

Somerset West and Taunton Council

Special Full Council – 25 October 2022

Urgent Changes to the Constitution

This matter is the responsibility of the Leader of the Council, Cllr F Smith-Roberts

Report Author: Lesley Dolan Deputy Monitoring Officer

1 Purpose of the Report

- 1.1 Under the structural change order issued as a Direction by the Minister under his delegated powers the Councils in Somerset have a duty to:

12.—(1) It is the duty of the Somerset Council and the district councils—

(a) to take, whether alone or in any combination, such steps as may be necessary to prepare for the transfer of the functions, property, rights and liabilities of the district councils;

(b) to consult and co-operate with each other in order to secure the economic, effective, efficient and timely transfer of those functions, property, rights and liabilities; and

(c) generally, to exercise their functions so as to further the purposes of this Order.

- 1.2 This duty to co-operate is broadly based and is a statutory duty. It includes the duty to co-operate in the setting up of the new Council.
- 1.3 In regard to that duty the County Council has invited the District Councils to consent to consultation in connection with pre-transfer redundancy consultation with Somerset West and Taunton Council (SWT) employees under the Trade Union and Labour Relations (Consolidation) Act 1992 (TULCRA).
- 1.4 In order to provide a valid consent the District Council would have to consider carefully how that was granted.
- 1.5 It would appear that there are not emergency provisions in the SWT Constitution that would allow for this authorisation to be signed.
- 1.6 A clause that would permit such authorisation and allow the District Council to deal with any other urgent matters under the Structural Change Order is as follows;

4.2 Powers of Chief Executive Officer

4.2.4 To be and to exercise the powers and duties of the Head of Paid Service under the Local Government and Housing Act 1989.

4.2.5 In cases of urgency or emergency, or in exceptional circumstances where meetings of the relevant committee/board are unable to be held, and after consultation with the Leader where reasonably practicable, to incur any expenditure or take any decision on behalf of the Council where in his/her opinion it would be impractical to implement the normal decision-making procedures.

(and make the current 4.2.4 To undertake any other functions necessary for the carrying out of the role of Chief Executive, within any existing legislative and policy constraints - 4.2.6.)

- 1.7 On that basis, the Members are requested to authorise the amendments to the Constitution in terms of the recital above. They are asked to approve this with immediate effect.
- 1.8 The reasons for the urgency is that for reasons connected with the New Council establishment this authority is required immediately in order to commence the first stage consultation and for the District Council to give a valid consent.

2 Recommendations

2.1 Full Council resolves to:

- a) To authorise the above amendment (detailed in section 1.6 of the report) to the Constitution.
- b) Given the urgency of the matter, to give authority to the Chief Executive Officer to consent to the relevant notice from the County Council forthwith, and;
- c) To take any further actions that may be necessary between now and 1 April 2023 required on an urgent basis in compliance with The Somerset (Structural Changes) Order 2022 and the Duty to co-operate in the setting up of the new Somerset Council.

3 Risk Assessment

- 3.1 Failure to update the Constitution in this way could impact on the work of giving effect to the Structural Change Order for the creation of the New Council.

4 Background and Full details of the Report

- 4.1 SWT Constitution sets out the following for matters to be taken under the Access to Information Procedure Rules:

5.2 Where there are special circumstances requiring an item to be added to the agenda after publication, the revised agenda will be open to inspection from the time the item

was added to the agenda.

5.3 Where reports are prepared after the summons to the meeting has been sent out, the Chief Executive shall make each report available to the public as soon as the report is completed and sent to Councillors

4.2 This proposed amendment would bring SWT's Constitution at the specific section on Chief Executive Powers, in alignment with the other District Councils.

5 Links to Corporate Strategy

5.1 Having an up to date and effective Constitution is a fundamental element of being a well managed Council.

6 Finance / Resource Implications

6.1 None arising from this report.

7 Legal Implications

7.1 None arising from this report.

Democratic Path:

- **Audit and Governance Committee – No**
- **Executive – No**
- **Full Council – Yes**

Reporting Frequency: Ad-hoc

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