

## SWT Annual Council

Tuesday, 24th May, 2022,  
6.15 pm

The logo for Somerset West and Taunton, featuring the text "Somerset West and Taunton" in white on a teal background with a white swoosh.

The John Meikle Room - The Deane  
House

### [SWT MEETING WEBCAST LINK](#)

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**Members:** Ian Aldridge, Benet Allen, Lee Baker, Marcus Barr, Mark Blaker, Chris Booth, Sue Buller, Norman Cavill, Simon Coles, Dixie Darch, Hugh Davies, Tom Deakin, Dave Durdan, Kelly Durdan, Caroline Ellis, Habib Farbahi, Ed Firmin, Andrew Govier, Steve Griffiths, Roger Habgood, Andrew Hadley, Barrie Hall, John Hassall, Nicole Hawkins, Ross Henley, Marcia Hill, John Hunt, Dawn Johnson, Marcus Kravis, Richard Lees, Sue Lees, Libby Lisgo, Mark Lithgow, Janet Lloyd, Dave Mansell, Andy Milne, Chris Morgan, Simon Nicholls, Craig Palmer, Derek Perry, Martin Peters, Hazel Prior-Sankey, Andy Pritchard, Steven Pugsley, Mike Rigby, Francesca Smith, Federica Smith-Roberts, Vivienne Stock-Williams, Andrew Sully, Nick Thwaites, Anthony Trollope-Bellew, Ray Tully, Terry Venner, Sarah Wakefield, Danny Wedderkopp, Brenda Weston, Keith Wheatley, Loretta Whetlor and Gwil Wren

### Agenda

**1. Election of Chair**

It is the legal requirement that the first formal business at the Annual Meeting of Council shall be the election of a Councillor to be the Chair of the Council.

**2. Appointment of Vice Chair**

**3. Apologies**

To receive any apologies for absence.

**4. Minutes of the previous meeting of Full Council**

To approve the minutes of the previous meeting of the Committee.

**5. Declarations of Interest**

(Pages 7 - 14)

To receive and note any declarations of disclosable pecuniary or prejudicial or personal interests in respect of any matters included on the agenda for consideration at this meeting.

(The personal interests of Councillors and Clerks of Somerset County Council, Town or Parish Councils and other Local Authorities will automatically be recorded in the minutes.)

**6. Public Participation - To receive only in relation to the business for which the Extraordinary Meeting has been called any questions, statements or petitions from the public in accordance with Council Procedure Rules 14,15 and 16**

The Chair to advise the Committee of any items on which members of the public have requested to speak and advise those members of the public present of the details of the Council's public participation scheme.

For those members of the public who have submitted any questions or statements, please note, a three minute time limit applies to each speaker and you will be asked to speak before Councillors debate the issue.

We are now live webcasting most of our committee meetings and you are welcome to view and listen to the discussion. The link to each webcast will be available on the meeting webpage, but you can also access them on the [Somerset West and Taunton webcasting website](#).

**7. To receive any communications or announcements from the Chair of the Council**

**8. To receive any communications or announcements from the Leader of the Council**

**9. To receive only in relation to the business for which the Extraordinary Meeting has been called any questions from Councillors in accordance with Council Procedure Rule 13**

**10. Election of the Chair of the Corporate Scrutiny Committee**

The Corporate Scrutiny Chair shall be drawn from among those Councillors proposed to serve on the Corporate Scrutiny Committee who are not from the majority political group and are not Chair of any other Committee.

<p><b>11. Election of the Chair of the Community Scrutiny Committee</b></p> <p>The Community Scrutiny Chair shall be drawn from among those Councillors proposed to serve on the Community Scrutiny Committee who are not from the majority political group and are not Chair of any other Committee.</p>	
<p><b>12. Somerset West and Taunton Council Committees, Terms of Reference, Committee Allocation and Appointments to Committees</b></p> <p>This matter is the responsibility of the Leader of the Council, Councillor Federica Smith-Roberts.</p> <p>The Council Procedure Rules within the Council's Constitution require that the following items of business are transacted at the annual meeting of the Council:</p> <ul style="list-style-type: none"> <li>a) To decide which Committees to establish for the municipal year;</li> <li>b) To decide the size and terms of reference of those Committees;</li> <li>c) To decide the numerical allocation of seats to political groups on Committees in accordance with the political balance rules;</li> <li>d) To make appointments to Committees</li> </ul>	<p>(Pages 15 - 60)</p>
<p><b>13. Appointment of Representatives on Outside Bodies</b></p> <p>This matter is the responsibility of the Leader of the Council, Councillor Federica Smith-Roberts.</p> <p>This report is to finalise the appointment of representatives to serve on outside bodies for the period to vesting day of the New Council in April 2023.</p>	<p>(Pages 61 - 92)</p>
<p><b>14. To authorise the sealing or signing of documents to give effect to any decisions taken</b></p> <p>This matter is the responsibility of the Leader of the Council, Councillor Federica Smith-Roberts.</p> <p>To authorise the Common Seal of Somerset West and Taunton Council.</p>	<p>(Pages 93 - 94)</p>
<p><b>15. Decision taken under the urgency rules regarding the Discretionary Council Tax Energy Payment Scheme</b></p> <p>This matter is the responsibility of Executive Councillor for Corporate Resources, Councillor Ross Henley.</p> <p>This report details the decision taken on 5 May 2022 by the Chief Executive under the urgency rules contained within</p>	<p>(Pages 95 - 122)</p>

paragraph 5 of the Budget and Policy Framework within the Council's Constitution.

**16. Formal delegation to the Parish Councils of Wellington, Pitminster and Milverton to determine specified types of planning application until 31 March 2023**

(Pages 123 - 126)

This matter is the responsibility of the Chair of the Planning Committee, Councillor Simon Coles.

This report seeks authorisation for the District Council as the Local Planning Authority to delegate to the three Parish Councils its powers to determine planning applications for development of the type set out in Paragraph 4.2 of this report.

**17. Temporary Appointment of Members to Town and Parish Councils**

(Pages 127 - 132)

This matter is the responsibility of Executive Councillor for Corporate Resources, Councillor Ross Henley.

Ordinary Town and Parish Council Elections were recently conducted in Somerset on 5<sup>th</sup> May 2022. There are occasions where due to resignations or lack of applications for vacancies at an election, a Parish or Town Council is unable to operate because it is inquorate. Under section 91 of the Local Government Act 1972 the Council has power to make an Order appointing temporary members to a parish council where due to the number of vacancies the council cannot function.



**ANDREW PRITCHARD**  
**CHIEF EXECUTIVE**

Please note that this meeting will be recorded. At the start of the meeting the Chair will confirm if all or part of the meeting is being recorded and webcast. You should be aware that the Council is a Data Controller under the Data Protection Act 2018. Data collected during the recording will be retained in accordance with the Council's policy. Therefore unless you are advised otherwise, by entering the Council Chamber and speaking during Public Participation you are consenting to being recorded and to the possible use of the sound recording for access via the website or for training purposes. If you have any queries regarding this please contact the officer as detailed above.

Members of the public are welcome to attend the meeting and listen to the discussions. There is time set aside at the beginning of most meetings to allow the public to ask questions. Speaking under "Public Question Time" is limited to 3 minutes per person in an overall period of 15 minutes and you can only speak to the Committee once. If there are a group of people attending to speak about a particular item then a representative should be chosen to speak on behalf of the group. These arrangements do not apply to exempt (confidential) items on the agenda where any members of the press or public present will be asked to leave the Committee Room.

If you would like to ask a question or speak at a meeting, you will need to submit your request to a member of the Governance Team in advance of the meeting. You can request to speak at a Council meeting by emailing your full name, the agenda item and your question to the Governance Team using [governance@somersetwestandtaunton.gov.uk](mailto:governance@somersetwestandtaunton.gov.uk)

Any requests need to be received by 4pm on the day that provides 1 clear working day before the meeting (excluding the day of the meeting itself). For example, if the meeting is due to take place on a Tuesday, requests need to be received by 4pm on the Friday prior to the meeting.

We are now live webcasting most of our committee meetings and you are welcome to view and listen to the discussion. The link to each webcast will be available on the meeting webpage, but you can also access them on the [Somerset West and Taunton webcasting website](#).

The meeting rooms, including the Council Chamber at The Deane House, are on the first floor and are fully accessible. Lift access to The John Meikle Room (Council Chamber), is available from the main ground floor entrance at The Deane House. The Council Chamber at West Somerset House is on the ground floor and is fully accessible via a public entrance door. Toilet facilities, with wheelchair access, are available across both locations. An induction loop operates at both The Deane House and West Somerset House to enhance sound for anyone wearing a hearing aid or using a transmitter.

Full Council, Executive, and Committee agendas, reports and minutes are available on our website: [www.somersetwestandtaunton.gov.uk](http://www.somersetwestandtaunton.gov.uk)

For further information about the meeting, please contact the Governance and Democracy Team via email: [governance@somersetwestandtaunton.gov.uk](mailto:governance@somersetwestandtaunton.gov.uk)

If you would like an agenda, a report or the minutes of a meeting translated into another language or into Braille, large print, audio tape or CD, please email: [governance@somersetwestandtaunton.gov.uk](mailto:governance@somersetwestandtaunton.gov.uk)



## SWT Full Council - 29 March 2022

Present: Councillor Hazel Prior-Sankey (Chair)

Councillors Ian Aldridge, Benet Allen, Marcus Barr, Mark Blaker, Chris Booth, Sue Buller, Norman Cavill, Simon Coles, Dixie Darch, Hugh Davies, Tom Deakin, Caroline Ellis, Habib Farbahi, Ed Firmin, Andrew Govier, Steve Griffiths, Roger Habgood, Andrew Hadley, John Hassall, Ross Henley, Marcia Hill, John Hunt, Dawn Johnson, Marcus Kravis, Sue Lees, Libby Lisgo, Mark Lithgow, Janet Lloyd, Dave Mansell, Simon Nicholls, Derek Perry, Andy Pritchard, Steven Pugsley, Francesca Smith, Federica Smith-Roberts, Vivienne Stock-Williams, Nick Thwaites, Anthony Trollope-Bellew, Ray Tully, Sarah Wakefield, Danny Wedderkopp, Brenda Weston, Keith Wheatley, Loretta Whetlor and Gwil Wren

Officers: James Barrah, Lesley Dolan, Paul Fitzgerald, Chris Hall, Andrew Pritchard, Jo Comer, Marcus Prouse, Clare Rendell, Amy Tregellas, Tony Bryant, Gordon Dwyer and Nicky Rendell

(The meeting commenced at 6.15 pm)

### 108. Apologies

Apologies were received from Councillors L Baker, D Durdan, B Hall, R Lees, A Milne, C Morgan, C Palmer, M Peters, A Sully and T Venner.

### 109. Minutes of the previous meeting of Full Council

(Minutes of the meetings of Full Council held on 8 February 2022, 24 February 2022 and 3 March 2022 circulated with the agenda)

**Resolved** that the minutes of Full Council held on 8 February 2022, 24 February 2022 and 3 March 2022 be confirmed as a correct record.

### 110. Declarations of Interest

Members present at the meeting declared the following personal interests in their capacity as a Councillor or Clerk of a County, Town or Parish Council or any other Local Authority:-

Name	Minute No.	Description of Interest	Reason	Action Taken
Cllr M Barr	All Items	Wellington	Personal	Spoke and Voted
Cllr M Blaker	All Items	Wiveliscombe	Personal	Spoke and Voted
Cllr C Booth	All Items	Wellington and Taunton Charter Trustee	Personal	Spoke and Voted
Cllr N Cavill	All Items	West Monkton	Personal	Spoke and Voted

Cllr S Coles	All Items	SCC & Taunton Charter Trustee	Personal	Spoke and Voted
Cllr H Davies	All Items	SCC	Personal	Spoke and Voted
Cllr T Deakin	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr C Ellis	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr A Govier	All Items	SCC & Wellington	Personal	Spoke and Voted
Cllr Mrs Hill	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr J Hunt	All Items	SCC & Bishop's Hull	Personal	Spoke and Voted
Cllr D Johnson	All Items	SCC	Personal	Spoke and Voted
Cllr S Lees	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr L Lisgo	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr M Lithgow	All Items	Wellington	Personal	Spoke and Voted
Cllr J Lloyd	All Items	Wellington & Sampford Arundel	Personal	Spoke and Voted
Cllr S Nicholls	All Items	Comeytrove	Personal	Spoke and Voted
Cllr D Perry	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr H Prior-Sankey	All Items	SCC & Taunton Charter Trustee	Personal	Spoke and Voted
Cllr F Smith	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr F Smith-Roberts	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr V Stock-Williams	All Items	Wellington	Personal	Spoke and Voted
Cllr N Thwaites	All Items	Dulverton	Personal	Spoke and Voted
Cllr A Trollope-Bellew	All Items	Crowcombe	Personal	Spoke and Voted
Cllr R Tully	All Items	West Monkton	Personal	Spoke and Voted
Cllr D Wedderkopp	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr B Weston	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr L Whetlor	All Items	Watchet	Personal	Spoke and Voted
Cllr G Wren	All Items	Clerk to Milverton PC	Personal	Spoke and Voted

Councillor A Trollope-Bellew further declared a pecuniary interest on agenda item 14, the Motion on Water Quality and would withdraw from the meeting for that item.



Councillor N Cavill further declared a personal interest on agenda item 14, the Motion on Water Quality.

The following councillors further declared a personal interest on agenda item 11, Annual Pay Policy Statement 2022/23, as members of the Local Government Pension Scheme:-

Councillors I Aldridge, M Blaker, M Hill, M Kravis, S Lees, J Lloyd, D Mansell, H Prior-Sankey, F Smith, A Trollope-Bellew, B Weston and G Wren.

111. **Public Participation**

Mr Sigurd Reimer spoke on agenda item 14, the Motion on Water Quality:-

In September 2020 a report was published by the Environment Agency into the state of England's rivers. It found that 85% of them, including the River Tone, did not reach acceptable standards, either in relation to their ecological status, their chemical status, or both.

On the basis of that report, local groups from Extinction Rebellion protested in Taunton in December 2020 against pollution in the rivers, and the dangers that represented to the environment, and us as a part of that environment.

In April 2021 the head of the Environment Agency drew attention to the fact that over the past decade there had been cuts of over 60% to the total budget of the Environment Agency, which had the responsibility for inspecting and overseeing the quality of the water in our rivers. In short, for protecting us all.

I welcomed the proposal being put to this Council (Item 14 Motion on Water Quality) and would emphasize the importance of restoring adequate funding to ensure that the Environment Agency could carry out its duties effectively. In particular, I request that the Council asked the Government for evidence of any improvements that might have been made in the past 18 months, since the report was published. At the time the Environment Minister had said "More needed to be done and we needed to go further and faster". The question therefore remained, how far and how fast?

Mr Robert Barnes addressed the Council on issues that related to street cleanliness and other concerns on fly tipping.

112. **To receive any communications or announcements from the Chair of the Council**

The Chair of the Council made the following announcements:-

- The Chair advised councillors that they needed to submit any mileage claims prior to 1 April 2022.
- Councillors were also reminded that they were required to submit their Related Party Transaction forms by 8 April 2022.
- The Chair reminded councillors about the Concert for Ukraine that was being held on Saturday 30 April 2022.

113. **To receive any communications or announcements from the Leader of the Council**

The Leader of the Council made the following announcements:-

- The Leader highly recommended all attendees to visit the Moon at the Minster.
- The Leader also congratulated Chris Hall on achieving a grant amount of £96k for Changing Places, both located in Minehead and Taunton.

114. **To receive any questions from Councillors in accordance with Council Procedure Rule 13**

No questions were received in regards to Procedure Rule 13.

115. **Somerset West and Taunton Council amended Political Allocation and Councillor Appointments to Committees**

During the discussion, the following points were raised:-

- The Monitoring Officer advised on some amendments on page 39 of the agenda.
- The Group Leaders advised councillors of some changes to the allocations.

**Resolved** that Full Council approved:-

- a) Political allocation as attached (Appendix A)
- b) Councillor appointments to Committees (Appendix B)

116. **Decision taken under the urgency rules regarding the Additional Restrictions Grant Scheme**

During the discussion, the following points were raised:-

- Councillors were happy to support the decision, as the latest grants were supporting businesses who were not able to receive the grants in the earlier stages of the scheme.
- Councillors thanked all the officers for their hard work in supporting local businesses.

**Resolved** that Full Council noted the decision made by the Chief Executive on 12 January 2022 under paragraph 5 of the Budget and Policy Framework within the Council's Constitution in relation to the release of funds to the Additional Restrictions Grant Scheme.

117. **Budget Approval - Electric Vehicle Charging Points**

During the discussion, the following point was raised:-

- Councillors were delighted to support the scheme as many of them were electric vehicle users.

**Resolved** that Full Council supported the supplementary capital budget allocation of £120k, making a total of £270k of which £136k is secured funding from OZEV.

118. **Annual Pay Policy Statement 2022/23**

During the discussion, the following points were raised:-

- Councillors requested clarification on the redundancy policy and what would happen to those types of policies when the New Unitary Council was formed.
- The HR Manager advised that under TUPE legislation, the policies would be transferred to the New Council with the officers.
- Councillors were happy to support the Policy.

**Resolved** that Full Council approved the Pay Policy statement 2022/23.

119. **Capital, Investment and Treasury Strategies 2022/23 to 2024/25**

During the discussion, the following points were raised:-

- Councillor Kravis left the room for the debate.
- Councillors agreed that the Strategies were compliant.
- Concern was raised on years 2023-24, when Somerset West and Taunton Council was due to end.  
*The Section 151 Officer advised that the Strategy was relevant for the next year.*
- Councillors highlighted that other councils had given estimates in their budget papers.  
*The Section 151 Officer advised that the report did include estimates and that an update would be given at the next meeting of the Audit and Governance Committee.*
- Concern was raised on the Commercial Investment section and that it contained risk.
- Councillors wanted to see other investments in more local projects and climate friendly projects.  
*The Portfolio Holder for Corporate Resources understood their concern but advised councillors that the officers had worked hard in making the decisions on which properties had been chosen.*
- Concern was raised as there was no access to the Public Loan Works Board.
- Councillors queried whether work had started on what would happen to the Strategies in the New Unitary Council.  
*The Portfolio Holder for Corporate Resources advised that officers would ensure that the Strategies were included in the work going forward into the Local Government Organisation within the relevant workstream meetings.*

**Resolved** that Full Council approved the CIT Strategies and MRP Statement for adoption with effect from 1 April 2022.

The following Councillors abstained from the vote: Councillors S Buller, N Cavill, H Davies, A Govier, L Lisgo, D Mansell, A Pritchard, B Weston and L Whetlor.

120. **Wordsworth Drive and Coleridge Crescent Flats Regeneration, Taunton**

During the discussion, the following points were raised:-

- Councillor S Pugsley left the meeting.
- Councillor H Farbahi left the room during the debate.
- Councillors were happy to support the recommendations and advised that the report sparked a good debate when it was taken to Community Scrutiny Committee.
- Concern was raised on recommendation G, on future use of the site, councillors were concerned that the site could be left empty for a long period of time.
- Councillors wanted to see housing back on the site as quickly as possible.
- The Portfolio Holder for Housing agreed with the comments and would like to see housing return to the site but understood that the land might have to stay fallow for a period of time to enable officers to apply for better funding opportunities.

**Resolved** that Full Council approved:-

- a) The decanting of tenants from Wordsworth Drive Flats with the awarding of gold band status in April 2022. Gold band status would support tenants secure alternative suitable accommodation.
- b) The decanting of tenants from Coleridge Crescent Flats with the awarding of gold band status at a time to be determined by the Director of Housing and Communities in conjunction with the Portfolio Holder for Housing.
- c) The purchase through mutual consent one leasehold property at Wordsworth Drive flats and compensate the owner in line with statutory compensation requirements.
- d) To make available to the leaseholder the opportunity of a SWT Equity Loan to help secure alternative private accommodation.
- e) Noted officers would agree the closure date and compensation with the shop leasee to ensure Wordsworth block was available for demolition.
- f) The demolition of Wordsworth Drive and Coleridge Crescent Flats at a time to be determined by the Director of Housing and Communities in conjunction with the Portfolio Holder for Housing.
- g) Officers to return to the Council with options for the future use of the site.
- h) A supplementary budget of £1,111,700 and to delegate the funding of the scheme to the Section 151 Officer.

## 121. **Motion on Water Quality**

During the discussion, the following points were raised:-

- Councillor A Trollope-Bellew left the room for the debate.
- Councillor D Darch thanked the public speaker for their comments and support on the Motion.
- Councillor Darch introduced the Motion as the proposer, which was duly seconded by Councillor G Wren.
- Councillors were happy to support the Motion.
- Councillors requested that the two local Members of Parliament (MP) were included in the letters to be sent out.

*The proposer and seconder agreed and accepted that the MPs be included.*

- Councillors highlighted that they had attended an Environmental Debate and had asked questions about river quality and had received some disappointing answers from the relevant organisations.
- Some concern was raised on the comments made in the Motion with regards to farmers and that the councillors could have asked for further information.
- Councillors mentioned issues on phosphate pollution.
- Councillors requested whether the Rivers Authority could be included in the letters.

*The proposer advised that the Somerset Rivers Authority were responsible for flood management and that it was the Environment Agency who were responsible for maintaining the water quality.*

- Concern was raised on water/sewage treatment centres and their effectiveness.
- Councillors agreed that society had accepted that water quality had declined over the years.
- Councillors highlighted an article in a newspaper that related to a clean river campaign and that there was a lot of work to be done to get the water quality back up to standard.
- Councillors understood that farmers had done a lot of work to improve the pollution caused but that it had not gone far enough. Concern was raised on the replacement of soil that had washed away, along with fertilisers, into the rivers.
- The Leader of the Council was happy to support the Motion and if it was resolved, write letters to the relevant organisations mentioned in the recommendations.

**Resolved** that Full Council approved that the Leader of the Council write to the following:-

- The Secretary of State for Environment, Food and Rural Affairs calling for the Government to make these commitments and provide evidence of any improvements made in the last 18 months as host nation of COP-26.
- The Chairperson of the Parliamentary Environmental Audit Committee to advocate for greater enforcement of existing regulatory powers.
- The Chief Executives of South West Water and Wessex Water as the local utility companies for the South West, calling for urgent action to address the impact of waste-water discharges on our local rivers.
- The Regional Director of the National Farmers' Union requesting clarification on the action being taken locally by farmers to prevent nutrient run-off.
- The charities River Action and The Rivers Trust expressing this Council's support for their campaign to restore the health of Britain's rivers.
- Both local MPs, Ian Liddell-Grainger and Rebecca Pow.

## 122. **Motion on the use of Hybrid Meetings**

During the discussion, the following points were made:-

- Councillor Trollope-Bellew introduced the Motion as the proposer, which was duly seconded by Councillor G Wren.
- Councillors were happy to support the Motion.
- Councillors agreed there were pros and cons with the use of virtual meetings.
- Councillors agreed that each council should have the choice of which type of meeting they used, face-to-face, hybrid or virtual.
- Councillors agreed that Central Government should have put legislation in place sooner to benefit local councils.
- Concern was raised on what would happen if there was bad internet connectivity and the additional support required for the technology.
- Councillors queried the process that would need to be put in place to ensure the meetings were managed effectively.
- Councillors agreed that the use of virtual or hybrid meetings would support the work being carried out on climate change.
- Councillors believed the use of virtual or hybrid meetings would improve engagement.
- Councillors highlighted that face-to-face meetings should still be used, as it was important for good communications and team building.

**Resolved** that Full Council:-

- 1) Supported the petition launched by ADSO and LLG on 5 January with regard to remote and hybrid meetings.
- 2) Agreed to write to the Secretary of State for Levelling Up, Housing and Communities calling on the Government to change the law to allow councils the flexibility to hold such meetings when they deem appropriate within agreed rules and procedures.

123. **Corporate Scrutiny Committee - Chair's Annual Report - For Information Only**

**Resolved** that Full Council noted the Annual Report.

124. **Community Scrutiny Committee - Chair's Annual Report - For Information Only**

**Resolved** that Full Council noted the Annual Report.

125. **Audit and Governance Committee - Chair's Annual Report - For Information Only**

**Resolved** that Full Council noted the Annual Report.

(The Meeting ended at 8.00 pm)

# **Somerset West and Taunton Council**

## **Annual Council – 24 May 2022**

### **Somerset West and Taunton Council Committees, Terms of Reference, Committee Allocation and Appointments to Committees**

**This matter is the responsibility of the Leader of the Council**

**Report Author: Amy Tregellas, Governance Manager and Monitoring Officer**

#### **1. Executive Summary / Purpose of the Report**

- 1.1 The Council Procedure Rules within the Council's Constitution require that the following items of business are transacted at the annual meeting of the Council:
- a) To decide which Committees to establish for the municipal year;
  - b) To decide the size and terms of reference of those Committees;
  - c) To decide the numerical allocation of seats to political groups on Committees in accordance with the political balance rules;
  - d) To make appointments to Committees
- 1.2 As this will be the last year for the Council, it is proposed that the current list of Committees continues until 31 March 2023.

#### **2. Recommendations**

##### **2.1 The Council approves:**

- a) The Committee structure as set out in articles in the Constitution as set out in Appendix A
- b) The size of each Committee as set out in section 4.3 of this report
- c) The Terms of Reference of those Committees as set out in Appendix B
- d) The numerical political allocation as set out in Appendix C
- e) The Councillor appointments to Committees as set out in Appendix D

#### **3. Risk Assessment**

- 3.1 If the Council doesn't allocate Councillors to Committee seats there would be a risk that the Council's business could not be transacted

#### **4. Background and Full details of the Report**

- 4.1 The Somerset West and Taunton Council Constitution sets out the matters which the Council must consider at the Annual Meeting.

## Establishment of Committees for the 2021/22 Municipal Year

4.2 In the 2021/2022 Municipal Year (as well as having Full Council and Executive) the Committees were established as:

- Corporate Scrutiny Committee
- Community Scrutiny Committee
- Audit and Governance Committee
- Planning Committee
- Licensing Committee
- Standards Committee

## Size and Terms of Reference for those Committees

4.3 The size of the Committee's set out in section 4.2, and as per the current Constitution are:

<b>Committee</b>	<b>Size</b>
Corporate Scrutiny Committee	15
Community Scrutiny Committee	15
Audit and Governance Committee	11
Planning Committee	15
Licensing Committee	15
Standards Committee	9
<b>Total Committee seats</b>	<b>80</b>

4.4 The Articles for each Committee are set out in Appendix A, and the Terms of Reference for each Committee are set out in Appendix B. It is recommended that both appendices are approved by Council for the 2022/2023 Municipal Year, taking the Council up to 1 April 2023, which is the vesting day for the new Somerset Unitary Council.

## The numerical allocation of seats to political groups on Committees in accordance with the political balance rules

4.5 The numerical allocation of seats to political groups on Committees can be found in Appendix C to this report.

4.6 The calculations are based on 58 Councillors, following the resignation of Cllr Chris Morgan from the Conservative Group and choosing to be a non-aligned Councillor.

## Appointments to Committees

4.7 The current appointments to Committees can be found in Appendix D to this report.

5. **Links to Corporate Strategy – N/A**

6. **Finance / Resource Implications - None**

7. **Legal Implications - None**



8. **Climate and Sustainability Implications - None**
9. **Safeguarding and/or Community Safety Implications - None**
10. **Equality and Diversity Implications - None**
11. **Social Value Implications - None**
12. **Partnership Implications - None**
13. **Health and Wellbeing Implications - None**
14. **Asset Management Implications - None**
15. **Data Protection Implications - None**
16. **Consultation Implications - None**

**Scrutiny/Executive Comments/Recommendation(s) – N/A as this is a Council Report**

**Democratic Path:**

- **Scrutiny/Corporate Governance or Audit Committees – not applicable as Council function only**
- **Cabinet/Executive – not applicable as Council function only**
- **Full Council – Yes**

**Reporting Frequency: Annually**

**List of Appendices**

Appendix A	Articles for all Committees
Appendix B	Terms of Reference for all Committees
Appendix C	Political Allocation
Appendix D	Committee Composition

**Contact Officers**

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## **1 Article 6 – Scrutiny Committee(s)**

### **1.1 Terms of Reference**

1.1.1 Scrutiny refers to all the Scrutiny functions within the Council and is used in this Constitution as a collective term for all individual Scrutiny Committees, sub-committees and scrutiny panels and all references to Scrutiny are to be interpreted accordingly, except where otherwise expressly stated.

1.1.2 The Council will appoint at least one Scrutiny Committee to discharge the functions conferred by section 21 of the Local Government Act 2000. Details of the Committee(s), as amended from time to time, are included in the Scrutiny Procedure Rules. Specific terms of reference for the Scrutiny Committee(s) are found in this Constitution.

1.1.3 The Council has a Corporate Scrutiny Committee and Community Scrutiny Committee (please refer to the Scrutiny Committees – Terms of Reference for more information).

### **1.2 General role**

1.2.1 Within their terms of reference, Scrutiny Committee(s) will:

- a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- b) review and/or scrutinise the performance of external bodies subject to scrutiny by the Council;
- c) in accordance with their remit and terms of reference, make reports and/or recommendations to the full Council and/or the Executive and/or any committee or joint committee in connection with the discharge of any functions;
- d) consider any matter affecting the area or its inhabitants;
- e) exercise the right to Call-In, for reconsideration, decisions made but not yet implemented by the Executive and/or any committee (where exercising Executive functions), as well as pre-scrutinise any proposed decisions published in the Forward Plan. The procedure to be followed when the

right to Call-In is exercised is included in the Procedure Rules of this Constitution;

- f) create time-limited panels to consider specific issues.

## **1.3 Specific Functions**

### **(a) Policy Development and Review**

#### **1.3.1 Scrutiny Committee(s) may:**

- a) assist the Council and the Executive in the development of its Budget and Policy Framework by in-depth analysis of policy issues;
- b) conduct research, community and other consultation in the analysis of policy issues and possible options;
- c) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- d) question members of the Executive and/or committees and Chief Officers about their views on issues and proposals affecting the area;
- e) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

### **(b) Scrutiny**

#### **1.3.2 Scrutiny Committee(s) may:**

- a) review and scrutinise the decisions made by and the performance of the Executive and/or committees and Council Officers both in relation to individual decisions and over time;
- b) review and scrutinise the Council's performance in relation to its policy objectives, performance targets and/or particular service areas;
- c) question members of the Executive, committees and Chief Officers and Officers with management responsibilities about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;

- d) make recommendations to the Executive, appropriate committee, officer and the Full Council arising from the outcome of the scrutiny process;
- e) review and scrutinise the performance of other public bodies in the area and call for reports from them and attendance of appropriate representatives to address the Scrutiny Committee(s) and local people about their activities and performance;
- f) question and gather evidence from any person (with their consent).

**c) Finance.**

1.3.3 Scrutiny Committee(s) may:

- A) exercise overall responsibility for the finances made available to them.
- B) scrutinise the overall Council Budget as part of its preparation.

**(d) Annual Report**

1.3.4 The Scrutiny Committee(s) must report annually to Council on their work.

## **1.4 Proceedings of Scrutiny Committees**

1.4.1 The Scrutiny Committee(s) will conduct their proceedings in accordance with the Scrutiny Procedure Rules of this Constitution.

## **2 Article 7 – The Executive (Leader and Executive)**

### **2.1 Role**

2.1.1 The Executive will carry out all of the local authority's functions which are not expressly reserved as the responsibility of any other part of the local authority, whether by law or under this Constitution.

### **2.2 Form and Composition**

2.2.1 The Council has adopted the Leader and Executive (England) model of executive.

2.2.2 The Executive will consist of the Council Leader together with an Executive

of at least 2 but not more than 9 other Councillors appointed by the Leader.

**(a) The Leader**

2.2.3 The Leader will be a Councillor elected by the Council at the Annual Council Meeting in the year of the Council elections. The Leader will hold office for the term of four years until the next post-election Annual Council Meeting, or unless:

- a) the Councillor resigns from the office; or
- b) the Councillor is suspended from being a Councillor under Part III of the Local Government Act 2000 (although the Councillor may resume office at the end of the period of suspension); or
- c) the Councillor is removed from office by resolution of the Council.

2.2.4 In the event of the office of Leader becoming vacant before expiration of their Term of Office, the Council will elect a new Council Leader at its next meeting or at a meeting called for that purpose. The new Leader will serve for the period of office remaining (i.e. until the next post-election Annual Council Meeting).

**(b) The Deputy Leader**

2.2.5 The Leader shall appoint an Executive Councillor to serve as Deputy Leader.

2.2.6 The Deputy Leader of the Council will hold office until the end of the term of office of the Leader unless:

- a) the Councillor resigns from the office; or
- b) the Councillor is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- c) the Councillor is no longer a Councillor; or
- d) the Councillor is removed from that office by the Leader

2.2.7 Where a vacancy occurs in the office of Deputy Leader, the Leader of the

Council must appoint another Executive Councillor to that role.

## **2.3 Other Executive Councillors**

2.3.1 The Leader must appoint between two and nine Executive Councillors including the Deputy Leader.

2.3.2 The Leader shall determine the terms of office of Executive Councillors, which shall be no longer than the end of the term of office of the Leader. An Executive Councillor shall cease to hold that office if:

- a) the Councillor resigns from office; or
- b) the Councillor is suspended from being a Councillor under Part III of the Local Government Act 2000 (although the Councillor may resume office at the end of the period of suspension); or
- c) the Councillor is no longer a Councillor; or
- d) the Councillor is removed from office by the Leader.

## **2.4 Proceedings of the Executive**

2.4.1 Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules of this Constitution.

## **2.5 Responsibility for Functions**

2.5.1 The Leader has responsibility for the exercise of all the functions of the Executive (executive functions) under this Constitution and in law.

2.5.2 The Leader may discharge any executive function or delegate their exercise to:

- a) the Executive as a whole (Leader and Executive),
- b) an individual Executive Councillor,
- c) a committee of the Executive,
- d) an officer,
- e) an area committee established under section 18 of the Local Government Act 2000,

- f) be exercised under joint arrangements
- g) Individual non-executive Councillors where a scheme under the Local Government and Public Involvement in Health Act 2007 has been established.

2.5.3 Those persons or bodies exercising executive functions may delegate those powers so far as allowed by law.

2.5.4 A list of responsibilities for Executive functions will be maintained by the Monitoring Officer and published on the Council's website.

## **3 Article 8 – Regulatory and Other Committees**

### **3.1 Regulatory and Other Committees**

3.1.1 The Council will appoint certain committees to deal with statutory or regulatory functions. Some committees may be set up as consultation or advisory forums (i.e. without decision-making powers). A list of these committees as amended or added to from time to time will be maintained by the Monitoring Officer.

### **3.2 Audit and Governance Committee and Standards Committee**

3.2.1 The Council will appoint one or more committees that between them will undertake (a) the role of an Audit and Governance Committee, (b) Standards Committee and (c) ensure compliance in decision-making in respect of the Council's political management arrangements and constitutional procedures. The latter role includes all parts of the Council that are responsible for making decisions including full Council, E x e c u t i v e , Officers under delegated authority, the Planning and Licensing Committees and other Council bodies, including joint bodies with other agencies and partnerships.

## **4 Article 9 – Ethical Standards Arrangements**

### **4.1 Establishment**

4.1.1 The Council will appoint a committee to ensure the Council meets its duty to promote and maintain high standards of conduct by Councillors and co-opted



Councillors of the authority under s.27 (1) of the Localism Act 2011, and to determine complaints and appeals under the Councillor Code of Conduct.

4.1.2 The Council has designated these functions to the Standards Committee.

**a) Independent Person**

4.1.3 The Council has made provision under s.7 of the Localism Act 2011 to appoint at least one independent person:

- whose views are to be sought and taken into account before decisions are made on an allegation about a Councillor's conduct;
- whose views may be sought by a Councillor or co-opted member of the authority if that person's behaviour is the subject of an allegation; and
- who will be invited to attend any panel meetings to determine the outcome of an investigation into an allegation about a Councillor's conduct or to appeal the outcome of a previous determination and, if present, may advise the panel and the Councillor who is the subject of the hearing or appeal.

4.1.4 A vacancy for an independent person must be sought by advertisement in such manner as the authority considers is likely to bring it to the attention of the public (s.28(8)(c)(i) Localism Act 2011).

4.1.5 The Council may only consider and approve candidates who have submitted to the authority an application to fill the vacancy (s.28(8)(c)(ii) Localism Act 2011);

4.1.6 Independent person appointments must be approved by a majority of the members of the Council (i.e. 30 Councillors) (s.28(8)(c)(iii) Localism Act 2011 – Appointments will be for a term of office determined by Full Council.

4.1.7 An independent person does not cease to be independent as a result of being paid any amounts by way of allowances or expenses in connection with performing the duties of the appointment.

4.1.8 A person is not independent if the person is

- a) a Councillor, co-opted Councillor or officer of the authority, or was a Councillor, co-opted Councillor or officer of the authority at any time during

the 5 years ending with the appointment; or

- b) a relative (as defined in s28(8) Localism Act 2011), or close friend, of a Councillor, co-opted Councillor or officer of the authority.

# COUNCIL

## Membership and Meetings

1. Membership: all elected Councillors
2. The Council will normally meet up to 5 times per year including the Annual Council meeting.

## TERMS OF REFERENCE

### Powers reserved to Full Council

3. The following functions must not be exercised by the Executive and, where not otherwise delegated, shall be reserved to the Full Council:
  - (a) adopting and changing the Constitution;
  - (b) approving or adopting the Policy Framework (as defined in Article 4), the Budget (as defined in Article 4) and any application to the Secretary of State in respect of any housing land transfer (as defined in Article 4);
  - (c) subject to the urgency procedure contained in the Access to Information Procedure Rules, making decisions about any matter in the discharge of an executive function which is covered by the Policy Framework or the Budget where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget;
  - (d) appointing the Leader of the Council;
  - (e) exercising powers to remove the Leader from office before completion of his/her term of office;
  - (f) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
  - (g) appointing representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Council;

- (h) adopting and varying a Councillors' Allowances Scheme;
- (i) changing the name of the area/council;
- (j) electing the Chair of the Council and appointment of the Vice-chair;
- (k) confirming the appointment and dismissal of the Head of Paid Service;
- (l) confirming the appointment of the S151 Officer and Monitoring Officer;
- (m) to designate an officer to be the Returning Officer and Electoral Registration Officer;
- (n) conferring the title of honorary alderman or honorary alderwoman, or awarding the Freedom of the Council Area under Sections 248 and 249 of the Local Government Act 1972;
- (o) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (p) making a request under Section 14A(1) (requests for single-member electoral areas) of the Local Government Act 1992 for single-member electoral areas;
- (q) the passing resolutions to change a scheme for elections under the Local Government and Public Involvement in Health 2007 Act (Subsections 32(1), 37(1) or 39(1) ;
- (r) the making of orders giving effect to recommendations made in a community governance review under the Local Government and Public Involvement in Health 2007 Ac (Section 86);
- (s) the duty to make a change in governance arrangements under the Local Government and Public Involvement in Health 2007 Act (Schedule 4 paragraphs 3 and 8);
- (t) a decision to accept an invitation to become an 'opted in' Authority, for the purposes of appointing external auditors under the provisions of the Local Audit (Appointing Person) Regulations 2015
- (u) making or revising Council Tax Reductions Scheme under Section 13(A)(2) of the Local Government Finance Act 1992 as amended by the Localism

Act 2011

- (v) approving supplementary budget allocations (whether revenue or capital budget) at above £250,000.
  - (w) consider recommendations from the Executive (which will come from Hinkley Point Planning Obligations Board) to allocate contributions for projects seeking funding of over £250,000.
  - (x) consider recommendations from the Executive (which have not come from Hinkley Point Planning Obligations Board) to allocate contributions for projects seeking funding of over £250,000.
  - (y) consider recommendations from the Executive (which have come from the internal Planning Obligations Group (to allocate contributions for projects seeking funding of over £250,000)
  - (z) appoint the Council's representatives to the Hinkley Point Planning Obligations Board
  - (aa) appoint the Council's representative on the Somerset Community Foundation Panel who will consider bids to the EDF Energy Community Fund
  - (bb) all other matters which, by law, must be reserved to Full Council.
4. The Council will also exercise the following additional functions which may be discharged by Full Council itself or be delegated by agreement to a committee or sub-committee of Councillors, an officer of the Council or another authority:
- (a) all responsibilities of the Council (as provided by the Local Government Act 2000 and guidance published by the Secretary of State) which must be undertaken by the Council rather than the Executive (see Responsibility for Functions, Table 1); and,
  - (b) all local choice functions (as provided by the Local Government Act 2000 and guidance published by the Secretary of State) which the Council decides should be undertaken by itself rather than the Executive (see Responsibility for Functions, Table 2).

# **Executive**

## **1. Membership and Meetings**

1.1 Leader of the Council, together with at least 2 but no more than 9 other Councillors, appointed by him/her.

1.2 There will be no substitute for Executive Members although other Members may be invited to attend meetings and, in any case, can attend as observers.

1.3 The Executive will normally meet on a monthly basis.

## **2. Scope**

2.1 The Executive will carry out all of the Local Authority's functions which are not expressly reserved as the responsibility of any other part of the Local Authority, whether by law or under this Constitution.

2.2 The Executive will provide overall leadership and direction for the Council.

2.3 The Executive cannot amend Council Policy (as defined in Article 4 paragraph 4.2).

## **3. Terms of Reference**

3.1 The Executive will be responsible for the following functions:

- a) to propose the annual budget to Council for approval;
- b) to ensure full consultation with the public and other members of the Council on policies and strategies;
- c) to implement, within approved budgets, agreed plans and policies of the Council;
- d) to oversee expenditure within budget heads and limits approved by Council;
- e) to provide political leadership to enable Somerset West and Taunton Council to promote the economic, social and environmental wellbeing of the area;
- f) to exercise collective responsibility for the Council and its performance;

- g) to set strategies for partnership with external stakeholders;
- h) to receive recommendations from the Scrutiny Committee;
- i) to determine grant allocation priorities for external organisations;
- j) any functions which are deemed to be local choice functions as set out in the responsibilities for functions;
- k) to exercise the Council's powers in relation to emergencies and disasters;
- l) to consider recommendations from the Hinkley Point Planning Obligations Board and Internal Planning Obligations Group to allocate contributions for projects seeking funding for above £150,000 and less than £250,000;
- m) to consider referral to Council recommendations from the Hinkley Point Planning Obligations Board and Internal Planning Obligations Group to allocate contributions for projects seeking funding of over £250,000;
- n) to consider quarterly performance reports relating to the Hinkley Point project which have been previously reviewed by the Scrutiny Committee;
- o) to consider recommendations from the Internal Planning Obligations Group to allocate contributions for projects seeking funding of above £150,000 and less than £250,000;
- p) to approve Supplementary Budget Allocations (whether Revenue or Capital) between £150,000 and £250,000 and Budget Virements (whether Revenue or Capital greater than £150,000);
- q) To make Key Decisions as defined in the Executive Procedure Rules;
- r) to approve individual projects and schemes under the Council approved Growth Programme and Community Infrastructure Levy Investment Programme;

# Scrutiny Committees.

## 1. Membership and Meeting Arrangements

1.1 The Corporate Scrutiny Committee will comprise of 15 Councillors appointed by the Council and will normally meet on a monthly basis.

1.2 The Community Scrutiny Committee will comprise of 15 Councillors appointed by the Council and will normally meet on a monthly basis.

1.3 Members of the Executive will not be eligible to sit on the Scrutiny Committees.

1.4 The Committees may invite persons to be co-opted non-voting members.

## 2. Terms of Reference

2.1 The Council will appoint two Scrutiny Committees to discharge the functions conferred by Section 21 and 21A of the Local Government Act 2000 or regulations made under Section 32 of the Local Government Act 2000.

2.2 The split between the Corporate Scrutiny Committee and Community Scrutiny Committee is:

<b>Corporate</b>	<b>Community</b>
Matters relating to the Internal Operations Directorate, including: <ul style="list-style-type: none"><li>• Finance</li><li>• Revenues and Benefits</li><li>• Income Control</li><li>• Procurement</li><li>• Communications (Internal &amp; External)</li><li>• HR and People</li><li>• Health &amp; Safety</li><li>• Payroll</li><li>• Business Continuity</li><li>• Internal Change</li><li>• Information Technology</li><li>• Governance</li><li>• Business Intelligence</li></ul>	Matters relating to the External Operations & Climate Change Directorate, including: <ul style="list-style-type: none"><li>• Climate Change</li><li>• Emergency Planning</li><li>• Coastal Protection</li><li>• Asset Management</li><li>• Parks &amp; Open Spaces</li><li>• Major contracts</li><li>• Street Scene</li><li>• Environmental Services</li><li>• Regulatory Services</li><li>• Commercial Services</li><li>• Public Health &amp; wellbeing</li></ul>
Matters relating to the Development and Place Directorate, including: <ul style="list-style-type: none"><li>• Regeneration capital projects</li></ul>	Matters relating to the Housing and Communities Directorate, including: <ul style="list-style-type: none"><li>• Housing Revenue Account 30 year</li></ul>



<ul style="list-style-type: none"> <li>• Taunton Garden Town</li> <li>• Commercial Investment Portfolio</li> <li>• Heritage</li> <li>• Hinkley</li> <li>• Strategic Place Planning</li> <li>• Development Management</li> <li>• Economic Recovery &amp; Economic Growth</li> </ul>	Business Plan <ul style="list-style-type: none"> <li>• Tenancy Management</li> <li>• Sheltered and Extra Care Housing Service</li> <li>• Housing Options, Homelessness and Homefinder</li> <li>• Rough Sleepers</li> <li>• Safeguarding</li> <li>• Community resilience and engagement</li> <li>• Community grants</li> <li>• Housing Property (including repairs and maintenance, voids, safety compliance)</li> <li>• Housing development and regeneration (affordable housing, projects such as North Taunton Woolaway Project and low carbon homes)</li> <li>•</li> </ul>
Performance Indicators relating to the areas under this Committee	Performance Indicators relating to the areas under this Committee
Budget Monitoring relating to the areas under this Committee	Budget Monitoring relating to the areas under this Committee
	Crime and Disorder Committee (as per S19 of the Police and Justice Act) with responsibility for scrutinising crime and disorder

2.3 This Community Scrutiny Committee is also the Council's designated Crime and Disorder Committee under Section 19 of the Police and Justice Act 2006.

2.3 The Council seeks to ensure a robust scrutiny process. The Scrutiny Committees are not a decision-making body, but should:

- a) be the 'critical friend' of the Executive but not subservient to the Executive;
- b) enable the voice and concerns of the public;
- c) be carried out by independently minded Councillors;
- d) drive improvement.

2.4 The general terms of reference of the Scrutiny Committees are set out below:

- a) to perform all Scrutiny functions on behalf of the Council;
- b) to appoint such informal task and finish groups as it considers appropriate to fulfil those Scrutiny functions;
- c) to approve the overview and work scrutiny programme so as to ensure that the Committee's time is effectively and efficiently used;
- d) to undertake investigations into such matters relating to the Council's functions and powers as:
  - i. may be referred by the Leader/Executive; or,
  - ii. the Committees may consider appropriate; or,
  - iii. have been referred to the Committee pursuant to the "call-in" procedure set out in the Scrutiny Procedure Rules;
- e) to review and advise on existing policies of the Council, including making recommendations for future options to the Leader/Executive;
- f) to review arrangements to secure continuous improvement in the way in which the Council's functions are exercised, having regard to a combination of economy, efficiency and effectiveness;
- g) to monitor and review the Council's performance against relevant national and local performance indicators and adopted plans and strategies;
- h) to consider any matter affecting the Council area or its inhabitants;
- i) to discuss initiatives put forward for consideration by individual members of the Committee;
- j) to review or scrutinise decisions made or other actions taken in connection with the discharge of the Council's crime and disorder functions and to make such reports or recommendations as deemed appropriate.

### **3. Specific Functions**

#### **A. Policy Development and Review**

##### **3.1 The Scrutiny Committees may:**

- a) assist the Council and the Leader/Executive in the development of the budget and policy framework by in-depth analysis of policy issues, and the Scrutiny Committees may obtain evidence from members of the public or expert witnesses to inform its response;

- b) conduct research, community and other consultation in the analysis of policy issues and possible options;
- c) question the Leader of the Council, Members of the Executive and Chief Officers about their views on issues and proposals affecting the area;
- d) liaise with other external organisations operating in the area, whether national or local, to ensure that the interests of the inhabitants of the area are enhanced by collaborative working; and,
- e) consider and implement mechanisms to encourage and enhance community participation in the development of policy options.

## **B. Scrutiny**

### **3.2 The Scrutiny Committees may:**

- a) review and scrutinise and ask questions of the Leader, lead Councillors, the Executive and Council officers in relation to particular decisions, initiatives or projects, whether generally or in comparison with service plans and targets over a period of time, or in relation to the portfolios of the Leader or of Lead Councillors. As part of this process, the Committees may facilitate the asking of questions submitted in advance by members of the public;
- b) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- c) make recommendations as appropriate to the Leader/Executive and/or the Council arising from the outcome of the scrutiny process;
- d) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Committee and local people about their activities and performance;
- e) question and gather evidence from any person (with their consent) and require information from partner organisations; and
- f) use innovative ways to scrutinise matters of concern such as select committees, public hearings, spotlight reviews, mystery shopping and workshops. The issue being investigated should be matched to the most appropriate process.

## **C. Finance**

### **3.3 The Scrutiny Committees may:**

- a) scrutinise the overall Council Budget as part of its preparation;

- b) exercise overall responsibility for the finances made available to them;
- c) request that a budget be made available to it for the purposes of research, the costs of expert witnesses, site visits, non-meeting based activities and matters similar thereto.

#### **D. Annual Report**

3.4 The Scrutiny Committees must report annually to the Full Council on its work undertaken during the year, its future work programme and amended working methods if appropriate.

# AUDIT AND GOVERNANCE COMMITTEE

## Membership and Meetings

The Audit and Governance Committee will be composed of 11 elected Councillors, except any councillor who is a member of the Executive;

The Quorum for the Audit and Governance Committee shall be 4 voting members of the Committee.

The Committee will normally meet on a quarterly basis.

## Scope

The Audit and Governance Committee will have overall responsibility for governance and audit matters as set out in the terms of reference.

## Terms of Reference

The Audit and Governance Committee will have the following roles and functions:

### A. Corporate Governance

1. Oversee the Council's use of risk management.
2. Approving the Local Code of Corporate Governance.
3. Approving the Annual Governance Statement.
4. Considering and approving the Council's Risk Management Statement and Strategy.
5. Monitor and review the Council's internal and external audit functions.
6. Monitor and review the Council's systems of internal control
7. To make recommendations to the Council regarding any suggested major changes to the Constitution.
8. Monitoring and reviewing the operation of the Council's Constitution, particularly in respect of financial procedures and protocols, procurement procedures and guidelines.

9. Reviewing any corporate governance issue referred to the Committee by the Chief Executive, the Section 151 Officer or the Monitoring Officer, the Leader/Executive or any other committee of the Council.
10. Considering the Council's arrangements for corporate governance and necessary actions to ensure compliance with best practice, together with any relevant issues referred by the Leadership Team or Statutory Officers.
11. Considering the Council's compliance with its own and other published standards and controls.
12. Considering the annual report regarding complaints about the Council referred to the Local Government and Social Care Ombudsman.
13. Approving payments or other benefits of a value greater than £5,000 arising from complaints to the Local Government and Social Care Ombudsman.
14. Monitoring the effectiveness of the Council's policies and procedures that ensure sound governance arrangements, including:
  - a) whistle-blowing procedure;
  - b) anti-fraud and corruption policy;
  - c) anti-bribery policy and procedure;
  - d) complaints procedure;and making appropriate recommendations to the Executive.
15. Monitoring and auditing of the Council's equalities and diversity policies.

## **B. Audit and Accounts**

1. Agreeing the internal and external audit plans and monitoring delivery of the plans.
2. Review and challenge any significant issues and the action plans arising in the annual audit report and management letter for the Council.
3. Monitoring the implementation of significant audit recommendations.
4. Raising the profile of internal control within the authority.
5. Reviewing and approving the annual Statement of Accounts and Narrative Statement.

6. To regularly review the effectiveness of overall governance arrangements for the Hinkley Point Project and receive both internal and external audit reports including those undertaken by EDF.
7. Considering reports dealing with the management and performance of the providers of the internal audit function.
8. Considering reports from internal audit on recommendations agreed with service leaders as a result of an internal audit review which have not been implemented within a reasonable timescale.
9. Considering specific reports submitted by the internal or external auditors.
10. Commenting on the scope and depth of external audit work and ensuring that it gives value for money.
11. Considering any other matter referred by the Section 151 Officer.

## **Annual Report**

The Audit and Governance Committee must report annually to the Full Council on its work undertaken during the year, its future work programme and amended working methods if appropriate.

# Planning Committee

## 1) Membership and Meetings

### 1.1 The Full Committee

1.2 Fifteen Members (politically balanced) to be appointed by Full Council. Meetings to normally be held at intervals of 4 weeks or as required Members of the Executive will not be eligible to sit on the Planning Committee.

1.3 The Quorum for the Planning Committee shall be 4 voting members of the Committee.

### 1.4 The Phosphates Sub-Committee

1.5 No more than 5 Councillors to be appointed from the Planning Committee.

## 2) Scope

2.1 Neither the Planning Committee nor the Assistant Director, Strategic Place and Planning or Service Manager – Development Management or Service Manager Planning Policy and Implementation has delegated power to:

- a) approve or adopt Development Plan Documents or the Plans and alterations that comprise the Development Plan; or,
- b) approve or adopt Local Development Orders;

as these are Full Council functions as set out in Article 4 of this Constitution.

2.2 The Council has delegated its responsibility for the following functions:

- a) all functions relating to town and country planning and development control as specified in Section A of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000; and,
- b) functions relating to the stopping up or diversion of footpaths; the extinguishing of rights of way over land held for planning purposes; the preservation of trees; and complaints about high hedges as specified at items 31, 32, 47 and 47a of Section I Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000;

to the Planning Committee, the Assistant Director Strategic Place and Planning and Service Manager – Development Management and other officers as set out below.



### 3) Terms of Reference – Planning Committee

3.1 Where a proposal meets any of the following criteria, it shall be reserved to the Planning Committee for determination:

Criterion 1: In the opinion of the Service Manager - Development Management or the Chair of the Planning Committee, the application is considered to be of a significant, controversial or sensitive nature.

Criterion 2: The application is made by or on behalf of an elected Councillor (or partner thereof) or member of Council staff (or partner thereof) and is recommended for approval.

Criterion 3: The application is accompanied by an Environmental Impact Statement (EIA).

Criterion 4: The application proposes a development which if permitted would represent a significant departure from the Council's statutory Development Plan and is recommended for approval.

Criterion 5: The application is the subject of representations contrary to the officer recommendation (with planning reasons) submitted to the Council by

- (a) not less than four individuals; and
- (b) at least one of the following:
  - i) a Town/Parish Council;
  - ii) a Parish Meeting;
  - iii) a Ward Member

3.2 Any application which is not referred to Committee by virtue of paragraph 3.1 above, but where representations which are contrary to the officer recommendation have been received (including from statutory consultees), is referred to the Chair or Vice Chair of the Planning Committee before a decision is made, following which the Chair or Vice Chair may decide to refer the application to the Planning Committee for determination.

3.3 The arrangements set out in paragraphs 3.1 and 3.2 above for the referral of applications to the Planning Committee for determination do not apply to

- a) applications which seek prior approval which will receive deemed consent after 28 or 56 days; and
- b) applications for certificates of lawful development made under Section 191 or 192

of the Town and Country Planning Act 1990 (as amended)  
as the determination of such applications is based on the assessment and  
evaluation of facts as opposed to planning policies and material planning  
considerations.

3.4 In addition, the Planning Committee shall authorise all criminal proceedings in relation to alleged offences under planning legislation including but not limited to offences under the Town and Country Planning Act 1990 (as amended) and the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Community Infrastructure Levy pursuant to the Community Infrastructure Levy Regulations 2010 and 2019 except in cases of expediency where authority is delegated to the Chair of Planning Committee, and either the Assistant Director Strategic Place and Planning or the Service Manager - Development Management.

3.5 In addition to the delegation arrangements referred to in paragraphs 2 and 3 above, the Assistant Director – Strategic Place and Planning and the Service Manager – Development Management or Service Manager Planning Policy and Implementation may authorise the Council's entry into agreements with

- Town/Parish Councils ,
- Parish Meetings or
- any other third party

where the effect of such an agreement is the allocation to such a party for the purposes of expenditure of financial contributions or other sums received by the Council as local planning authority pursuant to planning obligations under the Town and Country Planning Act 1990 Section 106, PROVIDED THAT:

3.6 (a) such agreement shall ensure that any funds so allocated are only to be expended in accordance with the purpose of such contributions or funds as identified in the relevant Section 106 Agreement/s ; and (b) the agreement shall include arrangements for the reimbursement to the Council of any funds which are unspent or uncommitted so that the Council may meet its own obligations for reimbursement of unspent or uncommitted contributions as contained in the relevant Section 106 Agreement/s.

3.7 AND PROVIDED FURTHER THAT notwithstanding any other arrangements set out in this Constitution for the signing of documents on behalf of the Council, such

agreements may be signed by the Director of Development and— Place.

## **4) Delegation to Officers**

4.1 The Assistant Director Strategic Place and Planning is authorised to undertake all other decisions in relation to the above matters and functions that are not reserved to Full Council or Planning Committee. This includes matters relating to Local Development Orders.

4.2 The Assistant Director Strategic Place and Planning is authorised to delegate any of the above functions delegated to her/him in this Constitution to other officers. However, the Assistant Director Strategic Place and Planning must keep a register of any such delegations.

- In consultation with the relevant portfolio holder to respond to consultations and processes under the Planning Act 2008 concerning nationally significant infrastructure projects, including draft statements of community consultation, draft scoping reports, draft development consent orders and draft s106 planning obligations received from developers and promoters, other local authorities and other statutory and public bodies.
- Respond to proposed non-material and material changes to Development Consent Orders including the discharge of requirements and obligations as appropriate
- To approve the terms of any proposed Planning Performance Agreement (including those for Nationally Significant Infrastructure projects) which include the provision of financial resources by the Developer to this Council.

## **5) Delegation to Parish Council**

5.1 Where the Council has delegated its powers to determine planning matters to a Town Council or Parish Council, those matters so delegated shall not be dealt with by the Planning Committee whilst such arrangements remain in place.

## **6) Terms of Reference – Phosphates Planning Sub-Committee**

6.1 This will be a Phosphates Sub Committee which will be a sub-committee of the Planning Committee.

6.2 The Sub Committee will consist of no more than 5 councillors from the Planning Committee.

6.3 The subcommittee may, by majority vote, co-opt up to 2 further Councillors to be Members of the subcommittee provided that they are suitably qualified substitutes for the purpose of Planning Committee. Co-opted Members are not entitled to vote.

6.4 The Phosphates Planning Sub Committee will have the following responsibilities on behalf of the Local Planning Authority:

- a. To have oversight of the programme and delivery of projects to support a series of interim measures to offset additional phosphates resulting from affected new developments within the River Tone catchment area affecting the Somerset Levels and Moors Ramsar site (as approved by Full Council on 5 October 2021);
- b. To have oversight of the monitoring of the performance of the above interim projects once delivered;
- c. To provide performance reports on (a) and (b) to Planning Committee on a quarterly basis;
- d. To agree the criteria to be used for the allocation of any phosphate credits generated from the above 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);
- e. To review the terms of the draft Supplemental Planning Document (SPD) on the strategic solution to the nutrient enrichment issue (to be reported to Full Council for prior to consultation and for adoption).

**Note:** for the avoidance of doubt the role of the Phosphates Planning Sub Committee does not include the determination of any planning applications.

6.5 These terms of reference fall within the Planning Committee's delegated powers i.e. functions relating to town and country planning and development control as specified in Section A of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000

# Licensing Committee

## 1. Membership and Meeting Arrangements

1.1 The Licensing Committee will comprise of 15 Councillors appointed by the Council and will normally meet on a quarterly basis. The Quorum for the Licensing Committee shall be 4 voting members of the Committee.

1.2 The Licensing Committee has the power to appoint such sub-committees as may from time to time be necessary to discharge its duties including those under the Licensing Act 2003 and the Gambling Act 2005

## 2. Scope

2.1 Neither the Licensing Committee nor the Director of External Operations and Climate Change has delegated power to approve or adopt the Council's Licensing or Gambling Policy. This is a Full Council function as set out in Article 4 of this Constitution.

2.2 The Committee will be responsible for the following functions:

- a) except as otherwise provided in the Licensing Act 2003 and the Gambling Act 2005, all functions of the licensing authority prescribed by those Acts;
- b) all functions relating to licensing and registration insofar as they are the responsibility of the Council as specified in Section B of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000;
- c) all functions relating to Health and Safety at Work as specified in Section C of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000;
- d) all functions relating to smoke-free premises as specified in Section A of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000;
- e) any other associated matters and similar licensing and regulation matters.

### 3. Terms of Reference Licensing Committee

3.1 Matters relating to the following statutory functions are reserved to the Licensing Committee to determine:

#### A. Licensing Act 2003 Functions (As Listed at Section 10(4) of the Act)

- a) Where representations or objections (within the meaning of the relevant section of the 2003 Act) have been made in respect of the following applications:
  - i) for premises licence (s18(3));
  - ii) for provisional statement (s31(3));
  - iii) for variation of premises licence (s35(3));
  - iv) to vary designated premises supervisor following police objection (s39(3));
  - v) to vary designated premises supervisor following police objection (s44(5));
  - vi) for club premises certificate (s72(3));
  - vii) to vary club premises certificate (s85(3));
  - viii) for grant of personal licence following objection (s120(7));
  - ix) for review of premises licence (s52(2) or (3));
  - x) review of club premises certificate (s88(7)).
- b) Where representations or objections (within the meaning of the relevant section of the 2003 Act) have been made in connection with the following:
  - i) review following review notice (s53C);
  - ii) review following closure order (s167(5)).
- c) Where the Licensing Committee is to determine the following matters:
  - i) consideration of objections made to interim authority notice (s48(3));
  - ii) determination of interim steps pending summary review (s53A(2)(a) or 53B);
  - iii) decision to give counter notice following police objection to temporary event notice (s105(2);
  - iv) revocation of licence where convictions come to light after grant etc(s124(4));
  - v) revocation or suspension of licence by local authority where it becomes aware of convictions or immigration penalties (s132A(8) and (12)).

## **B. Gambling Act 2005 Functions (As Listed in Section 154(4) of the Act)**

- a) Where representations have been made (within the meaning of the section) and where relevant objections have not been withdrawn:
  - i) determination of an application for a premises licence (s161);
  - ii) determination of an application for the variation of a premises licence (s161 and s187);
  - iii) determination of an application for transfer following representations by the Commission;
  - iv) determination of an application for a provisional statement (s204);
  - v) review of a premises licence (s201).

## **C. Licensing and Registration Functions as Specified in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000**

- a) Determination of matters relating to:
  - i) the revocation or suspension of taxi licences;
  - ii) the revocation or suspension of scrap metal/motor salvage licences;
  - iii) applications in respect of casino licences;
  - iv) applications in respect of sex shop licences.
  
- b) In the case of emergency, the above matters at (a)(i) – (iv) may be dealt with by the Director of External Operations and Climate Change, Assistant Director - or Licensing Specialist.

## **5. Delegation to Officers**

5.1 The Director of External Operations and Climate Change or his/her representative is authorised to undertake all other decisions in relation to the above matters and functions that are not reserved to the Full Council or Licensing Committee.

5.2 The Director of External Operations and Climate Change is authorised to delegate any of the above functions delegated to her/him in this Constitution to other officers. However, the Director of External Operations and Climate Change must keep a register of any such delegations.



5.3 The Director of External Operations and Climate Change or his/her representative may refer a matter to be dealt with by the Licensing Committee where he/she deems appropriate.

# **STANDARDS COMMITTEE**

## **Membership and Meetings**

The Standards Committee will be composed of:

- 9 elected Councillors, except any councillor who is a member of the Executive;
- 2 Independent co-opted persons who are not Councillors or officers of the Council (independent members);
- 2 co-opted members of any town/parish councils in the Council's area (town/parish members).

The Chair and Vice-Chair of the Committee shall be Councillors. Where a lead Councillor is appointed as a member of the Committee, they shall not be elected Chair or Vice-Chair.

The co-opted independent members and town/parish members will not be entitled to vote at meetings of the Standards Committee or any of its Sub-Committees.

The Quorum for the Standards Committee shall be 3 voting members of the Committee.

The Committee will normally meet on a quarterly basis.

## **Scope**

The Council shall establish a Standards Committee to carry out its functions relating to ethical matters under the Localism Act 2011. The Standards Committee will have overall responsibility for ensuring probity, propriety and ethics in the organisation.

## **Terms of Reference**

The Standards Committee will have the following roles and functions:

1. Monitoring and reviewing the operation of the Council's Constitution and making recommendations to Full Council for any amendments that fall outside of the scope of the delegated authority to the Monitoring Officer. Any review of the Financial Procedure Rules and Contract Procedure Rules will be considered by the Audit and Governance Committee.
2. Promoting and maintaining high standards of conduct by Councillors and co-opted members.
3. Assisting Councillors and co-opted members to observe the Councillors' Code of Conduct.

4. Advising the Council on the adoption or revision of the Councillors' Code of Conduct.
5. Monitoring the operation of the Councillors' Code of Conduct.
6. Advising, training or arranging to train district, town and parish Councillors and any co-opted members on matters relating to the Councillors' Code of Conduct and wider propriety issues, including issuing guidance where appropriate.
7. Granting dispensations to Councillors and any co-opted members from requirements relating to interests set out in the Councillors' Code of Conduct or delegating such power to a sub-committee, who will be authorised to determine such dispensations based on principles agreed by the Committee.
8. Advise on the management of statutory and other registers of interest and gifts/hospitality received.
9. Advise the Council on possible changes to the Constitution in relation to the key documents and protocols dealing with members' conduct and ethical standards.
10. Determining, by delegating such power to a sub-committee or by way of a hearing, those allegations of misconduct by district, town or parish councillors within Somerset West and Taunton or co-opted members where a formal investigation has found evidence of failure to comply with the Code of Conduct and where a local resolution has not been agreed.
11. Determining, by delegating such power to a sub-committee or following a hearing, on action to be taken against any Councillor or co-opted member found to have failed to comply with the Code of Conduct.
12. Making recommendations, by delegating such power to a sub-committee or following a hearing, to any town or parish council in the Council's area on action to be taken against any Councillor or co-opted member of that town or parish council found to have failed to comply with that Council's Code of Conduct.
13. Implementing, monitoring and reviewing the operation of the Code of Conduct for staff.
14. Considering any other matter referred by the Monitoring Officer.

## Hearings Sub-Committee

The Hearings Sub-Committee shall conduct local hearings on misconduct allegations against Councillors and co-opted members of the district council or town or parish councils within Somerset West and Taunton. These hearings shall be conducted in accordance with the Arrangements for Dealing with Standards Allegations.

The Hearings Sub-Committee shall be politically balanced and comprise of 3 voting members of the Standards Committee. The composition of the Sub-Committee shall be determined by the Monitoring Officer after consultation with the Chair of the Standards Committee. A Chair shall be elected from among the voting members.

The Independent Person must be present when misconduct complaints against councillors and co-opted members are being considered by the Hearings Sub-Committee.

At least one co-opted town/parish member of the Committee and one independent member, together with the Independent Person, must be present when misconduct complaints against members or co-opted members of Town/Parish councils are being considered by the Hearings Sub-Committee.

Following on from a Hearing, the Hearings Sub-Committee may make a decision including the use of the following actions/penalties:

- Reporting its findings to Council (or to the Town/Parish Council) for information;
- Recommending to the Councillor's Group Leader that a Councillor be removed from any or all Committees or Sub-Committees of the Council;
- Recommending to the Leader of the Council that a Councillor be removed from the Executive, or removed from particular Portfolio responsibilities should the complaint refer to a Portfolio holder;
- Instructing the Monitoring Officer to (or recommend that the Town/Parish Council) arrange training for a Councillor;
- Removing (or recommend to the Town/Parish Council that a Councillor be removed) a Councillor from all outside appointments to which he/she has been appointed or nominated by the authority (or by the Town/Parish Council);
- Withdrawing (or recommend to the Town/Parish Council that it withdraws) facilities provided to a Councillor by the Council, such as a computer, website and/or email and Internet access;
- Restricting contact to named officers or requiring contact be through named officers;
- Excluding (or recommend that the Town/Parish Council exclude) a Councillor from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings;
- Publish its findings in respect of the Councillor's conduct

- Issue a formal letter of advice as to future conduct to the Councillor;
- Request that the Councillor tender an apology to such persons as were aggrieved by his or her actions; or,
- Where the Monitoring Officer and the Independent Person are not satisfied that the Councillor has tendered the apology described above or completed such training as arranged above, then the Monitoring Officer shall report the matter to the Chair of the Standards Committee who shall cause a meeting of the Hearings Sub-Committee to take place with the purpose of resolving to apply an alternative sanction.

## Annual Report

The Standards Committee must report annually to the Full Council on its work undertaken during the year, its future work programme and amended working methods if appropriate.



## POLITICAL ALLOCATION – 12 April 2022

	Totals	Liberal Democrats (LD) 32	Independent + Green (I+G) 14	Conservative (Con) 9	Labour (Lab) 3	Ungrouped (U/G) 1 (not included in calculation)	
% based on 58 members (excluding ungrouped)	100	55.17% (55)	24.14% (24)	15.51% (16)	5.17% (5)	0% (0)	
Committee Seats	80	44 (44)	19.2 (19)	12.8 (13)	4 (4)	0 (0)	
Committee	No on Committee	LD (44)	I+G (19)	Con (13)	Lab (4)	U/G (0)	Total
Corporate Scrutiny	15	8.25 (8)	3.56 (4)	2.44 (2)	0.75 (1)	0.19 (0)	15
Community Scrutiny	15	8.25 (8)	3.56 (4)	2.44 (2)	0.75 (1)	0.19 (0)	15
Audit and Governance	11	6.05 (6)	2.61 (3)	1.79 (2)	0.55 (0)	0.14 (0)	11
Planning	15	8.25 (8)	3.56 (4)	2.44 (2)	0.75 (1)	0.19 (0)	15
Licensing	15	8.25 (8)	3.56 (4)	2.44 (2)	0.75 (1)	0.19 (0)	15
Standards	9	4.95 (5)	2.14 (2)	1.46 (2)	0.45 (0)	0.11 (0)	9
Total	80	43	21	12	4	0	80
		-1	+2	-1	0	0	0

As a result of Cllr Chris Morgan leaving the Conservative Group and deciding not to become a member of another political group – I have reworked the political allocation excluding him from the calculation and working the allocation out based on 58 Councillors.

Whilst all of the totals for the Committee match the number of seats – there does need to be some discussion between Group Leaders as:

The Liberal Democrats need to have 9 seats on one of either Corporate Scrutiny, Community Scrutiny, Planning or Licensing.

The Independents need to have 4 seats on two Committee and 3 seats on the other two Committees - Corporate Scrutiny, Community Scrutiny, Planning or Licensing

The Conservatives need to have 3 seats on one of either Corporate Scrutiny, Community Scrutiny, Planning or Licensing

At the last update of the Political Allocation (approved at Council meeting on 29 March 2022), the following was agreed:

Independents Group – 4 on Corporate Scrutiny Committee and Planning Committee, and 3 on Community Scrutiny and Licensing

Conservatives Group – 2 on Corporate Scrutiny Committee and Planning Committee, and 3 on Community Scrutiny and Licensing



## Committee Composition approved by Council on 29 March 2022 (Current)

Executive	Portfolio Holder
Councillor Federica Smith-Roberts	Leader of the Council and Communications
Councillor Derek Perry	Deputy Leader and Sports, Parks and Leisure
Councillor Chris Booth	Community
Councillor Dixie Darch	Climate Change
Councillor Caroline Ellis	Culture
Councillor Ross Henley	Corporate Resources
Councillor Marcus Kravis	Asset Management and Economic Development
Councillor Mike Rigby	Planning and Transportation
Councillor Francesca Smith	Housing
Councillor Andrew Sully	Environmental Services

Corporate Scrutiny Committee
Cllr Benet Allen
Cllr Simon Coles
Cllr Habib Farbahi
Cllr Ed Firmin
Cllr John Hassall
Cllr Nicole Hawkins
Cllr Simon Nicholls
Cllr Danny Wedderkopp
Cllr Ian Aldridge
Cllr Sue Buller
Cllr Loretta Whetlor
Cllr Gwil Wren (Chair)
Cllr Norman Cavill
Cllr Nick Thwaites (Vice-Chair)
Cllr Libby Lisgo

Community Scrutiny Committee
Cllr Simon Coles
Cllr Thomas Deakin
Cllr Steve Griffiths
Cllr Dawn Johnson
Cllr Richard Lees
Cllr Mark Lithgow
Cllr Ray Tully
Cllr Sarah Wakefield
Cllr Janet Lloyd
Cllr Dave Mansell (Vice-Chair)
Cllr Andy Pritchard
Cllr Marcus Barr
Cllr Andy Milne
Cllr Vivienne Stock-Williams
Cllr Libby Lisgo (Chair)

Planning Committee
Cllr Simon Coles (Chair)
Cllr Ed Firmin
Cllr John Hassall
Cllr Marcia Hill (Vice-Chair)
Cllr Mark Lithgow
Cllr Ray Tully
Cllr Sarah Wakefield
Cllr Keith Wheatley
Cllr Ian Aldridge
Cllr Mark Blaker
Cllr Craig Palmer
Cllr Loretta Whetlor
Cllr Roger Habgood
Cllr Chris Morgan
Cllr Brenda Weston

Licensing Committee
Cllr Simon Coles
Cllr John Hassall
Cllr Marcia Hill
Cllr Dawn Johnson
Cllr Sue Lees
Cllr Mark Lithgow (Chair)
Cllr Ray Tully
Cllr Keith Wheatley
Cllr Janet Lloyd (Vice-Chair)
Cllr Craig Palmer
Cllr Loretta Whetlor
Cllr Marcus Barr
Cllr Andrew Hadley
Cllr Anthony Trollope-Bellew
Cllr Brenda Weston

<b>Audit and Governance Committee</b>
Cllr Lee Baker (Chair)
Cllr Simon Coles
Cllr Ed Firmin (Vice Chair)
Cllr Dawn Johnson
Cllr Martin Peters
Cllr Sarah Wakefield
Cllr Hugh Davies
Cllr Janet Lloyd
Cllr Terry Venner
Cllr Andrew Milne
Cllr Steven Pugsley

<b>Standards Committee</b>
Cllr Lee Baker
Cllr Richard Lees
Cllr Mark Lithgow
Cllr Martin Peters
Cllr Sarah Wakefield
Cllr Hugh Davies
Cllr Terry Venner
Cllr Steven Pugsley
Cllr Anthony Trollope-Bellew
Independent Member
Independent Member
T&P Council Rep
T&P Council Rep

**Committee Composition updated 12 April 2022 (To be approved at Annual Council)**

<b>Executive</b>	<b>Portfolio Holder</b>
Councillor Federica Smith-Roberts	Leader of the Council and Communications
Councillor Derek Perry	Deputy Leader and Sports, Parks and Leisure
Councillor Chris Booth	Community
Councillor Dixie Darch	Climate Change
Councillor Caroline Ellis	Culture
Councillor Ross Henley	Corporate Resources
Councillor Marcus Kravis	Asset Management and Economic Development
Councillor Mike Rigby	Planning and Transportation
Councillor Francesca Smith	Housing
Councillor Andrew Sully	Environmental Services

<b>Corporate Scrutiny Committee</b>
Cllr Benet Allen
Cllr Simon Coles
Cllr Habib Farbahi
Cllr Ed Firmin
Cllr John Hassall
Cllr Nicole Hawkins
Cllr Simon Nicholls
Cllr Danny Wedderkopp
Cllr Ian Aldridge
Cllr Sue Buller
Cllr Loretta Whetlor
Cllr Gwil Wren
Cllr Norman Cavill
Cllr Nick Thwaites
Cllr Libby Lisgo

<b>Community Scrutiny Committee</b>
Cllr Simon Coles
Cllr Thomas Deakin
Cllr Steve Griffiths
Cllr Dawn Johnson
Cllr Richard Lees
Cllr Mark Lithgow
Cllr Ray Tully
Cllr Sarah Wakefield
Cllr Janet Lloyd
Cllr Dave Mansell
Cllr Andy Pritchard
Conservative
Conservative
Either Liberal Democrat or Conservative
Cllr Libby Lisgo (Chair)

<b>Planning Committee</b>
Cllr Simon Coles
Cllr Ed Firmin
Cllr John Hassall
Cllr Marcia Hill
Cllr Mark Lithgow
Cllr Ray Tully
Cllr Sarah Wakefield
Cllr Keith Wheatley
Cllr Ian Aldridge
Cllr Mark Blaker
Cllr Craig Palmer
Cllr Loretta Whetlor
Cllr Roger Habgood
Cllr Vivienne Stock-Williams
Cllr Brenda Weston

<b>Licensing Committee</b>
Cllr Simon Coles
Cllr John Hassall
Cllr Marcia Hill
Cllr Dawn Johnson
Cllr Sue Lees
Cllr Mark Lithgow
Cllr Ray Tully
Cllr Keith Wheatley
Cllr Janet Lloyd
Cllr Craig Palmer
Cllr Loretta Whetlor
Conservative
Conservative
Either Liberal Democrat or Conservative
Cllr Brenda Weston

<b>Audit and Governance Committee</b>
Cllr Lee Baker
Cllr Simon Coles
Cllr Ed Firmin
Cllr Dawn Johnson
Cllr Martin Peters
Cllr Sarah Wakefield
Cllr Hugh Davies
Cllr Janet Lloyd
Cllr Terry Venner
Cllr Andrew Milne
Cllr Steven Pugsley

<b>Standards Committee</b>
Cllr Lee Baker
Cllr Richard Lees
Cllr Mark Lithgow
Cllr Martin Peters
Cllr Sarah Wakefield
Cllr Hugh Davies
Cllr Terry Venner
Cllr Steven Pugsley
Cllr Anthony Trollope-Bellew
Independent Member
Independent Member
T&P Council Rep
T&P Council Rep

# **Somerset West and Taunton Council**

## **Annual Council – 24 May 2022**

### **Appointments of Representatives on Outside Bodies**

**This matter is the responsibility of the Leader of the Council – Councillor Federica Smith-Roberts**

**Report Author: Clare Rendell (Specialist Governance and Democratic)**

#### **1 Executive Summary / Purpose of the Report**

- 1.1 This report is to finalise the appointment of representatives to serve on outside bodies for the period to vesting day of the New Council in April 2023 (except where specific periods are stated, where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive.)

#### **2 Recommendations**

Council resolves to;

- 2.1 Agree the Appointments of Representatives to Outside Bodies for 2022/2023 (attached as Appendix A).

#### **3 Risk Assessment**

- 3.1 The risk of the Council not finalising these appointments, could lead to the reputational damage to the Council and the dissolution of important links.

#### **4 Background and Full details of the Report**

- 4.1 The Appointments to Outside Bodies for the 2021/22 municipal year were last confirmed at Annual Council on 4 May 2021.
- 4.2 The Council Procedure Rules require the Annual Meeting to ‘make appointments to outside organisations, except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive. In an election year, such appointments may be deferred to the first Ordinary Meeting of the Council in the municipal year.’
- 4.3 This report updates the appointments for the 2022/23 Municipal Year (attached as Appendix A).

#### **5 Links to Corporate Aims / Priorities**

- 5.1 This report aligns with Strategic Theme 2 – A Council which informs and engages openly with our stakeholders and which consistently delivers excellent customer service.

- 5.2 Objective 5 states “Develop and deliver effective communications, consultation and engagement which listens to and engages with our residents and stakeholders and is central to the delivery of our services, strategies and plans.”
- 6 Finance / Resource Implications**
- 6.1 N/A
- 7 Legal Implications**
- 7.1 Councillors serving on Outside Bodies should pay heed to the advice document given at Appendix B which sets out Member Responsibilities and Potential Liabilities.
- 8 Climate and Sustainability Implications**
- 8.1 N/A
- 9 Safeguarding and/or Community Safety Implications**
- 9.1 Councillors serving on Outside Bodies should pay heed to the advice document given at Appendix which sets out Member Responsibilities and Potential Liabilities.
- 10 Equality and Diversity Implications**
- 10.1 N/A
- 11 Social Value Implications**
- 11.1 N/A
- 12 Partnership Implications**
- 12.1 Implications arising from this are covered in the Guidance attached at Appendix B.
- 13 Health and Wellbeing Implications (if any)**
- 13.1 N/A
- 14 Asset Management Implications**
- 14.1 N/A
- 15 Data Protection Implications**
- 15.1 N/A
- 16 Consultation Implications**
- 16.1 Consultation to be undertaken with Group Leaders.
- 17 Scrutiny Comments / Recommendation(s)**
- 17.1 Not relevant to this report.

**Democratic Path:**

- Scrutiny / Corporate Governance or Audit Committees – No
- Cabinet/Executive – No
- Full Council – Yes

**Reporting Frequency:    Annually****List of Appendices**

Appendix A	List of Appointments to Outside Bodies 22/23
Appendix B	Outside Bodies Guidance Document

**Contact Officers**

Name	Clare Rendell
Email	<a href="mailto:c.rendell@somersetwestandtaunton.gov.uk">c.rendell@somersetwestandtaunton.gov.uk</a>





## SWT REPRESENTATION ON OUTSIDE BODIES - 2022/23

OUTSIDE BODY	INFORMATION	REPS 2022/23
Avon and Somerset Police and Crime Panel	Reps Required: 1 Meeting Schedule: 6 times per year	Cllr C Booth
Blackdown Hills AONB Partnership Management Group	Reps Required: 1 Meeting Schedule: Bi-Monthly	Cllr R Henley
Blackdown Hills Joint Partnership Advisory Committee	Reps Required: 1 Meeting Schedule: Unknown	Cllr R Henley
Brewhouse Theatre Board Meetings	Reps Required: 1 Cllr 1 Officer Meeting Schedule: As required to observe	Cllr N Cavill
Devon and Somerset Metro Project	Reserved for the Portfolio Holder for Planning and Transport	Cllr M Rigby
District Councils Network Assembly Representative	Reps Required: 1 Meeting Schedule: Unknown  Reserved for the Leader of the Council	Cllr F Smith-Roberts
ENGAGE - West Somerset Voluntary Sector Development Agency	Reps Required: 1 and 1 Deputy Meeting Schedule: Unknown	Cllr J Lloyd (Deputy: Cllr L Whetlor)

## SWT REPRESENTATION ON OUTSIDE BODIES - 2022/23

OUTSIDE BODY	INFORMATION	REPS 2022/23
Exmoor National Park Authority	Reps Required: 4 Meeting Schedule: Monthly	Cllr N Thwaites, Cllr S Pugsley, Cllr M Kravis, Cllr A Milne
Friends of Konigslutter	Reps Required: 1 Meeting Schedule: Quarterly	Cllr D Durdan
Friends of Vivary Park	Reps Required: 1 Meeting Schedule: Quarterly	Cllr R Lees
Harbour Board	Reps Required: 4 voting members 2 non-voting duty holders (cabinet members) Meeting Schedule: Quarterly	Cllr A Hadley, Cllr L Whetlor, Cllr T Venner, Cllr H Davies plus the Chair Cllr A Sully Duty Holders: Cllrs M Kravis & <b>VACANCY</b>
Heart of the South West LEP Joint Committee	Reps Required: 1 plus 1 substitute Meeting Schedule: Three formal meetings a year in January, June and September and three informal Leader's meetings.	Cllr F Smith-Roberts Sub: Cllr M Rigby or Cllr M Kravis
Heart of the South West LEP Joint Scrutiny Committee		Cllr N Cavill

## SWT REPRESENTATION ON OUTSIDE BODIES - 2022/23

OUTSIDE BODY	INFORMATION	REPS 2022/23
Hestercombe Gardens Trust	Reps Required: 1 Meeting Schedule:	Cllr Marcia Hill
Hinkley Point Site A Stakeholder Group	Reps Required: Was 4 Meeting Schedule: Three times annually usually the last Friday in Feb, June and Oct.	Cllr C Morgan, Cllr L Whetlor, <b>VACANCY</b> , Cllr M Rigby
Hinkley Point CIM Fund		Cllr C Morgan Dep: Cllr C Booth
Hinkley Point Community Fund		Cllr C Booth Dep: Cllr J Hassall
Home Furniture Services Trust - 'Furnitrust'	Rep Required: at least 1	Cllr D Mansell
Joint Scrutiny Panel of Somerset Waste Board	Reps Required: 2 Meeting Schedule: Bi-Annually  Should be Non-Executive and appointed by the Scrutiny Cttee.	Cllr A Trollope-Bellew & Cllr J Hassall
Local Government Association General Assembly	Reps Required: 2 Meeting Schedule: Bi-Annually	Cllr R Henley & Cllr J Hassall

## SWT REPRESENTATION ON OUTSIDE BODIES - 2022/23

OUTSIDE BODY	INFORMATION	REPS 2022/23
Management Committee of Broadlands	Reps Required: 1 Meeting Schedule: Unknown	Cllr A Hadley
MATA Regal Theatre Co. Ltd	Reps Required: 1 Meeting Schedule: Monthly	Cllr B Allen
Minehead BID Board	Reps Required: 1 Meeting Schedule: Unknown	Cllr A Hadley
Minehead People and Place Partnership	Reps Required: 1 PFH & 1 Other Meeting Schedule: Six-weekly	Cllr M Kravis (PFH), Cllr C Palmer
Minehead EYE Management Committee	Reps Required: 1 Meeting Schedule: Monthly	Cllr B Allen
Parrett Catchment Project Management Committee	Reps Required: 1 Meeting Schedule: Unknown	VACANCY
Parrett Internal Drainage Board	Reps Required: 1 Meeting Schedule: Quarterly with an additional five sub-committee	Cllr D Durdan

## SWT REPRESENTATION ON OUTSIDE BODIES - 2022/23

OUTSIDE BODY	INFORMATION	REPS 2022/23
Quantock Hills Joint Advisory Committee	Reps Required: 2 Meeting Schedule:	Cllr A Trollope-Bellew & Cllr D Darch
Rural Services Network	Reps Required: 1 and 1 Deputy Meeting Schedule: Unknown	Cllr M Blaker Dep: Cllr R Habgood
Safer Somerset Partnership	Reps Required: 1 Meeting Schedule: Quarterly	Cllr C Booth
Somerset Armed Forces Community Covenant Champion		Cllr J Lloyd & Cllr A Milne
Somerset Biodiversity Steering Group	Reps Required: 1 Meeting Schedule: Bi-Monthly	Cllr G Wren
Somerset Building Control Partnership	Reps Required: 2 Meeting Schedule: Quarterly	Cllr M Kravis & Cllr A Sully
Somerset Building Preservation Trust	Reps Required: 1 and 1 reserve Meeting Schedule: Three times annually in Feb, June and Oct.	Cllr Marcia Hill & Cllr S Coles

## SWT REPRESENTATION ON OUTSIDE BODIES - 2022/23

OUTSIDE BODY	INFORMATION	REPS 2022/23
Somerset Growth Board	Reps Required: 1 Meeting Schedule: Quarterly (Economic Development PFH)	Cllr M Kravis (Cllr M Rigby Deputy)
Somerset Health and Wellbeing Board	Reps Required: 1 Meeting Schedule: 4-6 Times Annually - Statutory	Cllr C Booth
Somerset Levels and Moors Local Action For Rural Communities (LARC) Executive Board	Reps Required: 1 Meeting Schedule: Quarterly Executive Appt (by virtue of office)	Cllr D Durdan
Somerset Local Access Forum	NO REP REQUIRED UNTIL 2023	Cllr V Stock-Williams
Somerset Pensions Committee	Reps Required: 1 Meeting Schedule: Unknown	Cllr R Henley
Somerset Playing Fields Association	Reps Required: 1 Meeting Schedule: Quarterly	Cllr D Perry
Somerset Rivers Authority	Reps Required: 1 and 1 alternate Meeting Schedule: Quarterly	Cllr A Sully Alt: Cllr N Cavill

## SWT REPRESENTATION ON OUTSIDE BODIES - 2022/23

OUTSIDE BODY	INFORMATION	REPS 2022/23
Somerset Rivers Authority Scrutiny Panel	Reps Required: 2 Meeting Schedule: Bi-Annually (Should be Non-Executive and to be confirmed by Scrutiny)	Cllr S Coles & Cllr L Lisgo
Somerset Strategic Housing Partnership	Reps Required: 1 Meeting Schedule: Six times a year (Relevant PFH for Housing/ Executive Appt (by virtue of office))	Cllr F Smith
Somerset Waste Board	Reps Required: 2 Meeting Schedule: Monthly (Appointment should be made by SWT Executive)	Cllr A Sully & Cllr D Mansell
Somerset West Private Sector Housing Partnership	Reps Required: 1 Meeting Schedule: Bi-Annually (Relevant Housing PFH)	Cllr F Smith
South West Audit Partnership (SWAP) Members Meeting & Board	Reps Required: 1 Meeting Schedule: Bi-Annually (One of the appointees should be Chair of Audit and Governance)	Cllr L Baker

## SWT REPRESENTATION ON OUTSIDE BODIES - 2022/23

OUTSIDE BODY	INFORMATION	REPS 2022/23
South West Councils Employers Panel	Reps Required: 1 Meeting Schedule: Unknown (Executive Appt (by virtue of office))	Cllr R Henley
South West Councils Membership Representative	Reps Required: 1 Meeting Schedule: Unknown (Executive Appt (by virtue of office))	Cllr F Smith-Roberts
SWT Flood Group	Reps Required: 1 Meeting Schedule: Quarterly	Cllr D Darch (Chair) with Cllr A Sully to attend
Tacchi-Morris Management Committee	Reps Required: 2 Meeting Schedule: Six times a year	Cllr N Cavill
Taunton Aid in Sickness Fund	Reps Required: 1 Meeting Schedule: Quarterly	<b>VACANCY</b>
Taunton and Somerset NHS Foundation Trust - Foundation Trust Council of Governors	Reps Required: 1 Meeting Schedule: Unknown	Cllr C Ellis Sub: Cllr S Wakefield
Taunton Deane Bowling Club	Reps Required: 1 Meeting Schedule: Monthly	Cllr F Smith



## SWT REPRESENTATION ON OUTSIDE BODIES - 2022/23

OUTSIDE BODY	INFORMATION	REPS 2022/23
Taunton Deane District Citizens Advice Bureau	Reps Required: 1 Meeting Schedule:	Cllr S Lees
Taunton Deane Domestic Abuse Forum	Reps Required: 1 Meeting Schedule: Unknown	Cllr C Booth
Taunton Garden Town Cultural Forum	Reps Required: 2	Cllr N Cavill & Cllr C Ellis (Chair)
Taunton Heritage Trust	Reps Required: 2 Meeting Schedule: Unknown	Cllr A Pritchard & Cllr S Buller
Taunton Strategic Advisory Board	Reps Required: 2	Cllr F Smith-Roberts & Cllr G Wren
The Albemarle Centre	Reps Required: 2 Meeting Schedule: Monthly	Cllr C Ellis & Cllr Marcia Hill
The Exmoor Technology Hub	Reps Required: 1	Cllr N Thwaites
The Making It Local - Blackdown Hills and East Devon Local Action Group	Reps Required: 1 Meeting Schedule: Quarterly	Cllr R Henley

**SWT REPRESENTATION ON OUTSIDE BODIES - 2022/23**

<b>OUTSIDE BODY</b>	<b>INFORMATION</b>	<b>REPS 2022/23</b>
Visit Exmoor Executive Board	Reps Required: 2 Meeting Schedule: 8 Days p/year	<b>VACANCY</b> & Cllr M Kravis
Watchet Chamber of Trade	Rep Required: 1	Cllr M Kravis
Watchet Coastal Communities Team	Reps Required: 1 Meeting Schedule: Unknown	Cllr L Whetlor
Watchet Harbour Advisory Committee	Reps Required: 1 Meeting Schedule: Quarterly (Executive Appt (by virtue of office))	Cllr L Whetlor
West Somerset Advice Bureau	Reps Required: 1 and 1 Deputy Meeting Schedule: Quarterly	Cllr I Aldridge Dep: <b>VACANCY</b>
West Somerset Opportunity Area	Reps Required: 1	Cllr C Booth
West Somerset Railway Partnership Development Group	Reps Required: 1 and 1 Deputy Meeting Schedule: Quarterly	Cllr B Allen & Dep: Cllr A Hadley

# **Somerset West and Taunton Council**

## **Guidance for Councillors appointed to represent the Council on Outside Bodies**

### **Introduction**

This guidance is produced to assist Councillors with their roles and responsibilities when they sit on outside bodies. In addition there is guidance relating to the Code of Conduct on personal and prejudicial interests contained within this guidance.

The fundamental principles of this guidance are as follows:-

- Councillors will act according to the rules, constitutions and frameworks set by the relevant outside body and where, possible, with those of the Council.
- Councillors will make independent and personal judgements based on their duty of care to the outside body.
- Councillors will report back, on their involvement with the outside body, at least annually to the Council.
- Councillors will comply with their obligations as far as they are applicable pursuant to the code of conduct.
- Councillors will take an active and informed role in the management of the outside body's affairs unless they are placed as an observer.
- Membership of an outside body does not include representing a political party.

### **Further Advice**

Should Councillors require any clarification on the application of this protocol this should be sought from the Monitoring Officer, Amy Tregellas on 01823 785034 or [a.tregellas@somersetwestandtaunton.gov.uk](mailto:a.tregellas@somersetwestandtaunton.gov.uk)

## Questions to Ask

If you are appointed to an outside body, you should be clear about the answers to the following questions. The organisation should be able to respond to these questions:-

1. What is the nature of the organisation and its main activities? Is it a company, and if so is it limited by shares or by guarantee? Is it unincorporated? Does it have charitable status?
2. In what capacity do I serve on the outside body? Is the effect of my appointment to make me a member of the company, a director or a charitable trustee?
3. Do I have a copy of the body's governing instrument (this may be a trust deed, a constitution, or memorandum and articles of association)?
4. Does the organisation have a Code of Conduct that I need to comply with? Have I been supplied with a copy?
5. Am I aware of the identity of the other directors, trustees and committee members?
6. Is there an officer of the organisation, such as the secretary or clerk to whom I can refer for advice and information?
7. Are written minutes kept of the meetings, and have I seen the minutes?
8. Are meetings conducted in accordance with the governing instrument?
9. Am I aware of the financial position of the organisation to which I have been appointed? Is it regularly reported to the governing body?
10. Am I aware of any contract between the organisation and the Council?
11. Have I seen the last annual report and accounts?
12. Have I been advised of the main risks the body faces and what steps are taken to deal with such risks?
13. Have I been informed of the main insurances/indemnities held by the Council?

## **General Provisions**

There are some general provisions which apply to Councillors who act in the role of company director, charity trustee or member of an unincorporated body.

Councillors are under a duty to exercise independent judgment in the interests of the organisation in which they are involved. Whilst it is recognised that Councillors may have a commitment to representing the Council on the outside body, they must be aware that it is their responsibility to decide on what view to take on any question before that organisation. For example, an instruction from the Council to vote one way or the other would put the Councillor in breach of his/her duty to the organisation. It is permissible to take account of the Council's wishes, but not to vote simply in accordance with them without applying one's own judgment.

Where a Councillor is involved in an outside organisation as a representative of the Council, he/she must declare that fact to the organisation.

Councillors must also ensure that avoidable loss is not incurred in managing the organisation concerned. They cannot avoid this responsibility by not reading the papers or failing to ask for the appropriate report. They will be expected to seek professional advice as appropriate.

Councillors who represent the Council in such circumstances need to familiarise themselves with the duties they will assume and any potential liabilities they may face. It is essential that they are aware of how to deal with any conflicts of interest that may arise and they need to be sure that the proper procedures have been followed in respect of appointments to the relevant organisation.

## **Companies**

Companies can be:-

- ❖ Limited by shares, usually operating a trade or business. They have shareholders and distribute profits to shareholders as dividends.
- ❖ Limited by guarantee – or so called “not for profit” organisations, which have members rather than shareholders. This type of company may also be a charity.

Companies are separate legal entities which employ staff, enter into contracts and own land/property. The day to day business of a company is managed by its Board of Directors.

Companies offer limited liability. This means that the members or shareholders are usually not personally liable for the company's debts and liabilities, subject to limited exceptions.

The powers of the directors are usually set out in the company's Articles of Association. These are the rules that govern the internal management of the company.

### **Duties of a Company Director**

- **To act in good faith and in the best interests of the company when making decisions as a director**

This means exercising your own, independent judgment on matters and whilst factors such as the views and wishes of the Council or your political group, may be taken into account, one should avoid slavishly following the Council or party group line without considering all other relevant considerations. When making decisions about the company the law also requires you to consider the interests of employees as well as the interests of members/shareholders. In certain cases you may find that the best interests of the company and the Council conflict. Guidance on conflicts of interest is included in this guidance.

- **To exercise reasonable care and skill when making decisions as a director**

A director requires no greater skill than might reasonably be expected of someone of that individual's particular knowledge and experience. Directors are not deemed to be experts but they are expected to use due diligence and to obtain expert advice if necessary. This is very similar to the Councillor/officer relationship in terms of decision making and the provision and consideration of professional advice.

- **A fiduciary duty to act honestly and in good faith and in the best interests of the company as a whole. (The term 'fiduciary' refers to the interests of other persons rather than one's own personal interests)**
- **To act in accordance with the company's Memorandum and Articles of Association, plus any other rules, regulations or byelaws that the company may operate pursuant to. Councillors/officers should ensure that they have an up to date copy of these documents and are aware of their contents**

- **To inform the board of a company if you have any direct or indirect interest in a contract the company is considering, proposing or entering**

For example, this will include contracts between the company and the Council. These requirements are similar to those contained in the Code of Conduct governing the declaration of personal/prejudicial interests. In other words Councillors must notify the other directors before the company makes a decision on the matter concerned and the Councillor should not take part in any board discussions about the contract.

- **Not to make a profit from their positions within the company**

You must therefore declare any interests you have (or those of your family/close associates) in relation to the company's contracts. Permission to vote on a particular matter would depend on the Articles of Association.

- **To comply with company law**

Directors must ensure that the Companies Acts are complied with particularly in respect of the maintenance of accounts and the submission of statutory returns to the register of companies. Failure to do so incurs fines and persistent default can lead to disqualification as a director.

## **Liabilities of a Director**

### **What are the potential liabilities when acting as a director?**

Generally, in the absence of misconduct, directors have no personal liability for the debts they build up on the company's behalf. However, directors can be held responsible for certain types of activities they are involved in on behalf of the company, which could lead to a personal liability to other people or criminal liability. Some of the more serious wrongdoings that can arise are set out below:-

#### **Wrongful trading**

- This is where a director knows or is expected to know that the company is likely to go into liquidation and he or she fails to take action to reduce the amount the company owes to their creditors.
- In other words, the directors continue trading where there appears to be no possibility of the company being able to settle its debts with its creditors within a reasonable period of time of them becoming due. It is not an

option for the director to do nothing; the director must take action to protect creditors as soon as he or she becomes aware, or should have been aware, of the risk of insolvency.

- When judging whether a director should have been aware of the risk, the Court will expect every director to have at least the general knowledge, skill and experience which could be expected of someone in their position.
- If a director is found to have been wrongfully trading, a Court can order him or her to personally contribute to the assets of the company when it goes into liquidation.

### **Fraudulent trading**

- This arises where there is a deliberate attempt to defraud creditors and the company then fails. There needs to be evidence that the director intended to defraud; mere omissions to act are not sufficient.
- This will involve the fraudulent trader deceiving his or her creditors into believing they will be paid on an agreed date. As well as having to personally contribute to the assets of the company when it is liquidated, fraudulent trading is also a criminal offence and may lead to fines and imprisonment.

### **Breach of a Warrant of Authority**

- This is where a director gives someone else the impression that he or she has authority to act on behalf of the company when in fact he or she has not.
- An example here would be entering into a contract for supplying goods or services.
- In these circumstances, because the director held him/herself out to have authority to sign a contract and commit the company (when s/he didn't have such authority), the other person involved can claim from the director personally any loss he or she has suffered as a result of the lack of such authority.

### **Personal Guarantees**

- If directors have personally guaranteed a loan to the company and the company cannot meet the conditions of the loan, the lender may choose



to enforce the guarantee against the personal assets of the directors who have given the guarantee.

- In extreme cases, directors may have to sell their homes to repay the company's debt or be declared bankrupt.

### **Acting as a Director whilst disqualified**

- Any director who is guilty of acting as a company director whilst disqualified from acting as a company director will be liable for the company's debts that built up during that period.

### **Failing to maintain company records**

- All directors and officers of the company must maintain up-to-date records, both at Companies House and as part of the book-keeping arrangements for the company. If they do not do this, they will have to pay a fine.

### **The environment and health and safety issues**

- By law, civil or criminal proceedings may be taken against a director for the actions of the company in relation to environmental or health and safety matters. For example, acts of pollution.

### **Protection against personal liability**

#### **Can nominee Directors protect themselves against personal liability?**

- Generally speaking, insurance cover can be put in place to protect directors in the proper and lawful conduct of their duties. However, it may not always be the most effective protection considering that the risks which are commonly regarded as the most serious (for example criminal liability and wrongful trading) are often excluded from insurance cover.
- The **Companies Act** gives companies the right to put in place liability insurance cover for their directors and officers, and the companies may pay the premiums. Companies need to make sure that the cover is suitable because this type of policy excludes dishonesty, fraud, slander, libel, pollution, and claims or actions resulting from a director trying to benefit personally.

- For professional directors (accountants, solicitors, architects and structural engineers) providing specialist knowledge and expertise to the board and the company, professional indemnity insurance may be available at a cost.

### **Can a Local Authority protect Councillors and officers nominated as Directors?**

The **Local Government Act 2000** allows the Secretary of State to make regulations giving Local Authorities powers to provide some protection for a Councillor or officer acting as the Council's nominated director where a claim is brought against them because of some negligent act, or failure to act, in the course of carrying out their duties as directors. These regulations are set out in the **2004 Indemnities Order** which came into effect in November 2004.

The measures that a Local Authority can take are either:-

- providing a specific indemnity to the officer or Councillor; or
- securing the provision of an insurance policy; or
- both the above.

Cover can only be provided by the authority where the officer or Councillor has been specifically appointed by the authority to act as the Council's nominated director.

Cover cannot extend to acts by the Councillor or officer regarded as criminal e.g. wrongful or fraudulent trading. It can be used to meet the costs of defending any criminal proceedings but if convicted, the costs of the defence must be reimbursed to the Council or Insurance Company.

Cover cannot be provided where there is intentional wrongdoing, fraud or recklessness. Neither can it be provided to fund an action for defamation brought by a Councillor or officer against a third party. (Although it can extend to defending an action for defamation brought against a Councillor or officer by a third party).

The cover also extends to Councillors or officers doing acts which are outside the powers of the authority (i.e. ultra vires) so long as they reasonably believed what they were doing at the time was within the powers of the authority.

### **The Local Authorities (Companies) Order 1995**

This Order sets out the rules concerning Councils' involvement in "regulated companies" which are subject to extensive controls.

Regulated companies are so defined if they are “controlled” or “influenced” by the Council. Influenced companies, under the effective control of the Local Authority, will be subject to capital finance regimes and special property controls.

Companies are Local Authority “influenced” if there is at least a 20% Council interest plus a business relationship with the company accounting for over 50% of the company’s turnover and/or the company is located on Local Authority land, leased or sold for less than the best price reasonably obtainable. Companies are Local Authority “controlled” if there is a Local Authority interest in excess of 50% and the minority interest is less than 20%.

In particular, Regulated Companies are subject to the following requirements:-

- Comply with limits placed on remuneration paid to Directors who are also Councillors of an authority which is a shareholder; and
- Ensure that Councillor Directors who become disqualified from membership of an authority are removed from the Board;

### **Conflicts of Interest**

Conflicts of interest may arise between the Council and a company. Even if the Council and the company have the same overall aims and objectives you cannot assume that their interests will always be the same. The legal position and your obligations remain the same even if the company has worthy objectives or is formed in response to a Council or Government initiative.

Conflicts of interest may arise:-

- ❖ If the Council is selling, donating or leasing land to the company.
- ❖ If the company and the Council are negotiating a contract with each other.
- ❖ If the company is seeking funding from the Council.
- ❖ If there is a dispute between the company and the Council.
- ❖ If the company is tendering or negotiating to provide goods, services or works to the Council.

Company Law requires you to act in the best interests of the company but the Council will have nominated you as a director to represent or promote the Council’s interests. Accordingly, if you are uncertain whether a conflict of interest exists you should seek advice from the Monitoring Officer as soon as possible.

If you think you have a conflict of interest you should:-

- ✓ Notify the Monitoring Officer;
- ✓ Notify the company’s Board of Directors,
- ✓ Take no further part in the matter on behalf of the company.

## **Charities**

Charities may be created by registering any of the following with the Charity Commission:-

- ❖ A Trust Deed – the Trustees become Charity Trustees;
- ❖ A Company Limited by Guarantee – the directors become Charity Trustees;  
or
- ❖ An Unincorporated Association – the Management Committee become Charity Trustees.

In order to qualify for a charitable status, the Commission must be satisfied that the organisation is operating for a charitable purpose. These are:-

- ☐ The relief of poverty and human suffering;
- ☐ The advancement of education;
- ☐ The advancement of religion; or
- ☐ Another purpose for the benefit of the community.

An organisation which operates for political purposes cannot qualify for charitable status.

### **The Duties of a Charity Trustee**

Charity Trustees must:-

- Act strictly in accordance with the charity's constitution and rules.
- Act in the best interests of the charity.
- Manage the charity's affairs prudently.
- Not derive any personal benefit or gain from the charity.
- Take proper professional advice on matters you are not competent to decide yourself.
- Ensure that the charity's bank accounts are operated by more than one person.
- Ensure the trustees have proper control of the charity's property and assets.
- Ensure that the charity keeps full and accurate accounting records.
- Spend charity income solely for the purposes set out in the charity's constitution.
- Ensure charity property is properly maintained and insured.

### **Personal Liability**

Personal liability may be incurred if a trustee:-

- Acts outside the scope of the trust deed;

- Falls below the required standard of care; or
- Makes a personal profit from the trust assets.

Personal liability to a third party may arise because a charitable trust, unlike a company, is not a separate legal entity.

### **Unincorporated Associations/Bodies**

Organisations which are neither charities nor companies are referred to as Unincorporated Associations. They usually operate pursuant to a constitution or set of rules defining the organisation's responsibilities and those of its members.

The affairs of an Unincorporated Association are usually governed by a management committee in accordance with the constitution of that organisation or agreed rules of procedure.

Unincorporated Associations cannot do any of the following in their own name:-

- Enter into contracts;
- Own land; or
- Employ staff.

Members of the organisation's management committee must act in accordance with its constitution and must take reasonable care in exercising the organisation's powers.

Generally, the members of the management committee are liable for the acts of the organisation but are entitled to an indemnity from the funds of the organisation if they have acted properly. If there are not enough funds, the committee members are personally liable for the shortfall.

Members of a management committee will have personal liability if they act outside the authority given to them or if they do not comply with the relevant legal obligations.

### **Unincorporated Associations – Duties**

As a matter of good practice Councillors appointed to represent the Council on an Unincorporated Association (body or organisation) must:-

- Act in the best interests of the association;
- Use reasonable care and skill when involved in decision making on behalf of the association;
- Act in accordance with the association's rules or constitution.

Councillors/officers are therefore encouraged to:-

- Clarify the extent of any limits to their power to act on behalf of the Council;
- Notify the Monitoring Officer if the association is proposing to take a course of action which is disadvantageous to the Council or which seems to involve considerable risk; or
- Ensure the association has clear rules and procedures for decision making, particularly for entering into contracts.

## **The Members Code of Conduct**

### **Duty to Observe the Code**

Councillors are obliged to observe the provisions of the Code whenever they conduct the business of the authority including when they act as a representative of the authority except insofar as it conflicts with any other lawful obligations to which that body is subject. So the position is that a Councillor would not be in breach of the Code in circumstances where they take action which would normally constitute a breach but they are legally obliged to act in that way as a result of their position within the outside body.

It is not easy to imagine such circumstances but one example might be where an authority was proposing to take action which would have an extremely adverse effect on the financial wellbeing of a company on which a Councillor sat as a Director. If the Councillor was privy to the information concerning the authority's plans s/he may find themselves in a position where s/he was compelled to disclose this potentially confidential information to the company due to his/her fiduciary duty to the company itself and duties arising under the Companies Act to avoid trading when insolvent. This is an extreme example but one which could feasibly arise.

### **Disclosable Pecuniary Interests**

Such interests are covered in paragraph 2 of the Council's Code of Conduct.

You must register and declare any Disclosable Pecuniary Interests that relate to your public duties as required by this Code, and set out below:-

<i>Interest</i>	<i>Description</i>
Employment, office, trade, profession or vacation	An employment, office trade profession or vocation carried on for profit or gain.

Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the Council ) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.</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>
Contract	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the Council –</p> <p>(a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the Council.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer.
Corporate tenancies	<p>Any tenancy where (to M's knowledge) –</p> <p>(a) the landlord is the Council; and (b) the tenant is body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where –</p> <p>(a) that body (to M/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>

(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 relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

You must, within 28 days of your taking office as a Member register any Disclosable Pecuniary Interests with the Council's Monitoring Officer, where the Disclosable Pecuniary Interest is yours, your spouse's or civil partner's, or is the Disclosable Pecuniary Interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners. Disclosable Pecuniary Interests will be recorded in the Council's Register of Members' Interests and made available for public inspection including on the Council's website at [www.somersetwestandtaunton.gov.uk](http://www.somersetwestandtaunton.gov.uk)

Within 28 days of becoming aware of any new Disclosable Pecuniary Interest or change to any such interest already registered, you must register details of that new interest or change in writing to the Council's Monitoring Officer.

Where any business of the Council, relates to or affects a Disclosable Pecuniary Interest and you attend any meeting of the Council, its Cabinet/Executive or any Committee, Sub-Committee, Joint Committee at which that business is to be considered, you must:-

- not seek to influence a decision about that business;
- disclose to that meeting the existence and nature of that interest no later than the start of the consideration of the business in which you have that interest, or (if later) the time at which the interest becomes apparent to you;
- withdraw from the meeting room or chamber as soon as it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from the Council's Monitoring Officer or Full Council.

Following any disclosure at a meeting or as part of a decision record, of a Disclosable Pecuniary Interest not on the Council's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of the disclosure at the meeting or in the decision record in order for the interest to be included in the register.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a Disclosable Pecuniary Interest. Additionally you must observe the restrictions



the Council places on your involvement in matters where you have a Disclosable Pecuniary Interest as defined by the Council and set out in the Code of Conduct.

### **Personal and Prejudicial interests**

**Personal Interests** these are also covered in paragraph 2 of the Code and are set out below:-

A Councillor will have a personal interest in any business of the authority where either it relates to or is likely to affect –

- (a) any body of which the Councillor is a member or in a position of general control or management and to which the Councillor has been appointed or nominated by the Authority;
- (b) any body which exercises functions of a public nature, is directed to charitable purposes or if its principal purpose includes influencing public policy or opinion (including any political party or trade union) and the member is in a position of general control or management;
- (c) Any employment or business carried on by the Councillor;
- (d) Any person or body who employs or has appointed the Member;
- (e) Any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by the Councillor in carrying out the Councillor's duties;
- (f) Any person or body who has a place of business or land in the authority's area, and in whom the Councillor has a beneficial interest in a class of securities of that person or body that exceeds a nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
- (g) Any contract for goods, services or works made between the authority and the member of firm of which the Councillor is a partner, a company of which the Councillor is remunerated director, or a person or body of the of the description of paragraph (f) above;
- (h) The interests of any person from whom the Councillor has received a gift or hospitality with an estimated value of £25;
- (i) Any land in the Councillor's authority's area in which the Councillor has a beneficial interest
- (j) Any land where the landlord is the Councillor's authority and the Councillor is a firm in which the Councillor is a partner, or remunerated director or a person/body of the description set out in paragraph (f) above is the tenant;
- (k) Any land in the authority's area for which the Councillor has a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (l) A decision in relation to that business might reasonably be regarded as affecting the Councillor's well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other Council Tax payers, rate payers or inhabitants of the Electoral Division or Ward, as the case may be, affected by the decision.

A 'relevant person' is a member of the Councillor's family, or any person with whom the Councillor has a close association; or any person/body who employs or appoints such person, any firm in which they are a partner or company in which they are directors or any person/body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000 or any body of a type described in (a) or (b) above.

### **Prejudicial interests**

If a Councillor has a personal interest then the Member should also consider whether they could also have a prejudicial interest as set out in paragraph 10 of the Code of Conduct.

A personal interest will also be a prejudicial interest in a matter if all of the following conditions are met:-

- a) the matter does not fall within one of the exempt categories of decisions;
- b) the matter affects your financial interests or the financial position of any person or body through whom you have a personal interest or relates to a licensing or regulatory matter; and
- c) A member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgment of the public interest.

The exempt categories are:-

Housing: if you hold a tenancy or lease with the authority, as long as the matter does not relate to your particular tenancy or lease;

School meals or school transport and travelling expenses; if you are a parent or guardian of a child in full-time education or you are a parent governor, unless it relates particularly to the school your child attends;

Statutory sick pay;

An allowance, payment or indemnity for Councillors;

Any ceremonial honour given to Councillors;

Setting Council Tax or precept;

If a Councillor has a prejudicial interest the Councillor will only be able to speak at a meeting where the matter is being discussed if members of the public are able to speak and will then need to leave the meeting for the duration of the debate and vote.

However if the Councillor only has a personal interest then he/she will be able to stay in the meeting, speak and vote.

## **Reporting Arrangements**

Councillors who represent the Council on outside bodies are required to submit a written report to Full Council annually on the activities of the organisation but should also provide regular updates in order to keep Councillors fully informed. The annual reports should be provided to Full Council in the April meeting of each Municipal Year.

The purpose of the reporting arrangements is to ensure that Councillors are fully informed of the activities of the outside body or organisation concerned the nature of the organisation's activities, and the impact of such activities on the local community and Council's service delivery.

It should be noted that Councillors may also be asked to attend a Scrutiny Committee should it be felt by any Councillor that the activities of the organisation should be scrutinised or reviewed.

Reports will be submitted in writing by the elected Councillor and, so far as is reasonably practicable, limited to one side of A4.

## **Further Advice**

Advice on the application of this protocol should be sought from the Monitoring Officer, Amy Tregellas on 01823 785034 or [a.tregellas@somersetwestandtaunton.gov.uk](mailto:a.tregellas@somersetwestandtaunton.gov.uk)



# **Somerset West and Taunton Council**

## **Annual Council – 24 May 2022**

### **Authorisation of the sealing or signing of documents**

**This matter is the responsibility of the Leader of the Council**

**Report Author: Amy Tregellas, Governance Manager and Monitoring Officer**

#### **1. Executive Summary / Purpose of the Report**

- 1.1 As per the Constitution, to ask the Council to note the officers that have been delegated authority to sign and seal relevant Council documents.

#### **2. Recommendations**

- 2.1 The Council approves the list of officers delegated to sign and seal Council documents as per the Constitution's Scheme of Delegation.

#### **3. Risk Assessment**

- 3.1 If the Council doesn't follow the Constitution, documents may not be legally binding

#### **4. Background and Full details of the Report**

- 4.1 The Somerset West and Taunton Council Constitution sets out the matters which the Council must consider at the Annual General Meeting.
- 4.2 The Officer Scheme of Delegation sets out that the officers delegated authority to sign and seal documents are as follows:
- Chief Executive
  - Directors
  - Assistant Directors
  - Monitoring Officer
  - Deputy Monitoring Officer(s)

#### **5. Links to Corporate Strategy – N/A**

#### **6. Finance / Resource Implications - None**

#### **7. Legal Implications – To ensure that appropriate officers sign and seal relevant documents to ensure that they are legally binding**

#### **8. Climate and Sustainability Implications - None**

#### **9. Safeguarding and/or Community Safety Implications - None**

10. **Equality and Diversity Implications** - None
11. **Social Value Implications** - None
12. **Partnership Implications** - None
13. **Health and Wellbeing Implications** - None
14. **Asset Management Implications** - None
15. **Data Protection Implications** - None
16. **Consultation Implications** - None

**Scrutiny/Executive Comments / Recommendation(s)** – N/A as this is a Council Report

**Democratic Path:**

- **Scrutiny / Corporate Governance or Audit Committees** – No not applicable as Council function only
- **Cabinet/Executive** – No not applicable as Council function only
- **Full Council** – Yes

**Reporting Frequency:** **Annually**

**Contact Officers**

Name	Amy Tregellas
Direct Dial	0300 304 8000
Email	a.tregellas@somersetwestandtaunton.gov.uk

*Report Number: SWT 63/22*

## **Somerset West and Taunton Council**

### **Annual Council – 24 May 2022**

#### **Decision taken under the urgency rules regarding the Discretionary Council Tax Energy Payment Scheme**

**This matter is the responsibility of Executive Councillor Member Ross Henley**

**Report Author: Paul Harding, Strategy Specialist**

#### **1 Executive Summary**

- 1.1 This report details the decision taken on 5 May 2022 by the Chief Executive under the urgency rules contained within paragraph 5 of the Budget and Policy Framework within the Council's Constitution. The Decision is attached as Appendix A.
- 1.2 In summary, the decision was to agree the rules around how we will use £292k that we have received from Government, to operate a discretionary Energy Rebate Scheme.
- 1.3 Whilst the hardstop date for final payment under the discretionary scheme is not until 30 November 2022, the Government's expectation, and that of our customers in need of this help, is that payment would commence very much sooner. The Government's announcement in February 2022 as well as the leaflet about the Energy Rebate schemes, which the Government required all Council's to enclose with their 2022/23 Council Tax bills in March, added to the sense of expectation.
- 1.4 The Government took until 16 March to provide written clarity around the scope of discretion that we and other Billing Authorities had in relation to the design of our discretionary scheme. On receipt of this we promptly crystallised our thinking, undertook modelling and developed what we believe is an equitable scheme which was administratively efficient and targets support where it is most needed.
- 1.5 We worked collaboratively with the other Somerset Districts to design schemes that had common principles (although there is some variance in the level of awards to be made across districts, as a direct result of differing caseloads and funding amounts from Government).
- 1.6 A prompt decision approving the scheme was a prerequisite to designing the systems and processes that will enable payment to be made to our customers

as soon as possible.

- 1.7 The proposed rules and process for the discretionary scheme were therefore agreed under the urgency provisions by the Chief Executive with the support of the Chair of Corporate Scrutiny. The relevant Portfolio Holder, Cllr Henley, was also consulted.
- 1.8 The Constitution provides that, where urgent decisions are taken, a full report is made to the next available Council meeting to explain the decision, the reasons for it and why it had to be treated as a matter of urgency.
- 1.9 There are no direct climate implications arising from these decisions.

## **2 Recommendations**

- 2.1 Council is asked to note the decision made by the Chief Executive on 5 May 2022 under paragraph 5 of the Budget and Policy Framework within the Council's Constitution in relation to the use of the £292k funding received from Government.

## **3 Risk Assessment**

- 3.1 There is a reputational risk to the Council if we were to be slow in designing and publishing our discretionary scheme.
- 3.2 There is a risk to households that they could be put in debt or cannot afford to keep themselves warm, if they do not receive this support quickly, at a time of highest energy use and high prices.
- 3.3 There was a financial risk to the Council if our discretionary scheme did not limit total spending to the value of the grant awarded, as SWT would have to fully fund any overspend.

## **4 Background and Full Details of the Report**

- 4.1 On 3 February 2022, the Government announced measures to help protect millions of households from rising energy costs.
- 4.2 As part of these measures SWT were, in early April 2022, provided with £292k with which to develop a discretionary energy rebate scheme.
- 4.3 This discretionary pot is in addition to the £8m which the Government has made available to SWT to operate the mandatory Energy Rebate Scheme. That scheme is focused on Households within Council Tax bands A to D who, with few exceptions, have, or will receive a flat rate £150 one-off payment.

### **Details of our discretionary scheme**

- 4.4 In designing our discretionary scheme we have focused on five objectives:



- Delivers on the Government and public's expectation of quickly mobilising and delivering support to hard pressed households.
- Uses the means-tested Council Tax Support scheme as a consistent basis of identifying low income/low capital households, and consequently those most likely to be impacted the most from rising energy bills.
- Manages expenditure within the funding provided.
- Is straightforward to administer.
- Also provides support for households in difficult circumstances which cannot be captured within a rigid rules framework.

4.5 We designed our discretionary scheme with three parts, each targeting support on different groups:

1. A single one-off payment of £150 will be awarded to any household who resides in a dwelling with a Council Tax band E to H and who are in receipt of Council Tax Support (CTS).

2. A single "top up" payment of £24 to all households within Council Tax Bands A to H who receive a £150 Council Tax Energy Rebate from either the main or discretionary scheme, and who are in receipt of CTS

3. A General Energy Support Fund of £5k, plus the balance after making payment of 1. and 2. above.

This part will be available only to those households not qualifying for an energy rebate payment under 1. or 2 above or the main scheme, is directly responsible for household energy bills; and are experiencing financial hardship and struggling to meet their energy costs

The payment under this part will be £150 and will be made upon referral by a partner agency (such as the CAB for example) rather than by direct application to the Council. This part of the scheme will end once all available funds have been exhausted, or 30 November 2022, whichever is the sooner.

## **5 Links to Corporate Strategy**

5.1 The effective and quick distribution of grant funding supports the community objectives in our strategy.

## **6 Finance / Resource Implications**

6.1 The grant funding is provided by Government and they have also provided new burdens funding to help towards administration costs. The discretionary scheme has been designed in such a way so as not to exceed the funding that has been provided.

## **7 Legal Implications**

7.1 The decision-making process for agreeing the allocation of the funding for the stated purpose is in alignment with the Constitution.

## **8 Climate and Sustainability Implications**

- 8.1 There are no specific climate or sustainability implications relating to this decision.

## **9 Safeguarding and/or Community Safety Implications**

- 9.1 There are no direct safeguarding or community safety implications relating to this decision.

## **10 Equality and Diversity Implications**

- 10.1 An equality impact assessment has been undertaken. No disproportionate impacts have been identified to affect any of the protected groups.

## **11 Social Value Implications**

- 11.1 There are no specific social value implications relating to this decision.

## **12 Partnership Implications**

- 12.1 We have worked closely with other Somerset Local Authorities to broadly align schemes.
- 12.2 Our discretionary scheme includes a General Energy Support Fund that can be accessed on referral from partner agencies (such as, but not limited to, the CAB, multi-agency teams, village agents) where, in their opinion the household is, or is likely to, face significant challenges in meeting their home energy bills

## **13 Health and Wellbeing Implications**

- 13.1 The grant funding is specifically intended to support households meet their home energy costs. By targeting our scheme on households with low incomes and capital we hope that this will help mitigate fuel poverty and enable households to keep warm and be able to prepare hot meals etc.

## **14 Asset Management Implications**

- 14.1 There are no asset management implications relating to this decision.

## **15 Data Protection Implications**

- 15.1 There are no specific data protection implications relating to this decision.

## **16 Consultation Implications**

- 16.1 The proposed scheme was discussed with the relevant Portfolio Holder and the Chair of Corporate Scrutiny as well as relevant partner agencies.

## **17 Scrutiny Comments / Recommendation(s)**

17.1 This decision was taken under the urgency rules within the Constitution and, as such, were not formally considered by Scrutiny. In accordance with the Constitution, the Chair of Corporate Scrutiny was consulted regarding the requirement for urgent decisions and consented to the decision being made by the Chief Executive.

**Democratic Path:**

- **Scrutiny / Corporate Governance or Audit Committees – No**
- **Executive – No**
- **Full Council – Yes**

**Reporting Frequency:** ☐ **Once only**

**List of Appendices**

Appendix A	Record of Decision taken by the Chief Executive on 5 May 2022
Appendix B	SWT Discretionary Energy Rebate Scheme
Appendix C	Equality Impact Assessment

**Contact Officers**

Name	Paul Harding, Strategy Specialist
Direct Dial	01823 218751
Email	p.harding@somersetwestandtaunton.gov.uk



# Record of Decision taken by Chief Executive

**Decision title:** Discretionary Energy Rebate Scheme

**Chief Executive making the decision:** Andrew Pritchard

**Author Contact Details:** Paul Harding  
Tel: 01823 218751  
e-mail: [p.harding@somersetwestandtaunton.gov.uk](mailto:p.harding@somersetwestandtaunton.gov.uk)

**Date of Decision:** 5 May 2022

## Details of decision:

The Chief Executive has agreed to a local discretionary energy rebate scheme.

£292,200 funding for this discretionary scheme has been provided by Government to provide financial support to households that are struggling with the rising cost of their household energy bills.

This decision has been taken in accordance with the urgent decisions provision contained in paragraph 5 of the Budget and Policy Framework of the Council's Constitution because it is not practical to convene a quorate Full Council meeting within the required timeframe.

The Chair of the Corporate Scrutiny Committee, Cllr Wren, has been consulted and agrees that this decision is required as a matter of urgency and that it is appropriate for it to be made under the urgency provisions. A report will be made to the next available Full Council meeting to explain the reasons for the urgent decision.

## Background

On 3 February 2022, the Government announced measures to help protect millions of households from rising energy costs.

As part of these measures in early April, SWT were provided with £292,200 with which to develop a discretionary energy rebate scheme.

This discretionary pot is in addition to the £8m which the Government has made available to SWT to operate the mandatory Energy Rebate Scheme. That scheme is focused on Households within Council Tax bands A to D who, with few exceptions, have, or will receive a flat rate £150 one-off payment.

We have a fairly free hand in designing our discretionary scheme and have developed it collaboratively with the other Somerset districts.

## Government guidance

The guidance can be viewed at:  
[Support for energy bills - the council tax rebate 2022-23: billing authority guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/support-for-energy-bills-the-council-tax-rebate-2022-23-billing-authority-guidance)

## Scheme agreed by this decision

Our proposed scheme has 3 parts:

1. A single one-off payment of £150 will be awarded to any household who resides in a dwelling with a Council Tax band E to H and who are in receipt of Council Tax Support (CTS).
2. A single “top up” payment of £24 to all households within Council Tax Band A to H who receive a £150 Council Tax Energy Rebate from either the main or discretionary scheme and who are in receipt of CTS
3. A General Energy Support Fund of £5k, plus the balance after making payment of 1. and 2. above.

This part will be available only to those households not qualifying for an energy rebate payment under 1. or 2 above or the main scheme and is directly responsible for household energy bills; and are experiencing financial hardship and struggling to meet their energy costs

The payment under this part will be £150 and will be made upon referral by a partner agency (such as the CAB for example) rather than by direct application to the Council.

#### **Reasons for proposed decision:**

The decision provides an approach to distributing the discretionary grant funding which:

- Delivers on the Government and public’s expectation of quickly mobilising and delivering support to hard pressed households.
- Uses the means-tested Council Tax Support scheme as a consistent basis of identifying low income/low capital households, and consequently those most likely to be impacted the most from rising energy bills.
- Manages expenditure within the funding provided.
- Is straightforward to administer.
- Also provides support for households in difficult circumstances which cannot be captured within a rigid rules-based framework.

#### **Alternative options considered and rejected:**

We considered having an open scheme, whereby any household could apply to us for help.

This was dismissed as it would have been administratively resource-heavy and would have potentially exposed us to thousands of applications which would have taken a considerable time to process and would have greatly impacted on our ability to manage our core workload.

We also considered restricting payments under part 2 of this scheme to working age Council Tax Support recipient households, on the basis that pensioner households qualified for Winter Fuel Allowance payments to help with their energy costs. This would have allowed us to award a higher financial top-up to working age households. However, we felt this could have been, or appeared to have been, potentially discriminatory.

We also considered just awarding the top-up in part 2 of our scheme to only those households that were in receipt of maximum levels of Council Tax Support, as these potentially had the very lowest income and capital levels. We were however, concerned that this would limit the number of people that we could help, and exclude many low income households within the Council Tax Support scheme from an energy rebate top-up.

The below has been completed:	Name(s)	Date
Relevant Portfolio Holder(s) consulted	Cllr Henley	31 March 2022
Chair of Corporate Scrutiny Committee	Cllr Wren	6 April 2022
<b>The following are if appropriate / applicable: Yes/No. If yes the implications should be attached to this decision notice.</b>		
Finance implications	No, as the scheme allows us to keep the cost within the funding provided	
Legal implications	No	
Links to corporate aims	Yes, the effective and quick distribution of grant funding supports the community objectives in our strategy.	
Community Safety implications	No	
Environmental implications	No	
Equalities Impact	An EIA has been undertaken. No disproportionate impacts have been identified to affect any of the protected groups. Both pensioner and working age Council Tax Support recipients are included within the main part of the scheme. A portion of funding has been held back with which to help households outside of the Council Tax system, such as those who live in houses of multiple occupation, who are responsible for energy payments and who tend to have a younger age profile as well as households in higher bands where they are 'cash poor', for example.	
Safeguarding Implications	There are NO safeguarding implications	
Risk management	The scheme contains appropriate measures to help prevent fraud	
Partnership implications	The general energy support fund that we will make available can be accessed on referral from partner agencies.	

**Any conflicts of interest declared by Leader or Portfolio Holders consulted on the proposed decision. If Yes provide confirmation from Chief Executive to grant dispensation for the Leader's / Portfolio Holder's views to be considered.**

### **Financial Implication Summary**

The funding for this scheme (£292k) is provided by Central Government. Our scheme has been designed in a way that prevents us from spending more than the allocated funding.

Central Government have provided funding under the New Burdens funding arrangements toward the administration costs.

### **Decision Maker**

**I am aware of the details of this decision(s), considered the reasons, options, representations and consultation responses and give my approval / agreement to its implementation.**

**Signed:**



**Name:** Andrew Pritchard

**Date:** 5 May 2022

Note – This decision record is for decisions taken by Chief Executive/Director. The decision(s) can be implemented in accordance with the approved delegations.

**Note:** A copy should also be sent to the Governance Team – [governance@somersetwestandtaunton.gov.uk](mailto:governance@somersetwestandtaunton.gov.uk)



**The Discretionary Council Tax Energy Rebate  
Scheme  
2022-23**

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## Definitions

The following definitions are used within this document:

**‘Chargeable Dwelling’;** means any dwelling that appears on the Council’s Council Tax Valuation List on 1 April 2022;

**‘Council Tax Exemption or Exempt Dwelling’;** means any chargeable dwelling which is determined by the Council as exempt from Council Tax as prescribed by the Council Tax (Exempt Dwellings) Order 1992 as amended;

**‘Council Tax Energy Rebate Scheme or Mandatory Scheme’;** means the scheme announced by the Secretary of State for Levelling Up, Housing and Communities on 3 February 2022 as part of a package of support for rising energy costs;

**‘Council Tax Payer or Liable Person’** means the liable person determined by the Council as being responsible for Council Tax under section 6 of the Local Government Finance Act 1992;

**‘Council Tax Reduction (or Support)’** means any entitlement awarded under section 13A 1(A) of the Local Government Finance Act 1992;

**‘Discretionary Scheme or Fund’;** means the scheme determined by the Council in line with the guidance issued by the Department for Levelling Up, Housing and Communities announced on 3 February 2022;

**‘Effective Date ;** means the effective date of this scheme. The effective date shall be the situation as at the end of the day on 1 April 2022

**‘Empty Dwelling (or premises)’** means any dwelling that is not deemed to be the sole or main residence of a person and are substantially unfurnished;

**‘Liability for Owner’;** means any dwelling determined to fall within the Council Tax (Liability for Owners) Regulations 1992, for example, House in Multiple Occupation or Residential Care homes;

**‘Mandatory Scheme’;** means the scheme determined by Government in line with the guidance issued by the Department for Levelling Up, Housing and Communities announced on 3 February 2022;

**‘Second Home’** means any dwelling not deemed to be the sole or main residence of the liable person and which is furnished as defined by the Council Tax (Prescribed Class of Dwellings) (England) Regulations 2003 as amended; and

**‘Sole or main residence’** means the dwelling determined by the Council to be the sole or main residence of a person.

## **1.0 Purpose of the scheme and background.**

- 1.1 The purpose of this policy is to determine eligibility for a payment under the Council's Discretionary Council Tax Energy Rebate Scheme(the 'Discretionary Scheme').
- 1.2 The scheme has been designed based on general guidance issued by the Secretary of State for Levelling Up, Housing and Communities on 3<sup>rd</sup> February 2022. However, it is separate to the mandatory Council Tax Energy Rebate Scheme which is largely determined by Government
- 1.3 The Council's Discretionary Scheme is part of a package of support for households in respect of rising energy costs.
- 1.4 Government has determined that Councils can decide locally how best to make use of the discretionary funding to provide payments to other households who are energy bill payers but not covered by the mandatory Council Tax Rebate. However, Government has stated that occupants of class M (student halls) are unlikely to be eligible for discretionary support, unless they are exposed to rising energy prices in a similar way to other households and discretionary support should **not** be offered to occupants of property in exemption class O, where the Ministry of Defence will provide cost of living support.

## **2.0 Funding**

- 2.1 Government has provided funding to the Council; however, all payments will have to be made prior to the 30 November 2022 which is the deadline for this scheme.

## **3.0 Eligibility criteria and awards**

### **Basic eligibility**

- 3.1 The Council has decided that the payments will be made provided:
  - (a) the household has their sole or main residence in a dwelling at the close of business on 1 April 2022; and
  - (b) the Council Tax liable person is not a local authority, a corporate body or other body such as a housing association, the government or governmental body.

### **Awards**

- 3.2 Where the criteria in 3.1 (a) and (b) are met, the following awards will be made:
  - (a) A single one-off payment of £150 will be awarded to any household who resides in a dwelling with a Council Tax band E to H **and** who are in receipt of Council Tax Reduction (Council Tax Support);
  - (b) A single "top up" payment of £24 to all households within Council Tax band A to H who receives a £150 Council Tax Energy Rebate from either the main or discretionary scheme, and who are in receipt of Council Tax Reduction at close of business on 1 April 2022;

(c) An **Energy Support Fund** will be made available, (using £5k of the funds provided by Government plus the balance of funds remaining after paying 3.2 (a) and (b) above), that can be accessed on referral from partner agencies (such as, but not limited to, the CAB, village agents) where, in their opinion the household is, or is likely to, face significant challenges in meeting their home energy bills. Payments under this part will be up to £150 per household. The recipient must be directly responsible for the payment of home energy bills and not be eligible to receive an energy rebate payment from the council under 3.2(a) or (b) of this discretionary scheme. This part of the scheme will end once all available funds have been exhausted or 30 November 2022, whichever is the sooner

3.3 In the case of 3.2(a) and (b), households in Council Tax band E who receive a Reduction for Disability in accordance with the Council Tax (Reduction for Disabilities) Regulations 1992 (Disabled Person Reductions), will be treated as being in Council Tax band D.

3.4 In the case of 3.2 (c ), payment shall be made following referral by one of the Council's partner agencies (subject to the availability of funds)

3.5 For the purpose of the discretionary scheme, a household is a person or group of persons occupying a single dwelling, as defined in section 3 of the Local Government Finance Act 1992.

### **Effective date**

3.6 The effective date for this scheme is 1 April 2022. The Council will determine eligibility based on the position at the end of that day.

### **Exclusions**

3.7 The following households are excluded from this scheme:

- A property that is not a person's sole or main residence;
- A property that is deemed to be a second home for Council Tax purposes;
- An unoccupied property (for the purposes of Council Tax);
- Occupants of Council Tax exemption class M (Halls of Residence); and
- Occupants of property in Council Tax exemption class O, (Ministry of Defence).

### **Alterations to liability or the Council Tax Band**

3.8 Where the Council has reason to believe that the information they hold about the valuation list, liable taxpayer(s) or residents' circumstances in respect of 1 April 2022 is inaccurate, it will withhold the payment and take reasonable steps to determine the correct information.

3.9 Where records relating to the liable taxpayer(s) or the residents' circumstances in respect of 1 April 2022 are retrospectively updated, the Council will take reasonable steps to either pay the discretionary award or potentially reclaim any payment made.

- 3.10 In any case, where the Council Tax band of the chargeable dwelling is amended retrospectively after 1 April 2022, for example where a successful appeal is made to the Valuation Office Agency (VOA) that concluded after this date, the Council is not required either to pay any discretionary award or to reclaim any payment made.

## **Eligibility Disputes**

- 3.11 The decision of the Council on any eligibility matter will be final. Should any applicant feel aggrieved by any decision, then matters will be dealt with through the Council's complaints procedure. Full details are available on the Council's website.

## **4.0 How the Council Tax Rebate will be paid**

- 4.1 Where the Council determines that all of the eligibility criteria are met in full, payment will be made to the household as defined within section 3 above. It should be noted that, **only one discretionary payment** will be made per household, regardless of the number of occupants or liable Council Taxpayers.

## **Direct Debit payers**

- 4.2 Where the Council holds a current direct debit instruction for a liable Council Taxpayer of an eligible household, payment will be made using the bank account details held. Payments will be made as soon as practicable.
- 4.3 The Council is required to verify that the bank details held are those of the eligible household and where multiple residents of an eligible household are jointly and severally liable for Council Tax, the full payment will be made to the account for which the direct debit is held only. Payment of the award, however, is for the benefit of the household as a whole.
- 4.4 No payment will be made where the name on the bank details does not match the person / household without checks being made and suitable assurance provided that payment is going to the eligible person. Should the Council require additional information in order to establish the correct person to receive the payment, it is expected that the household provides all necessary details as soon as possible. Further details of how this request will be made and responsibilities to supply such information are detailed below.
- 4.5 It should be noted that the award will be paid on the assumption that the person receiving the payment is eligible (or would have been if the property were not exempt) and that the property meets the criteria on 1 April 2022 as defined with section 3 above.

## **Where the Council does not hold current a direct debit instruction for an eligible household**

- 4.6 Where the Council does not hold a current direct debit instruction for an eligible household, it will make reasonable efforts to contact the household and obtain the necessary bank details.
- 4.7 Where the Council is unsuccessful in contacting the household but where it is of the opinion that the household meets the eligibility criteria, the discretionary award will be credited to the Council Tax account if appropriate.
- 4.8 In all cases, the Council must ensure that payments are made correctly and where appropriate, require households to verify that that they are eligible for the payment. Where no such verification can be made or where a household fails to respond to the Council's request, no payment whatsoever shall be made.

## **5.0 Provision of information to the Council**

- 5.1 Residents, owners and managing agents should note that the Council has powers available to it under Regulation 3 (1) (c) of the Council Tax (Administration and Enforcement) Regulations 1992, to request such information to determine the correct liable person for Council Tax purposes. Government has stated that these powers may also be used for Council Tax Rebate purposes.
- 5.2 Failure to respond to such a request, without a reasonable excuse, within 21 days could lead to penalties being imposed. The Council therefore encourages all such persons to provide any requested information as soon as possible.

## **6.0 Scheme of Delegation**

- 6.1 The Council has approved this scheme. The Council's Section 151 Officer is authorised to make technical policy amendments to ensure the scheme meets the criteria set by the Government and the Council.

## **7.0 Notification of Decisions**

- 7.1 All Council Tax Energy Rebate payments shall be made by the Revenues and Benefits Service.
- 7.2 Where necessary all decisions made shall be notified to the liable person either in writing or by email.

## **8.0 Taxation and the provision of information to Her Majesty's Revenue and Customs (HMRC)**

- 8.1 The Council does not accept any responsibility in relation to a taxpayer's HMRC tax liabilities and all taxpayers should make their own enquiries to establish any tax position.

## **9.0 Managing the risk of fraud**

- 9.1 The Council will not accept deliberate manipulation of this policy or fraud. Any person caught falsifying information to gain a discretion payment will face prosecution and any amount awarded will be recovered from them.

## **10.0 Recovery of amounts incorrectly paid**

- 10.1 If it is established that **any** payment has been made incorrectly due to error, misrepresentation or incorrect information provided to the Council by a taxpayer or any other person, the Council will look to recover the amount in full.

## **11.0 Data Protection and use of data**

- 11.1 All information and data provided by applicants shall be dealt with in accordance with the Council's Data Protection policy and Privacy Notices which are available on the Council's website.



# Somerset Equality Impact Assessment

Before completing this EIA please ensure you have read the EIA guidance notes – available from your Equality Officer

<b>Organisation prepared for</b>	Somerset West and Taunton		
<b>Version</b>	1.0	<b>Date Completed</b>	22/04/2022

## Description of what is being impact assessed

Our proposals for a discretionary energy rebate scheme are being impact assessed.

On 3 February 2022, the Government announced measures to help protect millions of households from rising energy costs.

As part of these measures SWT were, in early April 2022, provided with £292k with which to develop a discretionary energy rebate scheme.

Part 15 of the *Council Tax rebate – frequently asked questions* document, sent to Councils on 16 March 2022, clarifies that 'Councils can determine how best to use their Discretionary Fund to support those suffering financial hardship as a result of the rising cost of living.

Where councils consider it the best means of supporting those in financial difficulty, they can use the discretionary fund to offer carefully targeted 'top-up' payments to the most vulnerable households in bands A -D (for example, those on means tested benefits), or to offer support exceeding £150 per household under their discretionary scheme. The Government expects that all support from the Discretionary Fund is targeted towards those most likely to be suffering hardship as a result of the rising cost of living'.

In designing our discretionary scheme we have focused on five objectives:

- Delivers on the Government and public's expectation of quickly mobilising and delivering support to hard pressed households.
- Uses the means-tested Council Tax Support (CTS) scheme as a consistent basis of identifying low income/low capital households, (and consequently those most likely to be impacted the most from rising energy bills).
- Manages expenditure within the funding provided.
- Is straightforward to administer.

- Ringfences some of the funds available for households in difficult circumstances which cannot be captured within a rules-based framework.

We designed our proposed discretionary scheme with three parts:

1. A single one-off payment of £150 will be awarded to any household who resides in a dwelling with a Council Tax band E to H **and** who are in receipt of CTS.
2. A single “top up” payment of £24 to all households within Council Tax Band A to H who receive a £150 Council Tax Energy Rebate from either the main or discretionary scheme **and** who are in receipt of CTS
3. A **General Energy Support Fund** of £5k plus the balance after making payment of 1) and 2) above for those not qualifying under (1) or (2) or a main scheme payment **and**
  - i. Is directly responsible for household energy bills; **and**
  - ii. Is experiencing financial hardship and struggling to meet their energy costs

The payment under this part will be £150 and will be made upon referral by a partner agency (such as the CAB for example)

## Evidence

**What data/information have you used to assess how this policy/service might impact on protected groups?** Sources such as the [Office of National Statistics](#), [Somerset Intelligence Partnership](#), [Somerset’s Joint Strategic Needs Analysis \(JSNA\)](#), Staff and/ or [area profiles](#), should be detailed here

We have drawn upon published reports in relation to fuel poverty such as:

[Annual fuel poverty statistics report: 2022](#) (2020 data), [Fuel poverty factsheet](#) and [Sub-regional Fuel Poverty in England 2021 \(2019 data\)](#) in order to identify household characteristics /composition where fuel poverty is likely to be most prevalent.

In 2020, there were an estimated 13.2 per cent of households (3.16 million) in fuel poverty in England. The rate for the south west was lower at 10.6% and for SWT district was between 10% and 12%. This will have risen significantly during 2022 due to the huge rises in wholesale and retail energy prices.

Households that pay for their energy bills by prepayment are no longer the most likely to be fuel poor. The prepayment price cap contributed to this. Those on standard credit schemes (eg non-DD payers ) are most likely to be fuel poor. Those who pay their energy bills by direct debit are least likely to be energy poor.

Household composition - Single parent households are most likely to be fuel poor. However, couples over 60 have the largest average gap (the reduction in fuel bill that the average fuel poor household needs in order to not be classed as fuel poor).

Tenure – Households living in privately rented accommodation are most likely to be fuel poor

Employment - Households where the household reference person is unemployed are three times more likely to be in fuel poverty than the national average. Only roughly half of adults with a disability are in employment, compared to around 80% of non-disabled people (Labour Force Survey, LFS)

We have also drawn on our own Council Tax data to identify households in receipt of means tested benefits. In particular our [CTS scheme](#) data. This is a local means tested benefit scheme for people who have to pay Council Tax and are on a low income, with modest levels of capital.

Our CTS caseload is split broadly 60:40 working age caseload to pensioner age caseload. We have a responsibility to foster good relationships between people who share a protected characteristic and those who do not. There is a risk of harming the relationship between pensioners and working age claimants if we were to focus the discretionary energy support on just one of these caseload groups. Our proposal therefore seeks to treat both of these caseload groups equally.

Having examined the CTS data there is a correlation between the recipient base and those most likely to be in fuel poverty. Single parents, unemployed people and people with disabilities in particular were heavily represented within our caseload. This provides some assurance that using the means tested CTS caseload as the basis for eligibility for our proposed discretionary energy rebate scheme has sound logic and will reasonably target energy support toward households most likely to be in need of that support.

We do recognise however that there are likely to be some households experiencing fuel poverty that are outside of the Council Tax system or indeed outside of the CTS scheme.

In particular, younger people are more likely than older people to reside in Houses of Multiple Occupation (HMO). We hold no records of the number of people in this position. However, in many of these instances the resident will not be liable for payment of Council Tax and will not therefore qualify for the mandatory £150 energy support payment. Many will however be responsible for the payment of energy bills (often through a pre-payment meter). Therefore, to provide a possible route for these households to receive some support, our proposals include a general energy support fund which is not dependent upon the household being liable for the payment of Council Tax.

Similarly, there are likely to be 'asset rich' but 'cash poor' households who do not qualify for CTS, that occupy large, often poorly insulated homes which require a significant portion of the household income to heat. The properties are often in the higher Council Tax bands that do not attract the mandatory £150 energy support payment. Often these are occupied by older, rather than younger people, in more rural locations. Again, the proposed general energy support fund will provide a possible route for these households to receive some support

**Who have you consulted with to assess possible impact on protected groups?** If you have not consulted other people, please explain why?

We have not undertaken public consultation. This scheme is designed within the pre-election period and is being approved using the urgent decisions process within our Constitution given the expectation of both Government and communities to distribute this assistance as quickly as possible to help with the present cost of living crisis; significantly caused by rising home energy prices.

### Analysis of impact on protected groups

The Public Sector Equality Duty requires us to eliminate discrimination, advance equality of opportunity and foster good relations with protected groups. Consider how this policy/service will achieve these aims. In the table below, using the evidence outlined above and your own understanding, detail what considerations and potential impacts against each of the three aims of the Public Sector Equality Duty. Based on this information, make an assessment of the likely outcome, before you have implemented any mitigation.

Protected group	Summary of impact	Negative outcome	Neutral outcome	Positive outcome
Age	<p>It is believed the outcome of this scheme will have a positive impact on people of any age that are in receipt of CTS and are responsible for the payment of home energy bills, and will not negatively impact on people of particular ages or ranges or ages that fall outside of its scope.</p> <p>Some younger people however are more likely than older people to reside in Houses of Multiple Occupation (HMO). We hold no records of the number of people in this position. However, in many of these instances the resident will not be liable for payment of Council Tax and will not therefore qualify for the mandatory £150 energy support payment. Many will however be responsible for the payment of energy bills (often through a pre-payment meter). Therefore, to provide a possible route for these households to receive some support, our proposals include a general energy support fund which is not dependent upon the household being liable for the payment of Council Tax.</p> <p>Similarly, there are likely to be 'asset rich' but 'cash poor' households who do not qualify for CTS, that occupy large, often poorly insulated homes which require a significant portion of the household income to heat. The properties are often in the higher Council Tax bands that do not attract the mandatory £150 energy support payment. Often these are occupied by older, rather than younger people, in more rural locations. Again, the proposed general energy support fund will</p>			X

	provide a possible route for these households to receive some support.			
<b>Disability</b>	<p>People with a disability are less likely to be in full time paid employment and therefore be less resilient to the impact of significant increases in home energy bills and, as a consequence be more likely to be experiencing fuel poverty.</p> <p>It is believed the outcome of this scheme will have a positive impact on those within this group that are in receipt of CTS, and are responsible for the payment of home energy bills, and will not negatively impact those within this group that fall outside of its scope.</p>			X
<b>Gender reassignment</b>	<p>We hold no data on our Council Tax system to identify the names or numbers of current CTS applicants who share this protected characteristic. Gender reassignment is not a factor in any part of the assessment of CTS, or this scheme, and it is not considered to be a characteristic which requires greater assistance when assessing support.</p> <p>It is believed the outcome of this scheme will have a positive impact on those within this group that are in receipt of CTS and are responsible for the payment of home energy bills and will not negatively impact those within this group that fall outside of its scope</p>			X
<b>Marriage and civilpartnership</b>	<p>Marital or civil partnership status is not currently a factor in determining CTS, or this scheme, as it is not considered to be a characteristic that requires greater assistance when assessing support.</p> <p>It is believed the outcome of this scheme will have a positive impact on those within this group that are in receipt of CTS and are responsible for the payment of home energy bills and will not negatively impact those within this group that fall outside of its scope</p>			X

<b>Pregnancy and maternity</b>	<p>Pregnancy alone is not a factor in the current assessment of CTS, or this scheme, as it is not considered to be a characteristic that requires a higher level of support.</p> <p>It is believed the outcome of this scheme will have a positive impact on those within this group that are in receipt of CTS and are responsible for the payment of home energy bills and will not negatively impact those within this group that fall outside of its scope.</p>			X
<b>Race and ethnicity</b>	<p>Race is not a factor in the assessment of CTS , or this scheme, and it is not considered to be a characteristic that requires greater assistance when assessing support.</p> <p>It is believed the outcome of this scheme will have a positive impact on those within this group that are in receipt of CTS and are responsible for the payment of home energy bills and will not negatively impact those within this group that fall outside of its scope</p>			X
<b>Religion or belief</b>	<p>We do not hold data on religion or belief within our Council Tax or CTS records.</p> <p>Religion and belief is not a factor in any part of the assessment of CTS , or this scheme, as it is not considered to be a characteristic which requires greater assistance when assessing support.</p> <p>It is believed the outcome of this scheme will have a positive impact on those within this group that are in receipt of CTS and are responsible for the payment of home energy bills and will not negatively impact those within this group that fall outside of its scope</p>			X
<b>Sex</b>	<p>There are a greater number of female recipients of CTS within our caseload (either single, lone parents or part of a couple) than male recipients.</p> <p>The majority of lone parents in receipt of CTS are female. Lone parent households have been identified as being at highest risk of experiencing fuel poverty.</p> <p>Consequently, more females than males will benefit from payments under this scheme. This is not deliberate but is simply a product of</p>			X

	<p>the makeup of our caseload. However, gender will not be a direct factor in any part of the assessment of CTS, or this scheme, as it is not considered to be a characteristic that requires greater assistance when assessing support.</p> <p>For both men and women that are in receipt of CTS and are responsible for the payment of home energy bills the impact of this scheme is expected to be positive and will not negatively impact those within this group that fall outside of its scope</p>			
<b>Sexual orientation</b>	<p>We do not hold details of people's sexual orientation on our Council Tax records. Sexual orientation is not a factor in any part of the assessment of CTS, or this scheme, as it is not considered to be a characteristic which requires a higher level of support.</p> <p>It is believed the outcome of this scheme will have a positive impact on those within this group that are in receipt of CTS and are responsible for the payment of home energy bills and will not negatively impact those within this group that fall outside of its scope</p>			X
<b>Other, e.g. carers, veterans, homeless, low income, rurality/isolation, etc.</b>	<p>This scheme focuses on supporting those with low incomes and modest levels of capital that are, as a consequence, likely to be less resilient to the impact of significant increases in home energy bills and more likely to be experiencing fuel poverty. Consequently, those households on our Council Tax records that receive means tested CTS will be supported by this scheme. We do not believe this scheme will negatively impact those within these groups that fall outside of its scope.</p>			X



<b>Negative outcomes action plan</b> Where you have ascertained that there will potentially be negative outcomes, you are required to mitigate the impact of these. Please detail below the actions that you intend to take.				
<b>Action taken/to be taken</b>	<b>Date</b>	<b>Person responsible</b>	<b>How will it be monitored?</b>	<b>Action complete</b>
N/A				
<b>If negative impacts remain, please provide an explanation below.</b>				
<b>Completed by:</b>	Paul Harding			
<b>Date</b>	29 April 2022			



# **Somerset West and Taunton Council**

## **Annual Council – 24 May 2022**

**Formal delegation to the Parish Councils of Wellington, Pitminster and Milverton to determine specified types of planning application until 31 March 2023**

**This matter is the responsibility of Councillor Coles**

**Report Author: Alison Blom-Cooper, Assistant Director Strategic Place and Planning**

### **1 Executive Summary/Purpose of the Report**

- 1.1 This report seeks authorisation for the District Council as the Local Planning Authority to delegate to the three Parish Councils its powers to determine planning applications for development of the type set out in Paragraph 4.2 of this report. As part of the arrangement the three Parish Councils will agree to pay the sum of £150 per meeting for the attendance of a Planning Officer to decide any planning application delegated to them.

### **2 Recommendations**

- 2.1 Agree the formal delegation to the Parish Councils of Wellington, Pitminster and Milverton under S101 of the Local Government Act 1972 and S1 of the Localism Act 2011 to determine specified types of planning application as set out in paragraph 4.2 of this report and included in a delegation agreement until 31 March 2023.

### **3 Risk Assessment**

- 3.1 Any risk to the agreement to the delegation arrangements for determining planning applications by Parish Councils will be addressed by agreeing the recommendation set out in this report.

### **4 Background and Full details of the Report**

- 4.1 Following a pilot scheme in 1993 the former Taunton Deane Borough Council had in place the delegation of decision making of some planning applications to Parish Councils in the Taunton Deane area since 1994. Since the pilot scheme was first introduced it has been reviewed and renewed on a number of occasions, but it would seem that no formal decision was taken by SWT Full Council. We have been continuing to operate the delegation on an informal arrangement whereby officers attend the Parish Council meeting as they would normally do and the PC recommendation is then used by officers to determine the application under delegated powers. However a formal decision is a requirement as the Council's Constitution currently provides under Article 11.3.1 that the Council may delegate Non-Executive functions to another local authority. The determination of planning applications is a Non-Executive function and the power to

delegate to another local authority (in this case the Parish Councils) is reserved to Full Council. This report is therefore being brought to Full Council to renew the delegation arrangements with Wellington, Pitminster and Milverton Parish Councils until the 31 March 2023 and the establishment of the new Somerset authority.

4.2 As has been the practice in the delegation agreements with the Parish Councils operating from 1993 the list of proposed applications to be delegated to the Parish Councils is as follows:

- A.** Householder Applications (being applications within the curtilage of a dwelling house which require planning permission and are not a change of use including extensions, conservatories, loft conversions, dormer windows, alterations, garages, car ports or outbuildings, swimming pools, walls, fences, domestic vehicular accesses, footway crossovers, porches and satellite dishes BUT EXCLUDING applications relating to any work to two or more flats, applications to change the number of dwellings (flat conversions, building a separate house in the garden), change of use to part or all of the property to non-residential (including business) uses, anything outside the garden property (including stables if in a separate paddock).
- B.** Minor alterations to shops, community and business premises
- C.** Change of use within Class E(a) (display or retail sale of goods other than hot food), Class E(b) (sale of food and drink for consumption (mostly) on the premises), Class E(c) (financial services, professional services (other than health or medical services) and other appropriate services in a commercial, business or service locality) of the Town and Country Planning (Use Classes) Order 1987 (as amended), drinking establishments (sui generis) and hot food take-aways (sui generis)
- D.** Advertisements
- E.** The formation and alteration to existing accesses
- F.** Overhead electricity lines not exceeding 11kv
- G.** Temporary sitting of single caravans other than as agricultural workers dwellings or gypsy and traveller use.
- H.** Change of use from agriculture to domestic curtilage
- I.** Erection of stables on agricultural land

It should be noted that the proposed delegation specifically excludes Retrospective applications where work has already been completed and where an application for Listed Building or Conservation Area Consent is also required in addition to any application for planning permission or consent which falls within the above categories which fall within the above categories and that these will remain to be determined by the District Council.

4.3 If agreed, the Council will put in place signed delegation agreements with the Parish Councils which will set out the notification process and decision-making process to be followed. As for the Planning Committee meetings public speaking provisions for the

Parishes Councils will be similar. There is a requirement for all Parish Councillors who wish to determine planning applications to first receive planning training. A planning officer attends the Parish meetings as a formal advisor and must be present when applications are determined. A charge of £150 per meeting is made for the planning officer attendance and will be included in the delegation agreement.

## **5 Links to Corporate Strategy**

- 5.1 This proposal links to the high priority outcomes for the Council's Corporate Strategy 2020-2024 and the priority theme to ensure a transparent and customer focused council and the objective to enable greater participation by all Councillors and the public.

## **6 Finance/Resource Implications for Somerset Council in future years**

- 6.1 There are no future resource implications as the proposed delegation agreements would run to 31 March 2023. The cost of providing a planning officer in attendance at the meetings is paid by the relevant Parish Council.

## **7 Legal Implications**

- 7.1 The report is brought to full Council to enable the delegation of decisions on certain types of planning applications to be determined by the three Parish Councils in accordance with the requirements of legislation

## **8 Partnership Implications**

- 8.1 The three Parish Councils have all expressed an interest in maintaining the current decision making on planning applications and agreeing an updated delegation agreement

## **9 Health and Wellbeing Implications**

- 9.1 Effective and convenient local arrangements can contribute to the promotion of improved wellbeing for communities

## **10 Data Protection Implications**

- 10.1 The Council will comply with GDPR in respect of the determination of planning applications by the Parish Councils.

## **11 Consultation Implications**

- 11.1 Appropriate liaison has taken place with the three Parish Councils as part of the discussions about renewal of the delegation agreements.

### **Democratic Path:**

- **Scrutiny / Audit and Governance Committee – No**
- **Executive – No**
- **Full Council – Yes 24 May 2022**

**Reporting Frequency: Once only**

**Contact Officers**

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Report Number: SWT 65/22

## **Somerset West and Taunton Council**

### **Annual Council – 24 May 2022**

#### **Temporary Appointment of Members to Town and Parish Councils**

**This matter is the responsibility of Executive Councillor Ross Henley, Portfolio Holder for Corporate Resources**

**Report Authors: Mr Kevin Williams – Deputy Monitoring Officer (SWT) & Mrs Lesley Dolan – Principal Lawyer, SHAPE Legal and Deputy Monitoring Officer (SWT) – Marcus Prouse – SWT Governance Specialist**

#### **1 Executive Summary / Purpose of the Report**

- 1.1 Ordinary Town and Parish Council Elections were recently conducted in Somerset on 5<sup>th</sup> May 2022. There are occasions where due to resignations or lack of applications for vacancies at an election, a Parish or Town Council is unable to operate because it is inquorate. Under section 91 of the Local Government Act 1972 the Council has power to make an Order appointing temporary members to a parish council where due to the number of vacancies the council cannot function.
- 1.2 The appointees will usually be the local district ward or county division members and it is good administrative practice to adopt a procedure for delegating these appointments and the making of the necessary Order to a senior officer, so they can be made promptly where necessary rather than waiting for the next scheduled meeting of Full Council.
- 1.3 Before moving to temporary appointments, The Representation of the People Act 1983 Section 39 (1b) requires the District Council to conduct an additional poll after a void election. A void election is one where no, or an insufficient number, of persons are or remain validly nominated to fill a vacancy or vacancies, and so the returning officer must then order an election, which is to be within the period of 35 days of the first mentioned election. It is proposed that any required re-run of polls will take place on 23<sup>rd</sup> June 2022, which aligns with other District Councils intentions across Somerset.
- 1.4 Accordingly, the procedure set out at Appendix A authorising the Chief Executive to make an Order in consultation with Group Leaders, is recommended for approval.

#### **2 Recommendations**

- 2.1 Full Council is requested to approve the following:
  - a) Delegate the responsibility for the calling of any additional polls required after a Void Election where a Parish is inquorate to the Chief Executive as Returning Officer in line with the requirements of The Representation of the People Act 1983.
  - b) Delegate the responsibility for making temporary appointments to inquorate Parish

and Town Councils along with the making of the necessary Order to the Chief Executive in consultation with Group Leaders in line with the procedure set out in Appendix A.

- c) Approve the amendment of the Constitution to include the recommended delegations above at a) and b) as a function of the Chief Executive at 4.2 on Page 44 of the SWT Constitution under Responsibility for Functions.

### **3 Risk Assessment**

- 3.1 No adverse impacts have been identified as a result of this report. The proposed procedure will help to support local Councils to continue to operate and provide services to their local communities.

### **4 Background and Full details of the Report**

- 4.1 Ordinary elections to Parish Councils take place every four years at the same time as the District Council election. During the four-year period between the ordinary elections, Parish Councillor casual vacancies arise on a regular basis and can be filled either by election or co-option in accordance with relevant legislation.
- 4.2 A Parish Council must be quorate in order to operate. A quorum is defined as being one third of the total number of members of the relevant Council subject to a minimum of three.
- 4.3 There may be occasions when a Parish Council is unable to operate due to resignations or insufficient candidates for election. While a Parish Council can operate with one or two vacancies, if a number of vacancies arise at the same time there is a risk that the Council could become inquorate.
- 4.4 Under section 91 of the Local Government Act 1972 the Council has power to make an Order appointing temporary members to a Parish Council where due to the number of vacancies the council cannot function.
- 4.5 The appointees will usually be the local district ward or county division members and it is good administrative practise to adopt a procedure for delegating these appointments and the making of the necessary Order to a senior officer, so they can be made promptly where necessary rather than waiting for the next scheduled meeting of Full Council.
- 4.6 Section 39(1b) of the Representation of the People Act 1983 on void Local Elections outlines the following;
- 4.7 *(b)no person is or remains, or an insufficient number of persons are or remain, validly nominated to fill the vacancy or vacancies in respect of which the election is held, the returning officer shall order an election to fill any vacancy which remains unfilled to be held on a day appointed by him. That day shall be within the period of 35 days (computed according to section 40 below) beginning with the day fixed as the day of election for the first mentioned election.*
- 4.8 In practical terms the effect of this is to bind the District Council to conducting an additional poll before it can move to make any temporary appointments. Further additional polls would be at the discretion of the Returning Officer. A proposed process is set out at Appendix A to this report. The procedure would only be used where the



Parish Council advises that it cannot continue its business because it is inquorate. It is proposed that the authority to appoint temporary Members be delegated to the Chief Executive in consultation with Group Leaders and to update the Constitution accordingly.

## **5 Links to Corporate Strategy**

- 5.1 This report links to a key theme of the Corporate Strategy – A transparent and customer focused Council, as the proposed procedure will help to support local Councils to continue to operate and provide services to their local communities.

## **6 Finance / Resource Implications**

- 6.1 There would be minor implications relating to this report. Travel costs would be payable to any member appointed on a temporary basis to a Parish or Town Council as this is a role, they are undertaking on behalf of the District Council. However, the overall impact is likely to be minimal.

## **7 Legal Implications**

- 7.1 Section 91(1) of the Local Government Act 1972 authorises the District Council to make an Order to appoint Members to a Town or Parish Council to ensure it is quorate and can progress business and operate lawfully. Such appointments can be made on a temporary basis until the vacancies on the relevant Council have been filled.
- 7.2 S.101 of the Local Government Act 1972 sets out the arrangements for the discharge of functions by local authorities. It confirms that a local authority may arrange for the discharge of any of its functions by a committee, sub-committee or an officer of the authority.

## **8 Equality and Diversity Implications**

- 8.1 None as a result of this report.

## **9 Partnership Implications**

- 9.1 This report necessarily involves partnership working with any affected Parish or Town Councils.

### **Democratic Path:**

- **Full Council – Yes**

**Reporting Frequency: Once only**

### **List of Appendices (background papers to the report)**

Appendix A	Draft Procedure Note for making temporary appointments to Town and Parish Councils in the SWT area
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## Contact Officers

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### **Procedure for making temporary appointments to Town and Parish Councils**

This procedure enables Somerset West and Taunton Council to make an Order to appoint persons to Town and Parish councils in accordance with *Section 91 of the Local Government Act 1972*.

1. The Clerk to a Town or Parish council notifies Somerset West and Taunton Council that their authority is unable to operate due to being inquorate.
2. The Governance Team verifies the number of seats on that council and that it is inquorate. They also identify the number of appointments required in order for the Town or Parish council to be quorate and informs the Chief Executive.
3. In accordance with *Section 39 of the Representation of the People Act 1983* on Void Elections the Chief Executive as Returning Officer shall order an election to fill any vacancy which remains unfilled on a day appointed by them. If this process is unsuccessful in filling the required number of vacancies the Chief Executive has the discretion to order another election or move to making Temporary appointments in the prescribed way below.
4. The process proposes that members are offered the temporary position of Town/Parish Councillor in the following order until sufficient Members have been elected or co-opted to achieve a quorum:
  - a) District Councillor(s) for the ward in which the Parish/Town is located;
  - b) District Councillor(s) for adjacent wards to which the Parish/Town is located;
  - c) County Councillor(s) for the division in which the Parish/Town is located;
  - d) In consultation with Group Leaders, other Councillors will be considered and may include Town/Parish Councillors from adjacent Parishes.
5. Any Councillor may decline the appointment, in which case the offer of appointment to other Councillors will continue in the order listed above until a quorum has been achieved.
6. In accordance with section 91(3) of the *Local Government Act 1972* the Chief Executive will send two copies of the order to the Secretary of State. This will also be copied to the relevant town or parish Clerk.

