

## **Somerset West and Taunton Shadow Council**

At a meeting of Somerset West and Taunton Shadow Council held in the John Meikle Room, The Deane House, Belvedere Road, Taunton on 26 March 2019 at 5 p.m.

Present: Councillor J Parbrook (Chair)  
Councillor C Herbert (Vice-Chair)  
Councillors B Allen, P Berry, C Booth, W Brown, N Cavill, M Chilcott, W Coombes, M Dewdney, E Gaines, A Gunner, R Habgood, A Hadley, R Henley, B Heywood, C Hill, J Hunt, R Lees, S Lees, L Lisgo, B Maitland-Walker, D Mansell, K Mills, I Morrell, R Parrish, H Prior-Sankey, S Pugsley, J Reed, R Ryan, F Smith-Roberts, V Stock-Williams, A Sully, N Townsend, A Trollope-Bellew, J Warmington, P Watson, D Webber, D Westcott, J Williams, R Woods and G Wren.

Officers: James Hassett (Chief Executive), Robert Hillier (Head of Function – Communications and Engagement), Bruce Lang (Assistant Chief Executive and Monitoring Officer), Lesley Dolan (Business Services Manager, SHAPE Legal Partnership), Satish Mistry (Legal Advisor), Marcus Prouse (Specialist – Governance and Democratic) and Richard Bryant (Temporary Democratic Services Specialist)

Also present: Ian Partington (Chair of the Joint Independent Remuneration Panel) and Julian Gale (Strategic Manager – Partnerships Governance, Somerset County Council).

### **1. Apologies for Absence**

Councillors J Adkins, M Adkins, I Aldridge, J Blatchford, R Bowrah, S Coles, H Davies, M Edwards, M Floyd, A Govier, N Hawkins, M Hill, J Horsley, G James, A Kingston-James, R Lillis, S Martin-Scott, P Murphy, P Pilkington, F Smith, N Thwaites, C Tucker and D Wedderkopp.

### **2. Minutes**

The minutes of the meetings of the Shadow Council held on 17 December 2018 and 21 February 2019, copies having been sent to each Member, were signed by the Chair.

### **3. Declarations of Interest**

Councillors M Chilcott, J Hunt and H Prior-Sankey declared personal interests as Members of Somerset County Council.

Councillors W Brown, N Cavill, W Coombes, E Gaines, A Hadley, R Henley, J Hunt, B Maitland-Walker, D Mansell, J Parbrook, J Reed, V Stock-Williams, N Townsend,

A Trollope-Bellew, J Warmington, P Watson, D Webber and D Westcott all declared personal interests as Members of Town or Parish Councils.

All Councillors declared a personal interest in respect of Agenda Item No. 5 – Final Report of the Joint Independent Remuneration Panel on the preparation of a draft Members' Allowances Scheme for Somerset West and Taunton Council.

**4. Public Participation**

No member of the public had requested to speak.

**5. Final Report of the Joint Independent Remuneration Panel on the preparation of a draft Members' Allowances Scheme for Somerset West and Taunton Council**

Reference Minute No. 5 of the meeting of Shadow Council held on 17 December 2018, considered report previously circulated, which set out the final recommendations that had been made by the Joint Independent Remuneration Panel (JIRP) with regard a Members' Allowances Scheme for the new Somerset West and Taunton Council (SWTC).

Clause 10(5) of the Somerset West and Taunton (Local Government Changes) Order 2018 required the shadow authority to formulate proposals for a scheme of members' allowances to be adopted by the SWTC.

Under the relevant regulations, a Council had to appoint an independent panel to make recommendations on a scheme of members' allowances for consideration by the Council. The JIRP (which also served Mendip District Council and Somerset County Council) had therefore been requested to commence work to formulate proposals for consideration by the Shadow Council before the end of March 2019.

The JIRP had initially produced an interim report which was considered by the Shadow Council at its meeting in December 2018 and agreed recommendations regarding the Basic Allowance as well as the proposed approach to preparing a Special Responsibilities Allowance scheme.

The JIRP's report was very well researched and contained detailed justification for its recommendations.

Noted that it had already been agreed that the Scheme should be reviewed by the new Council after twelve months of operation and the offer had been made for the JIRP to review any aspects of the Scheme in advance of the this formal review if requested.

During the discussion of this item, Councillor I Morrell proposed an amendment to the Members' Allowances Scheme to include a payment of £250 to the Chairman of a Task and Finish Group following the submission of its final report to the Executive.

The amendment which was seconded by Councillor G Wren was put and was lost.

The Chair thanked Messrs. Partington and Gale for all the hard work undertaken by the JIRP over the past twelve months towards the preparation of the Members' Allowances Scheme.

**Resolved that:-**

(a) The recommendations of the Joint Independent Remuneration Panel be endorsed in regard to the Special Responsibility Allowances (SRA) for Councillors of the Somerset West and Taunton Council as follows:-

- (1) A Special Responsibility Allowance (SRA) of £15,592 (3.15 x Basic Allowance (BA)) be awarded to the Leader of the Council for 2019/2020;
- (2) A SRA of £7,375 (1.49 x BA) be awarded to Portfolio Holders for 2019/2020;
- (3) No enhanced SRA be awarded to the Portfolio Holder acting as Deputy Leader;
- (4) In the event of the Leader of the Council becoming incapacitated or dying in office, then the Deputy Leader, after a period of six weeks should be entitled to an enhanced SRA equivalent to the difference between that of a Portfolio Holder and that of the Leader;
- (5) A SRA of £4,578 (0.92 x BA) be awarded to the Chair of the Council for 2019/2020;
- (6) The Council and Charter Trustees develop clear protocols on how the offices of Chair of the Council and Charter Trustee Mayor are to support local community and civic events;
- (7) A SRA of £2,302 (0.46 x BA) be awarded to the Vice-Chair of the Council for 2019/2020;
- (8) A SRA of £4,578 (0.92 x BA) be awarded to the Chair of the Scrutiny Committee for 2019/2020;
- (9) A SRA of £4,578 (0.92 x BA) be awarded to the Chair of the Planning Committee for 2019/2020;
- (10) A SRA of £2,302 (0.46 x BA) be awarded to the Chair of the Licensing Committee for 2019/2020;
- (11) SRA of £2,302 (0.46 x BA) be awarded to the Chair of the Governance and Standards Committee for 2019/2020;
- (12) The independent town/parish co-optees on the Governance and Standards Committee be awarded an allowance of £500 for 2019/2020;
- (13) No SRA be awarded to the Vice-Chairs of Committees, although this would be kept under review by the Joint Independent Remuneration Panel;
- (14) A SRA of £3,514 (0.71 x BA) be awarded to the Leader of the largest opposition party for 2019/2020;
- (15) A SRA of £150 per group Member be awarded to the Leaders of other minority groups as long as there was a minimum of five elected Members in the group;

- (16) The new Council be invited to offer evidence to the Joint Independent identifying, through its Constitution, a clear corporate role for minority Group Leaders;
  - (17) A SRA of £500 be awarded to the Independent Person appointed to advise the Monitoring Officer and the Council, for 2019/2020;
  - (18) In accordance with the special characteristics of each Member role, the banding structure set out in Table L of the Joint Independent Remuneration Panel's Final Report should be applied to the roles as indicated on the basis that they were broadly comparable;
  - (19) The provisions for the payment of Carer's Allowances as set out in section 5 of Appendix 2 of the Joint Independent Remuneration Panel's Final Report be approved;
  - (20) The provisions for the payment of travel and subsistence allowances as set out in sections 6 and 7 of Appendix 2 of the Joint Independent Remuneration Panel' Final Report be approved;
  - (21) The list of 'approved duties' as set out in Annex C of Appendix 2 of the Joint Independent Remuneration Panel's Final Report be approved;
  - (22) The Scheme's rules for claiming allowances as set in section 9 of Appendix 2 of the Joint Independent Remuneration Panel's Final Report be approved; and
  - (23) The Scheme of Members' Allowances attached as Appendix 2 to the Joint Independent Remuneration Panel's Final Report be approved.
- (b) The Section 151 Officer be requested to update the Base Budget estimates for 2020/2021 within the Medium Term Financial Plan to reflect the up to date costs of the Allowances Scheme and take the necessary action to offset any budget shortfall in respect of Members Allowances in 2019/2020 through managed one-off savings in year.
- (c) The recommendations made by the Joint Independent Remuneration Panel be endorsed in terms of recommending the proposed arrangements for Charter Trustees for the Unparished Area of Taunton as follows:-
- (i) An allowance of £2,930 for the Mayor and £1,570 for the Deputy Mayor be awarded for 2019/2020;
  - (ii) The Consumer Prices Index be used to inflation-index both Mayoral allowances in future years; and
  - (iii) That after a year's experience of the offices of Mayor and Deputy Mayor, the allowances be reviewed by the Joint Independent Remuneration Panel.

## 6. **Approval of the Constitution**

Considered report previously circulated, which sought Members' approval for the proposed Constitution for the Somerset West and Taunton Council. A copy of the draft Constitution had been circulated to all Members.

In accordance with the Somerset West and Taunton (Local Government Changes) Order 2018, the Shadow Council was required to produce Constitutional arrangements for the operation of the new Council from 1 April

2019.

An Interim Constitution had previously been drafted to allow the Shadow Council to operate for the purposes that it was set up. These were essentially to:-

- (a) Manage the transition from the existing two separate Councils to a combined Council for the whole area;
- (b) Formulate and set up the Council budget for the new Council for 1 April 2019; and
- (c) Agree the new Constitutional arrangements for the new Council.

It was important that there was clarity in relation to how the new Council would operate. The Council's Constitution would provide this as it set out the overall framework of the Council and how its constituent parts would operate and make decisions in practice.

Under Regulation 10 of the Somerset West and Taunton (Local Government Changes) Order 2018, the Shadow Council was expected to formulate proposals for:-

- (i) The Executive arrangement that was to be operated by the new Council, Somerset West and Taunton, together with other documents forming part of the Constitution;
- (ii) A Code of Conduct to be adopted by the new Council; and
- (iii) A scheme of Members' Allowances to be adopted by the new Council.

The work in producing the new Constitution had involved extensive and wide consultation. Member engagement had commenced with discussion around agreeing the principles that should underpin the drafting of the Constitution for the new Council. Councillors also had extensive debate around their roles and responsibilities in the new Council and reached a consensus which had been included in the Constitution.

Noted that the Interim Monitoring Officer was of the view that the document, as drafted, would allow the new Council to operate in a safe and legal way from its inception. However, by its nature, it was intended that the document would be one that could be adapted to meet the needs of the new Council.

Reported that the new Council would face many challenges. It was therefore essential that if it was to be effective in making decisions in a timely manner, it operated within a Constitution that was fit for purpose and agile for a modern Authority to operate within. As part of this, Members had already agreed the following principles which have been borne in mind as part of producing the documents:-

- (a) The Constitution should be **enabling and facilitating** within a corporate framework;
- (b) There should be **maximum levels of delegation** within which both Executive Members and Officers operated;
- (c) There was a **strong corporate framework** which ensured safeguards for decision-making with the emphasis being to be **risk aware rather than risk averse**;
- (d) Decisions were able to be made **swiftly and efficiently** within the above parameters;
- (e) There should be **transparency** within the process for decision-making, including the appropriate level of **scrutiny and engagement** of members of the public;
- (f) Decision-making is undertaken with the highest levels of **ethics, propriety and probity**; and
- (g) There was **clear accountability** within the decision-making process of who was **responsible** for what.

The Constitution comprised the following documents:-

- Summary and Explanation;
- Articles;
- Responsibilities for Functions;
- Terms of Reference for Council;
- Terms of Reference for the Executive;
- Terms of Reference for the Audit, Governance and Standards Committee;
- Terms of Reference for the Scrutiny Committee;
- Terms of Reference for the Planning Committee;
- Terms of Reference for the Licensing Committee;
- Employment Committee Terms of Reference;
- Budget and Policy Procedure Rules;
- Executive Procedure Rules;
- Scrutiny Procedure Rules;
- Financial Regulations;
- Contract Procedure Rules;
- Employment Procedure Rules;
- Council Procedure Rules;
- Access to Information Procedure Rules;
- Councillor Code of Conduct;
- Member Officer Protocol;
- Planning Committee Members' Code of Good Practice;
- Employee Code of Conduct;
- Arrangements for Dealing with Standards Allegations; and
- Roles and Responsibilities of Councillors.

With regard to the arrangements for Dealing with Standards Allegations, it was a requirement of the Localism Act, 2011 that every Council appointed at least one Independent Person whose role was to advise the Council as part of the process for dealing with complaints that Councillors might have breached the Code of Conduct.

In the circumstances, it was considered appropriate to recommend that Louise Somerville, who was the current Independent Person for both Taunton Deane and West Somerset Councils, as well as the Shadow Council, be appointed to undertake this role on behalf of the Somerset West and Taunton Council.

Further reported that there would be a separate detailed Officer Scheme of Delegation which would set out the various levels of sub-delegation below the Chief Executive, Statutory Officers, Heads of Functions and Director. This was currently being produced and would be available in the early part of April 2019.

During the discussion of this item Councillor D Mansell proposed an amendment to the Roles and Responsibilities of Councillors by adding a further bullet point as follows:-

- “To help address Climate Change by making Somerset Carbon Neutral by 2030”.

The amendment which was seconded by Councillor C Booth was put and was carried.

**Resolved** that:-

- (a) The report be noted;
- (b) The Constitution for Somerset West and Taunton Council, as amended, be approved to take effect from 1 April, 2019;
- (c) Delegated authority be granted to the Monitoring Officer to make any typographical, grammatical and/or minor formatting amendments to the document as part of publication; and
- (d) In accordance with Section 28(7) of the Localism Act, 2011, Louise Somerville be appointed as the Independent Person for Somerset West and Taunton Council with effect from 1 April, 2019 for a period of up to 18 months.

**7. Transitional Decision-Making Arrangements between 1 April 2019 and Annual Council in May 2019**

Considered report previously circulated, which outlined the decision-making arrangements for the period between 1 April 2019 and up to the date of the Annual Council in May 2019.

The Shadow Council was currently operating under an Interim Constitution. In addition, Taunton Deane and West Somerset Councils would continue to operate under their respective, existing Constitutions until 1 April 2019 when both Councils would be wound up and dissolved.

Although ceasing to be Councillors of the District Councils, the Councillors would continue to remain as Members of the Shadow Authority throughout the 'Shadow Period' which was defined as the date the Somerset West and Taunton (Local Government Changes) Order 2018 came into force, ending on the fourth day after the forthcoming local elections – the 7 May 2019.

Under Regulation 8 (5) of the Somerset West and Taunton (Local Government Changes) Order 2018, the persons who immediately before 1 April 2019 were Members of the Shadow Executive would continue as Members of that Executive until the end of the 'Shadow Period'. Therefore, there would be an Interim Executive which might meet and make any relevant decisions up until that date.

Under Regulation 18 of the Order, functions conferred on the Shadow Authority by the Order would be delegated and discharged by the Shadow Executive. Therefore, during this period, the Shadow Executive would be able to carry out any functions required of it, including ensuring that all outstanding issues as part of implementation are also carried out effectively.

Accordingly, the Shadow Council now needed to consider the detailed decision-making arrangements from 1 April 2019 when the two Authorities have been abolished until such time as Annual Council in May 2019 was held.

It was important that current decisions which were being made by the two individual Authorities (for example, by Officers) continued to be made by them during the 'Shadow Period'.

To ensure that decisions also continued to be made in the fields of planning and licensing, the Council was recommended to appoint Planning and Licensing Committees for the Shadow Council during 'Shadow Period'.

It was therefore proposed to establish two Shadow Planning Committees and two Licensing Committees, each to separately cover the current administrative areas of Taunton Deane and West Somerset. Each committee would be made up of the current Members of the existing Planning and Licensing Committees at the respective Authorities.

Noted that each committee would be able to convene during the period 1 April 2019 to the date of the election to consider any business and would be able to delegate its function to a sub-committee in the event that a hearing needed to be called. The Terms of Reference of each of the Committees would be the same as the existing Committees.

Further reported that there would not be any major decisions taking place between the end of the 'Shadow Period' and Annual Council, which was



normal following a set of local elections. However, should any decisions be required, they would be made by the Statutory Officers in consultation with the existing Chair of the Shadow Council and any appointed Group Leaders.

**Resolved** that:-

- (a) The report be noted; and
- (b) The setting up of special ad-hoc Planning Committees and Licensing Committees for the period between 1 April 2019 until the end of the 'Shadow Period' be approved.

## **8. Transfer of Contracts, Property and Other Liabilities**

Considered report previously circulated, which outlined the legislative provisions that governed the transfer of the existing Councils' responsibilities, assets and liabilities and the requirements that had to be met in respect of these provisions.

The Secretary of State had previously made an Order which allowed the creation of the new Somerset West and Taunton area but also provided for the dissolution of the existing Councils (the 'Predecessor Councils') and the establishment of the new Council ('the Successor Council').

In November 2018, the Government had produced another set of regulations which made provisions as to how the merger should take effect. The regulations were split into the following parts:-

- (a) The transfer of Council functions, property, rights and liabilities;
- (b) The staffing and TUPE provisions;
- (c) Provisions in respect of Town and Parish Councils;
- (d) The electoral administration: the Council plans and strategies;
- (e) The preparations and publishing of the final accounts for the existing Councils;
- (f) Transition arrangements for planning functions; and
- (g) Miscellaneous transitional provisions e.g. matters such as the Community Right to Challenge.

As far as the transfer of the Predecessor Councils' contracts, property rights and other assets and liabilities were concerned, the information the Predecessor Councils' had to provide to the Shadow Council no later than 31 March 2019 was as follows:-

- (i) Details of every contract entered into by a Predecessor Council that would extend, or may be extended, beyond 1 April 2019;
- (ii) Details of every action or proceeding to which a Predecessor Council was a party and which, in the Council's opinion, was unlikely to have been determined or settled before 1 April 2019; and
- (iii) Such other information relating to Predecessor Councils' property, rights or liabilities as the Shadow Council might reasonably request.

A position statement in relation to all the relevant data was set out in the Appendix to the report.

The regulations also provided that all functions of the Predecessor Councils would be transferred to the Successor Council on 1 April 2019.

Reported that to allow for a seamless transfer, any enactments which named a Predecessor Council/area or applied to a Predecessor Council area would continue to have effect after the 1 April 2019.

Furthermore, anything done by or in relation to a Predecessor Council in exercise with or in connection with a function that would be exercised by the Successor Council after 1 April 2019 would have effect as if done by the Successor Council. This included the following, which would automatically take effect:-

- agreements, decisions and instruments made;
- byelaws, orders and regulations made;
- consent, licence, permissions granted by or given to;
- certificate, direction or notice given by or to;
- applications, objections, proposal or requests made by or to;
- conditions imposed by or on; and
- proceedings against or instituted by,

the Predecessor Councils or Shadow Council.

Noted that any person appointed by a Predecessor Council to represent it on any body would continue to represent the Successor Council on that body.

**Resolved** that:-

- (a) The report and the legislative requirements be noted; and
- (b) The steps taken to meet the requirements set out in the Appendix to the report be also noted.

## 9. **Adoption and Updating of Policies**

Considered report previously circulated, concerning the proposed adoption of existing policies by the new Somerset West and Taunton Council (SWTC).

When SWTC came into existence on 1 April 2019 it would take on all of the statutory functions previously exercised by Taunton Deane Borough Council (TDBC) and West Somerset Council (WSC).

In order to carry out these functions, SWTC officers would need to rely on a suite of policies. A number of policies had already been considered and approved for adoption, by the Shadow Authority. These had generally been where a TDBC policy and a WSC policy had been merged into a new joint

policy for SWTC, containing a material change from the perspective of one or both existing councils.

Where new policies were proposed for SWTC that were materially different from those created by TDBC or WSC it was proposed that such policies would continue to be subject to approval through the democratic process.

However, for those policies of TDBC or WSC that required only minor updating but did not change the intent or substance of the policy, a practical and proportionate approach for updating such policies had been proposed which avoided taking up valuable committee time on what was largely an administrative task.

**Resolved** that:-

- (a) The existing Taunton Deane Borough Council and West Somerset Council policies be adopted as Somerset West and Taunton Council policies, where not already succeeded and approved by the Shadow Authority. This would still allow for the new Council to review and amend any policy at any time once it came into existence; and
- (b) Delegated authority be given to the Monitoring Officer to approve any necessary grammatical or branding/formatting changes to existing policies, to reflect those matters detailed in the report where the proposed changes were considered to be minor in nature and made no change to the intent or substance of the policy.

#### 10. **Assets of Community Value Policy and Process**

Considered report previously circulated, concerning the Assets of Community Value (ACV) Policy and Process for the new Council.

The Localism Act 2011 had placed requirements on the Council to maintain a list of land/buildings in its area, where it considered the land to be of community value.

The Community Right to Bid provided the right to nominate land/buildings as ACV and then gave an opportunity to present bids to the owner in the event of the asset being offered for sale. The Council had statutory duties to deal with nomination applications, maintain a list of all land and assets successfully nominated as ACVs as well as those that were rejected and to administer the right to bid process. Accordingly, the Council had to have in place a relevant Policy setting out how this would be done.

Details of the proposed Right to Bid Policy to be operated by the new Council were detailed in the report together with an outline of the process that would need to be followed when a nomination application had been received.

**Resolved** that the proposed Assets of Community Value Policy and Process be approved.

## 11. **Approval of the Annual Pay Policy Statement 2019/2020**

Considered report previously circulated, concerning the Pay Policy Statement for 2019/2020.

Section 38 (1) of the Localism Act 2011 required local authorities to prepare and publish a Pay Policy Statement for each financial year which had been approved by Full Council.

The Pay Policy Statement had been drafted for approval in advance of the creation of Somerset West and Taunton Council on 1 April 2019 to ensure that the new Council complied with the legislation.

According to the Local Government (Boundary Changes) Legislation 2018 'all property, rights and liabilities of the Predecessor Councils shall on the reorganisation date vest in, and transfer to, the Successor Council'. All employees were previously employed by Taunton Deane Borough Council and therefore the policies and pension discretions would be adopted by the new Council with the recommendation that these should be reviewed within the next 12 months.

The changes in the data detailed in the Pay Policy statement reflected a 2% national pay award, awarded to all employees on 1 April 2019 and the implementation of a new National Joint Council (NJC) pay structure. The NJC pay structure reflected the Government's pledge to increase the national living wage to £9 per hour by 2020 and in the lowest grades, the new pay scales were in excess of 2%. The Council recognised the Living Wage Foundation and the lowest hourly wage was therefore £9.74 per hour.

The ratios between the senior pay of the Chief Executive and the Executive director and the lowest paid employee had shown a reduction when compared to last year's ratios. The ratio between the Head of Function and the lowest paid employee had replaced the previous Assistant Director role and was reported for the first time. The mean salary per full time employee had increased to £26,410. The increase reflected the new roles in the new organisational structure and the new pay structure.

Noted that there had been no changes to pension discretions.

**Resolved** that:-

- (a) The Pay Policy Statement 2019/2020 be approved for publication; and
- (b) Following the creation of the new Council, the policies and pension discretions relating to the workforce be reviewed to ensure that they met Somerset West and Taunton Council's aspirations for the workforce.

(The meeting ended at 6.12 p.m.)