

Somerset West and Taunton Shadow Council

Corporate Governance and Standards Committee – 28th January 2019

Development of the New Council Constitution – Phase II

This matter is the responsibility of the Leader of the Shadow Council

Report Author : Bruce Lang

1 Executive Summary / Purpose of the Report

- 1.1 This report updates Members on the progress achieved in relation to the production of documents which will form Phase II of the Constitution and seeks Members' approval for the constituent documents.

2 Recommendations

- 2.1 Members are asked to:

- a) Note this report.
- b) Approve, for formal adoption by the Shadow Council, the following draft documents, with or without any amendments, as part of Phase II:

Appendix 1 - Terms of Reference for Council

Appendix 2 - Terms of Reference for the Executive

Appendix 3 - Terms of Reference for Governance and Standards Committee

Appendix 4 - Terms of Reference for Scrutiny Committee

Appendix 5 - Terms of Reference for Planning Committee

Appendix 6 - Terms of Reference for Licensing Committee

Appendix 7 - Budget and Policy Procedure Rules

Appendix 8 - Executive Procedure Rules

Appendix 9 - Scrutiny Procedure Rules

Appendix 10 – Financial Regulations

- c) Agree that the final documents will be submitted to a meeting of full Shadow Council as part of a whole Constitution for the new Council for formal adoption in March 2019.

3. Risk Assessment

Risk Matrix

Description	Likelihood	Impact	Overall
The new Council does not have a fit for purpose Constitution in place by 1 st April, 2019	3	5	15
<i>The mitigations for this are the proposed actions as set out in the report</i>	1	5	5

Risk Scoring Matrix

Likelihood	5	Almost Certain	Low (5)	Medium (10)	High (15)	Very High (20)	Very High (25)
	4	Likely	Low (4)	Medium (8)	Medium (12)	High (16)	Very High (20)
	3	Possible	Low (3)	Low (6)	Medium (9)	Medium (12)	High (15)
	2	Unlikely	Low (2)	Low (4)	Low (6)	Medium (8)	Medium (10)
	1	Rare	Low (1)	Low (2)	Low (3)	Low (4)	Low (5)
			1	2	3	4	5
			Negligible	Minor	Moderate	Major	Catastrophic
Impact							

Likelihood of risk occurring	Indicator	Description (chance of occurrence)
1. Very Unlikely	May occur in exceptional circumstances	< 10%
2. Slight	Is unlikely to, but could occur at some time	10 – 25%
3. Feasible	Fairly likely to occur at same time	25 – 50%
4. Likely	Likely to occur within the next 1-2 years, or occurs occasionally	50 – 75%
5. Very Likely	Regular occurrence (daily / weekly / monthly)	> 75%

4 Background and Full Details of the Report

- 4.1 Members will recall that at the first meeting of the Shadow Council held in June 2018 an Interim Constitution was agreed. The purpose of this was to enable the

Shadow Council to operate until the new Authority takes effect on 1st April, 2019.

4.2 Under Regulation 10 of the Somerset West and Taunton (Local Government) Order 2018, the Shadow Council is expected to formulate proposals for the operation of the new Council.

4.3 Members at the subsequent meeting in September 2018 noted various principles within which a new Constitution would be produced. These were:

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 operate.

c) There is a **strong corporate framework** which ensures safeguards for decision-making with the emphasis being to be **risk aware rather than risk averse**.

d) Decisions are able to be made **swiftly and efficiently** within the above parameters.

e) There should be **transparency** within the process of 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**.

g) There is **clear accountability** within the decision-making process of who is **responsible** for what.

4.4 The new Council will face many challenges. It is essential that if it is to be effective in making decisions in a timely manner, it operates within a Constitution that is fit for purpose and agile for a modern Authority to operate within. Members agreed that the above principles should therefore be borne in mind as part of drafting the documents.

4.5 Members at the September meeting of the Committee also received a proposed timetable for the production of the various documents which will comprise the Constitution. The documents forming Phase I of the Constitution were comprised of:

Part 1 – Summary and Explanation

Part 2 – Articles

Part 3 – Responsibilities for Functions

- 4.6 The above were presented to a meeting of the Shadow Corporate Governance and Standards Committee on 12 November 2018 and were agreed to be recommended for adoption as part of a whole new Constitution document by the Shadow Council when it meets in March, 2019.

5 Documents Produced as Part of Phase II

- 5.1 The following documents have now been produced as part of Phase II.

a) Terms of Reference for Council

This sets out the responsibilities that the full Council has under the law and has chosen to retain for itself.

b) Terms of Reference for the Executive

This sets out the responsibilities for the Executive.

c) Terms of Reference for Governance and Standards Committee

This Committee is key as part of ensuring good governance, audit and probity within the organisation. Its Terms of Reference comprehensively set out key areas for which it will be responsible including standards of behaviour by Members.

d) Terms of Reference for Scrutiny Committee

Members have agreed that there should be strong and effective scrutiny of decision-making within the Council and these Terms of Reference seek to facilitate that.

e) Terms of Reference for Planning Committee

The Planning Committee Terms of Reference have been simplified and seek to retain for the Committee itself those areas which it will deal with and the rest is delegated to Officers.

f) Terms of Reference for Licensing Committee

The Terms of Reference of this also seek to adopt the model for the Planning Committee as set out above.

g) Budget and Policy Procedure Rules

This sets out the procedure for conflict resolution in relation to the Budget and Policy framework.

h) Executive Procedure Rules

This sets out how the Executive will operate including key financial

thresholds which will amount to defined key decisions.

i) Scrutiny Procedure Rules

This sets out the procedure within which the Scrutiny Committee will operate and in particular refines the calling mechanism.

j) Financial Regulations

This provides the framework for managing the financial affairs of the Council and governs the way the Council undertakes financial planning, budget setting, budget- monitoring and closing of the accounts and identifies the way day to day financial administration is conducted and financial controls are exercised.

5.2 The above documents were circulated to all Shadow Councillors and subsequently considered by a well- attended meeting of the New Council Working Group on Monday 14th January, 2019. The draft documents were well received including supporting the higher financial figures proposed thereby reflecting the principle of maximising the levels of delegation. Various amendments made by Members, such as favouring all executive decisions being subject to the call-in process, have been incorporated in the draft appendices as well as views of relevant Officers.

6 Finance / Resource Implications

6.1 None.

7 Legal Implications

7.1 These are contained within the body of the report.

8 Environmental Impact Implications

8.1 None.

9 Safeguarding and/or Community Safety Implications

9.1 None.

10 Equality and Diversity Implications

10.1 None.

10.2 **Social Value Implications** None.

11 Partnership Implications

11.1 None.

12 Health and Wellbeing Implications

12.1 None.

13 Asset Management Implications

13.1 None.

14 Consultation Implications

14.1 As indicated in the body of the report, drafts of the documents have been shared with all Shadow Councillors and considered in detail by the New Council Working Group and the Heads of Functions together with other relevant Officers. Relevant comments have been taken into account as part of the production of this report.

Democratic Path:

- **Corporate Governance and Standards Committee – Yes**
- **Executive – No**
- **Full Council – Yes**

Reporting Frequency : **Once only** **Ad-hoc** **Quarterly**
 Twice-yearly **Annually**

List of Appendices (delete if not applicable)

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