

Somerset Council  
Corporate and Resources Scrutiny Committee  
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## **Framework for Asset and/or Service Devolution**

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### **1. Summary**

- 1.1.** Somerset Council has committed to service and asset devolution, initially as part of the Local Government Reorganisation programme. To achieve that aim, a framework has been drafted to guide discussion both externally and internally. The framework outlines the principles that we will work to, to achieve devolution where appropriate to do so.
- 1.2.** The purpose of this report is for Scrutiny to consider and provide recommendations for the further development of the Council's approach to supporting communities to have greater influence over the assets and services that are most important locally. This is set against the current financial emergency for the council, which may mean that some aspects are required to move more quickly and require flexibility in the application of the framework principles noted here.
- 1.3.** The Devolution Framework supports the principles outlined in the Council Plan
  - A responsible council that acts with integrity
  - A listening, empowering council
  - A council with evidence-based and open decision making
  - A collaborative council

Whilst devolution is not specifically noted in the Council Plan it is a factor in the delivery of sustainable services and to be an enterprising and forward-thinking council.

### **2. Issues for consideration / Recommendations**

- 2.1.** To recommend the overall approach to devolution set out in sections 3.8 to 3.10

- 2.2. To consider and comment on the accompanying draft Asset and Service Devolution Framework, to inform the final draft which is due to be considered by the Executive in January 2025.
- 2.3. It is acknowledged that the principles set out here have been superseded to some degree by the financial emergency and imperative to work swiftly with our community leaders in the short term to resolve immediate issues.

### **3. Background**

- 3.1. A Framework for delivering and managing asset and/or service devolution has been developed and accompanies this report as Appendix 1. This framework forms the backbone of our commitment to responding to the needs and wishes of the community to deliver the best services across our county. Considerable information and substantial resource will be required to enable this, alongside significant conversations, and interaction with our community leaders. This framework outlines our overall approach to achieving devolution by cooperating with organisations across the county.
- 3.2. The framework recognises that there are differing approaches to devolution and illustrates that there is a spectrum of influence that communities can potentially have on the asset and services that matter most to them, from influencing to full devolution of assets and/or services.
- 3.3. From Somerset Council's perspective, the approach must strike a balance between the immediate needs created by the financial emergency, aspirations of local communities to take on more influence, control, or guardianship of assets and/or delivery of services, with the duty of care it must have in safeguarding the best interests of Somerset residents. This should be a shared concern.
- 3.4. This Administration has emphasised its commitment to devolving more power and decision-making to our communities, where this is desirable, viable, sustainable (including financially), and effective. There is also a commitment to supporting community organisations, including smaller parish councils, to work together to create capacity.
- 3.5. The Local Government Review Programme Board agreed a phased approach in September 2022. This phased approach set out a structured devolution programme, which included the production of this framework.
  - Phase one - Planning and Development: In this phase the focus is on developing the framework, Medium Term Financial Plan (MTFP) review, engaging with organisations and learning from the Bridgwater Town Council pilot.

- Phase two - Engagement and Review: In this phase the focus was initially on developing further pilots, thematically and/or geographically based, where there is greatest potential for community benefit and to understand any challenges / difficulties from organisations.
- Phase three - Action: This phase is to provide a wider roll out of assets and/or services to organisations where applicable, through dedicated resource.

Whilst this phased approach remains logical, the context has changed significantly since September 2022. Whilst future pilots could still be an option, the reality of the current financial emergency facing Somerset Council means that devolution projects will need to be accelerated as part of the immediate objective to achieve financial stability and where possible continuity of services that are of value to the public.

- 3.6.** A wide-ranging pilot has been undertaken in conjunction with Bridgwater Town Council and the former Sedgemoor District Council. The initial Bridgwater pilot proved to be more complex and therefore slower to deliver the original aspirations of either party, but has allowed much learning to be gathered on the challenges that an asset and/or service devolution project presents. This has directly influenced the development of the framework and toolkit. The pilot continues to be progressed and is informing how other devolution projects will be managed, with particular focus on finding more agile approaches and working in partnership with communities to remove barriers.
- 3.7.** Even with the current financial challenges and the need to move at pace, it is important to have a strategic approach to devolution, as proposed in the draft Devolution Framework, to provide principles and guidance and ensure sound governance, for devolution activities in both the short and longer term. It is likely however that in the short term some stages of the process will need to be condensed to enable timely solutions and mitigate the impact of Council budget reductions. Risks in relation to this will need to be carefully identified and managed.

The main points of the Framework are described below.

- 3.8.** The principles for devolution.

Devolution must align with strategic priorities of the new Somerset Council

- i. Certain assets may be needed for statutory service delivery and those of strategic or financial significance.

- ii. Somerset Council will need to maintain viable and efficient services and may have contractual constraints.
- iii. Devolution must reflect the financial emergency and align with the immediate strategic needs of the authority and must align with Somerset Council's approach to its Medium-Term Financial Plan
- iv. Asset / service devolution must reflect the climate emergency and align with the Somerset Climate Emergency Action Plan.

Our approach should be co-produced:

- i. Consultation with customers and communities: using the Local Community Networks as an effective forum: ensuring we work to deliver what communities want/need.
- ii. Engagement with staff impacted by any proposals, may be required, fulfilling our duties as a responsible employer
- iii. Engagement with communities of interest/stakeholders impacted by any proposals

Devolution of services and/or assets should be sustainable.

- i. be resilient/sustainable over time
- ii. have honest conversations from the outset: achieving/delivering more may cost more or be unrealistic
- iii. have transparency in monitoring impacts and lessons learnt

Devolution should have clear benefits to the community.

- i. Service improvement business case: how will it deliver desired benefits to the community and manage risks
- ii. Does the proposal help deliver the receiving authority's/local community's wider vision for the area
- iii. Financial and asset management plans: how will it be sustainable
- iv. Services and buildings should be well governed and compliant with all relevant legislation (e.g., equalities, health, and safety)

### **3.9.** The stages for devolution transfer decision making.

- Pre-application stage  
This will include provision of information, where appropriate and available, to potential applicants on the specification of services and running costs of assets to help inform the development of proposals.
- Expression of interest submission  
Checking that the application meets eligibility criteria. Significant exchange of information and costs. Consultation with service/asset areas and ward members.

- Business case stage

This is likely to consider an asset or service request in relation to its Fixed Asset Record book value, market value and overall costs likely to be incurred. A business case will also be required for all key decisions or whereby the application concerns the devolution of a statutory service.

The Council recognises that completing a business plan will take the applicant time and effort and will only request one in situations where that time and effort is commensurate to the value or significance of the asset(s) or service(s). This is also the stage where in depth conversations across finance, legal, service areas and HR would be finalised.

- Negotiation and transfer

The detail of legal agreements for the transfer of an asset and/ or service will take place following approval of a business plan, although Heads of Terms may be required in advance. The applicant may be expected to meet some or all of Somerset Council's legal costs incurred because of any transfer agreement.

The decision on the sign-off of all transfers will be made in accordance with decision-making rules as set out in Somerset Council's constitution.

**3.10.** Exceptions to the above process.

The purpose of this framework is to encourage conversations between Somerset Council and receiving organisations. It is on this basis that no exceptions to asset devolution have been specifically identified, however it is likely that in certain circumstances some assets will not be eligible for devolution. This may include:

- Assets that generate significant income or are held to fulfil strategic priorities.
- Assets held for future capital realisations.
- Assets or land held for future development of a Council or partner scheme.
- Vacant land or buildings that can generate a significant capital receipt.

In such circumstance Somerset Council would aim to provide clarity as early in the process as possible and/or to identify what alternative arrangements or devolution outcomes may be deliverable.

**3.11** Devolution can be delivered across of range of options including influencing, enhanced or joint delivery or full asset or service transfer. There are five possible

outcomes for service and/or asset devolution as set out by the Somerset Association of Local Council Councils and the Society of Local Council Clerks in their paper 'Recommendations on the role of Parish Councils in the event of Local Government Reorganisation in Somerset.'

- Influencing and monitoring
- Joint/enhanced delivery
- Agency agreements, management agreements, licences, and sponsorship
- Delegated authority
- Full transfer of services or assets

**3.12** Whatever the devolution option that is pursued, 'organisations' bring:

- A close knowledge of the needs of their communities, with ability to tailor activity accordingly.
- An ability to mobilise their communities, coordinating and harnessing individuals and groups to address local priorities.
- In the case of city, town, and parish councils the ability to raise money locally through a precept.

**3.13** The above principles, stages and exceptions are designed to enable managed conversations with organisations in which expectations on both sides are clear from the outset.

**3.14** Proposals for the transfer of assets to 'organisations' will be assessed against the following criteria:

- Transfer will provide social, economic, or environmental well-being benefits to the local community.
- 'Tidying up' – e.g., passing incidental pieces of land and landscaping or parts thereof to the local level.
- It will provide a community facility which the transferee has demonstrable skills, drive, resources to deliver and sustain.
- Will facilitate the continuation of service that Somerset Council is no longer able to provide.
- Will facilitate access to funding not available to Somerset Council.
- Consider whether there are any relevant covenants or other restrictions on land/assets.
- Alignment with the Council's Assets Disposal Policy.

**3.15** Proposals for the transfer of services will be considered. In some circumstances Somerset Council, will only delegate services rather than devolve assets. Examples of where a service level agreement will only be appropriate include:

- The council has a statutory obligation, such as highway or a housing authority to provide.
- Land maintained for the benefit of the community by the council, but not owned by the council.
- Land where commuted sums for the maintenance have been paid to the council (by a developer typically)
- Where there is only a small area of council owned land, which means the cost of the legal land transfer is prohibitive (negated where the 'organisation' are prepared to fund the transfer).

Where responsibility for discretionary services is transferred, Somerset Council will cease to be responsible and accountable for the delivery of these services.

**3.17** Sustainability, resource and governance are all addressed in implications at section 5 of this report.

#### **4. Consultations undertaken**

- 4.1.** A letter from Cllr Bill Revans, Leader of the Council, has been sent to all city, town and parish Councils on the 7<sup>th</sup> November outlining the possibilities of devolution and expressing a desire to work with the sector to address immediate challenges. This has produced some queries and opportunities, which are being explored further by relevant service directors and senior managers. A list of frequently asked questions is being drawn up to complement the approach and will be posted via the website.
- 4.2.** The intention is to co-produce the final framework and the process documentation with partners including Somerset Association of Local Councils (SALC) and Somerset's branch of the Society of Local Council Clerks (SLCC). This will help ensure that our approach is equitable, accessible, and transparent. The consultation will also support the development of frequently asked questions to provide clarity to any other organisations, where possible.
- 4.3.** The consultation may not be public but could be via forums or directly to specific organisations in the first instance. It is envisaged the consultation period could take several months to allow for thorough review and feedback from all parties depending on resource capacity both internally and externally.
- 4.4.** The resulting framework should be flexible and adaptable enough to meet the differing aspirations of organisations and the Council in meeting our joint aims.
- 4.5.** Lessons from the Bridgwater pilot should be incorporated into any consultation

response.

- 4.6. At this stage, some of the principles behind the framework have been shared with a limited number of Local Council clerks at a workshop led by the sector. The workshop has looked at some wider devolution issues and opportunities and will be used to add nuance to the framework when the outcomes are shared post-event.

## **5. Implications**

- 5.1. In undertaking a review of the effects on the Financial Emergency and MTFP, consideration should be given to those projects brought forward that can transfer assets and/or services to be managed via other organisations to benefit the community. In particular, the financial sustainability of the proposals and any positive effects on the Council's financial position will need to be prioritised.
- 5.2. When considering any devolution of assets and/or services, early conversations with organisations such as City, Town and Parish Councils will be carried out for precept arrangements to be considered and implemented to ensure the financial sustainability of any proposals.
- 5.3. As part of the process to review any submitted expression of interest it is proposed that a new Devolution Advisory Board be created. This would be a Member/Officer Board with representation from across relevant directorates and portfolios. The Board will consider the supporting business case for expressions of interest. It would also consider the prioritisation of potential opportunities where the Council could initiate discussions with communities in relation to specific assets and/or services.
- 5.4. In addition to considering Asset and Service Devolution decisions, it is envisaged that this Advisory Board could also consider and make recommendations in relation to Community Right to Bid (Assets of Community Value) nominations.
- 5.5. Subject to endorsement of this approach, terms of reference for the Board will be drawn up.
- 5.6. Underpinning the whole program is the capacity within Somerset Council's teams to deliver. Currently there is very limited resource to enable traction. In the short term, service directors and senior managers will link with key strategic local areas to facilitate discussion and progress. In the longer term, resource from within Partnerships and Localities will be used to underpin the wider devolution program.
- 5.7. Similarly, organisations need to demonstrate capability, viability, and the desirability to engage and progress. This will present different challenges for



organisations of differing sizes and scope. Therefore, as stated, the model will need to be not only flexible, but also scaleable.

## **6. Background papers**

- 6.1.** Recommendations on the role of Parish Councils in the event of Local Government Reorganisation in Somerset. Authors – Somerset Association of Local Councils and Society of Local Council Clerks, 2020.

**Note** For sight of individual background papers please contact the report author