

## **Proposed changes to Constitution**

Executive Lead Member: Councillor Bill Revans, Leader of the Council

Division / Local Member: All

Lead Officer: David Clark, Monitoring Officer, Service Director - Governance, Democratic and Legal Services

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### **1. Summary and background**

- 1.1. The Council's Constitution includes the following documents which form part of its governance framework:
  - Part I1-Senior Management Structure which details the Council's senior management arrangements.
  - Part I2 - Officer Scheme of Delegation is a key document in the Council's Constitution which provides information on the arrangements for the delegation of authority to officers to carry out the Council's various functions on a day-to-day basis; and
  - Part I3 – Statutory and Proper Officers identifies which postholders undertake the various statutory and proper officer roles.
- 1.2. The Constitution sets out which decisions must be taken by the Full Council, a Committee of the Council or by the Executive. The key principle is that Members determine the direction of the Council, decide strategies, agree policies or changes to existing policies and set the Annual Budget. All other functions of the Council are delegated to officers so that they can take day-to-day and service delivery decisions.
- 1.3. The annual review of the Constitution reported to Full Council in May 2024 highlighted that further review(s) of the Scheme of Delegation will be required during 2024/25 as a result of any changes to the Council's Target Operating Model and structures.
- 1.4. The Chief Executive agreed a new Senior Leadership Team structure on 18 July 2024 to become effective by 1 November 2024. This has resulted in consequential changes being required to Part I1, Part I2 and Part I3.
- 1.5. At their meeting on 9 September, the Constitution & Governance Committee endorsed the proposed changes to Part I1, Part I2 and Part I3 for recommendation to Full Council to approve.

## **2. Recommendations**

2.1. The Constitution & Governance Committee recommends that Full Council:

- 1) Approve the proposed changes to Part I1-Senior Management Structure (see Appendix A).
- 2) Approve the proposed changes to Part I2 – Officer Scheme of Delegation set out in Appendix B2.
- 3) Approve the proposed changes to Part I3-Statutory and Proper Officers; and
- 4) Authorise the Monitoring Officer to make the necessary changes to the Constitution

## **3. Background**

- 3.1. A brand-new Officer Scheme of Delegation was drafted as part of the development of the Somerset Council's new Constitution following a review of Peer Councils. The Buckinghamshire Council Scheme was used as a starting point and amended by reference to the five legacy councils to suit local circumstances and to provide some continuity. For example, the "Key Decision" threshold was set at the same level as the former Somerset County Council threshold of £500K and the Scheme was drafted so that officers are granted specific delegations ensuring absolute clarity as to what they are authorised to do.
- 3.2. The Scheme includes safeguards to ensure that when officers are not available, decisions can be taken by other officers. The Chief Executive, for example, can exercise any officer delegation and the Executive Directors can exercise the Chief Executive delegations if the Chief Executive is absent or unavailable.
- 3.3. It is important to emphasise that officers can only take decisions that fall within the framework set by Members i.e. within the budgetary framework, the approved budget and the strategies and policies set by the Council.
- 3.4. Since vesting day, better guidance and training has already been put in place for officers and members. This will continue to be kept under review and targeted at any specific areas where further understanding is needed or better compliance is needed.
- 3.5. Some process efficiencies have already been implemented with committee and decision-making reports and internal systems. Further work will continue with these areas throughout 2024.
- 3.6. The annual review of the Constitution reported to Full Council in May 2024 highlighted that further review(s) of the Scheme of Delegation will be required during 2024/25 as a result of any changes to the Council's Target Operating Model and structures.

- 3.7. The Chief Executive agreed a new Senior Leadership Team structure on 18 July 2024 to become effective by 1 November 2024. This has resulted in consequential changes being required to Part I1, Part I2 and Part I3.

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

- 4.1. The review of Part I1, Part I2 and Part I3 is being led by the Executive Director Resources, Strategy & Transformation, the Monitoring Officer and the Head of Governance & Democratic Services.

#### **5. Implications**

- 5.1. Legal - under Section 9P of the Local Government Act 2000, the Council is required to prepare and keep up to date a Constitution containing the standing orders of the Council and such other information as is required or desirable.

Without a Scheme of Delegation, officers will not be able to conduct the day to day running of the organisation and any decisions taken will be unlawful and open to legal challenge. In addition, without a Scheme of Delegation then all decisions would need to be considered by the Executive or relevant committee(s).

- 5.2. No specific negative equalities implications have been identified with the proposals set out in the new Constitution. Decisions taken by the Council, in accordance with its Constitution, will consider equalities implications and have due regard to its legal duties under the Equality Act 2010. The arrangements for committee meetings will take full consideration of equalities and public accessibility requirements. An Equalities Impact Assessment is not considered necessary for this decision as there are no direct impacts.
- 5.3. No specific financial implications have been identified as the proposed changes relate to postholders rather than any changes to the framework or threshold for key decisions.

#### **6. Background papers**

- 6.1. Chief Executive decision 18 July 2024 – new Senior Leadership Team structure  
Improvement and Transformation Programme  
Somerset Council Constitution – May 2023 and May 2024  
Report to Full Council from Constitution and Governance Committee on 22 May 2024 regarding first year review of the Constitution  
Local Authority Social Services Act 1970, S6 (A1)  
Local Government Act 1972  
Local Government and Housing Act 1989 and related regulations  
Local Government Act 2000 and related regulations  
Children Act 2004, S18  
National Health Service Act 2006, S73A(1)

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

#### **Report Assurance**

|  | <i>Officer Name</i>   | <i>Date Completed</i> |
|--|---|-----------------------|
| <i>Legal &amp; Governance Implications</i> | David Clark, Monitoring Officer   | 28.8.24               |
| <i>Finance &amp; Procurement</i>           | Nicola Hix, Deputy S151   | 28.8.24               |
| <i>Executive Director</i>                  | Duncan Sharkey, CEO   | 28.8.24               |
| <i>Strategy &amp; Performance</i>          | Alyn Jones, Executive Director  | 28.8.24               |
| <b>Consulted:</b>                          | <i>Councillor Name</i>  |                       |
| <i>Political Group Leaders</i>             | Councillor Bill Revans, Leader of the Council<br>Councillor David Fothergill, Opposition Leader<br>Councillor Ross Henley, Chair of Constitution & Governance<br>Councillor Bob Filmer, Chair of Scrutiny Committee for Corporate & Resources | 28.8.24               |