

Decision Report - Executive Decision

Forward Plan Reference: n/a

Decision Date – 8 November 2023

Key Decision – no

Confidential Information – no



Property and Investments Executive Sub-Committee

Executive Member(s): Leader of the Council and Lead Member for Governance and Communications

Local Member(s) and Division: All

Lead Officer: David Clark – Service Director, Governance, Democratic and Legal

Author: Jill Byron – Interim Head of Legal Services

Summary / Background

1. Local government legislation and the Council's Constitution allow the Leader of Council to appoint sub-committees of the Executive. A sub-committee can undertake specific functions on behalf of the Executive and either operate with delegated decision making or make recommendations back to the Executive.
2. The Financial Strategy Update report (Agenda item 7) describes in detail the very stark and challenging financial position faced by Somerset Council, outlining the steps that are being taken to address and mitigate the issues. A key step is the managed disposal of the Council's commercial investment portfolio and one of the recommendations, at paragraph 14(d) of that report, is for the disposal programme to be overseen by a Property and Investment Executive sub-committee. This report deals with the establishment of that Committee and its terms of reference.
3. Somerset Council has inherited a portfolio of commercial investments from the predecessor district councils. In the current economic climate and in the light of the financial pressures, the proper management of these investments pending any disposal is crucial to the financial wellbeing of the Council. The anticipated volume of work and level of business scrutiny required would be a significant addition to an already busy Executive agenda, so the establishment of an Executive Sub-Committee with delegated powers to oversee this work is a sensible and prudent approach.
4. The proposed terms of reference of the Property and Investments Executive Sub-Committee are set out in Appendix 1. Scrutiny engagement would be via the Scrutiny Committee - Corporate and Resources.

Recommendations

5. The Executive notes and approves the decision of the Leader of Council to establish a Property and Investments Executive Sub-Committee with the Terms of Reference set out in Appendix 1 with effect from 9 November 2023.

Reasons for recommendations

6. To ensure that the Council is able to take the steps recommended in the Updated Financial Strategy Report to enable it to take tight control over its finances and set a balanced budget for 2024/25 and ensure the commercial investment portfolio is prudently managed pending and during any agreed disposal programme.

Other options considered

7. This proposal aligns with the recommendations set out in the Updated Financial Strategy report and represents a proportionate and transparent way to deal with this matter.

Links to Council Plan and Medium-Term Financial Plan

8. These arrangements form part of the steps being taken to deliver the Council Plan and to avoid a section 114 notice.

Financial and Risk Implications

9. The scale of financial challenges facing the council are significant. There is also more risk and uncertainty for the new council until all of the external audits of 2022/23 accounts from the predecessor councils are finalised. Given the size of the updated budget gap, Strategic Risk ORG0057 Sustainable MTFP has the highest score possible:

Likelihood	5	Impact	5	Risk Score	25
-------------------	----------	---------------	----------	-------------------	-----------

This proposal forms part of the actions proposed to mitigate that risk.

Legal Implications

10. Since vesting day, Somerset Council has operated under a Leader and Executive model, which means that the majority of the Council's functions are the responsibility of a small number of councillors operating as an Executive. The Leader of the Council has responsibility for agreeing the detail of the executive arrangements. Local government legislation and the Council's Constitution allow the Leader of Council to appoint sub-committees of the Executive. A sub-committee can undertake specific functions on behalf of the Executive and either operate with delegated decision making or make recommendations back to the Executive.

HR Implications

11. There are no immediate HR implications.

Other Implications:

Equalities Implications

12. There are no direct equalities implications.

Community Safety Implications

13. There are no direct Community Safety implications.

Climate Change and Sustainability Implications

14. There are no direct Climate Change and Sustainability implications.

Health and Safety Implications

15. There are no direct Health and Safety implications.

Health and Wellbeing Implications

16. There are no direct Health and Wellbeing implications.

Social Value

17. There are no direct Social Value implications.

Scrutiny comments / recommendations:

18. The proposed decision has not been considered by a Scrutiny Committee

Background

19. As the previous report at agenda item 7 explains, the Council's Medium-Term Financial Strategy (MTFS) provides a strategic financial framework and a forward-looking approach to achieving financial sustainability and was approved in July 2023. Various measures are in hand to address the predicted shortfall between the resources available and the cost of current service. Amongst the range of actions being taken to close the £100m forecast budget gap is a review of the inherited commercial investment portfolio and the associated development of a disposal programme as explaining in particular at paragraphs 53-54 of the Financial Strategy Update report, which recommend that the decision is made to dispose of the commercial investment portfolio, to delegate the appointment of external agents to Director of Strategic Asset

Management and to ensure the disposal programme is overseen by a Property & Investment Executive sub-committee.

20. In addition, the proper management of these investments pending any disposals is crucial to the financial wellbeing of the Council. The anticipated volume of work and level of business scrutiny required would be a significant addition to an already busy Executive agenda, so the establishment of an Executive Sub-Committee with delegated powers to oversee this work is a sensible and prudent approach.
21. The Leader of Council, in consultation with the Executive, has decided to establish a Property and Investments Sub-Committee of the Executive with effect from 9 November 2023. The terms of reference for this executive sub-committee are set out in Appendix 1 and will be incorporated into the Council's Constitution and reported for information to the next meeting of Council on 20 December 2023.
22. As an executive sub-committee, the Property and Investments Sub-Committee will meet in accordance with the executive procedure rules and meeting arrangements set out in the Constitution. Public question time arrangements for executive sub-committees are the same as for Executive meetings i.e. members of the public may address the sub-committee at their meetings, ask questions, or present a petition provided notice of the intention has been given to the relevant Committee Administrator in the Democratic Services Team in writing by 12 noon three clear working days before a meeting. The Chair of the relevant sub-committee has the discretion to vary these arrangements.

Background Papers

- Local Government Acts 1972 and 2000 and associated regulations
- Somerset Council Constitution
- Financial Strategy Update Report to Executive – 8 November 2023

Assurance checklist

	Officer Name	Date Completed
Legal & Governance Implications	David Clark	30.10.23
Communications	Peter Elliott	30.10.23
Finance & Procurement	Nicola Hix	n/a
Workforce	Alyn Jones	30.10.23
Asset Management	Jason Vaughan	30.10.23
Executive Director / Senior Manager	Alyn Jones	30.10.23
Strategy & Performance	Alyn Jones	30.10.23
Executive Lead Member		
Consulted:	Councillor Name	

Local Division Members		n/a
Opposition Spokesperson		
Scrutiny Chair		

Appendix 1

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 4 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

Along with the Associate Lead Member for Commercial Investment and Risk (as a non-voting co-opted member)

Any substitute members must be from the Executive.

3. The quorum shall be 3 members.
4. The Chair will be the Leader (or the Council or Deputy Leader in the Leaders absence).
5. In the absence of the Chair, the 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.
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.