

Establishment of a Joint Scrutiny Committee in Somerset for the implementation of local government reorganisation

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Purpose of the Report

1. On 21 July 2021 the Secretary of State announced his decision to implement, subject to parliamentary approval, a proposal submitted by Somerset County Council for a single unitary council covering the whole of the administrative county of Somerset.
2. Following the Secretary of State's decision, the Executive of this Council together with the Cabinet/Executives of the Constituent Councils agreed the need for an LGR Joint Committee to be established to provide collaborative democratic oversight for the implementation of the new Unitary Council. The first meeting of that Committee took place on 5 November 2021.
3. The Terms of Reference for the LGR Joint Committee provided for the setting up of a Joint Scrutiny Committee ("JSC") to scrutinise the work of the LGR Joint Committee. This report therefore outlines the proposals for the JSC and attaches at Appendix 1 the proposed Terms of Reference for members' consideration.

Recommendations

4. That Council:-
 - a. approves the establishment of a Joint Scrutiny Committee together with the County Council and three other District Councils in Somerset constituted in accordance with and having the roles and responsibilities set out in the Terms of Reference attached at Appendix 1 ("Terms of Reference").
 - b. nominates two members of Scrutiny Committee onto the Joint Scrutiny Committee, such nominations to be politically proportionate and based upon the political makeup of this Council.



Background

5. Following the Secretary of State's decision, extensive collaborative work has been undertaken by the five councils to support the implementation of the single unitary council in April 2023. Through partnership, the programme governance arrangements have been jointly established with oversight and direction from the Somerset leaders and chief executives. The Executives have agreed the Terms of Reference for the LGR Joint Committee and included provision for the creation of a JSC in those Terms of Reference.
6. The establishment of the JSC will assist in promoting the timely and effective implementation of the proposal approved by the Government and in ensuring that the work of the LGR Joint Committee is appropriately scrutinised. Accordingly, the Monitoring Officers of the Constituent Councils have together prepared the draft Terms of Reference at Appendix 1 for consideration and approval. These Terms of Reference set out the various functions that the JSC will exercise on behalf of the Constituent Councils, together with the proposed membership of the JSC and its meeting and voting arrangements.
7. The establishment of the JSC will create a collaborative democratic mechanism which will establish a countywide scrutiny framework allowing the Constituent Councils to scrutinise the LGR Joint Committee in an effective and timely manner in relation to the preparation for the establishment of the unitary council in Somerset.
8. The proposals set out in this report will also positively respond to DLUHC's expectations for collaborative arrangements to be established as early as possible in the implementation programme.
9. Joint scrutiny committee arrangements are already well established by the five Constituent Councils such as the Heart of the South West Joint Committee and the Somerset Waste Board.
10. The Terms of Reference propose a JSC of sixteen members drawn from the relevant overview and scrutiny committees of the Constituent Councils, eight from the County Council and two from each of the District Councils (eight in total) with the Chair being appointed from the District membership and the Vice Chair from the County membership. The JSC to be politically proportionate as follows:-



	Conservative	Labour	Liberal Democrat	Independent	Green	No Party	Other	
Somerset County Council	33	3	14		2	2	1	55
Seat allocation	5	1	2					
Mendip	12	0	23		1	10	1	47
Seat allocation	1		1					
Somerset West & Taunton	10	3	31		13	2	0	59
Seat allocation			1	1				
South Somerset	14	0	40		5	1	0	60
Seat allocation			2					
Sedgemoor	29	11	7		1	0	0	48
Seat allocation	2	0	0		0	0		
Tota	8	1	6		1	0		

11. Allocation of the above seats has been based on individual councils. This ensures the political make up of each constituent council is represented and is reflective of the fact that the Constituent Councils are currently individual sovereign councils.
12. Any 5 members of the Constituent Councils, to include members from at least 3 of them, may request a call-in of a decision of the LGR Joint Committee. The Chair and the Vice Chair of the JSC will consider call-in requests and will reach a conclusion as to whether to accept or reject the call-in in accordance with the criteria set out in the Terms of Reference and after taking advice from the Scrutiny Officer and Monitoring Officer of Somerset County Council.
13. The establishment of the JSC will both promote the timely and effective overview and scrutiny of the implementation process and ensure that all Councils can play an important role in helping shape the direction of the implementation process but without leading to duplication and delay.
14. The JSC will also be consulted and have an opportunity to make representations to the LGR Joint Committee in relation to budget setting for the new Unitary and any medium-term financial plans.
15. The JSC meetings will be open to all elected members of the Constituent Councils, the public, partners and press to attend in venues around the county. Agenda, reports and minutes of the Committee will be published on the County Council's website along with details of meeting locations and times. The District Councils will publish a link to agenda on their website.
16. A joint scrutiny committee may only be established after each of the Constituent Council has considered that decision at their full council meetings in November/December. Subject to approval, the first meeting of the JSC would take place in late December or early January.

Legal Implications

17. The JSC will act as a Joint Committee under sections 101 and 102 of the Local Government Act 1972 and as an overview and scrutiny committee under section 21 of the Local Government Act 2000 (as amended). This will be to the exclusion of the Constituent Councils' own overview and scrutiny arrangements as far as the work of the LGR Joint Committee is concerned.
18. Each of the partners' legal teams and Monitoring Officers have been involved in the development of the Terms of Reference. The Terms of Reference set out the membership, role, duties and responsibilities of the JSC and the requirements upon the Constituent Councils in supporting it.
19. Sections 15 and 16 of the Local Government and Housing Act 1989 impose a duty to allocate seats on committees in accordance with political balance requirements. Section 17 allows an exception to be made to the political balance requirements but only where no member of the authority votes against such a proposal.

Financial Implications

20. The financial implications of this decision are limited. Under the Terms of Reference Somerset County Council will act as the Administering Authority for the JSC during the months between its establishment and the creation of the Implementation Executive under the SCO. The District Council Scrutiny Officers will work closely with the County Scrutiny Officer in developing the work programme and supporting the JSC. The associated costs of supporting the JSC will be met from approved budgets made available for implementation of the unitary council business case.

Risk

21. The creation of the JSC will place a further formal governance structure around the preparations for the implementation of the new unitary council. This should enable a transparent, open, democratic and accountable culture around LGR and reduce risk.

Carbon Emissions and Climate Change Implications

22. There are no carbon emissions or climate change implications in this report.

Equality and Diversity Implications

23. This report and Terms of Reference have been reviewed by the County and District Monitoring Officers in consultation with the Leaders and Chief Executives and no impacts have been identified. In any event, it should be noted that the Joint Committee, whose decisions will be scrutinised by the JSC,



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is required under its terms of reference to take into account the equalities implications of any decision it takes.

Privacy Impact Assessment

24. There are no privacy impact implications

Background Papers

None

Appendix 1

Local Government Reorganisation Joint Scrutiny Committee - Draft Terms of Reference

1. Purpose

- 1.1 Mendip District Council, Sedgemoor District Council, Somerset County Council, Somerset West and Taunton Council and South Somerset District Council (“the Constituent Councils”) have formed a Joint Committee, known as the Local Government Reorganisation Joint Committee (“LGR Joint Committee”) in relation to the implementation of the Secretary of State’s decision to implement a single tier of local government in Somerset (“LGR”).
- 1.2 Paragraph 18 of the LGR Joint Committee Terms of Reference state that “The Councils will separately constitute a joint scrutiny committee or panel, the purpose of which will be to scrutinise the work of the LGR Joint Committee”. The Constituent Councils have therefore agreed to form the Local Government Reorganisation Joint Scrutiny Committee (“JSC”) which will provide overview and scrutiny of the LGR Implementation Plan and the activities of the LGR Joint Committee.

2. Governance

- 2.1 The JSC will act as a Joint Committee under s 101 and s 102 Local Government Act 1972 and as an overview and scrutiny committee under s 21 Local Government Act 2000 (as amended).

3. Scrutiny Function

- 3.1 The JSC will provide the joint overview and scrutiny function for LGR and the Constituent Councils will be asked to delegate the overview of the LGR Joint Committee functions to the JSC. This will be to the exclusion of the Constituent Councils own overview and scrutiny arrangements.

4. Roles, Duties and Responsibilities

- 4.1 The role of the JSC will be to exercise the overview of the LGR Joint Committee functions on behalf of the Constituent Councils in accordance with the powers outlined in S21 Local Government Act 2000 to include:-

- Developing a forward work programme of activities.
- Reviewing or scrutinising decisions made, or other action taken by the LGR Joint Committee.



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- Seeking reassurance and considering whether the LGR Joint Committee is operating in accordance with the implementation plan for LGR and is being managed effectively.
- Holding the LGR Joint Committee to account by providing critical challenge to ensure that it provides the high-level strategic direction for the implementation of the new unitary Council.
- Reviewing progress in relation to the implementation plan and identifying to the LGR Joint Committee barriers to progress, best practice and possible improvements.
- Scrutinising the level of requests to be made to each Constituent Council for allocation from their revenue and capital allocations to support delivery of the implementation plan.
- Scrutinising the form, function, and constitution of local community networks.
- Scrutinising the development of the constitution and schemes of delegation for the new unitary Council.
- Scrutinising the plans to align existing change activities cross the Councils.
- Scrutinising the development of the unitary council's annual budget 2023/24 and the associated medium term financial plan.
- Scrutinising the development of policies and protocols for the unitary Council and across the Constituent Councils for use during the transition period.

5. Membership / Substitute Members

5.1 The JSC will be made up of 16 members drawn from the overview and scrutiny members of the Constituent Councils as follows:

- Somerset County Council (8 members)
- Somerset West and Taunton Council (2 members)
- South Somerset District Council (2 members)
- Sedgemoor District Council (2 members)
- Mendip District Council (2 members)

It is proposed that the relevant overview and scrutiny committee of each Constituent Council nominates members from their membership to the JSC. Any subsequent appointments or nomination of substitutes is a matter for the Chair of the respective overview and scrutiny committee of each Constituent Council.

5.2 Political proportionality will apply to those appointments (and to that of any substitute) and the political representation should represent the political make up of each of the Constituent Councils.

5.3 Each member will have one vote.

5.4 Members of the LGR Joint Committee or executive members of the Constituent Councils are precluded from sitting as members of the JSC.



- 5.5 The Chair of the relevant overview and scrutiny committee of each Constituent Council may appoint an overview and scrutiny member to act as a substitute where one of their members is unable to attend a meeting of the JSC. Substitutions may only be made on a meeting by meeting basis and if the appointed member(s) is unable to attend a meeting of the JSC. Any substitutions must be notified to the Scrutiny Officer of the Administering Council (as defined in Paragraph 9.1. below) (“the Scrutiny Officer”) by 9.00am on the day of the relevant meeting.
- 5.6 Reflecting the importance of engaging with stakeholders across Somerset, the JSC will be able to invite representatives to meetings where it considers that they will contribute to the delivery of an effective scrutiny function.
- 6. Term**
- 6.1 The Term of the JSC shall be co-terminus with the duration of the LGR Joint Committee or earlier in the event of a decision of the five Constituent Councils to end the joint scrutiny arrangements.
- 7. Work Programme**
- 7.1 The JSC will maintain a work programme of activities. Constituent Council scrutiny committees may ask the JSC to consider matters for inclusion in the work programme. The final decision will be a matter for the JSC.
- 8. Reporting Arrangements**
- 8.1 The work and recommendations of the JSC will be regularly reported to the LGR Joint Committee. Members of the JSC may make reports to their own Constituent Councils in accordance with their own governance procedures.
- 9. Meetings, agendas, reports and minutes**
- 9.1 The administering Constituent Council shall be Somerset County Council (“the Administering Council”).
- 9.2 The Administering Council shall appoint a statutory scrutiny officer (“the Statutory Scrutiny Officer”) as defined in S9FB Local Government Act 2000. The scrutiny officers from the other Constituent Councils shall work with the Statutory Scrutiny Officer in supporting the JSC.
- 9.3 The overview and scrutiny process will be open and transparent in accordance with the Local Government Act 1972 and meetings will be held in public and accessible online to ensure increased transparency.
- 9.4 The agenda and supporting papers will be published by the Administering Council and circulated at least five clear working days in advance of meetings.



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- 9.4 The minutes of any meetings will be published on the Administering Council's website and circulated to the other Constituent Councils as soon as practicable. The JSC will operate in accordance with the constitution of the Administering Council. The Constituent Councils (with the exception of the Administering Council) will each provide a link to the agendas and minutes of the JSC on its website.

10. Frequency of meetings

- 10.1 The date, time and venue of meetings will be fixed in advance by the JSC, and a schedule of meetings agreed at its inaugural and/or subsequent meetings. The JSC will meet every 8 weeks. Dates will be published on the website of the Administering Council. Additional meetings may be convened at the request of the Chair or Vice Chair.

11. Venue

- 11.1 Meetings of the JSC will take place in a number of locations across the County of Somerset and will be rotated around the Constituent Councils.

12. Election of Chair and Vice Chair

- 12.1 The Chair and Vice Chair will be elected at the first meeting of the Committee by members of the JSC. The Chair will be appointed from the District Council membership and the Vice Chair shall be a County Council member. In the absence of the Chair and Vice Chair, the meeting will elect a chair for that meeting.

13. Quorum

- 13.1 The quorum of the JSC shall be 9, including members from at least four of the five Constituent Councils.

14. Declarations of interest

- 14.1 JSC members are subject to the Code of Conduct for elected members adopted by the Constituent Council that nominated them including the requirement to declare relevant interests at formal meetings of the JSC.

15. Voting

- 15.1 Recommendations will generally be reached by consensus, but if a vote is required it will be by a simple majority of all members present. Where there are equal votes the Chair of the meeting will have a second or casting vote.

16. Duty to attend, cooperate and respond

- 16.1 The JSC may require by invitation the Chair of the LGR Joint Committee and/or the Chief Executive Chair of the Implementation Team to appear before it to



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explain (in relation to all aspects of the JSC's work) any particular decision or series of decisions. The Chair and Chief Executive have agreed to attend if so required, unless they have a legitimate reason for not doing so.

- 16.2 Following each meeting of the JSC, the JSC's recommendations (if any) will be submitted to the LGR Joint Committee for consideration. The LGR Joint Committee will be required to consider those recommendations at its next meeting and respond to the JSC indicating what (if any) action the LGR Joint Committee proposes to take. The response should be made within 7 days of the LGR Joint Committee meeting and will be published on the website of the Administering Council.

17. Call-in

- 17.1 Any 5 members of the Constituent Councils, to include members from at least 4 of the Constituent Councils, may request a call-in of a decision of the LGR Joint Committee. The call-in must be submitted in writing or by email to the Statutory Scrutiny Officer, indicating its support by all relevant parties along with the reasons for the call-in and proposed outcome(s). The Statutory Scrutiny Officer must notify the Monitoring Officer that administer's the LGR Joint Committee of the call-in request.
- 17.2 "Call-in" is a facility which members can use to challenge Key Decisions where the JSC has not been involved prior to the decision being taken or where a member believes a decision has been taken without the proper process having been followed.

A key decision is defined as:

- (a) Resulting in the local authority incurring expenditure** which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; and / or
- (b) Significant in terms of their effect on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

**There is no definition in the legislation of the word 'significant' in (a) above. Therefore, for the purposes of LGR key decisions the financial threshold at or above which a financial decision is significant (and a Key Decision) will be a total value of £500,000 for capital / revenue expenditure or savings.

Call-in of Key Decisions is subject to the following rules:

- (a) **General provisions:**



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- (i) Call-in should be used on an exception basis and not to unnecessarily delay delivery of the Structural Changes Order and / or the implementation plan for the unitary council;
- (ii) An individual Key Decision should normally only be subject to scrutiny once, whether pre or post decision;
- (iii) Key Decisions cannot be called in where the decision requires urgent implementation. Urgent implementation requires the approval of the Chair of the LGR Joint Committee and the Chair of the JSC and their approval shall be recorded in the relevant report;
- (iv) Call-in only applies to decisions. Recommendations (for example, made by the LGR Joint Committee to any of the Constituent Councils) cannot be called-in.

(b) Scrutiny of Key Decisions before they are taken:

This should focus on ensuring that the decision-maker has all the necessary information, to take a fully informed decision and that any procedures have been properly followed. Any scrutiny review at this stage should not pre-empt the decision. The decision-maker must take the views of the JSC into account before taking the decision.

(c) Scrutiny of Key Decisions after they are taken but before they are implemented:

- (i) Key Decisions are published to all members and the public (via the website) within 2 working days of the decision date;
- (ii) Key Decisions (unless urgency is agreed) must be called-in (following the process outlined in 17.1 above) within 5 working days of publication or the decision will be implemented automatically.
- (iii) The Chair and the Vice Chair of the JSC will consider call-in requests against the principles of good decision-making and will either agree the request or detail their reasons for rejecting the request in a report to the next available meeting of the JSC. In reaching their conclusion they will take advice from the Statutory Scrutiny Officer and the Monitoring Officer and a summary of that advice will be included in the report to the JSC;
- (iv) A call-in must specify the subject matter, the reason(s) for it, information required to enable full consideration and the preferred outcome;
- (v) Each call-in will be considered at the next meeting of the JSC unless an alternative is agreed with the decision-maker;
- (vi) The JSC having considered a call-in will report to the decision-maker;
- (vii) Where an item has been subject to pre-decision scrutiny of the process, post decision call-in should normally only relate to the decision itself;



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- (viii) If there is no pre-decision scrutiny of an item then the process and/or the decision may be the subject of call-in.

(d) **Scrutiny of Key Decisions after implementation:**

This should only occur where the decision-maker was required to make a decision that was time critical or at a later stage to gauge the effect of the decision. Scrutiny in these circumstances is not part of the call-in process.

18. Code of Conduct

- 18.1 Members of the JSC are expected to observe the “Seven Principles of Public Life” (the ‘Nolan’ principles) and shall be bound by their Constituent Council’s Code of Conduct in their work on the JSC. Members are expected to act in the interests of the JSC, except where this would result in a breach of a statutory or other duty to their Constituent Authority or would be in breach of their Constituent Council’s Code of Conduct.

19. Access to information

- 19.1 JSC meetings are regarded as a council committee for the purposes of the Local Government (Access to Information) Act 1985. Meetings will be open to the press and public unless it is necessary to exclude the public in accordance with Section 100A of the Local Government Act 1972. All agendas, reports, and minutes of the JSC will be made publicly available, unless deemed exempt or confidential in accordance with the above Act. The Freedom of Information Act 2000 provisions shall apply to all business of the JSC.

20. Rules of Procedure

- 20.1 Save as outlined in this Terms of Reference the procedures followed at the JSC meetings shall be in accordance with the overview and scrutiny procedure rules of the Administering Council. In the event of any conflict between this Terms of Reference and the relevant overview and scrutiny procedure rules, the provisions of these Terms of Reference shall prevail.