Service's own business continuity arrangements, whether directly or indirectly.
- 43.3. Further information and guidance on contract management can be found in the Contract Management Framework and in the Managing Contractors policy.

### **44. Waivers**

- 44.1. Whilst the requirements of these Rules must be followed in respect of all Relevant Contracts the requirement to undertake a competitive

tendering exercise may be waived by Commercial and Procurement or the Executive Director of Resources & Corporate Services in highly exceptional circumstances.

- 44.2. The Officer must consult with Legal Services and Commercial and Procurement before submitting a waiver request.
- 44.3. It must be noted that not allowing sufficient time to Tender shall not be considered an emergency.
- 44.4. For Contracts of £100,000 or below for Goods and Services and £250,000 for Works where a waiver is necessary the Officer must complete the relevant waiver request form and obtain the approval of an appropriately empowered officer under the Council's Scheme of Delegation and the Head of Commercial and Procurement.
- 44.5. For Contracts over £100,000 or Goods and Services and £250,000 for Works where a waiver is necessary the Officer must complete the relevant waiver request form and obtain the approval of an appropriately empowered officer under the Council's Officer Scheme of Delegation and Section 151 Officer.
- 44.6. The Officer is responsible for ensuring that the waiver request forms are duly completed, reported to Strategic Commissioning Group (in line with thresholds) and signed prior to the award of a Contract. All waiver requests shall be reported regularly to the Governance Board by the Head of Commercial and Procurement.
- 44.7. No waiver shall be granted for Contracts over the Procurement Regulations Threshold unless expressly permitted by Commercial and Procurement and Legal Services. The officer shall contact Commercial and Procurement for advice under these circumstances. Any request for a waiver deemed by the Head of Service to be a potential breach of the Rules, will be considered within the Council's governance procedures.

## **45. Exemptions**

- 45.1. In addition to the waiver categories above there may be certain, very limited, exemptions from the application of the Rules that apply under the Legislation. These can only be executed with the prior written approval of Legal Services and Commercial and Procurement.

- 45.2. Pension Fund administration and governance arrangements are separate from main Council affairs and consequently not all of the requirements of these Rules apply to the Pension Fund. Exclusions will in the main only apply to approvals and reporting whilst all other principals surrounding the Rules and statutory requirements will remain. Where exemptions apply, these will be stated in the Pension Fund Scheme of Delegation and updated and approved periodically.

#### **46. Non-compliance to the Rules**

- 46.1. Officers are required to comply with the Rules at all times.
- 46.2. The Head of Commercial and Procurement shall report any non-compliance to the Rules to the next available meeting of the Governance Board.
- 46.3. Governance Board shall be responsible for determining the course of action to be taken in the event of non-compliance.
- 46.4. Where, in consultation with Commercial and Procurement and Legal Services, it is determined that the breach can be remedied by taking appropriate steps or measures the Officer shall comply with the proposed course of action.
- 46.5. Where the breach has given rise to, or is likely to give rise to, illegality or maladministration the Governance Board shall notify the Monitoring Officer.
- 46.6. In the event of illegality or maladministration the Governance Board will determine that the Officer is also in breach of the Council's standards of conduct, which under certain circumstances may be treated as gross misconduct and give rise to action under the Council's disciplinary policy and procedure.
- 46.7. Where the breach gives rise to disciplinary action the Governance Board shall notify the Executive Director of Strategy, Workforce & Localities
- 46.8. In the event that these Rules are not complied with, this will not invalidate any Contract entered into by or on behalf of the Council, except where the Relevant Legislation provides to the contrary.

## SECTION G: **OTHER RELEVANT CONSIDERATIONS**

### **47. Subsidy control**

- 47.1. In all cases where there is a possibility of the Council providing a Subsidy the Officer must obtain the advice of Commercial and Procurement and Legal Services.

### **48. Development agreements**

- 48.1. In all cases where there is a possibility of the Council entering a development agreement the Officer must obtain the advice of Commercial and Procurement and Legal Services.

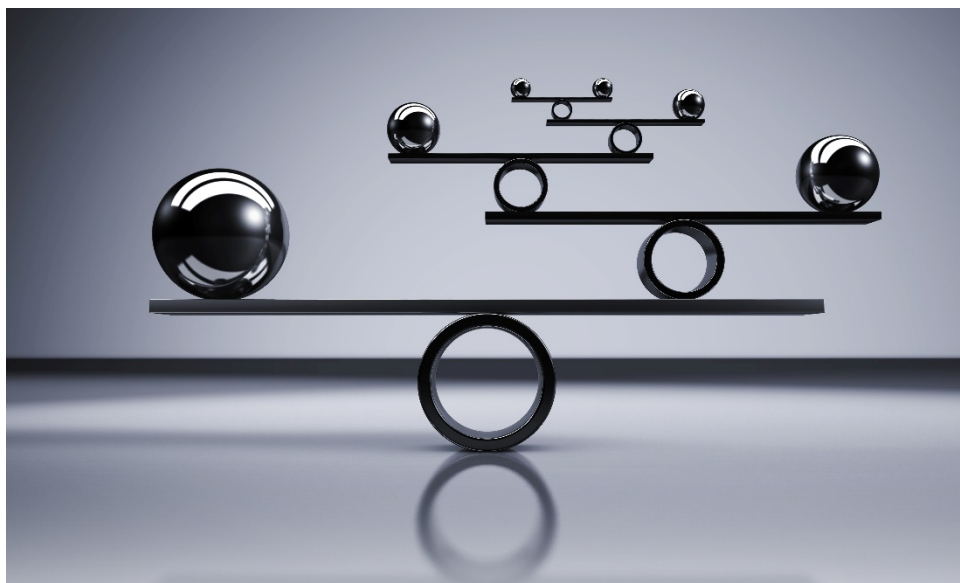
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# **Somerset Council Financial Regulations**

**(Excluding all Schools)**

**March 2023**



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## **Section 1 - Introduction**

### **Why do we need Financial Regulations?**

The challenges faced by the Council to provide and maintain high quality services will continually require effective management of resources used by the Council on behalf of the local taxpayer. Stewardship of Council finances requires high standards of financial integrity and accountability.

The Financial Regulations define the boundaries within which we operate to effectively manage risk. They clarify roles and responsibilities and provide a framework for decision making.

All large organisations have a set of rules to regulate their finances and to protect the interests of their stakeholders and staff. However, the rules themselves are not of any use unless they are known and understood. These Financial Regulations will be supported by regularly updated strategies, policies, and procedures to ensure that they can be interpreted and carried out as part of day to day Council business.

### **Who should read and understand Financial Regulations?**

The Council's Executive Director – Resources and Corporate Services (Section 151 Officer), as the Council's statutory Chief Financial Officer is ultimately responsible for ensuring the proper administration of the Council's financial affairs. These regulations form part of the arrangements that the Council's Section 151 Officer has put in place to discharge his/her statutory responsibilities and compliance is required by Members, Officers and other individuals carrying out work on behalf of the Council.

Service Directors are responsible for bringing the regulations to the attention of every member of staff. Finance will provide training. Monitoring compliance is a role for Directors, Strategic Managers, Service Managers as well as the Finance Service.

### **Other Finance Policies and Procedures**

The Financial Regulations must be read in conjunction with the various Council Policies and Procedures which provide details of the processes, procedures and controls, and which must be adhered too.

The Financial Regulations will be found on the Council's Internal Web site along with copies of specific Financial Procedures.

### **Compliance**

Directors are responsible for ensuring that all staff (including non-permanent staff) in their services are aware of the existence and content of the Council's Financial Regulations, policies and procedures and other internal regulatory documents and that they comply with them. Directors are responsible for reporting any breaches of the Financial Regulations to the S151 Officer, who is also responsible for reporting, where appropriate, breaches of the financial regulations to Council and Executive. The Council's Disciplinary Policies / Procedures will be used if non-compliance is identified.

### **Maintenance**

The S151 Officer is responsible for maintaining a continuous review of the financial regulations and supporting documents and submitting any additions or changes necessary to the full Council for approval. He / she may issue advice, guidance, and procedures to underpin the financial regulations that members, officers, and others acting on behalf of the Council are required to follow. Directors must advise the S151 Officer on circumstances that may require the development of supplementary advice and guidance on financial procedures or systems of internal control.

## **Section 2 - Financial Management Roles & Responsibilities**

1. The Council's Financial Regulations form part of the formal Constitution of the Council which is accessible through the Councils' Website.
2. Sound financial management is critical to the Council in successfully achieving its plans, objectives and quality standards and is essential in order to:
  - plan and maintain effective use of resources to achieve agreed service delivery standards.
  - comply with legislation, related professional Codes of Practice and accounting standards.
  - provide accurate, complete, and valid accounts and information which demonstrate accountability to the public.
  - ensure the appropriate use and security of financial and physical asset.
  - help the Council conduct its affairs in an efficient, effective, and economic manner.
3. Financial management is, therefore, concerned with the policies, processes, procedures, and standards of the Council. Within this context the key areas of responsibility, and associated specific financial regulations, are as follows:

Council Members	<p>Approve Financial Regulations.</p> <p>Set the overall budget framework, budget, and monitor performance against agreed targets.</p> <p>Provide the reporting framework to monitor the achievement of Service objectives within the resources allocated.</p> <p>Determine the level of responsibility for financial management.</p> <p>Approve the Treasury Management Strategy and mid-year review.</p>
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Audit Committee	<p>The Council has delegated to the Audit Committee its powers and duties relating to reviewing risk management, governance and internal audit arrangements of the council and reports from external audit and inspection agencies. It specifically:</p> <ol style="list-style-type: none"> <li>1. approves the annual accounts of the Council (including the Pension Fund) and the Annual Governance Statement.</li> <li>2. Provide an overview role in Treasury Management matters including regular monitoring of treasury activity and practices.</li> <li>3. Review and recommend the Non-Treasury Management Investment Strategy, the Capital Strategy, the Flexible Capital Receipts Strategy, the MRP Strategy, and any appropriate Prudential Indicators to Council.</li> <li>4. Considers the external auditor's annual letter, relevant reports and the report to those charged with governance.</li> <li>5. Approves the Internal Audit Plan, and Charter and monitors their delivery and effectiveness.</li> <li>6. Considers and approves the Annual Governance Statement as prepared in accordance with statutory requirements and to monitor progress on the significant issues and actions identified.</li> </ol>
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	<ol style="list-style-type: none"> <li>7. Reviews periodically and monitors the Council's Risk Management arrangements, make recommendations and monitor progress.</li> <li>8. Reviews key financial governance procedures, i.e. Financial Regulations, Contract Procedure Rules and Standing Orders, Anti-Fraud &amp; Corruption Policy and recommend to Council any necessary amendments.</li> <li>9. Considers reports from the Internal and External Auditors and to monitor progress on accepted recommendations.</li> <li>10. Reports annually to Council on its work.</li> </ol>
Chief Executive	<p>Head of Paid Service and Head of the Local Authority (Local Government and Housing Act 1989)</p> <p>Provides strategic management and establishes a framework for management direction, style, and standards to ensure the Authority's function are properly coordinated.</p> <p>Responsible for the organising the Council's staff and appropriate management arrangements.</p> <p>Secures a process for resource allocation that ensures due consideration of policy.</p> <p>Monitors the performance of the Council.</p>
Executive Director - Resources and Corporate Services	<p>The Executive Director - Resources and Corporate Services carries out the statutory role of S151 Officer and is responsible for:</p> <ol style="list-style-type: none"> <li>1. The proper administration of the Council's financial affairs and advising on effective internal control.</li> <li>2. Setting and monitoring compliance with financial regulations.</li> </ol>

	<p>3. Issuing advice, guidance, and procedures to underpin the financial regulations.</p> <p>4. Determining the accounting procedures and financial records for the Council.</p> <p>5. Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management.</p> <p>6. Preparing the revenue budget and capital programme and reporting to the Council on the robustness of the annual budget and the adequacy of reserves.</p> <p>7. Establishing and maintaining Treasury management arrangements.</p> <p>8. Preparation &amp; consolidation of the Accounts</p> <p>9 Reporting to Council, Executive, and external auditor if the Council or one of its officers:</p> <ul style="list-style-type: none"> <li>• has made, or is about to make, a decision which involves incurring unlawful expenditure.</li> <li>• has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Council.</li> <li>• is about to make an unlawful entry in the Council's accounts.</li> </ul> <p>10. Advising the Pension Committee on all matters of policy concerned with the administration of the Pension Fund, including the investment management arrangements.</p>
Executive Directors	<p>Provide strategic management, guidance and overview of budget setting and budget monitoring ensuring that there is due consideration of the Council's agreed policies and strategies.</p> <p>Provide strategic challenge and overview of major projects (capital and revenue).</p>



Monitoring Officer	<p>The Monitoring Officer is a statutory post appointed under section 5 of the Local Government and Housing Act 1989. They have a duty to report to the Council if a contravention of law, Code of Practice or any maladministration has arisen through any decision or omission by the Council, by any Member, Committee or Officer of the Council.</p>
Service Directors	<p>Ultimately accountable for all budgets with their area of control and can determine the appropriate level of delegation of responsibilities within those areas of control in accordance with advice and guidance provided by the S151 Officer, the Monitoring Officer, SLT and the Council's auditors.</p> <p>Establish clear accountabilities for all managers that include objectives of and responsibility for systems and information.</p> <p>Ensure all their staff understand and comply with Financial Regulations, Contract Procedure Rules and Standing Orders, Council policies and procedures and Service specific instructions.</p> <p>Ensure that Heads of Service and Strategic Managers have effective procedures for:</p> <ul style="list-style-type: none"> <li>- Accomplishment of their objectives.</li> <li>- Compliance with rules and regulations.</li> <li>- The reliability and integrity of information.</li> <li>- Efficient and effective use of resources.</li> </ul> <p>Operate systems/processes to monitor/verify that internal controls are in place and operating effectively.</p> <p>Monitor compliance with these regulations.</p>
South West Audit Partnership	<p>Provide an independent Internal Audit Service which has unfettered access to the Chief Executive and Senior Management and is able to access all</p>

	<p>relevant records and information within the Authority to carry out its role.</p> <p>Reports to the Audit Committee on the delivery of the approved Audit Plan.</p> <p>Provide independent, objective assurance / advice to management on the operation of internal controls (including financial) to improve an organisation's operations.</p> <p>Provide an annual opinion on the framework of internal control and risk management.</p> <p>Investigate on behalf of the organisation any suspected financial irregularities or misuse of resources and ensure that there is a system in place to allow staff, contractors, or the public at large to report serious concerns confidentially.</p>
External Audit	<p>Report on whether the Council's accounts and statements present fairly the Council's financial position.</p> <p>Report on whether the Council has put in place proper arrangements for securing economy, efficiency, and effectiveness in its use of resources. This is known as the Value for Money (VfM) conclusion.</p> <p>Grant Claim certification, where appropriate.</p>
All Employees	<p>Have a responsibility for following Financial Regulations and other Council policies &amp; adopted regulations (including the Officer Scheme of Delegation, Contract Procedure Rules and Standing Orders, the Employees Code of Conduct) and Service specific instructions.</p> <p>Help the Council maintain an open and honest administration by supporting approved fraud prevention strategies and avoiding potential conflicts of interest.</p>

	<p>Service Directors, Heads of Service, Strategic Managers, and Service Managers in operating effective procedures to:</p> <ul style="list-style-type: none"> <li>- Achieve its' objective.</li> <li>- comply with rules and regulations.</li> <li>- maintain the reliability and integrity of information.</li> <li>- efficiently and effectively use resources.</li> </ul> <p>Keep accurate and comprehensive records to support the transactions undertaken on the Council's behalf.</p> <p>To provide the necessary assistance to Internal and External Auditors to meet their requirements.</p>
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**In addition, please refer to:**

The Council's Constitution

## **Section 3 – Internal Audit**

### **Why is this important?**

1. The purpose of this section of is to highlight the authority of Internal Audit (through SWAP), when reviewing the accounting and financial arrangements within the Council.

### **Statutory Requirements:**

2. The Accounts and Audit Regulations 2015, Part 2 (6), require that a “relevant body shall maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control in accordance with the proper practices in relation to internal control”. These Regulations cover the requirements of Section 151 of the Local Government Act 1972, which states that authorities must “make arrangements for the proper administration of their financial affairs and shall ensure that one of their officers has responsibility for administration of those affairs.”

### **The Internal Audit Charter:**

3. SWAP must periodically review the Internal Audit Charter and present it to senior management and the Audit Committee for approval. The Internal Audit Charter sets out the purpose, nature, role, responsibility, status, and authority of internal auditing within Somerset Council, and to outline the scope of internal audit work.

### **The Internal Audit Plan**

4. An annual Audit Plan is approved through SLT and then the Audit Committee. The Audit Committee monitors the delivery of the plan on a regular basis and can call on Officers to clarify, respond to, and update them on any matter that requires immediate attention.

### **Responsibilities of Council Employees in Responding to Internal Audit**

5. The Accounts and Audit Regulations 2015 provides that any Officer of the Council must make available such documents of the Council that relate to its’ accounts and other records as appear to be necessary for the purpose of the Audit.
6. The South-West Audit Partnership’s authorised representative shall have authority to:

- Enter at any reasonable time, any operational or administrative Council premises or land and have access to all Council property.
- Have access to (and where necessary to copy or retain) all records whether manually or electronically held, documentation, correspondence and computer systems relating to any transaction of the Council, or non-official funds operated by Council employees.
- Require and receive such explanations as are necessary concerning any matter under examination.
- Require any employee of the Council to produce or account for cash, or any other property under their custody or control.
- Examine any work or services carried out for the Council by an employee or contractor, and any goods purchased on behalf of the Council.
- Review, appraise, and report on the soundness, adequacy, and application of internal controls. This includes those controls to protect Council resources, property, and assets from loss/waste.

## **Section 4 – Risk Management**

### **Why is this important?**

1. Risk management is an integral part of the corporate governance framework for Local Government.

### **Objectives of risk management processes:**

- Improved strategic, operational, and financial management.
- Contributing to more efficient use/allocation of resources.
- Mitigation of key threats and taking advantage of key opportunities.
- Protecting and enhancing assets and image.
- Improving decision-making (making the right decisions).
- Safeguarding of tangible and intangible assets.
- Promotion of innovation and change.
- Optimising operational efficiency and therefore delivering efficiency gains and value for money.
- Allocating time and management effort based on formal assessment of threats and opportunities.

### **Key Responsibilities for Members:**

2. Council Members must gain an understanding and promote risk management and its benefits throughout the Council & its partners as well as ensuring they take risk management into consideration when making decisions.
3. Both the Executive Committee and Elected Members oversee the effective management of risk throughout the Council and its partnerships, and gain an understanding of its benefits, ensuring officers develop and implement a comprehensive approach to risk management.
4. The Audit Committee provides independent assurance of the risk management framework and associated control environment, and, provides independent scrutiny of the Council's approach.

### **Key Responsibilities for SLT and Directors**

5. The Council's Senior Leadership Team are responsible for overseeing and endorsing to Executive and the Audit Committee the Council's approach to risk management, promoting that approach throughout the organisation and awareness throughout the Council.

6. Each Director's Management Teams needs to gain an understanding and promote the risk management process and its benefits, and support the resources required to support the work corporately.
7. Each Service Director to ensure that the risk management process is promoted, managed, and implemented effectively in their service areas within the organisation. Liaising with external agencies to identify and manage risk where appropriate.

### **Key Responsibilities for Heads of Service, Strategic Managers, and Service Managers**

8. Heads of Service, Strategic Managers, and Service Managers must raise awareness, and manage and implement the risk management process effectively in their service areas, recommending any necessary training for employees on risk management. Incorporating risk ownership through the appraisal scheme with employees and share relevant information with colleagues in other service areas.

### **Key Responsibilities for All Employees**

9. All employees of the Council must manage risk effectively in their jobs, liaising with their line manager to assess areas of risk in their job. Identify new or changing risks in their job and feed these back to their line manager.

### **Support and Challenge**

10. The Internal Audit function through SWAP will challenge the risk management process, including the identification and evaluation of risk and provide assurance to Officers and Members on the effectiveness of controls.
11. The S151 Officer supports the Council and its services in the effective development, implementation, and review of the Council's risk management processes. Identify and communicate risk management issues to services, and, assist in undertaking risk management activity through training or direct support.

### **In addition, please refer to:**

The Council's Risk Management Strategy

## **Section 5 – Fraud Prevention**

### **Why is this important?**

1. The Council's key policies covering fraud are the Whistleblowing Policy, the Anti-Fraud and Corruption Policy, the Anti-Money Laundering Policy, Anti-Tax Evasion Policy, and Anti-Bribery Policy.
2. We all have a responsibility for dealing with public funds and assets. The Council controls millions of pounds of public money and we must take very seriously the high expectations of the public and the degree of scrutiny to which the affairs of the Council are subject.
3. The Council acknowledges the responsibility it has for the administration of public funds and wishes to emphasise to the public and its officers the importance it places upon probity, financial control, and transparency in its administration.
4. The Council is committed to an overall policy of zero tolerance to fraud and is committed to the prevention, detection, and investigation of all forms of fraud and corruption.
5. The Council recognises that fraud and corruption undermine the high standards of public service, which it promotes, and reduces the resources available for the good of the whole community.

### **Fraud – Key Principles:**

6. Leading by example, our Council will ensure that:
  - Everyone within the organisation takes responsibility for the prevention and detection of fraud and corruption.
  - There is compliance with key policies and procedures.
  - Fraud is not tolerated and that all such cases are thoroughly investigated.
  - All officers and Members have access to counter fraud and corruption guidance.
  - High standards of internal control are promoted.



- There is a safe environment to report suspected cases of fraud and corruption.
- Rigorous action is taken against anyone found guilty of fraud or corruption. This will be through the Council's disciplinary process and by taking legal action as appropriate.

### **Key Responsibilities for Service Directors, Heads of Service, Strategic Managers, and Service Managers**

7. Service Directors, Heads of Service, Strategic Managers, and Service Managers are responsible for the prevention and detection of fraud and error within their service/s.

### **Key Responsibilities for all Members**

8. All Members must inform the Chief Executive, Monitoring Officer, or S151 Officer immediately of any suspected financial irregularity.
9. All Members must report to the Chief Executive, Monitoring Officer, or S151 Officer of any circumstances which could involve the Council in a breach of rules and regulations e.g. inappropriate expenditure.

### **Key Responsibilities for all Employees:**

10. All employees must inform the S151 Officer and/or SWAP, immediately of any suspected financial irregularity.
11. All employees must report to the S151 Officer and/or SWAP of any circumstances which could involve the Council in a breach of rules and regulations.
12. All employees have an important part to play in reporting concerns about fraud at work by other Officers, Members, suppliers, contractors, or others acting on behalf of the Council.
13. In this respect, employees are under a duty to assist with the discharge of these responsibilities in compliance with the Whistleblowing Policy.
14. In addition, the Council has a legal duty to implement a procedure to enable the reporting of suspicions of money laundering. Accordingly, any employee, who in the course of Council business becomes aware that criminal property or funds could be involved, should report their suspicion promptly, in accordance with the Anti-Money Laundering Policy. Failure to do this may result in a criminal offence being committed.

15. The UK Bribery Act, 2010 introduces a corporate offence of failure to prevent bribery.

16. The three key offences which may have an impact on the authority are:

- Bribery of another person
- Accepting a bribe
- Failing to prevent bribery

17. The Act states that organisations will be responsible for their employees' corrupt acts unless they can show they had adequate policies and procedures in place to combat bribery.

**If any employee or Member has concerns in this area. they must report the matter in compliance with the Council's Whistleblowing Policy.**

**In addition, please refer to:**

The Council's Anti-fraud and Corruption Policy  
Whistleblowing Policy  
Anti-Money Laundering Policy  
Anti-Bribery Policy  
Anti-Tax Evasion Policy  
Council's Employee's Code of Conduct  
Councils' Members Code of Conduct

## **Section 6 – Revenue Budget Preparation (Including the HRA)**

### **Why is this important?**

1. The Council is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully weighted priorities. The Executive Director – Resources and Corporate Services will present the Medium-Term Financial Strategy and Plan to the Executive for a medium to longer term view and plan for the Council's finances. The annual Revenue and Capital budgets are then presented to the Executive and full Council of the financial expression of the Council's plans and policies.
2. The revenue budget must demonstrate that resource allocation properly reflects the business and service plans, and priorities of the Council. Budgets (spending plans) are needed so that the Council can plan, authorise, monitor, and control the way money is allocated and spent. The Council must approve a balanced budget and cannot legally budget for a deficit. All key decisions on revenue expenditure must be made in accordance with the Constitution and Scheme of Delegation.
3. The format of the budget determines the level of detail to which financial control and management will be exercised. The format shapes how the rules around how virements / journals operate, the operation of budgets, and sets the level at which funds may be reallocated within budgets. The General Fund (with the exception of the HRA) is usually set out in Appendix 1 of the budget approved by Council in February each year.

### **The Housing Revenue Account (HRA)**

4. The Council is a housing landlord and provides properties for use by its tenants. The housing revenue account is a ring-fenced account within the Council's general fund which is used to record all income and expenditure in respect of the Council's housing stock and related services.
5. The long-term strategic aims and objectives for the management of the Council's housing stock will be set out in a 30-year Housing Revenue Account (HRA) business plan. The HRA business plan will include details of investment and funding plans.
6. The Service Director - Finance and Procurement will provide guidance on the apportionment of support and overhead costs between the general

fund and housing revenue account. Any apportionment of costs must be fair to both council tenants and council tax payers.

### **The Budget and Key Decisions**

7. Key decisions required as part of the scheme of delegation must include an outline of the full financial implications including the budget allocated for the decision following consultation with the Executive Director - Resources and Corporate Services. The Service Director – Finance and Procurement, or, delegated Strategic Finance Manager.
8. The budget process must be used in all but exceptional circumstances to vary any additional requirements for either revenue or capital resources. Where a decision is required in exceptional circumstances the full financial implications including funding must be clearly laid out following consultation with the Executive Director – Resources and Corporate Services (S151 Officer).

### **Key Responsibilities for Members and Employees:**

9. Specific budget approval is required for all expenditure.
10. Budget managers are consulted in the preparation of the budgets for which they will be held responsible and accept accountability within delegations set by their Service Director for their budgets and the level of service to be delivered. Key savings and developments are included in service delivery plans (for subsequent monitoring) and individual employee's Appraisal Reviews.
11. Preparation of the budget complies with all legal requirements.
12. The format complies with the requirements of the Executive Director - Resources and Corporate Services and, where necessary, has regard to relevant accounting standards.
13. Managers ensure that The format reflects the accountabilities of service delivery

### **The Executive Director – Resources and Corporate Services will**

14. Assess the robustness of the estimates made and the level of reserves requires and report these as part of setting the budget under s25 of the Local Government Act.

**The Service Director - Finance and Procurement will:**

15. Advise the Executive and Council on the format and timing of the budget to be approved by the full Council.
16. Prepare and submit reports on budget prospects for the Executive, including resource constraints set by the Government, assumptions for inflation and demand, strategy/progress for savings linked to the Council's Corporate Plan. Reports should take account of the strategy and estimates for the medium-term (a three to five year horizon).
17. Determine the detailed form of revenue budgets and the guidelines for their preparation, after consultation with the Executive, Chief Executive, Executive Director Resources and Corporate Services, and Executive and Service Directors.
18. Prepare and submit reports to the Executive on the aggregate spending plans of directorates and on the resources available to fund them, identifying, the implications for the level of Council Tax to be levied.
19. Advise on the medium-term implications of spending decisions.
20. Encourage the best use of resources and value for money by working with Service Directors to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.

**Service Directors will:**

21. Prepare draft budgets of income and expenditure, in consultation with the Director – Finance and Procurement, to be submitted to the Executive.
22. Prepare draft budgets that are timely, balanced and consistent within the guidelines issued by the Executive. The format should be prescribed by the Director – Finance and Procurement, in consultation with the Executive Director – Resources and Corporate services.
23. Integrate financial and budget plans into service planning, so that budget plans are reflected, where appropriate, by financial and non-financial performance measures.

24. In consultation with the Executive Director - Resources and Corporate Services and the Director of Finance and Procurement in accordance with the laid-down guidance and timetable, prepare detailed draft revenue and capital budgets for consideration by the appropriate Executive Member.
25. When drawing up draft budget requirements, Directors will have regard to:
- Demonstrating good demand and demographic modelling
  - spending patterns and pressures revealed through the budget monitoring process
  - targets for reduction set out in the Medium-Term Financial Plan
  - ensuring fees and charges have been reviewed and updated
  - changes in external funding
  - legal requirements
  - other policy requirements as defined by the full Council in the approved policy framework
  - Ensuring that Equalities Impact Assessments are completed where required
  - Review the risks associated with the budget assumptions made
  - initiatives already under way
  - the Council's commissioning intentions and contractual commitments on the Council's Contract Register.

## **ACCOUNTABILITY**

26. Service Directors will be responsible for ensuring the principles of these regulations are understood and enforced within their service areas.
27. Service Directors are ultimately responsible for the revenue and capital budgets within their Directorates
28. The Executive Director - Resources and Corporate Services as the Chief Financial Officer under s151 of the 1972 Act (and s114 of the 1988 Act) is responsible for preparing the revenue budget and capital programme (including the Housing Revenue Account) and reporting to the Council on the robustness of the annual budget and the adequacy of reserves.

29. As the legislation allows the Director of Finance and Procurement as the Deputy S151 to act in the absence of the Chief Finance Officer.
26. In the event that the Council fails to agree a budget it renders the Council vulnerable to judicial review proceedings because legislation requires the Council to set the Council Tax. It also renders Councillors individually liable for failure to fulfil fiduciary duties. The obligation to make a lawful budget each year is shared equally by each individual Member. In discharging that obligation, Members owe a fiduciary duty to the Council Taxpayer

**In addition, please refer to:**

Medium Term Financial Strategy and Plan  
The Councils' Contract Register

## **Section 7 - Budget Monitoring, Management, Closedown, and Control (Including Reserves)**

### **Why is this important?**

1. Budgets are needed so that the Council can plan, monitor, and control the way resources are allocated and spent. Budgets reflect Council, Service and local priorities and give authority to Managers (through delegation) to incur expenditure to meet targets.
2. Budget management ensures that once the budget has been approved by the full Council, resources allocated are used for their intended purpose and are properly accounted for. Budgetary control is a continuous process, which manages spending against budget during the financial year. In addition, it provides the mechanism that calls to account managers responsible for defined elements of the budget.

### **The purpose and objectives of the Budget Monitoring and Management, and Control**

- To ensure that income and expenditure are in line with the agreed Council budgets and service plans (consistency of purpose),
- Overall Financial control of Council income and expenditure.
- Reserves are maintained and utilised for specific purposes or held to manage overall financial risks to the Council.

### **The implications of poor budget management**

3. The Council may not be operating within the law;
4. Policies and objectives may not be achieved;
5. Resources may not be used in accordance with agreed authority;
6. Failure to secure value for money (efficient & effective use of resources);
7. Decisions made without the benefit of full or appropriate information;
8. Reserves are depleted
9. Inability to take appropriate action at the right time.



## **Key requirements for budget management and control**

### **Section A: Revenue Budgets:**

10. Budget approval is required for all expenditure.
11. The Chief Executive and Executive Directors (ELT) have overall responsibility for the delivery of the strategic objectives for the Council and thus have a responsibility for effective performance monitoring on matters of budget management.
12. Service Directors are fully responsible for Budget Management within their service area.
13. Each Service Director will develop and maintain effective arrangements for financial management within his/her Service area.
14. Each Service Director will nominate a Budget Manager for each cost centre heading, as appropriate.
15. Budget Managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities.
16. Budget Managers follow an approved certification process for all expenditure.
17. Income and expenditure must be properly recorded and accounted for by all Budget Managers. This is achieved by ensuring the accurate use of accounting codes and timely monitoring of financial information.
18. Budget Managers are responsible for maintaining a current forecast of their budget and communicating this to their Finance Business Partners. Where a variance, the difference between forecast and budget, is recurrent this should be identified for future correction.
19. Services are to be managed within their budgets using financial forecasting, virement and carry forward, as appropriate.
20. Expenditure is committed only against an approved budget head.
21. Any virement which has the effect of changing a policy contained in the Policy Framework must be approved by the Council.
22. Virements must be reported to the Executive at least on a quarterly basis.

23. In the unusual circumstance where a proposed use of unearmarked general fund reserve reduced reserves below the range approved by Council as part of budget setting must be approved by Council. Executive may approve allocations within the approved range.
24. Any Council earmarked reserve set aside by Council for a specific purpose may not be spent on any other purpose without the permission of the Executive. The Executive Director – Resources and Corporate Services will review earmarked reserves at least annually and request that unused reserves are repurposed for other uses.
25. Executive and the SLT will receive monthly finance reports which monitor key financial risks.
26. The Executive will receive service budget monitoring reports with full reports (including capital monitoring and reserves) at least quarterly at its public meetings.
27. The Executive Director – Resources and Corporate Services will outline annually the process for carry forwards once he/she has assessed the likely outturn position for the Council
28. The Executive is required to approve the outturn position following the financial year end.

## **Section B: Capital Budgets:**

28. Service Directors are responsible for budget management of all capital schemes within their service area, all capital schemes must have a designated responsible Budget Manager who may or may not be a Director.
29. Before any scheme is included in any programme, budget management responsibility must be assigned.
30. The Capital Programme is agreed by Council.
31. With effective budget planning and management, overspending should not occur. If, however, one occurs it must be recovered. The Service Director is responsible for making proposals for the avoidance or recovery of any overspending to the Executive Director - Resources and Corporate Services or the Service Director - Finance and Procurement in the first instance.

32. Capital schemes must have a review and reporting process. For example, Directors will receive reports of progress in order to focus on the key issues and project spend, and associated funding and revenue implications.
33. Council will approve a central contingency sum that is to be set aside to reflect the overall risk from capital projects it has approved.
34. Contingency sums included within capital schemes must request the approval of the Service Director – Finance and Procurement (or nominated officer) before being utilised. These will be reported as part of the regular budget monitoring process to the Executive Committee.
35. The outturn report to Executive annually should include the outcomes and final spend of completed schemes.
36. Service Directors will be responsible for ensuring the principles of this scheme are understood and enforced within their Service areas.
37. The Executive Director – Resources and Corporate Services will decide annually how the capital programme will be financed.

## **ACCOUNTABILITY**

35. Service Directors will be responsible for ensuring the principles of these regulations are understood and enforced within their service areas.
36. Service Directors are ultimately responsible for the revenue and capital budgets within their Directorates. In circumstances where budgets are continually overspending and/or not managed within these regulations this may lead to disciplinary action.
37. The Executive Director - Resources and Corporate Services as the Chief Financial Officer under s151 of the 1972 Act (and s114 of the 1988 Act) is responsible for advising on the corporate financial position and on the key financial controls necessary to secure sound financial management.
38. As the legislation allows the Director of Finance and Procurement as the Deputy S151 to act in the absence of the Chief Finance Officer.

### **Revenue Service and Budget Virements:**

39. A service budget is a budget heading line in the Revenue Budget Appendix 1 to the Annual Budget Report approved each year by February Council. These are also reported in the Budget Monitoring reports to Executive including the Outturn report.
40. These budgets are designed to assist with the determination of virements as set out below.
41. Each budget has an Executive Director/ Service Director and Executive Member assigned to it. The virement limits are shown below:

<b>Revenue and Capital Virements – technical or structural adjustments of budgets</b>	<b>Threshold</b>	<b>Delegated Approval</b>
Transfers between revenue budget headings purely as a result of amendments required e.g. post LGR or budget corrections can take place provided budget holders are notified of the change and reasons for change.	Any	All virements must be signed off by the Service Director - Finance and Procurement or a Finance Strategic Manager with an explanation of why the virement was required. The following budget monitoring report should outline an overview of the changes made.
<b>Revenue Virements - Other</b>		

<p>Transfers between revenue budget headings (*1) can take place provided that they do not involve new policy or policy change and do not involve an increasing commitment in future years that cannot be contained within existing approved budget allocations.</p> <p><i>Note – (*1) this relates to the budget headings outlined in Appendix 1 of the annual budget setting report</i></p>	Up to £50,000	the relevant budget holders
	Between £50,000 and £499,000	The relevant Service Directors and the Service Director Finance and Procurement
	Above £499,000	The Lead Member for Finance (in consultation with the Executive Director - Resources and Corporate Services or the Service Director Finance) with relevant Executive Members and appropriate Service Directors or Executive Directors. These must be reported to Executive quarterly as part of budget monitoring for noting.

<p><b>Capital Virements – Other</b></p> <p>Resources may be vired from one capital project or heading to another including the contingency budget (*2) provided that such transfers do not result in an overall increased commitment of capital resources and do not involve new policy or policy change:</p> <p><i>Note – (*2) this relates to individual capital projects or budget headings at Service Director level and above</i></p>	<p>Up to £50,000</p> <p>Between £50,000 and £499,000</p> <p>Above £499,000</p>	<p>The relevant budget holders</p> <p>Approval of the relevant Service Directors and the Service Director Finance and Procurement</p> <p>The Lead Member for Finance (in consultation with the Executive Director - Resources and Corporate Services or the Service Director Finance and Procurement) with relevant Executive Members and appropriate Service Directors or Executive Directors. These must be reported to Executive quarterly as part of budget monitoring for noting.</p>
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### **Virement Definition**

42. A Virement is defined by CIPFA (Chartered Institute Public Finance & Accountancy) as “a transfer of an under spending on one budget head to finance additional spending on another budget head in accordance with an authority’ s finance regulations” . For the purposes of this scheme a budget head is considered to be an equivalent level to the budgets outlined in Appendix 1 of budget setting and then outlined in budget monitoring details by each Directorate.

### **Transactions that are not classified as virements**

43. Re-assignment of budget heads between Directors or Portfolios. These are generally termed "Technical or Structural Adjustments" and, reflect the purpose and amount of expenditure remains unchanged but management responsibility has been re-assigned. Typically, this occurs from new management structures of services / departments have been made, or different treatment of overhead budgets are altered from being held centrally or recharged to services, or vice versa.
44. The "Technical or Structural Adjustments" described above will be managed through Finance to ensure that the Original and Current Budgets are reconciled and controlled.

### **Policy Change**

45. A Policy is a plan of action adopted by the Council and implemented by the Executive. Hence outsourcing a service would define a policy change, as would using different delivery methods, or stopping a service or starting a new one, or extending an existing service. All virement requests that impact on policy must be approved by the Executive clearly stating the implications of the decision. If the decision causes on-going implications for future years, the proposal should be made as part of the Medium-Term Financial Plan.

### **Future years**

46. There is no delegated authority for any officer to approve any virements which have a non-zero full year effect and/or create a future year commitment. Proposals can be made as part of Medium-Term Financial Plan to the Executive, so that they can be considered in the Council's future year budget planning.

## **Section 8 – Capital Expenditure**

### **Why is this important?**

1. Capital expenditure involves acquisition or enhancement of fixed assets which have a long-term value to the Council, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs. Capital expenditure must comply with the Council's Contract Procedure Rules and Standing Orders.
2. The Local Government Act 2000, requires local authorities to determine expenditure limits above which such expenditure would be a key decision. All key decisions on capital expenditure must be taken by Executive Members.
3. The Government places strict controls on the financing capacity of the Council. This means that capital expenditure should form part of a Capital Strategy and a Non-Treasury Investment Strategy if an authority holds properties for commercial purposes and should be carefully prioritised in order to maximise the benefit of scarce resources.

### **Key Responsibilities for Members and Employees:**

4. The Executive Director – Resources and Corporate Services will review the financing of the capital programme once the outturn position is known to ensure that the most effective use of resources are made.
5. The Service Director - Finance and Procurement will bring together estimates for capital schemes and to report them to the Executive for approval or prioritisation within affordable resources. Council approval is required where a Service Director proposes to bid for or exercise additional borrowing approval not anticipated in the capital programme. This is because the extra borrowing may create future commitments to financing costs.
6. The Service Director - Finance and Procurement will submit reports to the Executive on the projected income, expenditure and resources compared with the approved estimates.
7. The Service Director - Finance and Procurement will issue guidance concerning capital schemes and controls. The definition of 'capital' will be determined by the Service Director - Finance and Procurement.



8. having regard to government regulations and accounting requirements.
9. Service Directors must comply with guidance concerning capital schemes and controls issued by the Director – Finance and Procurement, including ensuring that all capital proposals have undergone a full project appraisal, through the submission and approval of a Project Initiation Document.
10. Service Directors must prepare regular reports reviewing the capital programme provisions for their Services. They must prepare at least quarterly returns of estimated final costs of those schemes in the approved capital programme for submission to the Executive and to the Executive Director - Resources and Corporate Services.
11. Service Directors must ensure that full records are maintained for all capital schemes
12. Service Directors must proceed with projects only when there is adequate provision in the capital programme and with the agreement of the Director – Finance and Procurement.
13. Service Directors must consult with the Executive Director Resources and Corporate services or Director – Finance and Procurement, and to obtain authorisation from the relevant Executive Member, prior to the implementation of key decisions as part of the capital programme.
14. Service Directors must prepare and submit reports to the Executive Member and Executive Director Resources and Corporate Services, of any variation in contract costs greater than the approved limits. The Executive Member must meet cost increases by virement from savings elsewhere within their overall capital programme area.
15. Service Directors must prepare and submit reports to the Executive Member and Executive Director Resources and Corporate Services, on completion of all projects where the final expenditure exceeds the approved budget by more than an agreed amount.
16. Service Directors must ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the Service Director - Finance and Procurement and, if applicable, approval of the scheme through the capital programme.
17. Service Directors must consult with the Service Director - Finance and Procurement or the Executive Director Resources and Corporate Services

to seek appropriate approval (Council / Executive) where the Director proposes to bid for capital financing to support expenditure that has not been included in the current year's capital programme.

18. Service Directors in service areas which generate VAT exempt income must liaise with the Council's Service Director - Finance and Procurement at the earliest opportunity, to ensure impact on partial exemption is properly managed.

**In addition, please refer to:**

Medium Term Financial Plan

## **Section 9 - Treasury Management - Investments & Borrowing**

### **Why is this important?**

1. Significant sums pass through the Council' s accounts each year which need to be securely managed and controlled to maximise the Council' s income. This is done in accordance with codes of practice that have been established with the aim of providing assurance that the Council' s money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the Council' s funds.

### **Key Responsibilities of Employees & Members:**

#### **The Executive Director – Resources and Corporate Services will:**

2. Prepare the Council' s Treasury Management Strategy in accordance with the CIPFA Code of Practice on Treasury Management in Local Authorities and to arrange for all Council borrowing and investment in such a manner as to comply with this Strategy.
3. Ensure that all investments of money are made in the name of the Council or in the name of nominees approved by the full Council.
4. Authorise all borrowings in the name of the Council.
5. Maintain records of all borrowing of money by the Council.
6. Report to the Council, as requested, on Treasury Management activities.

#### **Directors will:**

7. Ensure that loans are not made to, and that interests are not acquired in, companies, joint ventures, or other enterprises without consulting the Executive Director - Resources and Corporate Services (S151 Officer) and the Monitoring Officer regarding the financial and legal implications and these must follow the approval process.

#### **In addition, please refer to:**

Treasury Management Strategy  
Treasury Management Practices

## **Section 10 – Accounting Systems and Processes**

### **Why is this important?**

1. It is important to ensure that the Council maintains effective & efficient systems of accounting and financial control are in place in order that its assets and interests are effectively safeguarded against loss. It is important that all stakeholders have confidence in the integrity of the Council's financial administration.

### **Objectives of Accounting Systems and processes:**

- To ensure that a true and complete record of all Council transactions is maintained.
- To ensure that the Council complies with legislation / regulations.

### **Implications if above objectives are not achieved:**

2. The Council may not operate within the law;
3. Incorrect management information, leading to poor decision making;
4. Financial loss;
5. Reputational loss, e.g. through publication of a critical Auditors report;

### **Key Responsibilities for Staff & Members:**

6. The Executive Director - Resources and Corporate Services will be responsible for maintaining the Council's accounts and for the approval of all accounting records and financial systems.
7. All Directors must ensure that responsibility for the preparation and processing of accounting information e.g. coding of income and expenditure is assigned to specified officers, transactions are authorised / approved by responsible officers and an audit trail is maintained.
8. Capital expenditure must be accounted for separately from revenue expenditure and must, therefore, be coded to the appropriate capital expenditure code.
9. The Service Director - Finance and Procurement will be responsible for producing the timetable and standards for the production of final accounts each year.
10. The Executive Director - Resources and Corporate Services shall agree all borrowing and lending arrangements, and these shall operate in accordance with the Council's Treasury Management Policy Statement

and the appropriate accounting bodies' Codes of Practice. All investments, borrowing, leasing and other capital financing arrangements shall be effected in the name of the Council.

11. The Council's Asset Management Team, shall hold all securities that are the property of or are in the name of the Council or its nominees and the title deeds of all properties in its ownership, in safe custody.

**The Service Director - Finance and Procurement will:**

12. Ensure that the Council does not enter into leasing contracts which compromise the Council's spending limits set with regard to its Prudential Indicators.
13. Provide financial expertise and advice on leasing arrangements and contracts.
14. Ensure that best value is achieved in leasing contracts, including aggregation of the Council's leasing requirement where appropriate.
15. Ensure that clear instructions are issued to all relevant members of staff on key processes, including:
  - Control Accounts
  - Coding Protocols
  - Cash Flow Management
  - Capital Grants
  - Capital Loans
  - Capital Expenditure
  - Capital Charges
  - Balance Sheet Balances
  - BACS Payments
  - Accounting statements
  - Monthly Accruals
  - Year End Accruals
  - Interfaces with the Financial Management System
  - Suspense Accounts

**All Directors must refer all proposed leasing arrangements, within their Services, to the Executive Director - Resources and Corporate Services.**

## **Section 11 - Payroll**

### **Why is this important?**

1. Employee costs are the largest item of expenditure for most Council services. It is therefore important that payments are accurate, timely, made only to the right people and that payments accord with individuals' conditions of employment.
2. It is important that all payments are accurately and completely recorded and accounted for, as this ensures accurate information for budget holders.
3. Income Tax and National Insurance contributions to HM Revenue & Customs must be complete and accurate. Individuals defined as employees or workers subject to PAYE must be paid through the Councils Payroll System.

### **Objectives of payroll processing:**

- Payments are only made to those entitled to payments, (i.e. employees, Councillors, workers assessed as subject to PAYE, or pensioners) at the correct rate and time.
- All payments and associated deductions are properly accounted for.
- Processes are in place to meet Corporate and Service needs for accurate and timely management information regarding payroll costs.

### **Implications if above objectives are not achieved:**

4. Payments are made:
  - for work not undertaken,
  - to a person not entitled,
  - at the wrong rate,
  - that contravene employment legislation,
  - leading to potential financial loss;
  - Adverse publicity because of failure to pay efficiently and effectively;
  - Untimely and inaccurate information to budget holders;
  - The Council being penalised by the HM Revenue & Customs for failure to account for statutory deductions, e.g. Income Tax and National Insurance contributions.

### **Key Responsibilities for Staff & Members:**

5. The payment of salaries, wages, allowances, pensions and other emoluments must be made under arrangements approved and controlled by the Director of Workforce Directors are responsible for providing the Payroll Service with the details of those Officers in that Service area, that can authorise payroll documents / transactions.
6. All notifications relating to pay and remuneration must be properly authorised and in accordance with the employment contract and HR policy.
7. All travelling, subsistence and other allowances (including staff Professional Subscriptions), for both staff and Members, must be paid through the Councils Payroll system.
8. The use of Petty Cash Account or other non-PAYE payment systems are not permitted under any circumstances, for the payment of salaries, wages, travelling and subsistence expenses.
9. No payments should be made to Self Employed Individuals or Personal Services Companys without an assessment of the workers employment status first being made in line with the HM Revenue & Customs criteria
10. Each Director is responsible for ensuring that the person engaging workers, or companies providing workers, to perform a task determines their employment status, with support from the HR Service, and whether they should be paid via payroll prior to engagement
11. All recruitment must comply with Establishment Control principles
12. All Payroll documents / forms submitted must be the latest approved version.
13. Appropriate budget provision must be available for any pay and allowances prior to agreeing payment.
14. Salary payments are made in accordance with employment law.
15. Statutory deductions are made in accordance with regulations and properly paid over to appropriate bodies.
16. Other non-statutory deductions, e.g. Union subscriptions, are made in accordance with authorised requests.
17. Pension enhancements are awarded in accordance with approved policies.

18. All payments made are properly recorded and correctly charged to the appropriate expenditure codes and management information issued in a timely manner.
19. Members of staff who owe debts to the Council will have these debts deducted promptly from salary.
20. It is the responsibility of all Council Members and members of staff to immediately contact both their Manager and HR Admin and Payroll service when they discover that any overpayment of salary or allowance has occurred.

**Failure to do this knowingly will be regarded as theft, under the law, and will be the subject of disciplinary action by the Council against the Member or officer concerned**

**In addition, please refer to:**

HR Policies & Procedures



## **Section 12– Ordering and Paying for Works, Goods & Services**

### **Why is this important?**

1. The Council must be able to demonstrate probity and value for money in spending public money, in accordance with the Constitution, Purchase Order Policy, and Contract Procedure Rules and Standing Orders.
2. All Council Members and employees of the Council have a responsibility for spending public funds wisely and ensuring that all payments are valid, legal and represent the best use of resources.

### **Objectives of order and payment processes:**

- To secure value for money by obtaining the best price for the quality of works, goods and services required.
- The Council only pays bona-fide organisations or individuals the correct amount at the appropriate time in line with appropriate contractual terms and conditions
- The Council properly accounts for works goods & services ordered and payments due or made.
- The Council complies with legislation covering VAT, payments to Sub-Contractors and other taxable payments
- The Council undertakes appropriate IR35 employment status checks in line with HM Revenue & Customs requirements
- The Council has improved budget monitoring oversight

### **Implications if above objectives are not achieved:**

3. Council pays more than necessary for goods or services.
4. Payments are made for goods / services not required or not received.
5. Duplicate payments are made.
6. Council fails to pay for goods or services in a timely basis resulting in adverse publicity, loss of goodwill.
7. Incorrect recovery of VAT leading to assessments and penalties from HM Revenue & Customs or loss of recoverable VAT.
8. Incurring HM Revenue & Customs penalties for failing to assess employment status appropriately.
9. Inaccurate and untimely information provided to budget holders.

### **Placing Official Orders:**

10. Officers **must** only use Council monies for the purchase of works, goods & services which are for the express use of the Council. Elected Members, employees or others engaged with the Council **must not** use the Council' s ordering or payments systems for personal use or benefit.
11. Members, Officers and individuals engaged to work for the Council **must** declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the authority, in accordance with these Financial Regulations and the relevant Council' s Code of Conduct.
12. Officers **must** issue Official Purchase Orders for all goods and services unless there is a specific exemption agreed as part of the Purchase Order Policy through the Service Director - Finance and Procurement prior to the commencement of the works/services or delivery of goods and prior to the receipt of an invoice. Service Directors must report monthly of any breaches of this requirement.
13. Service Directors **must** designate specific employees who are authorised to place orders on their behalf and operate procedures which secure value for money. The procedures **must** be properly recorded, communicated to staff and continuously monitored.
14. All Purchase Orders **must** (unless specifically exempted) be raised through the Council' s Financial Management System.
15. Before placing orders for goods and services the budget holder responsible **must** ensure that there is sufficient budget available.
16. All orders placed **must** comply with the Council' s Contract Procedure Rules and Standing Orders, which provides guidance on obtaining alternative prices, seeking value for money and complying with legislative requirements.
17. Officers **must** provide information in a timely manner to the Insurance Manager as and when requested in support of putting in place adequate insurance cover.

### **Receiving Goods & Services:**

18. When receiving works, goods or services, the budget holder is responsible for ensuring that timely checks are made to ensure that:
- The works goods or services are in accordance with the order placed,
  - Any faults or deficiencies are reported to the contractor/supplier and remedial action taken,
  - Where necessary, inventories or stock records have been updated,
  - Goods delivered are placed in the safe custody of their authorised recipient.

### **Making Payments:**

19. All payments on behalf of the Council will be made with the authority of the Executive Director - Resources and Corporate Services.
20. Payments **must not** be made unless the works, goods and/or services have been received by the Council to the correct price, quantity and quality standards, and that an invoice for the same works, goods and/or services has not been previously passed for payment.
21. Service Directors **must** designate specific employees who are authorised to approve invoices for payment on their behalf.
22. There must be a separation of duties between the Officer raising the Purchase Requisition and the Officer authorising the Requisition to enable a Purchase Order to be generated. This is important because invoices linked to an Official Purchase Order will be processed and paid without any further authorisation. If for reasons of efficiency a Service Director enables an Officer to both generate and approve a Purchase Requisition then that Director must ensure that the expenditure is scrutinised by another Officer within a reasonable period of time, this could be linked to the 'goods / services received' recording system.
23. All Service Directors **must** ensure adherence to all instructions issued by the Executive Director - Resources and Corporate Services in respect of year-end accounting arrangements.
24. Payments to employees of salaries, wages, and travel & subsistence expenses **must** be made through the Payroll system and not via any other payment system.
25. Where appropriate Corporate Purchasing Cards or Pre-Paid Cards may be used to make payments in line with the Councils' policy and terms and conditions for their use.

26. Officers must ensure that appropriate VAT documentation is obtained from the contractor / supplier to ensure that VAT is correctly accounted for and that the Council can maximise recovery of recoverable VAT.
27. The Council must comply with the requirements of the Construction Industry Scheme when paying construction industry subcontractors.

**Making Payments through Petty Cash Accounts:**

28. P-cards should be used wherever possible instead of Petty Cash accounts
29. All payments through Petty Cash Accounts must be made in accordance with guidelines set down by the Executive Director - Resources and Corporate Services.
30. The Executive Director - Resources and Corporate Services will authorise the use of a Petty Cash Account.
31. The Service operating the Petty Cash Account must arrange for a nominated Responsible Officer to keep and maintain the account. The name of the Responsible Officer and the purpose of the account must be notified to the Executive Director - Resources and Corporate Services.
32. Responsible officers must maintain records and operate the account in accordance with the Petty Cash Accounts guidance.
33. Receipts, vouchers and invoices must be retained to substantiate every transaction.
34. Personal loans must never be given or personal cheques cashed from the Petty Cash Account
35. Wherever possible VAT should be identified on payments made, so that the Council can recover the VAT. VAT may only be claimed where the Council has a valid VAT invoice bearing the VAT registration number of the supplier. For further details on whether VAT should be claimed please refer to the VAT guidelines.

**Making Emergency Payments:**

36. An emergency payment is defined as a payment made via the bank's web portal and which bypasses the accounts payable processes on MSD 365. It is the requestor's responsibility to ensure the payment is

removed from the MSD365 accounts payable system so that duplicate payments are not made.

37. All emergency payments are at the discretion of the Investments team. Any request for payment to be paid same working day must be received by the investments team by 11.00am for guaranteed payment, any receipt later than this will be done on a best efforts basis.
38. Request for an emergency payment should be supported by the following:
  - Payee – name on bank account to be credited
  - Amount
  - Bank details – These should be supplied on the vendors company paper, and are authorised by the requestor
  - Any reference to be quoted
  - Budget codes to be debited
  - Any other requests by the vendor
  - Reason for payment to be made this way
39. All requests for payment must be accompanied by authorisation from an appropriate member of the relevant finance support team or as listed in 40 below.
40. Any request for a payment for more than £50,000 must be countersigned by either the appropriate finance support team service manager, or a finance strategic manager or a SLT member (tier 1 and 2 officers).
41. Other signing arrangements can be pre-agreed for particular types of payment (e.g. property purchases) and must be approved by the section 151 officer.

**In addition, please refer to:**

Council Contract Procedure Rules and Standing Orders  
VAT Guidance

## **Section 13 – Income Collection and Writing Off of Bad Debts**

### **Why is this important?**

1. Income can be vulnerable to loss. Effective income collection systems are necessary to ensure that all income due is properly identified, collected, receipted, banked, and brought to account.

### **Objectives of income processes:**

- To ensure that all sources of income that may be due to the Council are identified, claimed, and collected at the right time.
- All payments received are accepted, recorded, reconciled and banked promptly and correctly.
- Managers and employees have a clear understanding of their responsibilities regarding the identification, collection, banking and reconciliation of income due to the Council.

### **Implications if above objectives are not achieved:**

2. Income being lost to the Council;
3. Resources may be wasted by the failure to collect income quickly and economically;
4. Adverse publicity caused by the failure to collect income efficiently and effectively;
5. Theft, misappropriation or loss of income;
6. High levels of bad debt leading to a large number of write-offs.
7. Failure to deal with VAT correctly results in assessments and penalties from HM Revenue & Customs or a loss of income to the Council

### **Key Responsibilities for Staff:**

8. All arrangements for the collection, accounting and banking of income due to the Council must be subject to the approval of the Executive Director - Resources and Corporate Services.
9. The appropriate Director will be directly responsible for the safe custody, recording, control, issue and use of official receipting systems, receipt books, tickets, account books and other income documentation in their specific Service area.

10. Responsibility for income collection must be separated from the person raising the debtor account on the accounting system.
11. Only payment or write-off shall discharge all sums due to the Council.
12. All refunds of overpayments must be made through the Council's Creditors system and NOT out of income. To help prevent money laundering activity refunds must always be paid back to the same bank account as the original payment. Any large cash payments to be refunded must be considered in terms of potential money laundering prior to authorisation of the refund amount.
13. Individuals must not borrow Council monies. Borrowing monies includes holding or banking personal cheques in exchange for Council cash.
14. All amounts written-off will be subject to robust scrutiny and must meet one of the following criteria:
  - The customer is deceased and there are not sufficient funds within the estate
  - The customer cannot be traced
  - It is uneconomical to pursue the debt
  - The income is uncollectable due to insolvency/bankruptcy
  - All recovery means have been exhausted
  - It is not in the public interest to pursue, for example at risk and vulnerable customers
  - The debt was raised more than six years ago as prescribed under the Limitation Act 1990.
15. It should be noted that just because a debt has been written off it does not mean that debt will not be pursued in future eg if a person who cannot be traced is found at a later date.

### **Individual Write Offs**

16. The following table outlines the delegations for individual write offs:

Officer responsible for income collection	Up to £100
Manager responsible for income collection	Up to £5,000
Budget Holder/Head of Service/	Up to £10,000

Service Director – Finance and Procurement	Over £10,000 and under £500,000
Executive Director – Resources and Corporate Services in consultation with the Lead Member Finance and HR	Over £500,000

### **Bulk Write Offs**

17. All bulk write off listings (regardless of the individual amounts) will require authorisation from the Service Director - Finance and Procurement before being processed.
18. For transparency all write offs will be uploaded each quarter to the Council' s Share Point site where relevant officers and members can access.
19. All write offs in excess of £100,000 will be reported confidential to the Council' s Resources Scrutiny Committee. The write off will include the name of the individual/company, income stream, financial year(s), amount and brief summary as to what actions have been taken and why the amount was written off.
20. Sums due to the Council as debts from members of staff shall be deducted promptly from salary. Directors will ensure that all debts due are recovered promptly and any outstanding balances due, at the time of cessation of employment, are deducted from employee' s final salary or any other monies due to that employee.
21. VAT is charged where appropriate, in accordance with the HM Revenue & Customs regulations. Where an individual Service makes a new type of charge for any reason they must consult the Council' s VAT Analyst before setting prices.
22. Directors must ensure that all members of staff, within their Service, responsible for the collection and reconciliation of income, comply with the requirements of the Council' s Anti-Money Laundering Policy.

**In addition, please refer to:**  
**Income and Arrears Management Policy**  
**Income Code of Practice**  
Council' s Anti-Money Laundering Policy  
VAT Guidance



## **Section 14 – Bank Accounts, Banking and Cash Handling**

### **Why is this important?**

1. Managers and employees need to have a clear understanding of their responsibilities regarding the setting up and use of Council Bank Accounts, banking processes and cash handling. Most bank accounts are held and managed centrally. However, there will be Managers who are responsible for voluntary funds, petty cash accounts and other bank accounts.

### **Objectives of Banking & Cash Handling processes:**

- To ensure that all income and expenditure is transacted through authorised bank accounts.
- To ensure that all money is held securely.
- To ensure monies are banked in an authorised bank account in a timely manner and accurately recorded.
- To ensure all transactions are bone fide, accurate and within predetermined limits.

### **Implications if above objectives are not achieved:**

1. Theft or loss;
2. Staff and premises vulnerable to attack;
3. Resources wasted due to poor cash flow management;
4. Inability to prove that deposits have been made into the bank account or that payments have been made by debtors;
5. Damage to the Council' s reputation through adverse publicity;
6. Failure to deal with VAT correctly results in assessments and penalties from HM Revenues & Customs or a loss of income to the Council.

### **Key Responsibilities for Staff & Members:**

7. The Executive Director - Resources and Corporate Services will be responsible for making such arrangements as are appropriate and necessary with the Council' s Bankers relating to all financial transactions.
8. The Executive Director - Resources and Corporate Services will ensure that proper arrangements are made for the secure printing, secure retention, and issue of cheques.

9. All bank accounts must be opened and closed by the Executive Director - Resources and Corporate Services. Any subsidiary Bank Accounts can only be opened with the express authority of the Executive Director - Resources and Corporate Services, who will provide specific instructions on the control and use of such accounts.
10. Any overdraft on the aggregated Council's main bank accounts is permitted only to the extent authorised by the Executive Director - Resources and Corporate Services. Overdrafts are not permitted on any other bank accounts.
11. The Executive Director - Resources and Corporate Services will make available written guidance on the processes to be followed to transfer monies electronically (CHAPS / BACS).
12. The Executive Director - Resources and Corporate Services will specify arrangements for the collection and banking of all income due to the Council, and to approve the procedures, systems and documentation for its collection, security and banking.
13. All money received by an employee, on behalf of the Council, must be properly recorded and paid without delay into the Council's bank account.
14. Where third parties are contracted to bank income on behalf of the Council, the Executive Director - Resources and Corporate Services will specify and agree the contract arrangements, prior to entering into any such contract.
15. The Executive Director - Resources and Corporate Services shall ensure that the reconciliation of all bank accounts held by the Council is undertaken at regular intervals to ensure the prompt investigation of discrepancies and give assurance of the probity of all bank accounts.
16. All keys to safes and similar receptacles must be carried by the person responsible at all times; loss of such keys must be reported, without delay, to the Executive Director - Resources and Corporate Services (Internal Audit Function).
17. The Executive Director - Resources and Corporate Services will authorise the use of a petty cash account.

**In addition, please refer to:**  
**Cash Handling Policy**

## **Section 15 – Asset Management**

### **Why is this important?**

1. The Council holds fixed and moveable assets in the form of land, buildings, plant and machinery, vehicles, equipment, software, and other items with significant value. It is important that all assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations.
2. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management. Inventories of moveable items are particularly important in connection with potential insurance claims.

### **Objective of asset management:**

- To ensure that assets are used to achieve the approved policies and objectives of the Council with the minimum level of waste, inefficiency or loss for other reasons.

### **Implications if above objective is not achieved:**

3. Money may be wasted by acquiring inappropriate assets;
4. Assets may be used inefficiently;
5. Loss or damage;
6. Money may be wasted by maintaining obsolete or unnecessary assets;
7. Income may be lost by not achieving best terms for disposal of assets.

### **Key Responsibilities for the Staff and Members Asset Management Plan:**

8. The Service Director - Strategic Asset Management shall maintain an Asset Management Plan in respect of the Council's land and property portfolio to be approved by the Executive Committee.
9. The Service Director - Strategic Asset Management shall maintain records and systems that enable the Council to ensure that the best use is made of all properties.

10. The Service Director - Strategic Asset Management shall advise the Council on alternative uses of land and property as best serves the Council's interests at the time.
11. The Service Director - Strategic Asset Management shall ensure that all leases are kept up to date and rents due are revised at the appropriate time.
12. Any change in asset ownership either purchase or disposal must be reported to the Council's Insurance Manager to ensure adequate arrangements are made.

### **Asset Disposals and Purchases**

13. Approval of all assets purchases and disposals with a value of over £499,000 will be approved by the Executive. Approval of disposals of a value less than £499,000 is delegated to the Service Director Strategic Asset Management in consultation with the Service Director – Finance and Procurement.

### **General Asset Management – Responsibilities**

14. All Directors responsible for the private property of a person under their guardianship or supervision shall arrange for an inventory / record of items / amounts held and ensure the safe custody of this property and within any policy approved for this purpose.
15. All Council assets must be used solely for official Council business. Council assets must not be used for personal use.
16. Where any irregularity is suspected in the custody or use of a Council asset, the matter must be treated as a financial irregularity and reported immediately to the appropriate Director and SWAP as the Internal Audit function.

### **Key Responsibilities for Service Directors:**

17. The Service Director- Finance and Procurement shall maintain a full and accurate register of all Council Property, Plant and Equipment and other Long-Term Assets for the purpose of maintaining accurate balance sheet records and calculating capital charges in accordance with relevant Codes of Practice.

18. The Service Director – Strategic Asset Management shall ensure all land and property assets are fully and accurately recorded in a suitable property asset register/asset management system.
19. If the property system and accounting asset register are separate systems, it is the responsibility of the Service Director Strategic Asset Management and the Chief Accountant to ensure these are reconciled regularly including as at 31 March each year to evidence accounting balances in the Balance Sheet.
20. The Service Director – Strategic Asset Management shall ensure that valuations required for the Statement of Accounts meet the requirements of the Council's External Auditors within the timetable outlined by the Chief Accountant.

#### **Key Responsibilities Condition Surveys**

21. The Service Director – Strategic Asset Management 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. Survey details are to be recorded in appropriate systems and work programmes.

#### **Key Responsibilities Custody of Deeds and Documents**

22. The Service Director – Governance, Legal and Democratic Services 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 is responsible for their safe keeping.

**In addition, please refer to:**

Asset Management Plan

## **Section 16 – Asset Leasing**

### **Why is this important?**

1. The Council has freedoms to pursue various capital and revenue options for the funding of asset acquisitions. It is therefore important to ensure the most cost-effective form of funding is sourced for each acquisition. This may or may not be leasing, but where leasing is pursued the reporting requirement must be carefully considered.

### **Objectives of controlling Asset Leases:**

- To ensure terms and conditions of leases are appropriate.
- To ensure the lease is correctly recorded in the Council's accounts.

### **Implications if above objectives are not achieved:**

2. The cost of leasing the asset is greater than alternative finance options.
3. The Council's accounts are incorrectly stated.

### **Key Responsibilities for Directors:**

4. Every Director (or delegated Manager) must refer all proposed leasing arrangements, within their Services, to the Service Director – Finance and Procurement. Any leasing of land and buildings must also be referred to the Service Director – Asset Management.
5. Approval must be obtained from the Service Director - Finance and Procurement for all asset leases.

## **Section 17 Commercial Investments**

### **Investment Property Acquisition and Disposal**

#### **Why is this important?**

1. The Council holds a significant number of properties that are considered to be commercial investments. The income from those properties provide income to support Council Services. The costs of maintaining and debt owned on those properties are an expense to the general fund or if refurbishment a cost to the Capital Programme. Therefore, how these properties are managed have an impact on the budget.

#### **Objectives of Commercial Investments:**

- To provide an income stream to the Council to support service provision to Somerset residents.

#### **Implications if above objectives are not achieved:**

2. The income returns budgeted are not realised and therefore impact on the Councils year-end position.
3. The costs of maintenance and debt outweigh the income to the Council.
4. Reputational risk
5. The properties fall into disrepair and the Council cannot attract new tenants

#### **Key Responsibilities for Members**

6. All disposal decisions other than those delegated to Officers will be made by the Executive or sub-Committee with delegated authority. Where a decision has an impact on the budget and Medium-Term Financial Plan these must be reported to the Executive.

#### **Key Responsibilities for Executive Director – Finance and Corporate Services**

7. Ensuring that Investment Property acquisitions and disposals shall follow the governance and procedures agreed by Full Council as part of the Non-Treasury Strategy, with the Executive Director – Finance and Corporate Services responsible for its implementation.

8. Any capital receipt resulting from the disposal will be applied appropriately by the Executive Director – Resources and Corporate Services to either reduce debt, apply to flexible capital receipts or to finance the capital programme
9. Ensure that all disposals, are subject to completion of appropriate business case and due diligence and the full financial implications are assessed.
10. To assess whether commercial assets are sold before long term borrowing is carried out as required by legislation.

### **Responsibilities for the Service Director – Strategic Asset Management**

11. The Service Director – Strategic Asset Management shall have authority to approve all of the following in consultation with the Executive Director – Resources and Corporate Services where the value of the consideration, rent, licence fees, easement or wayleave payment in each case does not exceed £499,000 per annum and over a time period not longer than ten years. Items in excess of this amount must be referred to the Property and Investment sub-Group for review and approval of:
  - the agreement of all tenancies
  - the agreement of all licences
  - the conducting and agreement of all rent reviews including awarding rent free periods
  - the agreement of all lease renewals or new leases where tenancy of existing freehold/leasehold owned property changes
  - the agreement of lettings
  - the agreement of all easements and wayleaves
  - the agreement of all changes of use
  - the agreement of all compensation claims where there is budgetary provision
  - the agreement of all releases/variations of covenants
12. In addition to regular performance monitoring by Service Director – Strategic Asset Management to demonstrate how the investments are performing over time and enable portfolio review to take place to maximise benefit over time, members will receive the following reports in addition to general financial reporting via the usual budget monitoring and budget setting processes by reporting to the Executive and then full Council with timing aligned to the reporting of the Treasury Management Strategy, and quarterly to the Property and Investment Sub-Group.



13. Responsible for ensuring that the overall investment portfolio provides a consistent balance in terms of security, liquidity and spread.

**In addition, please refer to:**  
Non-Treasury Investment Strategy

## **Section 18 - Management of Stock (Including disposal of obsolete stock and other items)**

### **Why is this important?**

1. Stock has a value and as such it is important that sufficient but not excessive stock is held and that the stock held can be reconciled to the amount of stock purchased less the items utilised. It is also important that any obsolete stock is disposed of in a clear and transparent way.

### **Objectives of controlling stock**

- Maintain sufficient stock to meet needs
- Minimise obsolete stock

### **Implications:**

2. High value items may be sold at less than cost or classified as waste
3. High levels of stock require space for storage that could be better utilised
4. Insufficient levels of stock will delay projects or repairs

### **Key Responsibilities of Service Directors**

5. Every Service Director shall be responsible for the custody of all equipment, stocks, stores, vehicles, furniture and cash used within their Service environment and for their general security.
6. Official inventories and stores records shall be kept under arrangements approved by the Service Director – Finance and Procurement.
7. It is the responsibility of Service Directors and Service Managers to maintain a register of assets (official inventories)
8. Items recorded in official inventories must subject to a regular independent physical check (at least annually). All discrepancies should be investigated and pursued to a satisfactory conclusion. Any discrepancies not resolved must be reported to the appropriate Service Director and SWAP.

9. The Executive Director - Resources and Corporate Services and SWAP have the right of access to all Council establishments, to verify stores, records or accounts.
10. Service Directors should ensure that stocks and stores are not carried in excess of economic requirements and with due regard is taken regarding the costs of storing stock before purchases are made.
11. All 'moveable' property will only be disposed of in accordance with the procedures outlined by the Executive Director - Resources and Corporate Services.
12. Responsible for the proper custody of stocks and stores within Service Directorates and ensuring that they are subject to an effective system of stock recording and control;
13. That stocks are held in reasonable quantities and that consideration has been given to turnover, value, delivery quantities and delivery periods;
14. That practicable steps are taken to ensure that a delivery note is submitted by a supplier for every delivery at the time of delivery;
15. As soon as practicable after the delivery has been made that goods are checked to ensure that the correct quantity has been delivered and that they meet the appropriate quality standard;
16. That no articles or goods are removed from stock without proper authority;
17. That an annual review of stocks held is undertaken with a view to reducing the number of slow-moving items and disposing of obsolete stock items;
18. That obsolete or other stocks no longer required for the purpose acquired are disposed of under the disposals policy;
19. That accounts, and records are maintained in connection with the receipt and issue of stores in such form and timetable as the Executive Director - Resources and Corporate Services;
20. That on the 31st March each year the value of stocks held is certified and reported to the Service Director - Finance and Procurement or nominated officer.

### **Surplus or Deficiency**

21. Where any surplus or deficiency is revealed in excess of £5,000 in any item of stock the Executive Director - Resources and Corporate Services shall be advised and disciplinary action taken where necessary.

### **Checking of Stock**

22. The Service Director - Finance and Procurement or nominated officer is entitled to check stores and be supplied with any information relating to the accounting, costing, and financial records of the Council.

### **Disposal of Surplus or Obsolete Goods, Plant and Authorisation for Disposal**

23. Surplus or obsolete goods or plant, whether held in store, on inventories or otherwise up to the value of £10,000 per item or group of like items, must not be disposed of either by sale or destruction except upon the authorisation of the appropriate Service Director or Head of Service.
24. Where the value is between £10,000 and £50,000 the authorisation of the Service Director - Finance and Procurement or nominated officer must also be obtained.
25. Where the value exceeds £50,000, authorisation from the Executive Director - Resources and Corporate Services must be obtained.
26. In relation to inventory items (e.g. IT equipment etc.) all items surplus to requirements should, in the first instance, be offered to other Council departments, schools etc. prior to being disposed of.

### **Sale of Stock**

27. Sale must be made by public tender except when, in the opinion of the appropriate Head of Service / Service Director (or equivalent) concerned and the Service Director - Finance and Procurement or nominated officer, the financial interest of the Council is better served by disposal by any other means. This could be by public auction.

### **Recording Disposal**

28. A record of each disposal should be maintained (i.e. the approval, the price obtained and if appropriate the alternative method of disposal used). Inventories or stock records should be updated in a timely fashion to reflect the disposal. Officer decisions for disposals in excess of £50,000 must be published.

### **Income from Disposal**

29. Income from disposals shall be credited to the cost centre unless a capital receipt. Capital receipts are sales of assets recorded on the asset register in excess of £10,000, either individually or cumulative. These are credited to the capital receipts reserve and used to fund the capital investment budget.

### **VAT**

30. Value Added Tax shall be accounted for on the sale proceeds if appropriate and the amount identified when banking the income. The Chief Accountant or nominated officer should be contacted if clarification of the VAT position is required.

## **Section 19 – Insurance**

### **Why is this important?**

1. All organisations, whether private or public sector, face risks to people, property and continued operations. Insurance, either through external providers or through the Council' s own fund, form a vital part of the management of these risks.

### **Objectives of Insurance:**

- To ensure that risks exceeding acceptable levels are determined and adequately insured against where appropriate.
- Material risks are monitored on an ongoing basis, and the level of insurance cover (external or internal) adjusted accordingly.

### **Implications if above objectives are not achieved:**

2. The Council maintains insufficient risk reserves or insurance policies to cover the potential financial costs of replacement.
3. Claims are not processed efficiently or effectively.
4. Adverse publicity for the Council.

### **Key Responsibilities for Staff & Members:**

5. The Service Director - Finance and Procurement shall be responsible for:
  - Effecting appropriate insurance cover and maintaining the relevant administrative systems.
  - To manage the Council' s internal funding, including prescribing how claims on the Council' s Insurance Fund should be made.
  - To negotiate all claims in consultation with the Insurers, Legal Services and other officers, as necessary.
  - To include all appropriate employees of the authority in a suitable fidelity guarantee insurance, and provide adequate public liability, and employer' s liability cover.
  - To offer insurance cover to schools in accordance with the Scheme of Delegation.
  - To periodically undertake a general revaluation of Council buildings and effect appropriate changes to the corresponding insurance cover following revaluation.

- To identify claims trends and implement appropriate risk management measures.
6. Directors shall notify the Executive Director - Resources and Corporate Services (or their Insurance representative) promptly on any matters affecting insurance cover, including all new risks and amendments to existing risks.
  7. Directors shall notify the Service Director - Finance and Procurement (or their Insurance representative) immediately, in writing, of any accident, loss, liability or damage or any event likely to lead to a claim on or by the Council whether covered by insurance or not. An admission of liability or blame should not be made either verbally or in writing.
  8. Service Directors shall take all reasonable measures to reduce risk and liability within their Service areas. In addition, they shall ensure that work for external organisations is appropriately covered by professional indemnity insurance.
  9. Any indemnities for individual officers eg in the placing of children in Unregulated Placements require the agreement of the Head of Paid Services in consultation with the Executive Director – Resources and Corporate Services.
  10. Members and Officers of the Council who intend to travel abroad on official business must ensure that the necessary insurance cover has been arranged.
  11. Contracts and suppliers must have their Insurance policies confirmed and contractual indemnity clauses vetted before agreement.
  12. The Insurance Manager will have the ability to delegate financial authority to the team within the Insurance deductibles in place, the Insurance manager will have final say on any claims up to £500k and co-ordinate and refer to the Executive Director for Resources & Corporate Services on anything above this limit.
  13. All claims are audited in line with Insurer requirements to ensure decision making, claims handling and financial reserving of the team matches the policy requirements, therefore validating decision making capacity and autonomy independent of governance controls if a recommended decision or court mandated requirement.

## **Section 20 – Value Added Tax (VAT)**

### **Why is this important?**

1. The purpose of this section of the regulations is to ensure that service managers and employees have a clear understanding of their responsibilities regarding VAT.
2. Like all organisations, the Council is responsible for ensuring that its VAT affairs are managed efficiently and in accordance with legislation. Tax issues are often very complex and the penalties for incorrect accounting for VAT can be severe. It is therefore very important that all officers are aware of their role so that the Council adheres to current VAT law and best practice.
3. In particular the Council can only recover VAT incurred on 'VAT-exempt' business activities if the total falls below its 'partial exemption' limit. Detailed planning is required to ensure that the Council can continue to recover this VAT, on both new schemes and existing expenditure.

### **Objectives of taxation control processes:**

- To ensure that the Council only pays the correct amount of VAT and accounts for it in accordance with statutory requirements:
  - budget managers are provided with relevant information and kept up to date on VAT issues
  - budget managers are instructed on required record keeping
  - all taxable charges and payments are identified, properly carried out and accounted for within stipulated timescales
  - records are maintained in accordance with Council instructions and subject to internal checks
  - accurate returns are made to the appropriate authorities within the stipulated timescale.

### **Implications if above objectives are not achieved:**

4. Unnecessary payment of taxes or under-recovery of tax due, leading to wasted resources;
5. Failure to identify taxable income and pay over the tax due, leading to possible assessments, interest and penalties, as well as considerable extra work;



6. Incorrect or duplicate recovery of VAT paid to suppliers, again leading to additional costs and work;
7. Inadequate planning or lack of consultation leads to poor decisions, resulting in errors or a loss of income;
8. Failure to consult early on expenditure related to VAT-exempt income adding to the risk of the Council breaching its 'partial exemption' limit which could result in a significant cost.

**Key Responsibilities:**

**The Chief Accountant will:**

9. Maintain up to date guidance about VAT for Council employees on the intranet, and, provide updates and advice to staff.
10. Respond to all queries from Services, seeking external advice if necessary.
11. Make checks of VAT charged to customers and to be reclaimed, then ensure completion of a monthly return of VAT inputs and outputs to Her Majesty's Revenue & Customs (HM Revenue & Customs).
12. Deal with all visits and correspondence from HM Revenue & Customs.
13. Ensure that the VAT incurred in relation to 'exempt' business income is not at risk of exceeding the partial exemption limit in any financial year, and, undertake the annual calculation after the year end.

**Service Directors will have responsibility:**

14. To ensure that staff are trained to deal with VAT correctly
15. To ensure that the correct VAT is paid from income due to the Council, and that VAT on purchases is recovered in line with HM Revenue & Customs regulations.
16. To follow the instructions on taxation issued by the Chief Accountant on the Council's VAT intranet site and in other documents.
17. To check the VAT status of any new income source with the Chief Accountant or their nominated officer.

18. To ensure that all new schemes, in particular involving capital expenditure or changes to current arrangements, which involve VAT-exempt income, are notified to the Council's Chief Accountant or their nominated officer at the earliest opportunity.
19. To liaise with the Council's Chief Accountant or their nominated officer if there is any type of query concerning VAT or if it is believed that an error may have occurred.

**In addition, please refer to:**

VAT Guidance

## **Section 21 – Corporate Purchasing Cards**

### **Why is this important?**

1. Only authorised permanent employees will be provided a purchasing card with the agreement of the relevant Director.
2. The purpose of this section of the regulations is to ensure that all employees have a clear understanding of their key responsibilities when using the Council's Corporate Purchasing Card.

### **Objectives of the Corporate Purchasing Card:**

- Purchasing Cards streamline the purchasing process and offer the following benefits:
  - Useful for small and urgent purchases
  - Reduces the numbers of invoices requiring processing for small transactions
  -

### **Implications if the purchasing card is not used appropriately:**

3. Failure to secure value for money (there's a requirement to obtain quotes and tenders - Contract Procedure Rules and Standing Orders);
4. Payments are made for non-business use goods and services;
5. Payments are duplicated;
6. Loss of recoverable VAT;
7. Fraud & theft
8. Inaccurate coding of Expenditure

### **Key Responsibilities for Staff:**

9. The Service Director Finance and Procurement (Deputy S151) is responsible for authorising all Purchasing Card application forms.
10. Service Directors must authorise the issue of all new Purchasing Cards to members of permanent staff within their Service.
11. Service Directors will be responsible for agreeing the transaction, monthly credit limits and categories of expenditure for all Corporate Purchasing Cards issued within their Service.

12. All Cardholders must abide by the requirements of the Purchasing Card Terms & Conditions and the Purchasing Card Procedure Guide.
13. The cardholder must ensure that the Purchasing Card issued to them is kept in a safe place at all times and access is strictly limited.
14. The Purchasing Card must only be used to purchase goods or services on behalf of the Council and must only be used by the named cardholder.
15. All purchasing card holder should obtain a VAT or "retailer' s" receipt. This should be retained until the card holder has verified the sums shown on the monthly statement.
16. Some suppliers are "VAT-enabled" and, the statement will show purchases net of VAT. For those suppliers where the amounts are shown gross and (subject to being material as defined in the guide) the cardholder should reclaim VAT for these items and when it is reclaimed they must retain the receipt to evidence the transaction.
17. The cardholder must ensure that purchasing card transactions are accurately coded in the Council' s Financial System. These transactions must be signed off by their line manager monthly.
18. Service Directors must ensure that the detailed procedures and key controls, as specified in the Purchasing Cards Procedures Guide, are strictly followed.
19. Any misuse of the Purchasing Card will be treated as misconduct and subject to normal disciplinary procedures.

**In addition, please refer to:**

Corporate Purchasing Card Procedures Guide  
Purchasing Card Terms & Conditions

## **Section 22 – Commissioning & Procurement**

### **Why is this important?**

1. The Council spends a large sum of money each year on contracts, for works, supplies or services. These Financial Regulations apply to all contracts and must be read in conjunction with the Council's Contract Procedure Rules and Standing Orders.
2. Financial Regulations support the Council's Contract Procedure Rules and Standing Orders.

### **Objectives of our Contract Procedure Rules and Standing Orders:**

- To provide a fair, consistent and proportionate framework of governance, rules and guidance to enable decisions to be transparent and accountable
- To ensure that works, goods and/or services meet the needs of the Council
- To secure value for money by obtaining the best price and quality for works goods and/or services ordered.
- To establish contractual arrangements that clearly defines the responsibilities of each party to the contract.
- To ensure the Council complies with legislation.
- To ensure that appropriate contract management arrangements are in place.

### **Implications if above objectives are not achieved:**

3. Failure to secure value for money;
4. Failure to be transparent around our systems, objectives and processes;
5. Reputational damage to the Council.
6. Delays to delivery of contracts whilst legal challenges are dealt with and increased costs incurred in order to defend the Council's position.

### **Key Responsibilities for Staff & Members:**

7. Service Directors **must** establish a commissioning intentions schedule that at minimum covers a rolling long term programme (3 to 5 years) of future commissioning and procurement activity.

8. Every contract made by the Council **must** be awarded in line with and Council' s Contract Procedure Rules and Standing Orders.
9. Service Directors **must** ensure that all Officers in their Service that have been nominated as 'Responsible Officers' (RO) for contract management purposes have been appropriately trained and before undertaking any procurement must complete the Passport to Procure Training All Officers managing a contract on behalf of the Council must complete the Cabinet Office Contract Managing Capability Programme (Foundation Level).
10. Officers **must** ensure that all contracts are recorded on the Contracts Register.
11. Officers **must** ensure that requests for quotations and invitations to contract with the Council comply with Council' s Contract Procedure Rules and Standing Orders.
12. Financial vetting must be undertaken independently through Finance.
13. Where corporate contracts are in place Service Directors **must** ensure they are used.
14. The RO must obtain appropriate VAT advice in relation to all contracts to provide services to ensure the appropriate VAT treatment is applied.
15. The RO **must** ensure that all contract documentation is correct before agreeing on the Council' s behalf. This will include any clearance required through the Council' s Democratic processes.
16. Any changes to the nature, value, term or any other changes **must** be agreed by the RO in line with the contract variation process identified in the original contract (subject to clearance through the Council' s Democratic processes) ensuring that the change does not have a legal impact especially regarding term or spend levels. Any change **must** be updated on the Contract Register.
17. The RO for each contract shall ensure that all instructions have been appropriately authorised and issued before the goods are ordered, services requested, or works are undertaken. All instructions to suppliers and payment arrangements **must** be in a form agreed by the Executive Director - Resources and Corporate Services.
18. The RO **must** establish appropriate management arrangements for the regular review of contractual performance of the contractor that allows

performance issues to be identified and addressed in line with the contract.

**In addition, please refer to:**

Council Contract Procedure Rules and Standing Orders  
Contract Management Toolkit  
Contract Management Framework  
Council Procurement Strategy

## **Section 23 – External Arrangements Partnerships**

### **Why is this important?**

1. Partnerships bring together key public agencies, the business community and the independent sector (voluntary and community sector organisations, further and higher education, neighbourhoods) to address the shared priorities for the area and to tackle the issues that no single agency can do on their own. The Council provides a distinctive leadership role for the community to promote / improve the economic, social or environmental well-being of its area and people. Local Authorities can mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations.
2. A Partnership, as distinct from other collaborative working relationships, will be characterised by the following:
  - They create a new organisational structure or process to achieve a goal separate from the individual member organisations
  - Robust governance arrangements exist including formal risk management provisions
  - Consist of pooled resources
  - Have clear outcomes with accompanying actions
  - Formal performance monitoring arrangements exist

Whilst there may not be an equal division of power or financial responsibility between the constituents of a Partnership, there is always some degree of spreading control or influence.

### **Objectives for Partnership Working**

3. The main objective is to ensure that the Council participates in successful Partnerships that have robust governance arrangements and that:



- Partnerships should have **clear objectives** that are realistic and measurable and link to the achievement of the Council's corporate objectives
- There should be **clear organisational and staffing arrangements** in place, with clear accountabilities for those involved in a Partnership and clarity with regard to the resources committed to it.
- Partnerships should have **robust management and appropriate decision-making** mechanisms in place. They should have a constitution and/or terms of reference and defined standards as to the way individuals within Partnerships should behave.
- Partnerships should have **robust performance management** arrangements for monitoring and reviewing how successfully targets are being met and sharing the review findings amongst partners.
- Partnerships should have **robust financial arrangements** in place, with clear budget setting and monitoring procedures and have clear financial regulations and schemes of delegation.
- Partnerships should have a clear process for identifying, prioritising and **managing risks**. Business continuity arrangements should also be in place.
- Partnerships should have a transparent process for **information sharing** within the Partnership and **public engagement arrangements** where there is communication with service users and the wider public.
- Partnerships should have clear **exit arrangements** that allow for minimal disruption and the reallocation of resources.

### **Key controls**

4. The key controls for partnership arrangements are:
  - ensuring that partnership arrangements are underpinned by clear and well documented internal controls.
  - risk management processes are in place to identify, assess and allocate all known risks.

- appraisal processes are in place to assess the viability of the partnership in terms of resources, staffing and expertise.
- the roles and responsibilities of each partner involved in the project are agreed and formally accepted before the project commences.
- adequate arrangements are in place to ensure the accountability of other organisations for Council money, and that such money is only released against proper controls.
- regular communication is maintained with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.
- documentation is in place setting out and limiting the commitments of parties to each other and the project.

### **Key Responsibilities for Staff & Members**

Lead officer' s or member leads for a Partnership, are expected to:

- Be the point of contact between the Council and the Partnership.
- Assist the Partnership work with the Council.
- Facilitate the Council' s input into the Partnership.
- Review performance against agreed outcome targets and highlight any issues with the relevant Head of Service/Director
- Alert relevant senior Council officers to any issues.
- Facilitate a regular self-assessment of the Partnership' s activity and make recommendations about any action required.
- Be clear as to the level of decision-making authority that the Partnership has and whether or not you have such authority from the Council.
- Act in accordance with any Codes of Conduct/Standards in force at the time

### **Responsibilities of the Executive Director - Resources and Corporate Services**

5. To advise on effective controls that will ensure that resources are not wasted.
6. To advise on the key elements of funding a project. They include:
  - scheme appraisal for financial viability in both the current and future years.
  - Financial reporting arrangements
  - How under and overspends are treated and any remaining balances once the partnership ends
  - risk appraisal and management.
  - resourcing, including taxation issues.
  - audit, security and control requirements.
  - carry-forward arrangements.
7. To ensure that the accounting and reporting arrangements are satisfactory.
8. To advise on the governance and performance management of partnership arrangements.
9. To ensure that when the Council is the "Accountable Body" there are adequate controls and governance arrangements in place.

### **Responsibilities of the Senior Leadership Team**

10. Assuring the scoring of the Partnership against the Council's significance assessment scorecard. Reviewing the risk of the Council's 'significant Partnerships' on a quarterly basis.
11. Referring Partnerships to the appropriate Committees.
12. Ensuring a robust register of the Council's Partnerships.
13. Monitoring the overall impact of 'significant Partnerships' and advising the appropriate Committee on any action required.

14. Commenting on the viability and strategic fit of any significant new Partnership, and relevance of existing significant Partnerships.
15. Championing the use of this Framework Document.

### **Detailed Requirements**

16. The Council believes that all Partnerships it is involved with should have:
  - Clarity on resource required and committed to the Partnership.
  - Clear budget setting and monitoring procedures in place.
  - A budget and performance reporting framework in place.
  - Clear financial administration procedures in the form of financial regulations and scheme of delegation.
17. Any Partnerships where the Council is a party should be approved if it has key decision implications such as a funding decision or more generally so that the Council knows what it is party to.
18. A cabinet decision being required if the Council is to be the accountable body of a Partnership
19. A Procurement activity where the Council will need to follow its own regulations in addition to anything specific set down by the Partnership itself.
20. Where a Partnership is in receipt of monetary resources, the accountable body for the funding should provide the partners with regular budget control reports, to enable the partners to understand what the financial position is. A named person should be given this responsibility.
21. The reporting framework needs to link to the agreement on how under and overspends within the Partnership would be dealt with if they happen.
22. The accountable body may change depending on where the funding originates. The Partnership must abide by the accountable body's financial regulations and must ensure that it has obtained the appropriate level of authorisation before payments are made.

23. The budget reporting framework should be linked to the Partnership' s performance management framework to ensure that spend is linked to outcomes.
24. From the outset, the Partnership agreement must provide both internal and external auditors with rights of access to documentation. All partners must ensure there is a clear audit trail for any payments made, contracts tendered, and funding received, which follows the appropriate financial/contract regulations and schemes of delegation.
25. Each Partnership needs to consider the risks that, if they occurred, would prevent it from achieving its objectives.

**In addition, please refer to:**

Somerset Council Partnership Framework

## **Section 24 – External Funding**

### **Why is this important?**

1. External funding is potentially a very important source of finance, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Council. Local Authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers.
2. Funds from external sources such as Regional or National funding mechanisms, the National Lottery provide additional resources to assist the Council to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the Council' s overall plan.

### **Key controls**

3. The key controls for external funding are that:
  - funds are accepted only if they meet the priorities approved in the policy framework by the full Council.
  - the requirements of the Funding Body are clearly understood to ensure that key conditions of funding and any statutory requirements are complied with.
  - any match-funding requirements are given due consideration prior to entering into long-term agreements and that revenue budgets reflect these requirements.

### **Responsibilities of the Service Director – Finance and Procurement**

4. To review all grant application prior to submission and review whether the grant creates on-going funding commitments for the authority. Any on-going funding requirements must be approved through the Executive.
5. To ensure that all funding notified by external bodies is received and properly recorded in the Council' s accounts.
6. To ensure that audit requirements are met.

### **Responsibilities of Service Directors**

7. To obtain approval from Executive Director - Resources and Corporate Services or his / her representative for grant applications.
8. To ensure permissions are in place to incur expenditure funded by grant, including Full Approval status within Capital Programme where appropriate.
9. To ensure that the project progresses in accordance with the agreed project plan and that all expenditure is properly incurred and recorded.
10. To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenues are able to meet these requirements.
11. To ensure that all claims for funds are made by the due date.

## **Section 25 – Work for Third Parties**

### **Why is this important?**

1. Local authorities can enter into a wide range of agreements to do work with each other and with some (but not all) public bodies. Such an agreement may enable the Council to provide a range of services to other bodies and so deliver additional income or maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that such work is intra vires (i.e. within the Council's legal powers).

### **Key controls**

2. The key controls for working with third parties above a value of £50,000 p.a. are:
3. proposals are costed and reviewed for accuracy and completeness;
  - no process is started that might lead to the Council agreeing to do work for an outside body whether public sector or otherwise, without seeking the advice of the Council Solicitor as to whether this is within the Council's legal powers;
  - no process is started that might lead to the Council agreeing to do work for an outside body, whether public sector or otherwise without first establishing and recording that there is a clear economic case why doing the work is in the Council's best interests;
  - contracts are drawn up with the guidance of the Council Solicitor;
  - guidance is issued with regard to the financial aspects of third party contracts and the maintenance of the contract register;
  - the Council has insurance cover for any potential liabilities that could arise to the recipient of the service and any third party, and that the cost of this has been included with the overheads when calculating fees.

### **Responsibilities of Executive Director - Resources and Corporate Services**

4. Where the proposal exceeds £50,000 p.a. to issue guidance with regard to the financial aspects of third-party contracts.

### **Responsibilities of Directors**

5. To ensure that the Executive Portfolio Member is aware of any individual proposals above £50,000 p.a. before any negotiations are concluded to work for third parties.



6. To ensure that the Council does not enter into any agreement that is beyond its power.
7. To ensure that no contract is subsidised by the Council.
8. To ensure that, wherever possible, payment is received in advance of the delivery of the service.
9. To ensure that the Service / Team has the appropriate expertise to undertake the contract, and that such contracts do not impact adversely upon the services provided for the Council.

## **Section 26 – Pension Fund**

1. In its role as ‘administering authority’ , Somerset Council has executive responsibility for the Somerset Pension Fund. The Council is legally responsible for the Fund as set out in the Local Government Pension Scheme Regulations.
2. The Council delegates its responsibility for administering the Fund to the Peninsula Pensions, a shared service operated by Devon County Council. The Somerset Pension Board has oversight of the Somerset Pensions Committee.
3. The Pensions Committee shall be responsible for the strategic policy of the Somerset Pension Fund and the Funds investment management arrangements. The Pensions Committee shall also make whatever arrangements it considers appropriate for the custody of the Fund’ s investments. This includes the use of partnership arrangements with other local authority pension funds to reduce costs to the Fund, i.e. Brunel Pension Partnership.
4. Where the Council solely manages any investments or balances relating to the Somerset Fund (i.e. not Brunel Pension Partnership) then the Council shall manage on an agency basis any cash balances belonging to the Somerset Pension Fund which are held with the Council’ s bankers. A Service Level Agreement with the Council’ s Finance function shall regulate the way in which these balances are managed.
5. The Somerset Pension Fund shall establish arrangements either internally or through the Brunel Pension Partnership to ensure that regular, i.e. quarterly reports are made to the Pensions Committee on the performance of the Fund’ s investment managers and all other matters affecting the administration of the Fund’ s investments. The mandates of the investment managers shall be subject to periodic review.
6. The Pensions Committee shall appoint an actuary to the Fund and shall review the appointment periodically.
7. The Pensions Committee shall approve an annual budget for the Fund’ s administrative expenses and all disbursements shall be met from within this budget. Reports monitoring expenditure against budget shall be submitted to the Pensions Committee quarterly.

8. Except where otherwise provided, the Pensions Committee shall approve all discretionary policies outside of those exercised by the Administering Authority under the Local Government Pension Scheme Regulations.
9. The Executive Director of Resources and Corporate Services shall approve a list of authorised signatories, which shall apply to all disbursements made by the Fund.
10. The Service Director of Finance & Procurement shall be responsible for preparing an Annual Report and Accounts for the Fund.
11. The Service Director of Finance & Procurement shall make arrangements for the collection of all employer and employee contributions due to the Fund.
12. The Service Director of Finance & Procurement shall make arrangements for the payment of transfer values owed by the Fund and the collection of transfer values owed to the Fund.
13. The payment of all benefits will be made under arrangements approved by the Executive Director – Resources and Corporate Services and controlled by the Service Director of Finance & Procurement.



## Part J – Decision making arrangements

### 1.1 PRINCIPLES OF DECISION-MAKING:

All decisions will comply with the following principles:

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

### 1.2 TYPES OF DECISION:

1.2.1 Decisions taken under the authority of Full Council at meetings of the Council, Committees of the Council as detailed in Parts C and D or under the Scheme of Delegation in Part I.

1.2.2 'Executive' decisions under the authority of the Leader at member level as detailed in Part E and the Scheme of Delegation to Officers (Part I). There are two categories of executive decisions – Key Decisions and Non-Key Decisions and different rules apply to each.

Key Decisions - defined in legislation as:

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

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

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

Non-Key Decisions: These are all 'executive' decisions which fall beneath the 'Key Decision' financial or geographical thresholds.

## 1.2 **HUMAN RIGHTS ISSUES:**

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

## Appendix 1 - Code of Good Practice for Planning

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### **1 Introduction**

- 1.1** This Code of Good Practice for Planning (the Planning Code) has been adopted by the Council to regulate the performance of its planning function.

The Planning Code has the following objectives:

- To guide members of the Council and officers in dealing with planning-related matters.
- To inform potential developers and members of the public generally of the standards and procedures adopted by the Council in the performance of its planning function.
- To preserve public confidence in the integrity of the planning system by ensuring that decision-making is open, transparent and fair to all parties and to ensure that there are no grounds for suggesting that a decision has been biased, partial or ill founded in any way.
- To minimise the prospect of legal or other challenge to planning decisions.

- 1.2** This Planning Code is not intended to form part of the Code of Conduct for Members (the Members' Code). It is a separate document and is intended to supplement the Members' Code by providing more detailed guidance on the standards applying to planning-related matters. The Members' Code must be applied before the Planning Code.

- 1.3** This Planning Code applies to the proceedings of the Council's Area Planning Committee meetings and the Strategic Planning Committee meetings (hereinafter referred to as Planning Committee) and to any other body of the Council making decisions on planning matters
- 1.4** Planning law requires Local Planning Authorities to determine all planning applications in accordance with the development plan unless material considerations indicate otherwise. This responsibility must be performed without members being unduly influenced by any personal interest or other considerations irrelevant to planning.
- 1.5** Planning matters will be subject to close scrutiny both because large sums of money will be at stake for applicants for planning permission and because the quality of the built and natural environment in which local residents and the wider community live and work may be irrevocably affected.
- 1.6** It is essential that members of the Planning Committee do not give any commitment or impression of a commitment to any particular outcome for a planning matter prior to its consideration at Planning Committee. Planning decisions must be seen to be made impartially and without bias.
- 1.7** It is recognised that members will, from time to time, be approached by developers and objectors in relation to planning proposals. Part of this Planning Code is intended to assist members in dealing with such approaches and to ensure that the integrity of the decision-making process is preserved.
- 1.8** The Human Rights Act 1998 has implications for the planning system and has created enhanced requirements for procedural fairness, transparency and accountability in determining planning applications.

## **2. Probity in Planning**

- 2.1** Probity in planning is about ensuring that decisions on plan making and planning applications are undertaken, on behalf of communities, in a fair, impartial and transparent way.
- 2.2** In accordance with the Local Government Association guidance on Probity in Planning, Lead Members shall not also act as a Member of Planning Committee.
- 2.3** Serving Councillors and Officers (other than when they are acting for the Council) must not act as Agents for people pursuing planning matters within their authority, even if they are not involved in the decision making on them.

## **3. Declaring Interests**

- 3.1** Under the Members' Code, members must declare any personal interest in any matter being considered at a meeting, and must withdraw from the meeting if that personal interest is also prejudicial. The detailed rules on personal and prejudicial



interests are set out in the Members Code, but the following paragraphs give a brief summary.

- 3.2** A personal interest is one that affects the well-being or financial position of a member more than the majority of other people in the relevant Council ward. Members will also have a personal interest in a matter if it affects their partner, relative, friend, close associate, or any organisation with which the member or any of these are connected, or relates to any interest which they must register under the Code of Conduct.
- 3.3** If a personal interest exists, then members must declare it and give brief details of its nature at the beginning of the meeting at which the issue is to be considered, or as soon as the interest becomes apparent.
- 3.4** Whether a personal interest is also a prejudicial interest is a matter of judgment for each member. The question they must ask themselves is: "Would a member of the public, aware of all the facts reasonably think that this interest was so important that my decision would be affected by it?" Members should remember that prejudicial interests can also arise when a matter affects their partners, relatives, friends or organisations with which the member or any of these are involved.
- 3.5** Members with a personal interest that is not prejudicial may remain in the meeting after declaring it, and take part in the debate and vote. If the personal interest is also prejudicial, members may **not** take part in the debate or vote. As permitted by the Members' Code, they may make representations, give evidence or answer questions from the Planning Committee to the same extent as members of the public are permitted to do so (see Section 8 below), but must then leave the room before the debate begins. **Failure to do so could have serious consequences for the member and the Council: see Section 18 below**
- 3.6** The Localism Act 2011 places requirements on Members to notify the Monitoring Officer of or to disclose at the Planning Committee any Disclosable Pecuniary Interests (DPI) and prohibits participation in the business of the Council where a Member has such an interest. The current list of DPIs is set out in the list attached to the Members Code.
- 3.7** The requirement to notify the Monitoring officer of a DPI applies not only to a Member's own interests but also to those of the member's husband/wife or a person with whom the member is living as husband/wife or as if they were civil partners, if the member is aware that that person has an interest. In this Planning Code such a person is referred to as a 'relevant person'.
- 3.8** Failure to so notify/disclose a DPI in the circumstances required by the Localism Act 2011 is a criminal offence. Therefore the requirements as to notification, disclosure and participation must be followed scrupulously and members should review their situation regularly. Whilst advice can be sought from the Monitoring Officer, ultimate responsibility for compliance rests with individual members.

- 3.9** A member may have a DPI in relation to a planning application in a number of circumstances affecting them or a relevant person. Examples include, but are not limited to;
- An application for development of a property owned or leased by the member or a relevant person
  - An application for development of land owned by the member's employer or a relevant person's employer
  - An application for development of a property which the member or a relevant person occupy by way of licence
- 3.10** Unless a member has received a dispensation they must not participate in a discussion or vote on any application in which they or a relevant person has a DPI.
- 3.11** The Localism Act 2011 does not require the disclosure at a meeting of a DPI if the interest already appears on the Register. Members need to be cautious about pending notifications (where the Monitoring Officer has been notified but the register has not yet been updated). There is an ongoing legal obligation to disclose at meetings until the register has been updated and therefore, in cases of doubt the member should disclose at the meeting. In any event members may voluntarily declare a DPI or other interest at a meeting, even when there is no obligation to do so.
- 3.12** Members must withdraw from the room at a meeting during a discussion or vote upon an issue in which they have a DPI. Failure to withdraw will not be a criminal offence but could potentially taint a planning decision and leave it susceptible to a challenge by way of judicial review.
- 3.13** Where a member of the Planning Committee has a DPI (either themselves or through a relevant person) they may not participate in the debate or vote on the planning application. This applies where the member is wishing to speak as a member of the Planning Committee or ward member. However, as a private individual the member can speak and remain in the room but not take part in the debate.
- 3.14** Members with prejudicial interests and /or DPIs should not request that an application is referred to Committee.
- 3.15** Members may take part in decisions relating to land or premises in their wards, subject to complying with the rules in the Members' Code on personal and prejudicial interests. Members with DPIs must not take part in such decisions. If in doubt as to whether an interest should be declared in relation to any matter, members should take advice from the Council's Monitoring Officer or Head of Legal Services.

## **4 The Integrity of the decision making process/Lobbying**

- 4.1** Lobbying is a normal and perfectly proper part of the planning process, and both applicants and objectors should have access to their representatives. However, to

ensure that the integrity of the decision making process is not impaired, it is important that any representations made to members form part of the public information leading to any decision. If an approach is received by a member of the Planning Committee, from any interested party in relation to a current or proposed planning application, then the member shall:

- a) Inform that party that, in order to avoid accusations of partiality, they are only able to offer procedural advice and that they should either write to officers of the Council or write or speak to a member(s) who is not on the Planning Committee. However, members on the Planning Committee are quite free to listen to the views that the lobbyist wishes to express.
- b) Where a member of the Planning Committee receives written representations directly in relation to a planning application, (or proposed planning application) the member should pass a copy of the correspondence to the application Case Officer and the email address in order that those representations can be included in the officer's report to the Planning Committee.

**4.2** Lobbying is likely to involve ward members or other members of the Council who are perceived as being interested in or having an influence over the proposal, as well as members of the Planning Committee. Ward members (and other members) who are not members of the Planning Committee are in a different position to that of members of the Planning Committee. Ward Members have a very important function in representing the interests of their area or constituents who are affected by a planning proposal. If they are not on the Planning Committee, there is no reason why they should not have a view on planning proposals which are currently under consideration by the Council and make those views known, providing they do not attempt to exert any improper influence over Planning Committee members or officers.

**4.3** Ward members who are on the Planning Committee must remain impartial and keep an open mind about all applications coming before the Planning Committee until the meeting when the application is to be decided. Members of the Planning Committee have a legal duty in making planning decisions to take all the evidence and arguments into account, not to commit themselves to a fixed or final view before hearing these, and not to favour any particular person, group or locality (or appear to do so). The Local Government Association advises that **"councillors who do not feel that they can act in this way should consider whether they are best suited to serve on a planning committee"**. Failure to comply with this duty may result in planning decisions made by the Council being quashed by the courts on the grounds of predetermination or bias. It can also damage the public perception of the impartiality and integrity of the planning process.

**4.4** Members of the Planning Committee who wish to take part in a planning decision should not therefore do anything that gives the impression that they have come to a final view before the Planning Committee meeting, such as making a firm view public, or organising support for or opposition to a planning application, or lobbying other members. It is perfectly proper for members to have a "predisposition" in

favour of or against a particular proposal before it is discussed at Planning Committee. It would be unrealistic to expect them to be totally neutral in all cases, and the law does not require this. What is important is that members do not close their mind to further evidence or arguments which may be put forward. Members of the Planning Committee or ward members should also not put pressure on officers for a particular recommendation. This does not preclude members from seeking information or clarification from officers about a planning application.

**4.5** Members of the Planning Committee who represent a ward affected by an application may be in a difficult position if it is a controversial matter attracting much lobbying, or on which they have strong personal views. In this situation, a member is perfectly free to choose to support one side or the other, to make their views known and to organise lobbying. **However, a member who makes this choice must not take part in the actual making of the decision.** When the matter comes before the Planning Committee, they will be entitled to make representations, but should not then take any part in the debate or vote

**4.6** If a member leads, represents or is a member of a group whose primary purpose is to lobby to promote or oppose a particular development, they will be considered to have predetermined an application relating to that development. However the position is different for membership of general interest groups e. g. English Heritage, RSPB etc. In this case if that organisation has made representations on an application but the member has not been involved in preparing the representations they will not have predetermined merely due to that membership.

**4.7** The Localism Act 2011 provided some further clarification in that a member will NOT be considered to be pre-determined;

- By just listening to viewpoints from residents or interested parties
- By making comments which fall short of prejudging the issue
- By seeking information through the appropriate channels
- By acting as a vehicle for the expression or views as a ward member providing they have not committed to vote in accordance with those views or that they are not acting as an advocate for a particular viewpoint.

**4.8** In the interests of public participation and involvement, it can be helpful if members involved in the determination of planning applications attend public meetings in relation to planning matters which are under consideration. It is, however, important to ensure that they make clear their position at the outset of the meeting so that there can be no question of misunderstanding or undue influence. Members should identify themselves as being members of the Planning Committee dealing with the application, and make it clear that they are happy to hear views expressed by the public, whether for or against the proposal, but are unable to reach or express any view on the merits or otherwise of the proposal at that stage. Members of the public attending meetings should be advised to contact the relevant officer with their views so that these can be included in the officer's report.

- 4.9** As no decision on a planning application should be made before the Planning Committee meeting, when all available information is to hand and has been duly considered, any political group meeting prior to the Planning Committee meeting should not be used to decide how members should vote, whether this is for or against an officer's recommendation. Members must be free to take decisions based on relevant planning considerations only, and any use of a political whip to influence voting may amount to maladministration.

## **5. Discussions with developers**

- 5.1** Discussion between developers or an applicant for planning permission and the Council, either prior to the submission of an application or during the consideration process of the application, can be of considerable benefit to both parties and is generally encouraged as assisting the planning process. However, it would be easy for such discussions to become or be seen (especially by objectors) to become part of a lobbying process. Any involvement of members in discussions with developers or applicants should therefore only take place as part of structured arrangements agreed with officers, and the advice given in Sections 3 and 5 should always be borne in mind.

- 5.2** The following guidance given by the Local Government Association and the Planning Officers' Society should be followed in relation to such discussions:

- Presentations by applicants should be limited to the development proposal and a question and answer session on factual matters. Where appropriate, they may take place on site or incorporate a site visit.
- To promote transparency of the planning process, the public will be invited to attend developer presentations wherever practicable.
- Members must maintain an impartial listening role and avoid expressing an opinion or giving advice beyond outlining local policies, although questions may be asked to clarify aspects of a proposal and policy concerns may be raised. The chair or officer should explain this role at the outset of the meeting.
- The discussions should not develop into negotiations and it must be made clear that they are not part of the determination process.
- Officers of appropriate seniority (where resources permit) should attend the meeting, and written notes should be kept.
- For major or contentious applications, the involvement of members should be authorised by the Planning Committee and recorded in any subsequent committee report.
- Members should not seek to influence officers or pressure them to support a particular course of action.
- The Council should set out in advance how it will deal with any commercially sensitive or confidential information, bearing in mind the requirements of the Freedom of Information Act and the need for transparency.

- 5.3** To minimise the risks of predetermination in championing their communities, members are encouraged to promote any community aspirations involving sites,

land or community benefits from development, or other planning issues through the Local Plan or Neighbourhood Plan preparation at the earliest opportunity.

## **6. Predetermination and Bias**

- 6.1** Members must also be aware of and act within the rules on predetermination and bias. Avoidance of bias or predetermination is a principle of natural justice which has evolved through the courts, although section 25 of the Localism Act 2011 is also relevant. Even if a member does not have a DPI or is not acting in breach of the Members' Code they may cause a decision to be invalid if they participate while predetermined or biased. The rules regarding predetermination or bias are likely to be more strictly applied where the Council is making 'quasi-judicial' decisions, such as the determination of a planning application, than in other decisions to be made by the Council.
- 6.2** The basic legal position is that a member should not take part in making a decision on a planning matter if they are biased or has predetermined the matter. Members should bring an unbiased, properly directed mind to the consideration of any matters before them at the Planning Committee. This does not mean that members are not entitled to have and to express opinions about general planning matters, or planning cases. However they must approach, and must be seen to approach, matters before them with an open mind.
- 6.3** In this respect a distinction is to be drawn between those members who are making the decision (speaking and voting as part of the Planning Committee) and those members seeking merely to influence the decision (i.e. making representations as a ward member). The prohibition in respect of predetermination or bias only affects those actually making the decision. A member who has predetermined or who is biased may still speak as a ward member (provided they do not also have a DPI).

## **7. Predetermination and Predisposition**

- 7.1** The law also makes a distinction between predetermination, which rules out participation in decision making and predisposition, which does not.
- 7.2** A member is entitled to have and express views on local matters, both general planning matters and more specific applications. These views may indicate that a member has a predisposition towards a particular policy or viewpoint. This is perfectly acceptable and a member with a predisposition may take part in the decision-making.
- 7.3** A predisposition will move on to become predetermination if, in relation to any matter before the Planning Committee, a member has taken a stance which indicates that they have finally closed their mind on the matter and that nothing they hear at the Planning Committee will alter their position.
- 7.5** There is an acceptance that a member may legitimately consider matters in certain capacities as different factors may apply to different decisions. Where premises require planning permission and a license, members may be asked to sit on both planning and licensing Planning Committees. While the statutory regimes in such cases are different, often the factors to be taken into account can be similar. In these circumstances members should carefully consider whether anything they have done or said in making the earlier decision would demonstrate a predetermination of the second decision. If that is the case the member should not take part in the decision making at the second Planning Committee.

## **8 Bias**

- 8.1** A member should not be party to decisions in which he is actually biased or gives the appearance of being biased to the reasonable observer. The test for the appearance of bias is whether a fair minded and informed observer, having considered the facts, would conclude there was a possibility that the decision maker was biased. The common ground for this test, in deciding whether the decision of the Planning Committee is vitiated was stated by Lord Hope in *Porter v Magill* (2001) UKHL 68.
- 8.2** There is an earlier line of authorities which identify situations in which a Judge or other decision maker whose activities are governed by Public Law is automatically disqualified on grounds of apparent bias. This is so where a decision maker is party to a decision, the paradigm instance of *nemo iudex in causa sua* principle.
- 8.2** Bias may arise by virtue of a member being closely connected with a person who has a vested interest either the applicant or an objector. This may result from a personal connection, such as the applicant being a relative or friend, or result from the member espousing a particular viewpoint (e.g. being part of a lobby group). The role of the Planning Committee is to consider applications in accordance with the legislation and to balance the interests of persons with competing views and this may not be possible where a member is closely connected with a particular party.

- 8.3** In addition, circumstances which raise the possibility of bias may also lead to an accusation of a breach of the Members' Code, as the Members' Code states that members should act solely in the public interest and not do so in order to gain financial or other material benefits for themselves, their family or friends. Where this might occur, members should not take part in the decision making.

**9. Section 25 of the Localism Act 2011**

Section 25(2) of the Localism Act 2011 provides that a decision maker is not to be taken to have had, or to have appeared to have had, a closed mind when making a decision just because –

- (a) the decision maker had previously done anything that directly or indirectly indicated what view the decision maker took, or would or might take in relation to a matter, and
- (b) the matter was relevant to the decision.

The section makes it clear that if a councillor has given a view on an issue, this, considered in isolation, does not show that the councillor has a closed mind on that issue. So, the mere fact that a councillor has campaigned on an issue or made public statements about their approach to an item of council business does not prevent that councillor from being able to participate in discussion of that issue and to vote on it.

Having said this, the use of the words 'just because' in section 25 suggest that other factors when combined with statements made etc. can still give rise to accusations of predetermination. This has also been the approach that the courts have taken to this issue. When considering whether predetermination has taken place they will consider all events leading to the decision, (and also, where appropriate, those following the decision) rather than looking at individual events in isolation.

The case law has also made it clear that the words used by particular members and the interpretation put on those words is of particular importance. So care still needs to be taken when making statements in advance of the determination of planning applications as there is a risk that they can be misinterpreted or taken out of context.

**Guidance**

With this in mind;

- It is always advisable to avoid giving the impression that you have made up your mind prior to the decision making meeting and hearing the officer's presentation and any representations made on behalf of the applicant and any objectors.
- With this in mind, if you do comment on a development proposal in advance the decision, consider using a form of words that makes it clear that you have yet to make up your mind and will only do so at the appropriate time and in the light of



the advice and material put before you and having regard to the discussion and debate in the Panel meeting.

- Particular care should be taken where there are chance encounters with objectors to development proposals or in the context of meetings which are not formally minuted. These are situations where the risk of what you say being misrepresented or taken out of context is particularly high.

## **10. Dual-hatted Members**

**10.1** Where a Member is a member of the Planning Committee and is also a city, parish or town councillor, caution needs to be exercised in considering matters at the city/parish/town council stage. This is because of the member's additional responsibility as a member of the Planning Committee charged with making a decision on the planning application. It is important to bear in mind that city/parish/town councils are consultees in the planning process and may be asked for their comments on an application at a time when not all the relevant material planning considerations have become known and the full implications of an application investigated. Members should therefore:

- at the city/parish/town level, make it clear that they will reconsider the matter at the district level, taking into account all relevant evidence and representations at the district tier; strong opposition to or support of an application at the parish or town council meeting would indicate that a dual hatted member had predetermined and therefore debar the member from voting at the Planning Committee
- At the district level, declare a personal interest arising from their membership of the city/parish/town council, and make it clear that the council's view does not bind them and that they are considering the matter afresh.
- Be mindful that if a planning application significantly affects the city, parish or town council (e.g. the city, parish or town council is the applicant or the application affects land owned outright by the city, parish or town council) it is likely that a fair minded observer might consider the Councillor to be biased as a result of his/her membership of the city, parish or town council and therefore in those circumstances a dual hatted member should not take part or vote on such an application.

**10.2** The same procedures should be followed by members of the Planning Committee who sit on any other body, which is considering an issue which may subsequently come before the Planning Committee. Members may decide that in some circumstances it would be inappropriate for them to participate in the vote that decides the consultative body's comments and views on an application. A member's expertise as a member of the Planning Committee can sometimes be put to best use in advising and guiding other bodies on which they sit on the planning issues that arise from the application. When the application comes to be decided by the Planning Committee, the views of the city/parish/town council or other consultative body will be one of the material considerations to be considered and taken into account.

- 10.3** Ward members who make representations on a planning application and who also sit on the Planning Committee should ensure that any comments which they make do not give the impression that they have formed a final view on the application by that stage. Members should keep an open mind until the matter comes before the Planning Committee, and take all relevant considerations into account before making their decision.
- 10.4** Subject to the guidance listed in para 2.2 above there may be circumstances where a member of the Planning Committee who is also a member of the Council's executive is so closely involved with a proposal coming before the Planning Committee that s/he may not be seen as impartial in relation to the planning decision. This may occur, for example, if the member concerned is committed to the development as a result of his/her responsibilities for furthering the development of the area, and is effectively acting as an advocate for that development. In these circumstances, the member concerned may argue for the development, but should not take part in the debate or vote at the relevant Planning Committee meeting. If in doubt, advice should be taken from the Council's Monitoring Officer.

## **11. Applications by Members, Officers and the Council, Delegation to Officers and Exceptions to Delegated Powers**

- 11.1** In the event that an application is brought to Planning Committee for probity reasons, members of the Planning Committee will need to consider whether they should declare any personal or prejudicial interest in applications in which other members of the Council or officers are involved. This will normally only be necessary if the member or officer concerned is a "close associate", as that term is used in the Members' Code of Conduct. If in doubt, advice should be taken from the Monitoring Officer or Head of Legal Services.
- 11.2** Proposals where the Council is the applicant (or a development involving the Council and another party) should be treated in the same way as those by private developers, in accordance with the relevant Town and Country Planning Regulations and government guidance.
- 11.3** The same procedures also apply to private applications in respect of Council owned land (e.g. prior to a land sale being agreed or negotiated). Decisions must be made strictly on planning merits and without regard to any financial or other gain that may accrue to the Council if the development is permitted. It is important that the Council is seen to be treating such applications on an equal footing with all other applications, as well as actually doing so.

## **12 Members and decision making**

- 12.1** Members are required to arrive at a decision on granting or refusing permission, and in determining planning applications, members are required to have regard to the

development plan and to any other relevant material considerations. To this end, the reports of officers to members must be accurate and cover all relevant points. These reports:

- a) Should contain a section on the relevance of the development plan, a description of the site and any related planning history with all other relevant material considerations outlined.
- b) Should deal with the substance of any objections or support received and the views of people who have been consulted or notified.
- c) Should incorporate a recommendation for the consideration of members; oral reporting (except to introduce a report or update it) should be extremely rare and carefully minuted when it does occur.
- d) Should contain a technical planning appraisal which clearly justifies the stated recommendation.
- e) If the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify this must be clearly stated.

## **12.2** Members of Planning Committee must also;

- Come to meetings with an open mind and demonstrate they are open minded.
- Have a duty to take into account any representations made to the Council as a result of the publicity and consultation process for the application. In doing so, it is necessary to decide which representations are material to the decision to be made, and if so, what weight to attach to them. This conclusion should not be reached until all the facts have been presented in the officer's report to the Planning Committee.
- Request further information if it is felt there is insufficient information before the Planning Committee to reach a decision,
- When making a decision contrary to the officer recommendation, identify the planning reasons behind the decision before the vote is taken, which may need to be justified in the event of an appeal or other challenge. In the event of a proposal to grant planning permission contrary to officer recommendation, Members must propose and the Committee must approve relevant conditions and reasons for conditions to be attached to the planning permission. The detailed compilation and attachment of relevant conditions and reasons can be delegated to officers in consultation with the Chair. If members are unable to do this immediately, they should request an adjournment or a deferral in order to seek advice and/or formulate the reasons/conditions.

## **13** Training

- ### **13.1**
- To ensure that correct procedures are followed and proper planning considerations are employed in decision making, members of the Planning Committee will receive

training on planning functions as soon as possible after appointment to the Planning Committee. The Council's Executive Lead Member responsible for planning will also receive the same training as soon as possible after appointment.

**13.2** Under the Council's Constitution, Members may not take part in planning decisions unless they have first received appropriate training on planning functions. Additional training as considered necessary from time to time by the Service Director – Economy, Employment and Planning or Monitoring Officer, should also be attended by all members of the Planning Committee.

**13.3** Refresher training, updates, and more detailed training on specific issues will also be provided, and should be taken up by all Planning Committee members.

## **14 Complaints and Record Keeping**

**14.1** Whatever procedures the Council operates, it is likely that complaints will be made. In order that any complaints can be fully investigated, record keeping should be complete and accurate. Omissions and inaccuracies could, in themselves, cause a complaint or undermine the Council's case. Every planning application file will contain an accurate account of events throughout its life, particularly the outcomes of meetings or significant telephone conversations.

**14.2** The same principles of good record keeping will be observed in relation to all other planning matters. Monitoring of record keeping will be undertaken on a continuous basis by the Service Director Planning and Environment.

## **15 Role of Officers**

**15.1** An officer's function is to advise members on all matters of development management procedures and considerations, including planning policy, in their determination of planning and related applications by:

- a) Providing impartial and professional advice which is properly recorded.
- b) Making sure that all the necessary information is available for a decision to be made.
- c) Providing a clear and sufficient analysis of the issues including development plan policies and all other material considerations.
- d) Giving a clear recommendation.
- e) Carrying out the decisions made by members at meetings of the Planning Committee.

Officers who are members of the Royal Town Planning Institute are governed by the Royal Town Planning Institute Code of Professional Conduct which states that RTPI members shall not make or subscribe to any statements or reports which are contrary to their own professional opinions. Officers who are not members of the RTPI should aim to adhere to the same principles of conduct.

**15.2** Officers shall also comply with the following:

- a) Informal pre-application advice will be given (where appropriate for a reasonable fee as set out in the published schedule of charges) to prospective applicants prior to submitting an application. Advice will reflect adopted policies within the Development Plan.
- b) Where considered necessary a site visit will be carried out.
- c) Officers will endeavour to deal with, and determine applications in accordance with published service standards.
- d) All applications will be considered by at least two officers, i.e. the case officer plus a senior officer who will authorise the final decision unless internal procedures state otherwise.
- e) In all dealings with applicants, agents, and the public officers should maintain a courteous and professional relationship adhering to the Council's policies and officer codes ensuring that all parties are treated fairly and respecting people's rights.
- f) When an application is submitted by an officer involved in the planning process the officer shall highlight this on the application forms and make the Case Officer aware at the earliest opportunity. Such applications shall be determined in accordance with Appendix K of the Constitution.
- g) Where an officer involved in the planning process has a close personal relationship with any applicant, agent or organisation that could lead to a third party suggestion of bias, the officer will inform the Service Director Planning and Environment and Monitoring Officer in writing and take no part in processing or determining the application.
- h) Officers should not, under any circumstances, accept gifts or hospitality beyond simple basic refreshment where necessary or unavoidable. If, however, a degree of hospitality is unavoidable, it should be ensured that this is of the minimum. All gifts and hospitality beyond simple basic refreshment should be declared to the Monitoring Officer for entry in the Council Register of Gifts and Hospitality.

**16 Planning Decisions Contrary to Officer Recommendation and/or Development Plan**

**16.1** The law requires that planning decisions should be made in accordance with the development plan unless material considerations indicate otherwise.

**16.2** In discussing and then determining a planning application, members should confine themselves to the planning merits of the case and the reasons for making a final decision should be clear and convincing and supported by planning evidence. All

decisions must be founded on material planning reasons and there must be planning evidence to substantiate them.

- 16.3** There is no reason in law why a Planning Committee may not make a decision contrary to the officer's recommendation, whether it is for approval or refusal. Nevertheless, the law does require that in the case of refusals of planning permission, detailed reasons are given, and it is important that where members have made a decision contrary to an officer's recommendations, the reasons for the decision should be made clear. In such a situation, therefore, whether the decision by members is to approve or refuse permission, the planning reasons should be clearly minuted, together with the evidence to substantiate them.

## **17 Consequences of Failure to Comply with the Planning Code**

- 17.1** This Planning Code, together with the provisions of the Members' Code sets out the standards that the Council will operate in dealing with planning applications. Members and officers should be aware that failure to comply with this Planning Code or the Members' may have legal consequences.

- 17.2** These include:

- a) A complaint to the Monitoring officer, and a subsequent investigation if informal resolution is not possible, which may result in a member being censured.
- b) An investigation by the Ombudsman if complaints are received about the manner in which a planning application is dealt with. In determining whether or not there has been maladministration the test that is currently used is that members must "at all times avoid any occasion for suspicion and any appearance of improper conduct" and must not allow "the impression to be created that (the Member) is or may be using his position to promote a private or personal interest". Individuals involved may be named, and the Council may be found guilty of maladministration and recommended to compensate the claimant.
- c). Appeal to the Secretary of State. As well as granting planning permission s/he can award costs against the Council if it has acted unreasonably – for example, bias has been present or the decision has been taken for non-planning reasons.
- d). Court action (judicial review) to quash a planning decision, which may succeed if bias or apparent bias was present, or if it is demonstrated that a decision was taken for non-planning reasons or material considerations were ignored. Procedural errors may also have this result if any party was prejudiced. Costs will be awarded against the Council which will have to re-determine the application correctly.

- e) A Human Rights challenge where the potential level of damages awarded for a breach is unlimited.

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## **Appendix 2 – Somerset Council Whistleblowing Policy**

### **Introduction**

The term whistleblowing is generally used only with reference to workers and has a specific legal definition under the Public Interest Disclosure Act 1998, i.e., a disclosure of information which, in the reasonable belief of the worker, is made in the public interest and tends to show serious misconduct. In a non-legal context, the term might also be used to describe a similar disclosure of information, by anyone who is not a worker. The Council recognises that as a public body, it might receive a disclosure of information, not just from its workers, but from members of the public as well.

The term 'worker' includes an employee of the Council, agency staff, contractor or consultant doing work for the Council, collectively referred to in this policy as "employees". A member of the public will be anybody not falling within the definition of 'employees', which could include, the parent of a child at a school, or any person who uses Council services.

This policy applies to disclosures from employees, but also sets out the Council's commitment to deal with disclosures from members of the public in the same way. To this end, where this policy refers to a "whistleblower", it refers to both employees and members of the public who make a disclosure. In this policy, receipt of any such information will simply be referred to as a "concern" or a "disclosure".

Somerset Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment, we wish to encourage employees and members of the public, who have serious concerns about any aspect of the Council's work to come forward and voice those concerns.

Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

This policy is intended to encourage and enable individuals to raise concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside. The policy makes it clear that individuals can do so without fear of victimisation, subsequent discrimination or disadvantage. The Council is committed to listening to concerns, taking them seriously and ensuring that they are dealt with promptly and fairly.

The policy will be published to ensure that it is available and accessible to employees and members of the public.

The policy can also be used to raise concerns about suppliers and those providing services under a contract with the Council in their own premises, for example, care homes or schools.

The policy is in addition to the Council's Complaints Procedure and other statutory reporting procedures applying to some service areas. A decision on which route each concern takes will be made upon receipt.

There is a Grievance Procedure in place for employees to raise a concern relating to their own employment. The policy is based on the Department for Business Innovation & Skills: Guidance for Employers and Code of Practice and has been discussed with the relevant trade unions and professional organisations and has their support.

In addition to the Council's commitment to protect employees who raise concerns, the Public Interest Disclosure Act 1998 provides a worker with potential protection from detriment and dismissal for making a 'qualifying disclosure'. The Act has rules for making a protected disclosure:

- You must reasonably believe the disclosure is in the public interest.
- You must believe it to be substantially true.
- You must not act maliciously or make false allegations.
- You must not seek any personal gain.

An employee who raises a concern under this policy and reasonably believes the disclosure is in the public interest, will be protected from any claim of defamation by the Council's insurance policy.

### **Aims and Scope of the Policy**

This policy aims to:

- Encourage employees and members of the public to feel confident in raising serious concerns and to question and act upon concerns about practice;
- Provide avenues for employees and members of the public to raise concerns and receive feedback on any action taken;
- Ensure that employees and members of the public receive a response to concerns and that they are aware of how to pursue them if they are not satisfied;
- Reassure employees and members of the public that they will be protected from possible reprisals or victimisation if they have a reasonable belief that the disclosure made is in the public interest.
- Assist with deterrent and detection of wrongdoings.

This policy is intended to cover major concerns reasonably believed to be in the public interest in one or more of the following categories:

- Criminal offences, for example, fraud, theft, physical or sexual abuse.
- Failure to comply with an obligation set out in law.
- Miscarriages of justice.
- Abuse or bullying of clients including children and vulnerable people, Evasion of statutory responsibilities.
- Unauthorised use of public funds or other assets.
- Abuse of power for financial or other gain.
- Endangering of someone's health and safety (employee or member of the public).
- Damage to the environment.
- Other causes of malpractice, negligent, unprofessional or unethical behaviour.
- Covering up wrongdoing in the above categories.

Thus, serious concerns which you have about any aspect of service provision or the conduct of employees or members of the Council or others acting on behalf of the Council can be reported under the Whistleblowing Policy. This may be something that:

- makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to; or
- is against the Council's Standing Orders, Financial Regulations and policies; or
- falls below established professional standards of practice; or
- amounts to improper conduct.

The whistleblowing procedure cannot be used as an alternative to the council's grievance or safeguarding policy and procedures. Whistleblowing usually has an element of public interest attached to it. Typically, the matter involved presents a risk to others, such as customers, taxpayers, or the environment. A concern about your own employment situation is more properly addressed by means of the council's grievance procedure.

### **How to Raise a Concern**

If you are an employee who has a concern, we hope you will feel able to raise it first with your line manager or Director in writing. To assist you, the concern should be copied to the whistleblowing generic email address: [confidential@swapaudit.co.uk](mailto:confidential@swapaudit.co.uk) (the confidential phone number is 020 8142 8462).

If you feel unable to raise the matter with your Line Manager or Director, for whatever reason, please raise the matter through the confidential phone number on 020 8142 8462 or email to [confidential@swapaudit.co.uk](mailto:confidential@swapaudit.co.uk). This line is monitored by our Internal Audit provider, South West Audit Partnership (SWAP). SWAP is independent of the Council.

If you are a member of the public, please raise your matter directly with SWAP on the contact details above.

A member of staff will take your call, which will be in complete confidence. It is always helpful if you can give a little background information, but if you are not comfortable doing so, please just leave your contact details. You can leave a home or mobile number if you don't want to be contacted at work, but please let the call recipient know when it would be convenient for you to be called back.

After you make your initial contact, the hotline staff will pass a message on to a member of the SWAP Counter Fraud and Investigations Team who endeavour to respond to all initial calls within 48 hours (excluding weekends). They will then consider what action should be taken.

It is sometimes necessary to undertake an investigation. Investigations are undertaken by staff who have the technical and professional skills relevant to each particular case.

If the above channels have been followed but you continue to have concerns or believe that those listed above are implicated then you should approach one of the following:

- The Chief Executive.
- The Head of Governance and Democratic Services (who is also the Council's Monitoring Officer).

Please consider that:

- When raising a concern, you must declare any personal interest you have in the matter.
- The earlier you express the concern, the easier it is to act.

Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate that there are reasonable grounds for a concern. However, you must not attempt to investigate a concern or accuse individuals directly.

Advice and guidance on how to pursue matters of concern may also be obtained from:

- HR Advisory Service
- The Council's Legal Team
- Your trade union/ a professional association representative.

Employees may wish to consider discussing concerns with a colleague first and may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.

Employees may invite a trade union /professional association representative or work colleague to be present during any meetings or interviews in connection with the concerns raised. Meetings can be arranged off-site if necessary.

If there is an immediate risk call 999 for emergency services or 101 for local Police.

If you have concerns regarding abuse to adults or children you may also contact Safeguarding on 0300 123 2224 or out of hours on 0300 123 23 27.

### **How Will We Respond**

The Council (or SWAP) will respond to your concerns as quickly as possible. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.

The action taken by the Council will depend on the nature of the concern. Where appropriate, the matters raised may:

- be investigated by management or SWAP Internal Audit Services;
- be referred to the Police;
- be referred to an external auditor;
- form the subject of an independent inquiry;
- be dealt with under a more appropriate Council procedure.

In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, child protection or discrimination issues or financial irregularities) will normally be referred for consideration under those procedures.

Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.

Within ten working days, the Council (or SWAP) will write to you:

- acknowledging that the concern has been received;
- indicating how they propose to deal with the matter giving an estimate of how long it will take to provide a final response;
- telling you whether any initial enquiries have been made;
- supplying you with information on staff support mechanisms, and
- telling you whether further investigations will take place, and if not, why not.

The amount of contact will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from you.

The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For example, if you are required to give evidence as an employee, the Council will arrange for you to receive advice about the procedure from a nominated officer, usually someone from HR or legal.

The Council accepts that you need to be assured that the matter has been properly addressed and you will be informed of the final outcome of the investigation. In some circumstances, however, it may not be possible to reveal the full details where this relates to personal issues involving a third party or legal constraints.

If you make an allegation that you reasonably believe is in the public interest but it is not confirmed by the investigation, no action will be taken against you.

## **Support**

If you are unsure whether to use this policy or want independent advice or support at any stage, you may contact The independent charity Protect (formerly Public Concern at Work) on 020 3117 2520. Their advisers can give you free confidential advice on how to raise a concerns appropriately.

## **How the Matter can be taken Further**

This policy is intended to help you raise concerns you may have. Hopefully, you will be satisfied with any action taken. If you are not, there are other people you can contact and these are:

- the External Auditor;
- your Trade Union/professional association;
- relevant professional bodies or regulatory organisations (for example Health and Safety Executive)
- Public Concern at Work
- an elected Member of the Council
- the Police;
- the ombudsman;
- your own solicitor.

If you do take the matter outside the Council, you should ensure that you do not misuse confidential information. The person you contact should be able to advise you on this.

The policy, in line with the legislation, provides protection for employees who raise concerns internally. It is inconsistent with the satisfactory operation of the policy to pursue such concerns with the media (newspapers, TV, radio, etc) and employees who do so are unlikely to be protected by the provisions of the Public Interest Disclosure Act and may be subject to disciplinary action.

### **Anonymous Allegations**

This policy encourages you to put your name to your allegation whenever possible.

Concerns expressed anonymously or through a third party are much less powerful and may not be possible to investigate. SWAP will discuss these with the Council's Monitoring Officer, and it will be at their joint discretion as to whether the concern will be considered further.

In exercising this discretion, the factors to be taken into account would include:

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

### **Harassment or Victimisation**

The Council recognises that the decision to report a concern can be a difficult one to make. The Council will not tolerate any harassment or victimisation (including informal pressures) and will take action to protect you when you raise a concern where you reasonably believe the disclosure is in the public interest.

Disciplinary action will be taken against an employee if they try to stop you from raising a concern or if an employee is responsible for any act of recrimination against you for raising a concern.

Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

### **Confidentiality**

All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. It must be appreciated, however, that the investigation process may reveal the source of the information, and that a statement may be required as part of the evidence and/or you may be asked to come forward as a witness at the appropriate time. We will keep your identity confidential, if that is what you

want, unless required to disclose it by law (for example, by the police or if it is required to be disclosed for the purposes of subsequent disciplinary action).

### **False Allegations**

If an allegation is knowingly made frivolously, maliciously or for personal gain, disciplinary action may be taken. The Whistleblower does not need evidence but instead need to have reasonable belief that the concerns raised are true.

### **The Responsible Officers**

SWAP will retain a record of all whistleblowing concerns and these will be shared at regular intervals with the Monitoring Officer who has overall responsibility for monitoring the policy and will report annually to the Council's Standards Committee on the operation of the policy.

### **Links to other Policies**

The Council has agreed a Constitution, which sets out how the Council operates, how decisions are made, and the procedures to follow to ensure that these are efficient, transparent and accountable to local people. While some of these processes are required by law, others are a matter for the Council to choose. The Constitution also has a number of rules and regulations to make sure that financial, working and organisational procedures are properly controlled.

### **Review**

The policy will be kept under review and as a result may be subject to amendment by the Whistleblowing Policy Contact Officer:

Monitoring Officer  
Somerset Council



## **Appendix 3 - SOMERSET COUNCIL PROTOCOL: COUNCIL AND THIRD-PARTY RECORDING AND WEBCASTING OF COMMITTEE MEETINGS:**

### **1. Introduction**

Somerset Council is committed to being open and transparent in the way it conducts its business. The press and members of the public are therefore welcome to film, photograph or record at any meeting that is open to the public and to use social media platforms such as Twitter, Facebook and Instagram. This is in line with the Government's 'Openness of Local Bodies Regulations' (the 2014 Regulations) which afford members of the public such rights to report

The Council has also put in place arrangements so that the majority of their public meetings including Executive and Full Council should be the subject of live web transmission ('webcasting'), or recorded for subsequent transmission. However, the minutes of a council meeting remain the statutory and legally binding formal record of council decisions.

This Protocol aims to assist the conduct of meetings that are being recorded and/or broadcast and to ensure that in doing so the Council is compliant with its obligations under the Data Protection Act 2018 and the Human Rights Act 1998. It also provides practical information to assist anyone considering recording meetings and anyone speaking at meetings which may be recorded.

In accordance with the Openness of Local Government Bodies Regulations 2014 recording is allowed at all formal meetings of the authority to enable those not present to see or hear the proceedings either as they take place (or later) and to enable the reporting of those proceedings.

In this Protocol references to:

- 'Recording' covers any means used to record the proceedings including filming, audio-recording and the use of photography.
- 'Reporting' covers the reporting of the business of the meeting via any social media.
- 'Council meetings' covers all formal Full Council, Executive and Committee meetings which are open to the press and public to attend and other meetings as agreed at the time by the Council.

## **2. General**

A notice will be included on the agenda and also be displayed on the door and inside the meeting room advising everyone who attends that the meeting may be webcast or recorded and that by attending the meeting they are consenting to the broadcast of their image.

Those wishing to record proceedings (including elected members) should, as a courtesy, inform the chair (or clerk) of the committee of their intentions prior to the beginning of the meeting.

The Chair will make an announcement to attendees at the start of the meeting informing them that the meeting may be webcast or recorded and that the Chair may terminate or suspend the webcast or recording should they consider this desirable to maintain the proper running of the meeting. If objections are raised by members of the public regarding their inclusion in any recording, then the person responsible for the recording must take all reasonable steps to ensure that an individual request not to be recorded is complied with. If, however, a member of the public is actively participating in the meeting e.g. under a public speaking agenda item then this is unlikely to be possible.

Elected members and officers attending a formal public meeting and in an official capacity cannot object to being recorded or filmed. Anyone who has not objected and remains at the meeting after the Chair's announcement will be deemed to have consented to the broadcast of their image.

Recording must be non-intrusive and the Chair may order the removal of a member of the public from a meeting should that person, having been warned, continue to interrupt proceedings as a result of their recording activity. The Chair may also call for any part of the meeting room to be cleared in the event of a general disturbance.

**PLEASE NOTE:** Any person or organisation choosing to record or broadcast any meeting is responsible for any claims or other liability from them so doing and by choosing to record or broadcast proceedings they accept that they are required to indemnify the Council, its members and officers in relation to any such claims or liabilities.

## **3. Before the meeting**

Anyone intending to record or webcast a meeting should contact the Democratic Services Team on 01823 357628 for advice and guidance. Reasonable advance notice will enable practical arrangements to be made and any special requirements to be discussed.

Flash photography, additional lighting or large equipment will not be permitted, unless agreed in advance and it can be accommodated without causing disruption to

the proceedings. Requests to use equipment of this nature will be subject to consideration of the constraints of the meeting venue.

#### **4. During the meeting**

Recordings taken by press representatives, members of the public and elected members may only be taken from the area designated for the press/public, and:

- Recording devices must be in silent mode
- No flash or additional lighting is permitted

Recordings must be taken from one fixed position and must not obstruct others from observing proceedings. Other than in accordance with this provision, members must not record, photograph or film other elected members, staff or members of the public during a meeting.

Any person can provide a written commentary during the course of a meeting that falls under this Protocol, however oral commentaries are not permitted within the meeting room.

Recording of meetings should:

- Not interfere with the effective conduct of the meeting, nor should it be disruptive or distracting. The Chair has discretion to suspend or stop recording at any time if and to take appropriate action if anyone is, in their opinion, doing so in a disruptive manner.
- Not seek to 'overview' sensitive information such as close ups of confidential papers or private notes
- Not obstruct others from observing and participating in the proceedings.
- Cease immediately if and when the meeting resolves to formally exclude the Press and public due to business of an Exempt or Confidential nature.
- Not be edited in a way that could lead to misinterpretation of the proceedings or the comments made, or that ridicules those being recorded.
- When published or broadcast, be accompanied by information including when and where the recording was made and the context in which the discussion took place.
- Be overt (i.e. clearly visible to anyone at the meeting).
- Cease, unless continued recording has been explicitly agreed by the Chair, when the meeting is formally concluded.

The Chair can require recording to be stopped where:

- The requirements of section 4 above are not met by the person doing the recording.

- The press and public are excluded from the meeting due to the nature of (exempt or confidential) business being discussed.
- There is public disturbance or a suspension/adjournment of a meeting.
- The recording has become disruptive or distracting to the good order and conduct of the meeting.
- Where it is considered that continuing the recording might infringe the rights of an individual or intimidate them.

## **5. Exempt or confidential business**

No part of any meeting will be webcast or recorded by the third party after members have passed a resolution excluding the press and public because there is likely to be disclosure of exempt or confidential information. The Democratic Services officer will ensure that the third party recording and broadcasting of the meeting has ceased and will confirm this to the Chair before any discussion of exempt or confidential matters is commenced. If the person doing the recording is not present then the clerk shall remove the equipment from the meeting room for the consideration of confidential or exempt business.

## **6. Practical advice**

### **1. Speaking at a meeting**

Firstly and most importantly remember to speak into the microphone each time to ensure that your words can be clearly heard.

Try to avoid moving unduly whilst speaking and using expansive hand gestures; because the video stream is highly compressed all movement causes temporary pixilation and leads to a diminution of picture quality. In addition the camera operator will struggle to keep a moving person in shot. For the same reason if giving a presentation please try to stand in the same area rather than walking around the room.

When other people near you are speaking please bear in mind that you may still be on camera. Remember that even when there is no audience in the room members of the public can still be watching the meeting or a recording.

### **2. Microphone noise**

Meeting attendees should avoid taping pencils and rings against microphones or touching the cable. When speaking, do not place objects inbetween yourself and the microphone or covering the microphone with papers as this may distort what you are saying.

### 3. Clothing

It is advisable to avoid bright colours which tend to cause exposure problems when webcast.

Stripes and checked clothes are best avoided as they can cause a strobe effect, especially when the subject is moving.

## **7. Rules for use of Recordings by Third Parties**

- A. The law applies to any information recorded and transmitted including the laws on defamation, public order, Human Rights and Data Protection and intellectual property rights. Freedom of speech within the law should also be exercised with personal and social responsibility.
- B. Any published recording should be accompanied by a statement of when and where the recording was made, the context of the discussion, and a clear identification of the main speakers and their role or title.
- C. Those making recordings must not edit the recording in a way that appears to have a clear aim to distort the truth or could lead to misinterpretation or misrepresentation of the proceedings or comments made by attendees. In particular there should be no internal editing of published extracts.
- D. Those making recordings will be responsible for any breaches of the law resulting from their use of recorded material. The Council takes no responsibility for any recording carried out by a third party or its subsequent use.

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## **Appendix 4 – Terms of reference for Independent Remuneration Panel for Somerset Council**

### **1. Function**

Under the Local Authorities (Members' Allowances) (England) Regulations 2003, Local Authorities must establish and maintain an Independent Remuneration Panel. The purpose of the Panel is to make recommendations to the Local Authority about the allowances to be paid to Members.

### **2. Role and Responsibilities**

2.1 The Independent Remuneration Panel ("IRP") shall advise and make its recommendations to Somerset County Council until 31/3/23 and then subsequently to the new Somerset Council (a new unitary council established by the Somerset Structural Changes Order 2022 involving the reorganisation of the existing County Council and four district councils in Somerset).

2.2 The Independent Remuneration Panel ("IRP") shall through the form of a report to Somerset County Council :

(i) recommend to Council a Members' Allowances Scheme for implementation from 1<sup>st</sup> April 2023 for the new Somerset Council, which sets out recommendations for :-

- the amount of basic allowance that should be payable to elected members;
- the roles, responsibilities and duties for which special responsibility allowances should be paid and the amounts for such allowances;
- whether travelling and subsistence allowances should be paid and if so, the duties to which they should apply and the amount;
- whether childcare and dependent carers' allowances should be paid and if so, the duties to which they should apply and the amount of these allowances and the means by which they are determined;
- whether a basic allowance should be paid to co-opted members and if so, the amount;
- whether, in the event that the scheme is amended at any time so as to affect an allowance payable for the year in which the amendment is made, payment of allowances may be backdated as permitted in law;
- whether any annual adjustments of allowance levels may be made by reference to an index, and, if so, for how long such a measure should apply.

(ii) on a four yearly basis, or if otherwise requested, propose recommendations as to any required amendments to the Members' Allowances Scheme in relation to the following matters:

- the amount of basic allowance that should be payable to elected members;
- the roles, responsibilities and duties for which special responsibility allowances should be paid and the amounts for such allowances;
- whether travelling and subsistence allowances should be paid and if so, the duties to which they should apply and the amount;
- whether childcare and dependent carers' allowances should be paid and if so, the duties to which they should apply and the amount of these allowances and the means by which they are determined;
- whether a basic allowance should be paid to co-opted members and if so, the amount;
- whether, in the event that the scheme is amended at any time so as to affect an allowance payable for the year in which the amendment is made, payment of allowances may be backdated as permitted in law;
- whether any annual adjustments of allowance levels may be made by reference to an index, and, if so, for how long such a measure should apply.

**2.2** In making its recommendations at paragraphs 2.1 (i) and (ii) above, the IRP shall undertake a full review of the Members' Allowance Scheme as well as obtaining the views of officers and members of the Council to which it relates and having regard to the following general principles:

- that members undertake their council work for the sake of public service and not private gain;
- the varying demands placed upon members, dependent upon their roles and responsibilities;
- the need to fairly and equitably compensate members, so far as the panel thinks appropriate, for the time and effort they can reasonably be expected to devote to their work as a member of the council;
- the need for the scheme to be economic, efficient to administer and effective;
- the requirement for their report and recommended changes to the scheme of allowances to be easy to understand and adequately justifiable to the electorate;
- That recommendations should confirm with existing legislation and anticipate likely future legislation so far as possible

The Panel will also have regards to comparative data on the allowances paid by other similar local authorities.



- 2.3** The IRP shall be required in reporting its recommendations to include guidance on what is to be encompassed by each relevant allowance so as to ensure that the Members' Allowance Scheme is consistently applied.

### **3. Panel Membership and Appointment**

- 3.1** The ("IRP") shall be comprised of 5 members of the public ("IRP Members").

- 3.2** IRP Members will be sought via advert in accordance with the Council's standard recruitment arrangements. Recruitment should be by public advertisement and direct approach to appropriate business and community/voluntary sector organisations who command local respect and public confidence and would be able to nominate persons who should have the necessary skills, integrity, independence and who are recognisable members of the local business and voluntary/community sectors within their respective areas.

- 3.3** As part of this a person specification shall be drawn up to ensure that candidates who are appointed:
- are able to demonstrate a high degree of personal integrity;
  - are not members of any local authority and are not disqualified from being or becoming a member of a local authority;
  - have, if possible the appropriate level of skill, knowledge and understanding of setting remunerations;
  - have the necessary time and commitment for the role;
  - Are not affiliated to any political party – candidates must disclose the extent of their connections to a political party and whether these are such as to risk the effective discharge of the IRP's functions were the candidate to be appointed;
  - A knowledge of local government is preferable however a lack of familiarity will not be a bar to appointment.

- 3.4** IRP Members will be shortlisted, interviewed and appointed by the Monitoring Officer, in consultation with political group leaders.

**3.5** The term of office of IRP Members will be three years in the first instance and a Panel Member may be reappointed for a further consecutive 3 year term. A Panel member shall not serve more than two terms – 6 years in total. The Council or its Constitution & Governance Committee may remove an IRP Member in circumstances where:

- the IRP Member is disqualified from being a member of an authority or is found guilty of any conduct which brings the office into disrepute e.g. being found guilty of a criminal offence, an act of dishonesty or other serious misconduct; or
- the IRP Member is considered to have demonstrated a serious lack of diligence or incompetence; or
- the IRP Member becomes an elected or co-opted member (or an employee) of the authority.

**3.6** The IRP shall:

- appoint its own Chair at the first meeting of each municipal year;
- require a quorum of 3 at all meetings;
- meet a minimum of once per municipal year with additional meetings convened as necessary;
- Otherwise devise its own rules for the conduct of meetings in consultation with the Council's Monitoring Officer providing that they are consistent with legislative requirements and general good governance requirements.

#### **4. Panel allowances**

In order to avoid any perception of personal gain involved with membership of the IRP, only travel and subsistence allowances will be paid to IRP Members, at the rate approved by the Council annually within the limits determined by the Secretary of State. No other allowances will be paid to IRP Members.

#### **5. Lead officer and support arrangements for the Panel**

The Council's Monitoring Officer will be the lead officer and principal contact officer for the IRP. Democratic Services will provide support to the Panel.

# Appendix Keeping elected Councillors informed

## 5 - Tell Local Councillor

### Protocol on a page

We have a responsibility to tell Councillors (“Members”) what the Council is doing or plans to do in their area. Councillors also have detailed knowledge of their electoral division and this can help us do our jobs better.

- Councillors **must** be informed at the earliest stage about significant Council events and issues affecting their electoral division and their constituents. The Council’s Constitution **requires** it.
- In particular Officers must inform Councillors about local impacts of:
  - Changes to council services
  - Council decisions (before and after the decision is taken).
  - Controversial issues (local campaigns / planning applications etc)
  - Events such as opening or closing of premises.

Keeping Councillors informed is vital for good communications, effective decision-making and service delivery.

#### Key rules:

- Think about informing local Councillors at the earliest possible stage in the development of a proposal or as soon as an issue becomes apparent to you.
- If you’re telling the public about something, tell the Councillor too – ideally beforehand.
- Individual services are responsible keeping Councillors informed. The Communications and Corporate Governance teams cannot do it for you.
- Newly elected Councillors may not be aware of the history of local issues and may need additional briefings from the outset.
- If in doubt consult with senior managers – but assume that it’s better to tell the Councillor than not. The Communications and Corporate Governance teams can also advise you.

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The following pages provide detail in support of the Protocol and the responsibilities of Officers and Councillors.

# 1. Introduction

1.1 This Protocol is for all Officers and sets out the arrangements to ensure that Officers understand the need for keeping Councillors informed, and confirms the arrangements for doing so.

1.2 Our Councillors are decision makers, the voice of their communities, and are often the first point of call for local people when they have a problem.

- They need therefore to know what the Council is doing or proposing to do that directly affects their electoral division.
- They are uniquely placed to bring information and views from the community into the council to help decision making and delivery of services.
- They are democratically accountable for the work the council does including within their own electoral divisions.

1.3 For this reason, Councillors **must be informed about all significant developments affecting their electoral division at the earliest opportunity.**

1.4 As a 'rule of thumb':

- A significant development is anything that may cause a constituent, a local organisation, or the press to contact the Councillor.
- **If in doubt, tell the Councillor anyway.**

Part 3 gives examples of "significant developments".

1.5 Failure to inform Councillors of local developments / issues can result in embarrassment for them locally and complaints from them against Officers. This can be to the detriment of the relationships between Councillors and Officers.

1.6 Overall responsibility for ensuring that this Protocol is implemented rests with the Senior Leadership Team, Strategic Managers and Service Managers although the responsibility for informing Councillors rests with all staff.

1.7 The Council and Officer Scheme of Delegation **requires** local Councillors to be consulted before formal decisions are taken which affect localities and also to be informed of the decision taken. Officers preparing proposals for decision are responsible for ensuring that local Councillors are consulted at the earliest possible stage in the process.

In addition, for decisions proposed to be taken under authority delegated by the Council (and not the Leader / Executive) to an Officer, where the local Councillors consulted above so requests, the matter will be referred to the relevant Committee for decision.

1.8 The requirement to inform local members about significant developments goes way beyond formal decisions. A significant development or an issue about Council services may arise in a number of ways and may even be initiated by residents or local groups.

1.9 It is most important to avoid situations where a local Councillor first hears about a significant Council development or issue affecting their electoral division from a resident or the press.

1.10 General information is made available to Councillors in a variety of ways including electronically through the Council website, the Members' Portal and the monthly Members'

Core Brief. However, this does not guarantee that a Councillor will pick up information relating to their local area and is not a substitute for direct contact.

## **2. Councillor's Roles**

2.1 Newly elected Councillors may need time to build up knowledge of local issues and how the Council functions. Bear this in mind when communicating with them, particularly where an issue has a long or detailed history.

2.2 Councillors act on behalf of individual constituents on specific issues. They may also represent the Council on other groups including school governing bodies.

2.3 The local press often contact Councillors for their views on local issues, particularly where there is likely to be controversy or a major local impact.

2.4 Councillors are in a good position to assess the effectiveness and quality of service delivery at the local level and are therefore a vital communication link between the Council and local people.

2.5 Councillors have an important role to play in policy and decision-making and it is important that their views and the views of their local communities are heard and taken into account by decision-makers - whether that is Full Council, the Executive, Executive Members, Committees or Officers.

2.6 Councillors are encouraged to inform relevant Officers of significant local issues which they become aware of and may have an impact on the Council and its services and to give feedback from their communities.

2.7 Councillors have a responsibility to ensure that they are able to receive communications from officers by SCC email and by phone.

## **3. Examples of significant issues**

3.1 It is not possible to cover everything but the following are examples of the kinds of issues which Councillors might regard as significant.

### **Inform Councillors of:**

#### **3.2 Changes to Council services including:**

- Changes to opening hours or admission arrangements.
- Changes to the type of service provided.
- Introduction of or changes to fees and charges.
- Closures: partial, temporary or permanent.
- Expansions of facilities.
- Planned or programmed highways works.
- Planned or programmed building/maintenance works.
- Changes to 'catchment' areas or areas where a service is provided.
- Changes to rules on financial or professional assistance.
- Communications with parish, town, district or borough councils.
- Major school issues such as closures, amalgamations or schools placed in 'special measures.'

### **3.3 Where the Council is taking decisions** on issues including:

- Planning applications.
- Traffic management.
- Trading standards.
- Aspects of social care, subject to data and confidentiality rules.
- Local transport matters.

**controversial** issues such as:

- Issues that are or may become of interest to the media
- Planning applications.
- Where a local campaign is developing.
- Multiple letters received by Officers on the same subject.
- Where a local MP has become involved in an issue.
- Where there are concerns about the performance of a Council service, especially where it is externally assessed.

### **3.5 Local events.** Local Councillors should be involved in, or at least informed of:

- Official visits (for instance by MPs or Royals) in their Division.
- Formal openings of premises or facilities in their Division.

Officers must consider early on whether local Councillors should be invited and, if not, be able to explain why if challenged.

### **3.6 Corporate** issues:

- Formal representations on the part of the Council on big issues, regional, national, European.
- Formal responses to consultations from government at regional, national or European levels or from 'quangos' and other public bodies.

### **3.7 Civil contingencies**

- Councillors can be a key link between the Council and communities during emergencies. It may be appropriate or useful to inform Councillors of incidents affecting part or all of their Division, or services provided in their Division.
- How and when to make contact with Councillors during an emergency should be considered as part of each service area's Business Continuity Planning process and in the Corporate Business Continuity Plan.
- Full guidance can be found in the [Somerset Elected Members' Emergency Handbook](#)

## **4. Definition of 'local Councillor'**

4.1 Most local Councillor notifications relate to site or area/locality specific proposals and usually only affect a single electoral division. However, some proposals have a wider impact and Officers will need to judge whether to inform other local Councillors.

4.1.1 The closure of a secondary school, for example, clearly affects a wide catchment area.

4.1.2 Also, road closures, bus routes and library opening times are other examples where more than one electoral division may be affected.

## **5. Particular requirements relating to formal decisions and the Community Governance team**

5.1 Local Councillors should be involved at the earliest possible stage of a decision-making process by the Officer developing a proposal for decision so that they can deal with constituents' concerns and represent constituent's views. Local Councillor support for a plan is very influential.

5.2 For decision reports the Community Governance team will remind report authors about the need to consult local Councillors if it is not clear from a draft report that such consultation has taken place.

The [Decision Making Guidance Notes](#) on the intranet explain Officers' obligations.

5.3 If the Community Governance team identify that a local Councillor has not been consulted but should have been, there may be a delay in the decision being taken whilst the necessary consultation takes place.

## **6. Who is responsible for notifying local Councillors?**

6.1 Each service is responsible for identifying issues that affect local Councillors and establishing their own methods of making contact, in accordance with this Protocol.

6.2 If you are unsure about how or whether to notify a local Councillor on a particular matter please take advice within your own service or from the Community Governance team.

6.3 You should consider carefully whether the relevant Executive Member and / or Opposition Group Spokesperson should also be advised of a particular local proposal or issue as they may also be asked by the press or others to comment.

6.4 How to contact Councillors depends on the importance and urgency of the issue. Usually it is better to email or write so that the Councillor has a clear written description of the issue. In urgent cases telephone contact may be necessary.

## **7. Information about local Councillors and their divisions**

7.1. Details of Members and their electoral division areas are available on the Council's internet and intranet.

## **8. Monitoring and review of this protocol**

8.1 Where a Councillor believes that this Protocol is not being followed they should inform the relevant Senior Leadership Team Officer who will investigate in accordance with requirements of the Member / Officer Protocol.

The Councillor who raised the complaint will be informed of the outcome of any investigation and actions resulting from it. If the Councillor is not satisfied with the action taken then they may refer the matter to the Chief Executive for consideration.

## 9. Data Protection and Confidentiality

- 9.1 Member roles and legislative provisions mean that in many circumstances personal data **can** be disclosed to Councillors without having to obtain the consent of the data subject, **if** disclosure is necessary for the Councillor to carry out their official duties.
- 9.2 Councillors are required by the Members' Code of Conduct not to breach confidentiality. Therefore, an issue being confidential does not in itself prevent the sharing of it with the local Councillor, but the Councillor must be made aware that it is confidential.
- 9.3 Notable **exceptions** to the requirement to share confidential information are:
- Where the issue is about the provision of a personal service from the Council to the individual or a dependent, **unless** the individual or person in receipt of the service has expressly asked for the involvement of a local Councillor(s) and has agreed that correspondence can be shared, or where the issue is already public, such as in the press or media.
  - Where it involves the personal circumstances of an Officer or another Councillor.
- 9.4 Councillors must ensure that when asked questions by the media requiring them to release information that they know to be or suspect may be confidential, they should have regard to the requirements of the Members' Code of Conduct, make no comment and refer the reporter to an officer in the Communications team.



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## Appendix 6 - INDEPENDENT PERSONS PROTOCOL

### 1. Introduction

1.1 Somerset Council has appointed three Independent Persons (IP) who will be consulted at various stages during Member Conduct reviews. A Reserve Independent Person (RIP) may be appointed to cover the situation when the IPs are unable to act either through non availability or conflict issues.

1.2 The role of IP as described in the legislation is complex with the ability of all parties in a complaint to contact the IP during the course of the matter to seek advice and support.

This protocol seeks to set out the IP's duties and responsibilities, provide clarity on the IP's role and ensure that the 'advice and support' responsibility does not affect the IP's independence and impartiality at the point when their role is most crucial.

1.3 For the avoidance of doubt all references to:

- IP in this protocol also cover the RIP
- The Monitoring Officer include any nominated Deputy Monitoring Officer(s)
- Members include Co-opted Members of the Council's Committees.

### 2. Duties and Responsibilities of the Independent Person

2.1 To consider any member misconduct complaint referred by the Monitoring Officer (MO) and provide advice to the MO in connection with the determination of the complaint. The final decision on the future treatment of individual complaints rests with the MO.

2.2 To advise any Hearings Panel in connection with the determination of member misconduct complaints in accordance with the Council's arrangements. The final decision in respect of the complaint rests with the Panel.

2.3 To liaise with Members and officers of Somerset Council as required although the primary contact with the Council will be with the MO.

2.4 To attend and participate in meetings of the Standard Committee and any associated meetings in an advisory capacity.

2.5 To provide, as requested, advice to Members about whom a conduct complaint has been received and specifically to discharge the functions detailed in Section 28(7) of the Localism Act 2011.

2.6 To support the promotion and maintenance of high standards of conduct by Members.

2.7 To develop and apply knowledge of the Code of Conduct in relation to any and all matters relating to standards, including the assessment and determination of allegations of member misconduct under the Code of Conduct.

2.8 To analyse and exercise fair and impartial judgement when providing advice on conduct issues.

2.9 To consult, liaise and maintain a professional working relationship with the Council's MO, and other officers of the Council.

2.10 To provide a view on the governance of the Council from an external perspective that will better enable the Council to assess conduct and standards issues.

2.11 To develop a firm understanding of the standards and wider governance framework within which the Council operates.

2.12 To participate in training events relevant to the work of standards within the Council.

2.13 To attend meetings of the Council when required and other meetings as necessary in order to raise the profile of standards within Somerset.

2.14 To participate in any national and / or regional forum established for Independent Persons.

2.15 To undertake such other responsibilities as the MO considers reasonably commensurate with the role.

### **3. Role of the Independent Person**

3.1 It is acknowledged that the IP's skills and experience will assist the ongoing review of the complaint handling process and as such will be a useful resource in undertaking preventative work and/or mediation. However it is essential that the role of the IP is, and is seen to be, independent in any matter to be determined so the IP must not do anything or act in any way that will compromise that independence or be swayed by the arguments of one party over another.

3.2 To assist the IP in maintaining this independence, **all contact** to the IP from any party, whether Members of the public or Members of the Council, should be through the MO or his designated deputy. This is to ensure that contact remains within the bounds of professional relationships. If however direct contact is made with the IP and issues other than procedural issues of the complaint are discussed then the IP will be excluded from being involved in the determination of that particular complaint and the RIP will be substituted.

3.3 In addition the IP

- Should not discuss matters with the press or public.

- Should not form a final opinion on a matter to be determined until the final stage when their opinion on the investigation and its outcomes is presented; until that stage their role is to advise and assist parties.
- Is subject to the Code of Conduct for Members whilst undertaking their role in this process, which imposes a duty of Equality, fairness, objectivity and open mindedness.
- Should ensure that any advice given to one party is shared with all to ensure that any Member Conduct Review is compliant with the rules of natural justice and transparency in its process. The exception to this is where in the opinion of the IP the advice is specific to one party's circumstances. In that case the IP has the discretion not to share the advice with others.
- Should comply with the all relevant Council policies particularly Confidentiality and Data protection.

3.4 Whilst the detailed nature of any discussions that the IP may have with parties can and should be kept confidential, the independent person should keep a record of what views were expressed in a particular case, by them, including being date specific, as such views could change/vary as a case is progressed. These records to be available to the MO and/or Hearing Panel or/and interested party to ensure clarity and avoid any possible misunderstanding or misinterpretation of the views made by the IP in respect of a particular case.

3.5 It is good practice that only one IP should have his/her views sought on each specific case. Therefore the Council should only use the RIP when the IP is either unavailable or consider that they have a conflict of interest in a particular case.

#### **4. Procedural Matters**

##### **4.1 The First Stage**

4.1.1 The first stage of an allegation of breach of Member conduct is the receipt of the complaint. On receiving the complaint the MO will inform the IP of the complaint, send him/her copies of the documentation and, within a reasonable timescale will, in conjunction with the IP, take a view as to the severity of the allegation/s and process for the treatment of the complaint.

4.1.2 If the complaint identifies criminal conduct, including failure to declare a Disclosable Pecuniary Interest, (DPI) the MO will consult the IP before referring the matter to the police.

4.1.3 Where the matter is suitable for informal resolution, the complainant and the subject member will be asked to meet with the MO. The MO has the discretion to invite the IP to attend this meeting. This will normally be at separate sessions but, in the case where the complainant is another Member, the MO has the discretion to conduct this meeting with both the complainant and the subject member present at the same time. The MO will then consult the IP (if they were not present at the meeting(s)) to discuss the outcome of the meeting(s) and whether or not informal resolution is still possible. It is for the MO and the IP to agree how they will discuss the outcomes; be it e-mail, telephone or face to face contact. The MO will take notes of all discussions and ensure that all those attending receive a copy. The IP will also be given a copy if they were not present at any meeting. To ensure that the IP is kept fully informed the MO will also

provide the IP with copies of any notes taken of telephone and/or e-mail contact with any party/ies to the complaint.

4.1.4 If the complaint is deemed too frivolous or without merit, the MO will make this recommendation to the IP. If the IP agrees the matter should not be progressed the MO will confirm the recommendation and notify all parties in writing.

4.1.5 If the complaint justifies investigation but informal resolution is not appropriate, the MO will conduct a fact finding exercise to satisfy himself that;

- a) The complaint is against a Member of the Authority,
- b) The Member was acting in that capacity and,
- c) The complaint if proven would amount to a breach of the Code of Conduct.

On collating that information the MO will discuss the complaint with the IP prior to deciding if the complaint merits a full investigation. The IP may provide comments to the MO but must do so if they disagree with the MO's recommendation(s). The MO will then decide whether an investigation is necessary.

## **4.2 The Second Stage**

4.2.1 Once the matter has proceeded to investigation the IP may again be consulted by the MO if the investigation report concludes that there is evidence of a failure to comply with the Code of Conduct and it is considered that the matter can be dealt with by local resolution rather than the need for a hearing. In this case the procedure for informal resolution will be the same as above.

## **4.3 The Third Stage**

4.3.1 If a local hearing is to take place advice will be sought from the IP by the Hearing Panel where;

- a. The Panel are minded to conclude that the Member did not fail to comply with the Code of Conduct.
- b. The Panel are minded to conclude that the Member did breach the Code of Conduct, and
- c. In the case of b above any action to be taken as a result of that breach.

4.3.2 In all of the above scenarios, the Hearings Panel has the decision making responsibility.

## **Appendix 7 - SOMERSET COUNCIL**

### **MONITORING OFFICER PROTOCOL**

#### **A. GENERAL INTRODUCTION TO STATUTORY RESPONSIBILITIES**

The Monitoring Officer is a statutory appointment pursuant to Section 5 of the Local Government and Housing Act, 1989, as amended by paragraph 24 of Schedule 5 Local Government Act 2000. This Protocol sets out how those statutory requirements will be discharged at Somerset Council.

The responsibilities of the Monitoring Officer role rests with the Monitoring Officer who undertakes to discharge their statutory responsibilities with a positive determination and in a manner that enhances the overall reputation of the Council. In doing so, they will also safeguard, so far as possible, Members and Officers, whilst acting in their official capacities, from legal difficulties and/or criminal sanctions.

A summary list of the statutory responsibilities appears in the table annexed to this document. In general terms, the Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on Members and Officers:-

- (a) Complying with the law of the land (including any relevant Codes of Conduct);
- (b) Complying with any General Guidance issued, from time to time, by the Department of Levelling Up, Housing and Communities, Somerset Council's Standards Committee and the Monitoring Officer;
- (c) Making lawful and proportionate decisions; and
- (d) Generally, not taking action that would bring the Council, their offices or professions into disrepute.

#### **B. WORKING ARRANGEMENTS**

It is important that Members and Officers work together to promote the corporate health of the Council. The Monitoring Officer plays a key role in this and it is vital therefore, that Members and Officers work with the Monitoring Officer (and his/her staff) to enable him/her to discharge his/her statutory responsibilities and other duties.

The Monitoring Officer issues guidance to officers to assist them in understanding the nature, breadth and requirements that the Monitoring Officer puts upon all officers. The guidance also explains how the Monitoring Officer will approach the role. The Monitoring Officer considers that the role is a positive and preventative one, related to legality, avoidance of maladministration and observance of codes of conduct / practice where there is actual / potential transgression by the Council. The Monitoring Officer gives authoritative advice and guidance on these issues which will be conducive to a culture of propriety and integrity. This will provide comfort for officers and

Members alike. However, although the Monitoring Officer will seek to be positive about the role, it must be recognised that the role imposes a personal duty to make a public, statutory report where it appears to be necessary. This might ultimately force the authority to consider issues it might not wish to.

The Monitoring Officer and the authority should co-operate in every way possible so as to reduce the chance of the need for the Monitoring Officer to issue a formal report. In support of this, the Monitoring Officer places significant reliance upon the advice and support given by colleagues in Legal Services who will, in providing advice do so in an enabling manner, but also identify areas of particular risk and concern, assisting officers / Members to achieve their objectives, but ultimately in a lawful and proper manner.

The following arrangements and understandings between the Monitoring Officer, Members and Chief Officers are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will:-

### **Resources**

- (a) In accordance with statutory requirements, make a report to the Council, as necessary on the staff, accommodation and resources they require to discharge his/her statutory functions.
- (b) Appoint deputies and keep them briefed on any relevant issues that they may be required to deal with in the absence of the Monitoring Officer.

### **Access to Information/Meetings**

- (a) be alerted by Members and Officers to any issue(s) that may become of concern to the Council, including, in particular issues around legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- (b) have advance notice (including receive Agendas, Minutes, Reports and related papers) of all relevant meetings of the Council at which a binding decision of the Council may be made (including a failure to take a decision where one should have been taken) at or before the Council, The Executive or a Lead Member, Committee meetings and/or the Management Team or Strategic Leadership Team.
- (c) Having the right to attend any meeting of the Council (including the right to be heard) before any binding decision is taken by the Council (including a failure to take a decision where one should have been taken) at or before the Council, The Executive, Committee meetings and/or the Management Team or Strategic Leadership Team.

- (d) In carrying out any investigation(s) have unqualified access to any information held by the Council and to any Officer who can assist in the discharge of his/her functions.

### **Relationships**

- (a) Ensure the other statutory officers (Head of Paid Service and the Section 151 Officer) are kept up-to-date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise.
- (b) Meet regularly with the Head of Paid Service and the Section 151 Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise.
- (c) Develop effective working liaison and relationship with the Council's Auditors and the Local Government and Social Care Ombudsman (including having the authority, on behalf of the Council, to complain to the same, refer any breaches to the same or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary).
- (d) In consultation, as necessary, with the Chair of the Standards Committee, defer the making of a formal report under Section 5 Local Government and Housing Act, 1989 where another investigative body is involved.
- (e) Make arrangements to ensure effective communication between his/her office and the Clerks of Somerset City, Town and Parish Councils on Monitoring Officer and Standards Committee issues.

### **Ombudsman Complaints**

1. prepare reports as required by the Local Government Act 1974 and the Local Government and Housing Act 1989 in relation to complaints which have been the subject of investigation by the Local Government and Social Care Ombudsman and which have revealed maladministration whether or not that maladministration has caused injustice;
2. prepare reports to Members where considered necessary to bring to their attention issues of importance arising out of complaints made to the Local Government and Social Care Ombudsman whether or not investigated or maladministration found;

### **Standards Matters**

- (a) Maintain and keep up-to-date relevant statutory registers for the declaration of members' interests, gifts and hospitality.
- (b) Maintain and keep up-to-date relevant registers for the declaration of officer's interests and gifts and hospitality
- (c) Advise the Standards Committee and its sub-committees in relation to Code of Conduct complaints and allegations of misconduct.
- (d) Be responsible for preparing any training programme for members on ethical standards and Code of Conduct issues; and

### **Constitution**

- (a) Report to the Council, from time to time through the Standards Committee, on the constitution and any necessary or desirable changes following consultation, in particular, with the Head of Paid Service and Section 151 Officer.

### **Other**

- (a) Be the Proper Officer for Access to Information, decision-making, Data Protection Act 1998 and the Freedom of Information Act 2000.

## **C. MEMBER AND OFFICER RESPONSIBILITIES**

To ensure the effective and efficient discharge of the arrangements set out in paragraph 5 above, Members and Officers will report any breaches of statutory duty or Council policies or procedures and other vices or constitutional concerns to the Monitoring Officer, as soon as practicable.

## **D. ADVICE**

The Monitoring Officer is also available for Members and Officers to consult on any issues of the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (e.g. Standing Orders, policy framework, terms of reference, scheme of delegations etc.).

## **E. SANCTIONS FOR BREACH OF SOMERSET COUNCIL'S CODE OF CONDUCT FOR MEMBERS AND THIS PROTOCOL**

Complaints against any breach of Somerset's Code of Conduct for Members should be referred to the Monitoring Officer. Complaints against any breach of this Protocol by a Member will be referred to the Standards Committee and to the relevant Group Leader, unless the complaint is against the Group Leader, in which case, reference will be to the Deputy Group Leader. Complaints against any breach of this Protocol by an



Officer may be referred initially to the relevant Executive Director and/or the Chief Executive.

## **SOMERSET COUNCIL**

### **MONITORING OFFICER PROTOCOL**

#### **Summary of Monitoring Officer Functions**

	Description	Source
1	Report on contraventions or likely contraventions of any enactment or rule of law.	Section 5 and 5A Local Government Housing Act, 1989
2	Report on any maladministration or injustice where Ombudsman has carried out an investigation	Section 5 and 5A Local Government Housing Act, 1989
3	Appointment of Deputy(s)	Section 5 Local Government Housing Act, 1989 Local Government Act 2000 s 82A
4	Report on resources	Section 5 Local Government Housing Act, 1989
5	Receive copies of whistleblowing allegations of misconduct	Local Code of Conduct for staff/Whistleblowing Policy
6	Investigate misconduct in compliance with Regulations	Localism Act 2011 and any regulations issued under the Localism Act 2011 and guidance issued by the Department for Levelling Up, Housing and Communities (DLUHC)
7	Establish and maintain registers of members interests and gifts and hospitality.	Section 29 of the Localism Act 2011 and Code of Conduct
8	Advice to members on interpretation of Code.	Member Code of Conduct
9	Key role in promoting and maintaining high standards of conduct through support to the Standards Committee.	Localism Act 2011;
10	Ethical framework functions in relation to City, Town and Parish Councils	Localism Act 2011
11	Advice on vices issues, maladministration, financial impropriety, probity and policy framework and budget issues to all members	Local Government Act, 1972 and 2000; Ombudsman publications, Government Regulations and Circulars

1	Maintain, review and monitor the	Constitution articles.....
2	constitution	

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