

North Somerset Council

Report to the Council

Date of Meeting: 20 April 2021

Subject of Report: Constitution 2021

Town or Parish: None

Officer/Member Presenting: Assistant Director Governance & Monitoring Officer

Key Decision: N/A

Reason:

Not an Executive Decision.

Recommendation

That Council approves the changes to the Constitution referenced in this report and authorises the Assistant Director Governance & Monitoring officer to implement them.

1. Summary of Report

The report recommends changes to the Constitution to provide appropriate governance arrangements regarding the companies owned by the Council, to align officer establishment approvals with appointment approvals, to provide for the authorisation of external agents to undertake enforcement activity for the Council and to address recommendations from the planning peer review.

2. Policy

None

3. Details

Policy and scrutiny panels changes to address Council companies

3.1 Members are aware that the Council has recently established a company, North Somerset Environment Company Ltd., to undertake waste collection functions for the Council. The Council also owns two other companies, Inspire and Wyvern South West, both of which are inactive at present. The companies are governed by their articles of association which provide for decision making and operations within the companies but there are various matters (such as share issue, appointment of directors and senior staff, approval of business cases and dividend issues) which are reserved to the Council to decide as the shareholder.

3.2 Whilst the body corporate is the shareholder, a shareholder representative is required to exercise the shareholder powers and make decisions. It is recommended that this role be undertaken by the Executive Member for finance and performance whose portfolio covers corporate organisation. This will provide for separation in roles between the

Executive Member responsible for company administration and governance and the Executive Member(s) whose functional portfolio activities may be delivered by the company. The Leader and deputy Leader will need to consider this recommendation and decide upon it as Executive Member appointments and portfolios is a matter for them.

3.3 The policy and scrutiny panel terms of reference should also be considered in order to provide for company development and oversight. It is recommended that the company policy and scrutiny issues are separated from the policy development and scrutiny of any functions delivered by the company. This would be in accordance with recommendations in recent public interest reports related to companies in the ownership of Croydon and Nottingham councils where clear lines of demarcation and separation of roles were considered by external auditors to be inadequate.

3.4 Reviewing the panel terms of reference also gives the opportunity to consider realignment of panel activity with the organisational establishment restructures.

3.5 It is therefore recommended that:

3.5.1 the Strategic Planning, Economic Development and Regeneration Policy and Scrutiny Panel be renamed as Place Policy and Scrutiny Panel and its remit be amended to also include waste and recreational service functions.

3.5.2 the Community and Corporate Organisation Policy and Scrutiny Panel be renamed Partnerships, Corporate Organisation and Overview/Management Policy and Scrutiny Panel with its remit to include the council owned companies, external partnerships and regional governance as well as internal organisation and strategic financial affairs including capital projects. It is proposed that Climate Emergency remains with this panel to emphasise the cross council approach as well as external focus with partners. This panel would also preform the overview and management role across all panels ensuring then workplans and resources are focussed on council priority activity.

3.6 The revised terms of reference for all panels is shown in the appendix

Staffing establishment changes

3.7 Council in November last year agreed revised arrangements for recruitments to the officer establishment. The Employment Committee deals with senior appointments at Chief Executive, Director and statutory s151 and monitoring officer posts. Directors are authorised to appoint to posts up to and including grade JM4 and to posts above JM4 and below the Employment Committee appointments with prior approval of the Chief Executive. Changes to the officer establishment are authorised by directors up to JM4 provided costs are within allocated budgets. Changes to establishment above JM4 require report to the Executive unless approved as part of the budget process. It is recommended that the changes to establishment structure be aligned to the authorisation levels required for appointments with approval being required from Executive to any of those posts that would fall to Employment Committee for appointment.

Authorisation of persons other than officers to discharge functions

3.8 The officer delegations in Part 3 of the Constitution refer in a number of places (e.g. paragraphs 6.1 and 6.2 relating to planning and highways functions) to directors exercising all functions including the authorisation of officers under various enactments. These

delegations do not currently provide for directors to authorise persons other than officers of the Council to undertake functions despite various enactments (e.g. Clean Neighbourhoods and Environment Act 2005, as amended) making provision for functions to be discharged by such persons provided they are specifically authorised in writing. It is therefore recommended that provision is made for directors to be permitted to authorise persons other than officers of the Council to discharge functions where appropriate and permitted by legislation.

Recommendations from the planning peer review

3.9 Members will be aware that the Council recently invited a planning service peer review which was organised by the LGA with the Planning Advisory Service. A number of recommendations have been included in the peer review report which can be progressed by officers and members such as training requirements and reviews of structures and processes. Two recommendations would require approval of Council to implement as they would require changes to the Constitution. The first is a permanent reduction in the size of the Planning and Regulatory Committee. The review recognises that the current size of 13 appears to work well and a tighter more focussed Committee can assist in delivering the Place shaping aspirations. It is recommended that the committee size is set at 13. The second item requiring Council approval is a review of the public speaking arrangements. The report suggests allowing public to join MS teams and speak at Committee during the Covid regime and that public input should be at the start of relevant agenda items rather than all together at the start of the meeting. The first of these can be implemented by the chairman under current arrangements if the appropriate technical arrangements can be made but the second would require a change to standing order 17.17 which currently provides for public speaking to be at the start of meetings. It is recommended that standing order 17A be amended to allow for public speaking to be at the start of relevant agenda items or at the start of the meeting if the chairman determines it necessary to hold it at that point in the meeting.

4. Consultation

The proposals regarding company governance arrangements have been the subject of consideration by the Waste scrutiny working group and subjected to suitability testing by external consultants BDO.

It is proposed that Audit Committee undertake a further review of their effective operation in 6 – 12 months time to provide further assurance.

The recommendations related to the planning peer review arise from the review which itself undertook consultation internally and externally with interested parties.

5. Financial Implications

None

6. Legal Powers and Implications

None

7. Climate Change and Environmental Implications

None.

8. Risk Management

The company governance arrangements have been designed to avoid issues identified in public interest reports related to other councils as referenced in this report.

9. Equality Implications

N/A. The processes would not disproportionately affect protected characteristic groups.

10. Corporate Implications

None

11. Options Considered

Not to implement changes.

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Appendices:

Revised terms of reference for panels

Background Papers:

Company governance arrangements approved for NSEC Ltd.

External audit public interest reports related to Croydon and Nottingham councils and controlled companies.

ARTICLE 6 - POLICY AND SCRUTINY PANELS

Terms of reference

The Council will appoint the following Policy and Scrutiny Panels to discharge the functions conferred by section 21 of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000 in relation to the matters set out for each Panel.

Partnerships, Corporate Organisation and Overview/Management Policy & Scrutiny Panel –

External Partnerships

Crime and Disorder (in accordance with the requirements of the Police and Justice Act 2006)

Corporate organisation including:

- Human Resources and organisation development
- support services (internal and supplier provided)
- strategic communications and community engagement
- strategic financial planning
- organisational performance management

Strategic approach to procurement and contract management including capital projects

Council owned/controlled companies and organisations

Local and regional governance

Climate Emergency

Overview of policy & scrutiny function

workloads and resourcing (to include management of workplans for all policy and scrutiny panels and working groups)

Corporate service finance and performance

Children and Young People Services Policy & Scrutiny Panel –

Schools including Academies
Central Education Support
Early Years
Youth Service
Children's Services
Further & higher education liaison
Children's directorate finance and performance

Adult Services and Housing Policy & Scrutiny Panel –

Social Care for Adults
Housing Services
Adult services and housing finance and performance

Health Overview Policy & Scrutiny Panel –

National Health Service Scrutiny
Wider Health Issues apart from NHS – health promotion, addressing health inequalities, impact of local and national initiatives (drugs and alcohol, hospitals, mental health, primary care etc.)
Public Health issues for both adults and children
Regulatory services
Emergency planning
Public health directorate finance and performance

Place Policy & Scrutiny Panel

Regeneration – places and communities
Town and Country Planning
Highways planning and maintenance (including monitoring of highway related contractor services) and Transport (including public and home to school transport)
Parking strategy and car parks
Recreational Services
Tourism and Economic Development
Waste services
Environmental protection – flooding and marine environment
Heritage
Community Safety
Place directorate finance and performance