

APPENDIX D – ARTICLES AND TERMS OF REFERENCE

This covers Option 2, taking into account any changes that would result from the Council agreeing the recommendations set out in the Council Governance Arrangements Working Group Report and Update to the Constitution Report on 29 April 2021.

4 Article 4 – The Full Council

4.1 Functions of the Full Council

4.1.1 Only the Council will exercise the following functions:

- a) adopting and changing the Constitution;
- b) approving or adopting the Policy Framework, the Budget and any application to the Secretary of State in respect of any housing land transfer;
- 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) 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;

- k) confirming the appointment of the Head of Paid Service;
- l) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- m) making a request under Section 14A(1) (requests for single-member electoral areas) of the Local Government Act 1992 for single-member electoral areas;
- n) the passing of 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));
- o) the making of orders giving effect to recommendations made in a community governance review under the Local Government and Public Involvement in Health 2007 Act (Section 86);
- p) 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);
- q) 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;
- r) 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;
- s) approving supplementary budget allocations (whether revenue or capital budgets) at or above £250,000.00.
- t) Electing the Chair of the Council and appointing the Vice-Chair.
- u) Confirming the appointment of the Section 151 Officer and Monitoring Officer.
- v) Designating an officer to be the Returning Officer and Electoral Registration Officer.
- 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.

4.1.2 The Council will also exercise the following additional functions which may be discharged by Full Council itself or delegated 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).

4.2 Meanings

(a) Policy Framework

4.2.1 The Policy Framework means the following plans and strategies required by law:

- a) Crime and Disorder Reduction Strategy;
- b) Development Plan documents;
- c) Licensing Authority Policy Statement;

d) Plans and alterations that together comprise the Development Plan.

4.2.2 The Council has also decided to include the following in the Policy Framework:

- a) Corporate Plan;
- b) Housing Investment Programme;
- c) Asset Management Strategy;
- d) Community Strategy.

4.2.3 The Council has the power to vary the Policy Framework from time to time, provided it does so in accordance with any statutory guidance.

(b) Budget

- i. The Budget includes the allocation of financial resources to different services and projects, proposed reserves and contingency funds, the council tax base, setting the council tax, setting housing rents, decisions' relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

(c) Housing Land Transfer

- ii. Housing land transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

4.3 Council Meetings

- iii. There are four types of Council meeting:
 - 1. the Annual Meeting
 - 2. Ordinary Meetings
 - 3. Extraordinary Meetings

4. Special Meetings

and they will be conducted in accordance with the Council Procedure Rules of this Constitution as may be adopted and amended from time to time.

4.4 Responsibility for Functions

4.4.1 The Council will maintain and publish information on the responsibilities for the Council's functions, which are not the responsibility of the Executive as set out in the Constitution at 'Responsibility for Functions'.

7 Article 7 – The Executive (Leader and Executive)

7.1 Role

7.1.1 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.

7.2 Form and Composition

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

7.2.2 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

7.2.3 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.

7.2.4 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

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

7.2.6 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

7.2.7 Where a vacancy occurs in the office of Deputy Leader, the Leader of the Council must appoint another Executive Councillor to that role.

7.3 Other Executive Councillors

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

7.3.2 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.

7.4 Proceedings of the Executive

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

7.5 Responsibility for Functions

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

7.5.2 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.

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

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

6 Article 6 – Scrutiny Committees

6.1 Terms of Reference

6.1.1 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.

6.1.2 The Council will appoint at least two Scrutiny Committees 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 Committees are found in this Constitution.

6.2 General role

6.2.1 Within their terms of reference, Scrutiny Committees 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.

6.3 Specific Functions

(a) Policy Development and Review

6.3.1 Scrutiny Committees 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

6.3.2 Scrutiny Committees 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.

6.3.3 Scrutiny Committees 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

6.3.4 The Scrutiny Committees must report annually to Council on their work.

6.4 Proceedings of Scrutiny Committees

6.4.1 The Scrutiny Committees will conduct their proceedings in accordance with the Scrutiny Procedure Rules of this Constitution.

8 Article 8 – Regulatory and Other Committees

8.1 Regulatory and Other Committees

8.1.1 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.

8.2 Audit and Governance Committee and Standards Committee

8.2.1 The Council will appoint one or more committees that between them will undertake (a) the role of an Audit and Governance, (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, Executive, Officers under delegated authority, the Planning and Licensing Committees and other Council bodies, including joint bodies with other agencies and partnerships.

9 Article 9 – Ethical Standards Arrangements

9.1 Establishment

9.1.1 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.

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

a) Independent Person

9.1.3 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.

9.1.4 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).

9.1.5 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);

9.1.6 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.

9.1.7 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.

9.1.8 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.