

# **SOMERSET WEST AND TAUNTON SHADOW COUNCIL**

## **Meeting of the Shadow Council**

Date: 7<sup>th</sup> June 2018.

Time: 6pm

Venue: Oake Manor Golf Club

### **AGENDA**

**1. Election of Chairman.**

To appoint a Chairman of the Shadow Council.

**2. Vice-Chairman.**

To appoint a Vice-Chairman of the Shadow Council

**3. Apologies for Absence.**

**4 Public Participation**

**The Chairman to advise of any items on the agenda which members of the public have requested to speak**

**5. Member Code of Conduct (Proposed Code attached).**

To adopt a Member Code of Conduct for the Shadow Council.

**6. Declaration of Interests.**

To receive declarations of Disclosable Pecuniary Interests or personal or prejudicial interests, in accordance with the Code of Conduct, in relation to items on the agenda. Such interests need to be declared even if they have already been recorded in the Register of Interests. The personal interests of Councillors who are County Councillors or Town or Parish Councillors will automatically be recorded in the minutes.

**7. Adoption of Interim Constitution (report attached).**

Report of the Monitoring Officer.

**8. Appointment of Interim Statutory Officers and Proper Officers (report attached).**

Report of the Monitoring Officer.

**9. Political Balance and Appointments to the Executive, Committees, Working Groups and Standards Arrangements (report attached).**

The purpose of the report of the Monitoring Officer was to provide clarity as to the political group arrangements, appointments to the Shadow Executive, Standing Committees and any Working Groups for the Shadow Council and Standards Arrangements .

**10. Appointment of Leader**

To appoint a Leader of the Shadow Council

**11. Appointment of Deputy Leader.**

To appoint a Deputy Leader of the Shadow Council.

**12. Member Allowance Scheme.**

The Interim Monitoring Officer to report that it is not proposed for any additional Members' allowances to be payable to Councillors in respect of their roles as members of the Shadow Authority given that current allowances payable by the extant authorities will continue to be paid during the Shadow Authority period in respect of current roles at Taunton Deane Borough Council and West Somerset Council respectively. Any approved travel or other costs incurred as a result of Shadow Authority activities will be reimbursed out of the existing Councils' budgets.

A similar approach is being taken in respect of the officer roles appointed to support the Shadow Authority. The only exception to this point of principle would be in any instance whereby a councillor was given a Special Responsibility Role with the Shadow Authority who was not in receipt of a Special Responsibility Allowance from their current council. If this was to happen, consideration would be given to awarding a Special Responsibility Allowance to the councillor(s) concerned following taking advice from the Joint Independent Remuneration Panel.

**13. Future Meeting dates.**

For information please find the dates for the next meetings of the Shadow Council, Executive and Scrutiny. A full meeting schedule will be developed by Officers and circulated to all members as soon as is possible.

## **Shadow Full Council**

- Monday, 15 October 2018 at 6pm, Oake Manor

## **Shadow Executive**

- Monday, 11 June 2018, at 6pm, Council Chamber, Williton.

## **Shadow Scrutiny Committee**

- Monday, 9 July 2018 at 6pm, Council Chamber, Williton.

# Somerset West and Taunton Shadow Council

## Member Code of Conduct

### Introduction and interpretation

As a member and representative of this Council it is your responsibility to comply with this Code when you undertake or claim to be undertaking Council business or give the impression that you are undertaking Council business.

As a representative of this Council your actions impact on how the Council as a whole is viewed by the public. It is important, therefore, that you do not do anything when undertaking Council business which you could not justify to the public. It is not enough to avoid actual impropriety, you should at all times avoid any occasion for suspicion or appearance of improper conduct.

This Code is based upon the seven principles of public life which are set out at Appendix 1. You shall have regard to those principles when fulfilling your role.

An explanation of the terms used in this Code can be found in Appendix 2.

### General Obligations

1. When undertaking Council business you must:
  - 1.1 treat others with respect;
  - 1.2 not use or attempt to use your position as a member improperly to give yourself or any other person, an advantage or disadvantage;
  - 1.3 when reaching decisions on any matter, consider any relevant advice provided to you by
    - (a) the Council's Chief Finance Officer (S151) responsible officer (RFO); or
    - (b) the Council's Monitoring Officer,in accordance with his or her statutory duties;
  - 1.4 give reasons for decisions in accordance with any statutory requirements and the Constitution of the Council;
  - 1.5 act in accordance with the Council's Constitution and the policies contained within it and any other relevant Council policies;
  - 1.6 not use Council's resources improperly (including for political purposes);

- 1.7 avoid doing anything which may cause the Council to breach a statutory duty or any of the equality enactments (as defined in section 149 of the Equality Act 2010);
- 1.8 not bully any person;
- 1.9 not intimidate or attempt to intimidate any person who is or is likely to be:
  - (a) a complainant,
  - (b) a witness,
  - (c) involved in the administration of any investigation or proceedings, or
  - (d) any other person carrying out the functions of the Council,in relation to an allegation that a member (including yourself) has failed to comply with the Council's code of conduct;
- 1.10 avoid doing anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council;
- 1.11 not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
  - (a) you have the consent of a person authorised to give it;
  - (b) you are required by law to do so;
  - (c) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
  - (d) the disclosure is:
    - (i) reasonable and in the public interest; and
    - (ii) made in good faith and in compliance with the reasonable requirements of the Council; and
  - (e) you have consulted the Monitoring Officer prior to its release;
- 1.12 not prevent another person from gaining access to information to which that person is entitled by law; and
- 1.13 not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.

## Interests

### Disclosable Pecuniary Interests

2. 2.1 You must register and declare any Disclosable Pecuniary Interests that relate to your public duties as required by this Code, and set out in Appendix 3.
- 2.2 You must, within 28 days of this Code being adopted by the Council or your taking office as a member or co-opted member, register any Disclosable Pecuniary Interests with the Council's Monitoring Officer, where the Disclosable Pecuniary Interest is yours, your spouse's or civil partner's, or is the Disclosable Pecuniary Interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners. Disclosable Pecuniary Interests will be recorded in the Council's Register of Members' Interests and made available for public inspection including on the Taunton Deane Borough and West Somerset Councils' websites.
- 2.3 Within 28 days of becoming aware of any new Disclosable Pecuniary Interest or change to any such interest already registered, you must register details of that new interest or change in writing to the Council's monitoring officer.
- 2.4 Where any business of the Council, relates to or affects a Disclosable Pecuniary Interest whether registered under 2.2 or 2.3 above or not, and you attend any meeting of the Council, its Executive or any Committee, Sub-Committee, Joint Committee at which that business is to be considered, you must:
  - (a) not seek to influence a decision about that business;
  - (b) disclose to that meeting the existence and nature of that interest no later than the start of the consideration of the business in which you have that interest, or (if later) the time at which the interest becomes apparent to you. The exception to the requirement to disclose an interest is if the matter is a sensitive interest under paragraph 2.11;
  - (c) withdraw from the meeting room or chamber as soon as it becomes apparent that the business is being considered at that meeting;unless you have obtained a dispensation from the Council's Monitoring Officer or the Corporate Governance and Standards Committee.
- 2.5 Following any disclosure at a meeting or as part of a decision record, of a Disclosable Pecuniary Interest not on the Council's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of the disclosure at the meeting or in the decision record in order for the interest to be included in the register.

- 2.6 Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a Disclosable Pecuniary Interest. Additionally you must observe the restrictions the Council places on your involvement in matters where you have a Disclosable Pecuniary Interest as defined by the Council and set out in this Code.

## Other Interests

**Note:** It is conceivable that an interest could be categorised as both a Disclosable Pecuniary Interest and a personal or a personal and prejudicial interest. If so you must treat it as a Disclosable Pecuniary Interest and comply with the requirements set out in paragraphs 2.1 – 2.6 inclusive

- 2.7 (1) In addition to the Disclosable Pecuniary Interests notifiable under the Localism Act 2011, you must, within 28 days of:
- (a) this Code being adopted by or applied to the Council; or
  - (b) your election or appointment to office (where that is later),
- give written notification to the Monitoring Officer of the details of your other personal interests, as defined in 2.8(1) (i) and (ii) below, for inclusion in the register of interests. The exception to this requirement is if the detail of the personal interest is classified as sensitive – see paragraph 2.11.
- (2) You must, within 28 days of becoming aware of any new personal interest or change to any such registered interest, notify the Monitoring Officer of the details of that new interest or change.

## Personal Interests

- 2.8 (1) You have a personal interest in any business of the Council where:
- (a) it relates to or is likely to affect:
    - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council;
    - (ii) any body:
      - (a) exercising functions of a public nature;
      - (b) established for charitable purposes; or
      - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

of which you are a member or in a position of general control or management;

- (b) a decision in relation to any business of the Council might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a significant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division, as the case may be, affected by the decision;
- (2) Subject to sub-paragraphs (3) to (5) below, where you are aware of a personal interest described in paragraph (1) above in any business of the Council, and you attend a meeting of the Council at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the start of the consideration of that business, or when the interest becomes apparent to you.
  - (3) Where you have a personal interest in any business of the Council which relates to or is likely to affect a significant person (see paragraph 1 (b) above and Appendix 2 for the interpretation of the term 'significant person'), you need only disclose to the meeting the existence and nature of that interest if and when you address the meeting on that business.
  - (4) Where you have a personal interest but the interest is not detailed in the Council's register of members' interests because of the sensitive nature of the interest, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
  - (5) Where you have a personal interest in any business of the Council and you have made an individual decision (as an Executive member) in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest subject to (4) above.
  - (6) Any personal interests notified to the Monitoring Officer will be included in the register of interests.
  - (7) A copy of the register will be available for public inspection and will be published on the Taunton Deane Borough and West Somerset Councils' websites.

## **Prejudicial Interests**

- 2.9 (1) Where you have a personal interest in any business of your Council you also have a prejudicial interest in that business where the interest is one which a member of the public with



knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and where that business:

- (a) affects your financial position or the financial position of a significant person (other than another town parish district or county council of which you are also a member); or
  - (b) relates to determining any approval, consent, licence, permission or registration in relation to you or any significant person (other than another town parish district or county council of which you are also a member).
- (2) Subject to paragraph (3) and (4), where you have a prejudicial interest in any business of your Council:
- (a) You may not participate in any discussion of the matter at a meeting.
  - (b) You may not participate in any vote taken on the matter at a meeting.
  - (c) You must disclose the existence and nature of the interest to the meeting and leave the room where the meeting is held while any discussion or voting takes place on the matter. The exception to the requirement to disclose the detail of the interest is if the matter is a sensitive interest under paragraph 2.11. In these circumstances you need only state that you have a prejudicial interest and that the details are withheld because of the sensitive information involved.
- (3) Where you have a prejudicial interest in any business of your Council, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business and you leave the meeting room immediately after making representations, answering questions or giving evidence.
- (4) Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a prejudicial interest that relates to the functions of your Council in respect of:
- (i) housing, where you are a tenant of your Council provided that those functions do not relate particularly to your tenancy or lease;
  - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;

- (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
  - (iv) an allowance, payment or indemnity given to members;
  - (v) any ceremonial honour given to members; and
  - (vi) setting council tax or a precept under the Local Government Finance Act 1992.
- (5) Where, as an Executive member, you may take an individual decision, and you become aware of a prejudicial interest in the matter which is the subject of the proposed decision you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek to influence a decision about the matter.

### **Receipts of gifts and hospitality**

- 2.10 (1) You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £25 which you have accepted as a member from any person or body other than the Council.
- (2) The Monitoring Officer will place your notification on a public register of gifts and hospitality.

### **Sensitive Interests**

- 2.11 (1) If you have a Disclosable Pecuniary Interest or a Personal or Personal and Prejudicial Interest but you consider that disclosure of the interest could lead to you or a person connected with you being subject to violence or intimidation **and** the Monitoring Officer agrees with that assessment then instead of disclosing the interest you need only disclose that you have a Disclosable Pecuniary Interest or Personal or Personal and Prejudicial Interest (as the case may be). In such instances any published version of the register of interests will exclude details of the interest but may state that you have an interest, the details of which are withheld.

### **Scrutiny**

- (1) In relation to any business before the Scrutiny Committee of the Council (or of a sub-committee of such a committee) where:
- (a) that business relates to a decision made (whether implemented or not) or action taken by your Council's Executive or another of your Council's committees, sub-committees, joint committees or joint sub-committees; and

- (b) at the time the decision was made or action was taken, you were a member of the Executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph a) and you were present when that decision was made or action was taken; or
- (c) that business relates to a decision made (whether implemented or not) or action taken by you (whether by virtue of the Council's constitution or under delegated authority from the Leader);

you may attend a meeting of the scrutiny committee or sub-committee of the Council but only for the purpose of making representations, answering questions or giving evidence relating to the business.

# Appendix 1

## The Seven Principles of Public Life

### **Selflessness**

Holders of public office should act solely in terms of the public interest.

### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family or their friends. They must declare and resolve any interests and relationships.

### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### **Honesty**

Holders of public office should be truthful.

### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Appendix 2

### Council's Code of Conduct - Interpretation

In the Council's Code of Conduct the following words shall have the following meanings ascribed to them:

- “the Act” means the Localism Act 2011;
- “Disclosable Pecuniary Interest” is as defined in Appendix 3;
- “meeting” means any meeting of:
  - (a) the Council;
  - (b) the Executive of the Council;
  - (c) any of the Council's or its Executive's committees, sub-committees, joint committees, joint sub-committees, or area committees; whether or not the press and public are excluded from the meeting in question by a resolution of members;
- “member” includes a co-opted member and an appointed member;
- “sensitive information” means information relating to a member's interests that the monitoring officer has determined need not be included in the member's registration of an interest or any change to that interest, by virtue of the fact that its availability for inspection by the public is likely to create a serious risk that any person may be subjected to violence or intimidation;
- “bullying” means offensive, intimidating, malicious, insulting or humiliating behaviour based on abuse or misuse of power or authority which attempts to undermine;
- “disrepute” means a lack of good reputation or respectability which can be reasonably regarded as reducing the public's confidence in that member being able to fulfil their role or adversely affecting the reputation of members generally in being able to fulfil their role;
- “significant person” in relation to personal and personal and prejudicial Interests means a member of your family or any person with whom you have a close association; or any body:
  - (a) of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council;
  - (b) exercising functions of a public nature;
  - (c) established for charitable purposes; or
  - (d) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;

- “wellbeing” means a condition of contentedness, healthiness and happiness. Anything that could be said to affect a person’s quality of life, either positively or negatively, is likely to affect their wellbeing. It is not restricted to matters affecting a person’s financial position;
- “close association” means someone that you are in regular contact with over a period of time who is more than an acquaintance or colleague. It may be a friend, a business associate or someone you know through general social contacts. It is someone who a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter that affects them;
- “member of your family” means partner i.e. someone you are married to, your civil partner, or someone you live with in a similar capacity, a parent, a parent-in-law, a son or daughter, a stepson or stepdaughter, the child of a partner, a brother or sister, a brother or sister of your partner, a grandparent, a grandchild, an uncle or aunt, a nephew or niece, and the partners of any of these people.

## Appendix 3

### Disclosable Pecuniary Interests

This note explains the requirements of the Localism Act 2011 (Ss 29-34) in relation to disclosable pecuniary interests.

These provisions are enforced by criminal sanction.

They come into force on 1 July.

#### 1. Notification of disclosable pecuniary interests

Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'.

A 'Disclosable Pecuniary Interest' is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) within the following descriptions:

<b>Interest</b>	<b>Description</b>
Employment, office, trade, profession or vacation	An employment, office trade profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contract	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the Council:</p> <ul style="list-style-type: none"><li>(a) under which goods or services are to be provided or works are to be executed; and</li><li>(b) which has not been fully discharged.</li></ul>
Land	Any beneficial interest in land which is within the area of the Council.

<b>Interest</b>	<b>Description</b>
Licences	Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge): <ul style="list-style-type: none"> <li>(a) the landlord is the Council; and</li> <li>(b) the tenant is body in which the relevant person has a beneficial interest.</li> </ul>
Securities	Any beneficial interest in securities of a body where: <ul style="list-style-type: none"> <li>(a) that body (to M/s knowledge) has a place of business or land in the area of the Council; and</li> <li>(b) either: <ul style="list-style-type: none"> <li>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</li> <li>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</li> </ul> </li> </ul>

These descriptions on interests are subject to the following definitions:

- “the Act” means the Localism Act 2011;
- “body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;
- “director” includes a member of the committee of management of an industrial and provident society;
- “land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;
- “M” means the person M referred to in section 30 of the Act;
- “member” includes a co-opted member;
- “relevant authority” means the Council of which M is a member;
- “relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) of the Act;
- “relevant person” in relation to disclosable pecuniary interests means M or M’s spouse or civil partner or a person with whom M is living as husband and wife or a person with whom M is living as if they were civil partners;



- securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000() and other securities of any description, other than money deposited with a building society.

## **2. Dispensations**

The Corporate Governance and Standards Committee or Monitoring Officer may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

## **3. Offences**

It is a criminal offence to

- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election.
- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register.
- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting.
- Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest.
- As an Executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest.
- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting.

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

## Appendix 4

### Guidance on Bias and Predetermination

**Note:** This is **not** part of the code of conduct

Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life you may participate in a decision on the issue in your political role as a member. However, you must not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When making a decision, consider the matter with an open mind and on the facts made available to the meeting at which the decision is to be taken.

# Somerset West and Taunton Shadow Council

## Shadow Council Meeting – 7th June 2018

### Shadow Council Constitutional Arrangements

Report Author: Bruce Lang

#### 1 Executive Summary

- 1.1 In accordance with the Somerset West and Taunton (Local Government Changes) Order 2018, the Shadow Council is required to produce Constitutional arrangements including how the executive arrangements will operate. This report sets out the framework for the Constitution and details how the constituent parts will operate including the executive arrangements.

#### 2 Recommendations

- 2.1 To adopt the attached Shadow Council Interim Constitution.

#### 3 Risk Assessment (if appropriate)

##### Risk Matrix

Description	Likelihood	Impact	Overall
The Shadow Council does not have clear governance arrangements in place and so it is not clear how decisions can be made safely	3	5	15
The Shadow Council adopts an interim Constitution at its first meeting	1	5	5

### Risk Scoring Matrix

<b>Likelihood</b>	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
<b>Impact</b>							

<b>Likelihood of risk occurring</b>	<b>Indicator</b>	<b>Description (chance of occurrence)</b>
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 It is important that there is clarity in relation to how the Shadow Council will operate. The Constitutional framework provides this as it sets out the role of the Shadow Council, its constituent parts and how it will make decisions in practice.
- 4.2 The Interim Constitution has been drafted, taking into account the current Constitutions of both Taunton Deane Borough Council and West Somerset Council. In addition to this, best practice from elsewhere has also been adopted.
- 4.3 Members should note that the Constitution is divided up into the following constituent parts:
- Part 1 – sets out the Summary of how the council will operate
  - Part 2 – sets out the Articles of the Constitution

- Part 3 – sets out the Responsibility for Functions for the various constituent parts
- Part 4 – sets out the Rules of Procedure, as follows:
  - ❖ Procedure Rules for how the Shadow Council will meet and operate
  - ❖ Procedure Rules for Access to Information
  - ❖ Executive Procedure Rules
  - ❖ Scrutiny Procedure Rules
  - ❖ Finance Framework and Procedure Rules

4.4 The attached Constitutional documents provide a framework for the Shadow Council. They are currently limited to the tasks which are envisaged for the Shadow Council which are essentially to:

- a) manage the transition from the existing two separate Councils to a Combined Council for the whole area.
- b) formulate and set the Council Budget for the new Council from 1st April 2019.
- c) agree the new Constitutional Arrangements for the new Council.

4.5 Accordingly, the documents have been produced to serve the above roles. It is, however, intended that this 'shell' will be added to as time goes by. In particular, there will be requirements at future meetings of the Shadow Council to produce frameworks as required:

- a) by any subsequent Finance Orders produced by the government,
- b) any Contract Procedure Rules required to implement arrangements for letting any contracts in the lead-up to 1st April 2019,
- c) to produce a set of Officer Employment Procedure Rules in order to make permanent appointments to officer roles.

4.6 In view of the time pressures, it has not been possible to consult in a way that officers would have preferred. The reason for this is because there has been great pressure to launch the Shadow Council now that the Order has come into force. Indeed, the first meeting of the Shadow Council has to be held within 14 days of the Order coming into existence. However, it is intended that there will be a proper and full involvement of Members in the drafting of the Constitutional documents for the new Council, which will operate from 1st April 2019.

4.7 The Shadow Council is requested to adopt the Interim Constitution as appended to this report with or without amendments.

## **5 Links to Corporate Aims / Priorities**

5.1 The adoption of an Interim Constitution represents good practice to ensure good governance of the Shadow Council.

## **6 Finance / Resource Implications**

6.1 None directly for this report. The Constitution incorporates the Budget and Policy Framework and the Financial Procedure Rules that are recommended to underpin this Framework.

## **7 Legal Implications**

7.1 There is a requirement to have proper Constitutional arrangements for the operation of the Shadow Council, as defined in the Somerset West and Taunton (Local Government Changes) Order 2018. In addition, the Order sets out a requirement for executive arrangements in relation to how the Council operates.

## **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.

## **11 Social Value Implications**

11.1 None.

## **12 Partnership Implications**

12.1 None.

## **13 Health and Wellbeing Implications**

13.1 None.

## **14 Asset Management Implications**

14.1 None.

## 15 Consultation Implications

15.1 Refer to 4.6.

### Democratic Path:

- **Scrutiny / Corporate Governance Committees – No**
- **Cabinet/Executive – No**
- **Full Council – Yes**

**Reporting Frequency: Once Only**

### List of Appendices

Appendix A	Proposed Interim Constitution for the Shadow Council
------------	--

### Contact Officers

Name	Bruce Lang	Name	
Direct Dial	01823 217556	Direct Dial	
Email	bdlang@westsomerset.gov.uk	Email	

# **Interim Constitution**

of

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

For further information please contact:

**Bruce Lang**

**Assistant Chief Executive and Monitoring Officer 01823 217556 June 2018**

**[BDLang@westsomerset.gov.uk](mailto:BDLang@westsomerset.gov.uk)**



## **Index**

Part One Summary and Explanation .....	3
Part Two Articles of the Constitution .....	5
Part Three Responsibility for Functions.....	22
Part Four Rules of Procedure.....	29
Procedure Rules for Shadow Council .....	29
Access to Information Procedure Rules.....	45
Executive Procedure Rules.....	57
Procedure Rules for Scrutiny.....	60
Financial Procedure Rules.....	70

# Part One Summary and Explanation

## Part 1 Summary and Explanation

### Our Constitution - What is it and why have one?

This is the Constitution for the Shadow Somerset West and Taunton Authority (hereinafter referred to as the 'Council' or the 'Shadow Council'). It sets out how the Council operates. It aims to describe the way our decisions are made and the various procedures which need to be followed. These procedures are there to ensure that those decisions are reached in ways which are efficient, transparent and accountable to local people. Some of the processes described here are required by the law, while others are a matter for the Council to choose.

Our aim is for people to understand how this machinery works and to remove much of the unnecessary mystery which often seems to surround the way in which local government works.

The Constitution is divided into 13 "Articles" which set out the basic rules governing the Council's business. More detailed procedures and codes of practice then follow.

### What is in it?

Article 1 of the Constitution commits the Shadow Council to its various roles - in terms of community leadership, through involving people in discussion and decisions about how local services can be improved and through enabling councillors to play a full part in representing the interests of their constituents. It also commits the Council to decision-making processes which are open and accessible and which ensure that the decision-makers are easily identifiable and fully accountable for their actions.

Articles 2 - 13 explain the rights of citizens and how the key parts of the Council operate.

### The Shadow Council and how it operates

The Shadow Council is composed of 84 councillors. Councillors are each therefore democratically accountable to residents of their ward. Whilst the overriding duty of councillors is to the whole community, they also have a special duty to all their constituents - whether they voted for them or not.

On the 1 April 2019 a new local authority known as Somerset West and Taunton will come into existence.

## **Executive**

The Executive is the part of the Council which is responsible for most day-to-day decisions. The Executive is made up of 8 councillors including a Leader and Deputy Leader (both elected by the full Council) and 3 councillors nominated from Taunton Deane Borough Council and 3 councillors nominated from West Somerset Council. The Executive publishes a Forward Plan each month giving early warning of major decisions which are to be discussed over the following months - in so far as they can be anticipated. Meetings of the Executive are open for the public to attend - except in a few rare cases where personal or confidential matters are being discussed.

The Executive does not have complete freedom of action but must act in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, then this must be referred to the Council as a whole for it to decide.

## **“Scrutiny”**

Whilst the Executive is responsible for carrying through the Council's services and for most of its decision-making, this “scrutiny” role is equally important in supporting the work of the Executive and of the Council as a whole and in counterbalancing the Executive's powers.

## **Corporate Governance and Standards Committee**

The Shadow Council Corporate Governance and Standards Committee will deal with governance, audit and standards of behaviour of councillors.

## **Working Groups**

The Shadow Council may establish such Working Groups as it considers appropriate to support its functions.

# Part Two **Articles of the Constitution**

## **Part 2 Summary Articles of the Constitution**

### **Article 1 The Constitution and duties of the Shadow Council**

#### **1.1 Powers**

The powers and duties of the Shadow Council are set out in a number of Acts of Parliament and supporting legislation. In particular the Somerset West and Taunton (Local Government Changes) Order 2018 sets out the role of the Shadow Authority. The Shadow Council will exercise its powers and duties in accordance with the law and its constitution.

#### **1.2 The Constitution**

This Constitution, and all its appendices, is the Constitution.

#### **1.3 Purpose of the Constitution**

The purpose of this Constitution is to:-

- make all decision-making procedures fully transparent;
- provide a means of improving the delivery of services to the community;
- ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for their decisions;
- create a powerful and effective means of holding decision-makers to public account;
- secure that decisions are taken efficiently, effectively and fairly;
- help the Council to provide clear leadership to the community in partnership with local people, businesses and other organisations;
- attract the active involvement of local people in the process of our decision-making;
- help councillors represent their constituents more effectively; and
- ensure that elected councillors maintain the highest standards of ethical conduct in their work on your behalf.

#### **1.4 Interpretation and Review of the Constitution**

Where the Constitution permits the Shadow Council to choose between different courses of action, the Shadow Council will always choose that option which it thinks is closest to meeting the above objectives.

## **Article 2 Members of The Shadow Council**

### **2.1 Who are your Councillors?**

- (a) **Composition.** The Council is made up of 84 members or councillors. One or more of these councillors is elected by the voters of each of our wards.
- (b) **Eligibility.** Only registered voters of the Shadow Council area or those living or working here are legally eligible to hold the office of councillor.

### **2.2 Election and terms of Councillors**

- (a) The members of the Shadow Council are those persons who at the first meeting of the Shadow Council are Councillors of Taunton Deane Borough Council and West Somerset Council.
- (b) Councillors remain members of the Shadow Authority throughout the period of the Shadow Council. Should a seat become vacant by 1 October, 2018, then a by-election will be called for the Shadow Authority. Any seat becoming vacant on or after 1 October, 2018 shall remain vacant until the May 2019 local elections for the new Council.

### **2.3 Roles and functions of all Councillors**

#### **(a) Key roles**

All Shadow Councillors are expected to:-

- (i) as a body, set the Shadow Council's major policies and strategies as required by the Structural Changes Order 2018;
- (ii) contribute to the good governance of the area and actively encourage community participation and the involvement of local people in decision making;
- (iii) effectively represent the interests of their ward and of individual constituents;
- (iv) respond to constituents' enquiries and representations, fairly and impartially;

- (v) participate in the governance and management of the Council;  
and
- (vi) maintain the highest standards of conduct and ethics.

**(b) Rights and duties of Shadow Councillors**

- (i) Councillors have legal rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions.
- (ii) Councillors will not make public any information, which is either “confidential” or “exempt”, without consulting the Monitoring Officer; nor will they divulge information given in confidence to anyone - other than to a councillor or officer entitled to know it.
- (iii) For these purposes, “confidential” and “exempt” information have special meanings, which are defined in the Access to Information Rules in Part 4 of this Constitution.

**(c) Conduct**

Councillors must at all times observe the Members’ Code of Conduct.

**(d) Allowances**

Councillors will continue to receive allowances in accordance with the Members’ Allowances Schemes of the extant authorities during the period of the Shadow Authority and will only be eligible for additional allowances if they are allocated a special responsibility role for the Shadow Authority and do not already receive a special responsibility allowance from their extant authority.

**(e) Chair and Vice Chair**

At its first meeting, the Shadow Council will elect from its number, a person to serve as the Chair and another to be Vice Chair.

**(f) Leader and Deputy Leader**

At its first meeting, the Shadow Council will elect from its number a person to serve as Leader and another to be Deputy Leader.

**Article 3 Citizens and the Council**

**3.1 Citizens' Rights**

Citizens have a range of rights and some of the most important ones affected by this Constitution are set out below. Those which relate to getting information and attending our meetings are explained in more detail in the Access to Information Rules in Part 4 of the Constitution:

### **3.2 Voting**

Those on our Electoral Roll have the right to vote to elect members of the Shadow Council. They also form the electorate at Parliamentary, European, County Council and Parish Council elections. When referenda are held, those entitled to vote will again be the people entered on the Roll.

### **3.3 Petitions**

These are formal written requests to the Council asking it to do something. It will often take the form of a list of names from those on the Roll.

### **3.4 Information**

Local people have the right to:

- (i) attend meetings of the Council - except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (ii) attend meetings of the Executive;
- (iii) find out from our published Forward Plan what decisions will be taken by the Executive over the next four months - and when;
- (iv) attend all meetings of our Scrutiny Committee at which our “overview and scrutiny” role is carried out;
- (v) see reports and background papers, and any unrestricted records of decisions made by the Council and the Executive; and
- (vi) inspect the Council’s accounts and make their views known to the District Auditor.

### **3.5 Participation**

Local people have the right to participate in the Public Participation Time which is held early in the meetings of the full Council, the Executive, Committees and Panels.

## **Article 4 The Full Shadow Council**

### **4.1 Functions**

The functions of the Shadow Council are set out in the Somerset West and Taunton (Local Government Changes) Order 2018.

Additionally the Shadow Council will exercise the following functions:

- (a) adopting and making significant changes to the Constitution;
- (b) approving or adopting the Budget including setting of Council Tax and Housing Rents for 2019/20 and beyond;
- (c) appointing the Leader and Deputy Leader;
- (d) appointing members of the Executive;
- (e) deciding on the number of seats to be allocated to each Party Group (or to independent councillors) on the constituent bodies in accordance with the “proportionality” rules;
- (f) appointing representatives to outside bodies, where the appointment does not relate to an Executive function;
- (g) adopting/modifying a Members’ Allowances Scheme;
- (h) adopting the Code of Conduct for members;
- (i) confirming the appointment of the Interim Head of Paid Service, Interim Monitoring Officer and Interim Chief Finance Officer and the respective permanent appointments;
- (j) making, amending, revoking, re-enacting or adopting bylaws, and promoting or opposing the making of local legislation or personal Bills; and
- (k) all other matters which, by law, must be reserved to Council.

## **Article 5 Chairing the Shadow Council**

### **5.1 The Chair**

The councillor elected to fulfil the role of chairing meetings of the Shadow Council shall have the title of “Chair”. He/she is elected by the Council annually.

### **5.2 Role and Function**

The Chair (and in his or her absence the Vice Chair) shall have the following roles and functions:-

- (a) to be the first citizen of the Shadow Council and to represent and symbolise the Council on all formal and ceremonial occasions;



- (b) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (c) to preside over meetings of the Council so that its business can be carried out efficiently and having full regard to the rights of councillors and the interests of the community;
- (d) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and where (in addition to the Scrutiny Committee) members who are not on the Executive are able to hold the Executive to account;
- (e) to promote public involvement in the Council's activities;
- (f) to attend such civic and ceremonial functions as the Council and he/she determines appropriate; and
- (g) to use the powers created elsewhere in this Constitution for the resolution of disputes and, in exceptional cases, where approval of urgent action is needed.

## **Article 6 The Executive**

### **6.1 Role**

The Executive will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

### **6.2 Form and composition**

The Executive will consist of the Leader, Deputy Leader and three councillors ("Executive Councillors") nominated by Taunton Deane Borough Council and three councillors nominated by West Somerset Council.

### **6.3 Leader**

The Leader will be a councillor elected to that position by the Full Shadow Council.

### **6.4 Deputy Leader**

The Shadow Council will appoint a Deputy Leader from one of the members of the Shadow Executive. The Deputy Leader, unless he/she resigns as Deputy Leader or ceases to be a member of the authority, is to hold office until the end of the term of office of the Executive Leader. The Leader may, if he/she thinks fit, remove the Deputy Leader from office.

If for any reason the Leader is unable to act or the office of Leader is vacant, the Deputy Leader must act in his/her place.

If for any reason:

- (a) the Leader is unable to act or the office of Leader is vacant, and
- (b) the Deputy Leader is unable to act or the office of Deputy Leader is vacant, the Executive must act in the Leader's place or must arrange for a member of the Executive to act in his place.

## **6.5 Term of Office – Exceptions**

Events which will result in the Leader's term of office ending prematurely are:-

- (a) he or she resigns from the office; or
- (b) he or she is suspended from being a councillor (under Part III of the Local Government Act 2000); or
- (c) he or she is no longer a councillor; or
- (d) he or she is removed from office by special resolution of the Council

## **6.6 Other Executive members**

Other Executive members shall hold office until:-

- (a) the happening of any of the events set out in Article 6.5.

## **6.7 Proceedings of the Executive**

Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution.

## **Article 7 The Corporate Governance and Standards Committee**

### **7.1 Corporate Governance and Standards Committee**

The Council will establish a Corporate Governance and Standards Committee.

### **7.2 Role and Functions**

This committee is responsible for:-

- a) Reviewing the Shadow Council's constitution and recommending any changes to the Shadow Council;
- b) Overseeing the Shadow Council's role and responsibilities in respect of Corporate Governance;
- c) Supporting the Shadow Council's audit function;
- d) Supporting the Interim Chief Finance Officer in relation to their duties;
- e) Approving any Shadow Council Statement of Accounts;
- f) Ensuring any Shadow Council Risk Management process is operating effectively;
- g) Discharging the Shadow Council's functions under Part 3 of the Local Government Act 2000;
- h) Promoting high standards of ethical behaviour among Members;
- i) Advising the Shadow Council on the adoption of the Codes of Conducts for Members and Officers;
- j) Making arrangements for dealing with any complaints made under the Members' Code of Conduct;

### **7.3 Dealing with Standards Issues**

#### **(a) Standards Issues**

When considering any standards/codes of conduct issues, the existing independent Chairs of the Taunton Deane Standards Advisory and West Somerset Advisory Committees will be co-opted as non-voting members of the committee.

#### **(b) Independent Person**

The Independent Person for the Shadow Authority will be the Independent Person(s) who has been formally appointed to that role for the extant authorities.

#### **(c) Chairing the Committee**

The Committee shall be chaired by a committee member.

#### **(d) Sub-committees**

The Corporate Governance and Standards Committee shall be entitled to appoint sub-committees or hearings panels to assess complaints received against members where allegations are made that a member has failed to comply with the code of conduct

## **Article 8 Scrutiny Committee**

### **8.1 Terms of Reference**

- (a) The Council has a legal duty to appoint an “overview and scrutiny committee” to discharge functions as set out in the Local Government Act 2000. For this Constitution this will be known as Scrutiny Committee.

### **8.2 The general role of the Scrutiny Committee**

Within their terms of reference, the Scrutiny Committee will:

- (a) Review and scrutinise decisions made or actions taken in connection with regard to the discharge of any functions of the Council or external agencies.
- (b) Make reports and recommendations to Full Council and/or the Executive with regard to the discharge of any functions of the Council or external agencies.
- (c) Consider any issue or topic affecting the area or its inhabitants
- (d) Review any decisions called-in but not yet implemented by the Executive and calling special meetings if required.
- (e) Assist the Executive and Full Council in developing policies and strategies.

### **8.3 Composition**

The Scrutiny Committee will consist of sixteen members. They will be politically balanced in accordance with the Council’s adopted political group scheme. The Committee will not be chaired by a Member of the controlling administration.

### **8.4 Cross-cutting approach**

In undertaking their responsibilities, the Scrutiny Committee will adopt a cross-cutting approach to support a holistic perspective of the service delivery and decision making processes of the Council.

## 8.5 Eligibility

Members of the Executive will not be eligible to sit on the Scrutiny Committee whilst on the Executive and shall not take part in any scrutiny of a decision in which they were involved in whilst a member of the Executive. The Leader of the Council and any member of the Executive may attend to provide information to the Scrutiny Committee.

## 8.6 Political issues

It is recognised that whipping by political parties would be inconsistent with the purposes of scrutiny and therefore will not take place on the Scrutiny Committee. Any member sitting on a Scrutiny Committee should not consider him or herself restrained by any political group whip on any matter the Committee will examine.

## 8.7 Operating procedure

The Scrutiny Committee will conduct their proceedings in accordance with scrutiny procedure rules as set out in Part 4 of this Constitution. Any co-opted member of the scrutiny committee will be required to sign a declaration of acceptance and compliance with the national code of conduct for councillors.

## Article 9 Officers

### 9.1 Interim Statutory Officers

The Full Shadow Council will appoint people for the posts designated interim in the left hand column of the table below. They will have the functions, powers and areas of responsibility shown on the right hand column.

Post	Functions and areas of responsibility
Interim Chief Executive (and Head of Paid Service)	<p>Overall corporate management and operational responsibility (including overall management responsibility for all officers).</p> <p>Provision of professional advice to all parties in the decision-making process.</p> <p>Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions.</p> <p>Representing the Council on partnership and external bodies (as required by statute or the Council).</p>

<b>Post</b>	<b>Functions and areas of responsibility</b>
Interim Monitoring Officer	Responsible for promoting good standards of ethical and corporate governance.
Interim Chief Finance Officer (S151 Officer)	Responsible for the financial management of the Council.

## **9.2 Functions of the Interim Head of Paid Service**

### **(a) Discharge of functions by the Council**

The Head of Paid Service will be responsible to the full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of those functions and the organisation of officers.

## **9.3 Functions of the Interim Monitoring Officer**

### **(a) Maintaining the Constitution**

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, officers and the public.

### **(b) Ensuring lawfulness and fairness of decision making**

After consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report to the full Shadow Council (or to the Executive in relation to an Executive function) if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

### **(c) Supporting the Corporate Governance and Standards Committee**

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Corporate Governance and Standards Committee.

### **(d) Receiving reports**

The Monitoring Officer will provide such information or reports as required by the Corporate Governance and Standards Committee and

act upon any recommendations of the Corporate Governance and Standards Committee that are ratified by the Council.

(e) **Conducting investigations**

The Monitoring Officer will conduct, or arrange to be conducted, investigations into matters referred by the Corporate Governance and Standards Committee, and make reports or recommendations in respect of them to the Corporate and Governance Standards Committee.

(f) **Proper Officer for access to information**

The Monitoring Officer will ensure that Executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

(g) **Advising whether Executive decisions are within the Budget and policy framework**

The Monitoring Officer will advise whether decisions of the Executive are in accordance with the Budget and Policy Framework.

(h) **Providing advice**

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and on Budget and Policy Framework issues to all councillors.

(i) **Independence**

This role has a personal responsibility, which also applies to the Deputy Monitoring Officer, and requires the officer to act independently of the Council but in the best interests of the Council

#### **9.4 Functions of the Interim Chief Finance Officer (S151 Officer)**

(a) **Ensuring lawfulness and financial prudence of decision making**

After consulting with the Head of Paid Service and the Monitoring Officer, the Section 151 Officer will report to the full Shadow Council or to the Executive and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

(b) **Administration of financial affairs**

The Section 151 Officer will have responsibility for the administration of the financial affairs of the Council.

(c) **Contributing to corporate management**

The Section 151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

(d) **Providing advice**

The Section 151 Officer will provide advice on the scope of powers and authority to take decisions upon issues relating to maladministration, financial impropriety, probity and/or Budget and Policy Framework issues to all councillors and will support and advise councillors and officers in their respective roles.

(e) **Give financial information**

The Section 151 Officer will provide financial information to members of the public, the community and the media.

**9.5 Duty to provide sufficient resources to the Interim Monitoring Officer and Interim Section 151 Officer**

The Council will provide the Monitoring Officer and Section 151 Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

**Article 10 Decision Making**

**10.1 Responsibility for decision making**

We keep a record of who has the power to take decisions about our various services and functions. We make this available to the public and the current version is set out in Part 3 of this Constitution.

**10.2 Principles of decision making**

All decisions taken on the Council's behalf will be made in accordance with the following principles:

- (a) proportionality (that is, the action must be proportionate to the desired outcome);



- (b) due consultation with, and the taking of professional advice from, officers;
- (c) respect for the rules of Natural Justice and for Human Rights (see Article 13.8 below)
- (d) a presumption in favour of openness; and
- (e) clarity of aims and desired outcomes; and
- (f) a recognition of the need to explain what options were considered and to give the reasons for the decision.

### **10.3 Types of decision**

#### **(a) Decisions reserved to full Council**

Decisions relating to the functions listed in Article 4.1 will be made by the full Shadow Council and not delegated.

#### **(b) “Key Decisions”**

- (i) A ‘Key Decision’ is a decision which will have a significant impact within the administrative area of the Shadow Authority, an operational impact on the community of more than one electoral ward, or involves a significant level of expenditure to be incurred by the Council relating to the discharge of a specific Council function (rather than solely staff related), e.g. where the aggregate expenditure is £50,000 or more (but not to include any expenditure included in a budget which has been approved in a framework policy).
- (ii) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

## **Article 11 Finance, Contracts and Legal Matters**

### **11.1 Financial Management**

The management of the Council’s financial affairs will be conducted in accordance with the Financial Regulations set out in Part 4 of this Constitution.

### **11.2 Contracts**

Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 4 of this Constitution (to be added).

### **11.3 Legal Proceedings**

The Solicitor to the Council (being the person designated as such in the Partnership Agreement with SHAPE Legal of Mendip District Council relating to the provision of a shared legal service) is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Solicitor to the Council considers that such action is necessary to protect the Council's interests.

### **11.4 Authentication of Documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Solicitor to the Council or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given the necessary authority to someone else.

Any contract with a value exceeding £25,000 or where the Solicitor to the Council so advises) entered into on behalf of the Council in the course of the discharge of an Executive function shall be set out in a formal document. Such contracts must be signed by an Officer formally authorised to do so or made under the Common Seal of the Council.

### **11.5 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Interim Monitoring Officer. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Solicitor to the Council should be sealed. The affixing of the Common Seal may only be attested by the Interim Head of Paid Service, the Interim Monitoring Officer Interim Chief Finance Officer or any member of the Central Implementation Team (as appointed by the Shadow Authority)..

### **11.6 Certifying of delegated powers**

The Interim Monitoring Officer is authorised to:

- (a) give effect to changes to the Council's management structure, and as to the naming and responsibilities of individual posts
- (b) to amend the formal delegated powers allocated to those posts, and to certify the extent of those delegated powers.

## **Article 12 Review and Revision of the Constitution**

## **12.1 Duty to Monitor and Review the Constitution**

The Monitoring Officer will monitor and review the operation of the Constitution and submit reports when necessary to ensure that the aims and principles of the Constitution are given full effect.

## **12.2 Changes to the Constitution**

Changes to the Constitution will only be approved by the full Shadow Council with a majority of the members of the Authority present and voting at the meeting after consideration of the proposal by the Corporate Governance and Standards Committee.

## **Article 13 Suspension, Interpretation and Publication of the Constitution**

### **13.1 Suspension of the Constitution**

#### **(a) Limit to suspension**

The Articles of this Constitution may not be suspended. The rules in Part 4 of this Constitution may include powers to waive or suspend by strictly following the procedures set out there.

#### **(b) Procedure to suspend**

A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

### **13.2 Interpretation**

The ruling of the Chair as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution.

### **13.3 Publication**

(a) The Monitoring Officer will ensure that all members of the Shadow Authority will have access to a copy of this Constitution.

(b) The Monitoring Officer will ensure that copies are publically on the local authority web-site , and can be purchased by members of the local press and the public on payment of a reasonable fee.

- (c) The Monitoring Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

# Part Three Responsibility for Functions

## Part 3 Responsibility for Functions

### 1.0 General

- 1.1 The Somerset West and Taunton (Local Government Changes) Order 2018 (“the Order”) provides for the establishment, on 1<sup>st</sup> April 2019, for a new combined authority within the Shadow Council’s area.

With effect from 1<sup>st</sup> April 2019, the Taunton Deane Borough Council and West Somerset Council will be abolished.

Until the results of the elections in May 2019, the Council will operate as a “Shadow Authority”, as defined in the Order.

In particular, the Shadow Council will have the following responsibilities:

- 1.1.1 to commence and sustain its running as a shadow authority;
  - 1.1.2 to prepare the Shadow Council for the assumption of local government functions and full local authority functions and powers on 1<sup>st</sup> April 2019;
  - 1.1.3 to prepare any budgets or plans required beyond 1<sup>st</sup> April 2019 when those functions and powers are assumed;
  - 1.1.4 to liaise with Taunton Deane Borough Council and West Somerset Council for the purposes of ensuring continuity of public service delivery on and after 1<sup>st</sup> April 2019;
  - 1.1.5 to take all such practical steps as are necessary or expedient to liaise with the other local authorities within its area for the purposes of ensuring continuity of public service delivery on and after 1<sup>st</sup> April 2019;
  - 1.1.6 to exercise any of the Local Government Act 1972 functions referred to in, and in accordance with, Part 3 of the Order.
- 1.2 The powers and functions of the Shadow Council are therefore limited and, consequently, the powers and functions of its Executive, committees, sub committees and other decision-making bodies are similarly limited. The responsibilities for functions described in this Part of the Constitution must therefore be considered in this context. However, upon the assumption of full

local authority functions and powers on 1<sup>st</sup> April 2019, these responsibilities will increase. Until that date, the Councils within the Shadow Council's area will continue to have responsibility for local authority functions within their areas.

- 1.3 The Shadow Council is required in this Constitution to set out the allocation of responsibilities for its functions.
- 1.4 The following paragraphs cover functions which are:
  - the responsibility of the Shadow Council and/or its Committees/Sub-Committees
  - the responsibility of the Executive
  - the responsibility of Officers
- 1.5 Where a function is not specified as being the responsibility of the Shadow Council, a Committee, Sub-Committee, or officer that function shall, unless otherwise provided to the contrary by law, be the responsibility of the Executive.

## **2.0 Functions Reserved to the Shadow Council**

The following functions are the responsibility of the Shadow Council and will be discharged by the full Shadow Council unless specified to be delegated to another Committee, Sub-Committee or body under this Constitution. The Shadow Council:

- 2.1 is accountable to its citizens for the proper discharge of all of its functions and for the delivery of such services as it is responsible for;
- 2.2 will keep under review the running of the Shadow Council's affairs and will implement changes where it considers there is a need to do so to improve the way in which the organisation operates, its relationships with the Shadow Council's citizens and the delivery of any services in the most effective and efficient way;
- 2.3 will adopt the Shadow Council's Constitution in accordance with the requirements of the Local Government Act 2000 and approve any subsequent amendments to it in whole or in part;
- 2.4 will appoint to the following offices
  - Chair of the Shadow Council
  - Vice Chair of the Shadow Council
  - Leader of the Shadow Council
  - Deputy Leader of the Shadow Council
  - Members of the Executive
  - such other offices as may be required under this Constitution or by the Shadow Council;

- 2.5 will determine whether functions which are classified as “local choice” functions under the Local Government Act 2000 should be reserved to the Shadow Council or delegated to the Executive;
- 2.6 will adopt the Shadow Council’s Codes of Conduct for Members and Officers and the Protocol on Member/Officer Relations;
- 2.7 will agree the establishment and composition of, and make appointments to, Committees, Sub-Committees, Working Groups other than those which may be established within the Executive;
- 2.8 will agree and amend the terms of reference of its Committees and Sub-Committees and Working Groups;
- 2.9 where permitted by the law, will make arrangements for appointments to outside bodies;
- 2.10 will carry out all duties specified in and comply with the Somerset West and Taunton (Structural Changes) Order 2018;
- 2.11 will review and decide unless provided to the contrary in the Executive Procedure Rules whether any Executive decision which has not been implemented and has been referred to the Council under the provisions in this Constitution should be reconsidered by the decision taker in accordance with this Constitution and in such cases the Council may offer its advice on the matter in question;
- 2.12 will consider any matter which has been referred or submitted to it by the Executive;
- 2.13 where a matter is referred to it for determination by a Committee or Sub-Committee other than an Executive body, under this Constitution or under some other approved policy or procedure, to determine that matter;
- 2.14 will adopt or otherwise, as provided in the Shadow Council Procedure Rules, motions submitted under the rules;
- 2.15 will formulate proposals for the Members Allowance Scheme, following advice from any Independent Remuneration Panel, for adoption by the Shadow Council and the Somerset West and Taunton Council.
- 2.16 will appoint and dismiss the interim statutory officers i.e. the interim head of paid service, the interim monitoring officer and interim chief finance officer and to make arrangements for the permanent appointment to these posts;

- 2.17 will approve the Shadow Council's response to any issues or proposals in relation to local government boundaries including Electoral Wards, the conduct of elections and the discharge of local authority functions;
- 2.18 may determine other matters which may from time to time be submitted to it for determination, either by resolution or through approved procedures, where such matters do not fall within the functions of the Executive.

### **3.0 General Responsibility of the Executive, Committees and Sub-Committees**

- 3.1 These bodies are responsible and accountable to the Shadow Council as appropriate in accordance with this Constitution, their terms of reference and under the approved policies, regulations and procedures of the Shadow Council.

### **4.0 Responsibility of the Executive**

Where the Executive is exercising an Executive function, in whole or in part, as set out in this Section and in Section 5 below, the Executive is empowered to take all necessary and appropriate decisions to fulfil the obligations placed upon it subject to any restrictions or constraints imposed by the law or this Constitution.

#### **4.1 The Executive**

Is responsible for and accountable to the Shadow Council, where appropriate, for the following functions, recognising that certain functions discharged by officers or services within its remit fall, by virtue of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and any subsequent amendments thereto, to be discharged by the Council:

- 4.1.1 consulting on, developing, monitoring and reviewing the various elements of the Shadow Council's plans and policies
- 4.1.2 subject to consultation with the appropriate Overview and Scrutiny body or bodies, advising on Budget setting, including all other related financial matters, plans and proposals;
- 4.1.3 ensuring that proper arrangements exist for the effective and efficient management of the Council's executive affairs;
- 4.1.4 ensuring that the Shadow Council prepares for the Performance Management regime and any Government initiatives dealing with such matters which have financial implications.
- 4.1.5 advising the Shadow Council where appropriate, and determining such matters as may be prescribed from time to time, under the Shadow Council's Constitution as the responsibility of the Executive;



- 4.1.6 approving, monitoring and reviewing any Shadow Council Corporate personnel and human resources policies;
- 4.1.7 approving, monitoring and reviewing the provision of services to the Shadow Council which are delivered by internal and/or external suppliers; overseeing, approving and co-ordinating policies on national and external communications, public and media relations and public affairs generally;
- 4.1.8 overseeing relationships with, participation in and contribution to external organisations and partnerships;
- 4.1.9 ensuring officers exercising delegated powers on behalf of the Executive discharge their responsibilities efficiently and effectively;
- 4.1.10 ensuring that officers discharge their responsibilities efficiently and effectively in relation to Executive functions;
- 4.1.11 advising the Shadow Council on strategic matters in relation to corporate governance, community governance and community strategy;
- 4.1.12 monitoring and reviewing issues relating to local working;
- 4.1.13 deciding such other matters as may fall to the Executive to determine as required by the law or as delegated to it by the Shadow Council;
- 4.1.14 making decisions upon those executive functions which arise under the Somerset West and Taunton (Local Government Changes) Order 2018.

## **5.0 Responsibilities of Individual Executive Members**

To be determined by the Leader of the Shadow Authority.

## **6.0 Responsibility of Regulatory Committees**

Until the Shadow Council assumes local government functions and full local authority powers on 1<sup>st</sup> April 2019, in accordance with the Somerset West and Taunton (Local Government Changes) Order 2018, the Shadow Council will not exercise regulatory powers and functions. The Shadow Council will, however, take such practical steps as are necessary or expedient to prepare the Shadow Council for the assumption of local government regulatory functions and full local authority regulatory powers.

## **7.0 Responsibility of the Shadow Council's Scrutiny Committee**

The Shadow Council shall have one scrutiny committee and may commission task and finish groups to undertake scrutiny projects.

The Scrutiny Committee will/may specifically:

- 7.1 discharge the Council's functions under Section 21 of the Local Government Act 2000 (Overview and Scrutiny Committees);
- 7.2 oversee the Council's overall scrutiny function;
- 7.3 establish such task and finish groups, appointing the Chair with such membership as it sees fit, to undertake scrutiny on a task and finish basis;
- 7.4 ensure that officers discharge their responsibilities effectively and efficiently in relation to the scrutiny function;
- 7.5 scrutinise decisions of the Executive, and offer advice or make recommendations on the matter under scrutiny once the Committee have considered the issues;
- 7.6 refer to the Shadow Council or appropriate Committee/Sub-Committee any matter which, following scrutiny, the Committee determines should be brought to the attention of the Shadow Council or the Committee or Sub-Committee;
- 7.7 if requested, offer any views or advice to the Executive in relation to any matter referred to the Committee for consideration;
- 7.8 undertake general policy reviews with a cross-service approach and a multi-organisational approach wherever possible and make recommendations to the Shadow Council or the Executive to assist in the development of future policies and strategies;
- 7.9 in performing its role, the Committee may consult and involve the local community and other local public, private and voluntary bodies or organisations;
- 7.10 review the Shadow Council's response to its obligations in respect of the overall performance management regime and where appropriate advise the Executive and the Shadow Council of its findings;
- 7.11 scrutinise decisions after implementation to examine their effect and outcomes.

## **8.0 Responsibility of the Corporate Governance and Standards Committee**

This committee is responsible for:-

- 8.1 Reviewing the Shadow Council's constitution and recommending any changes to the Shadow Council;
- 8.2 Overseeing the Shadow Council's role and responsibilities in respect of Corporate Governance;
- 8.3 Supporting the Shadow Council's audit function;
- 8.4 Supporting the Interim Chief Finance Officer in relation to their duties;
- 8.5 Approving any Shadow Council Statement of Accounts;
- 8.6 Ensuring any Shadow Council Risk Management process is operating effectively;
- 8.7 Discharging the Shadow Council's functions under Part 3 of the Local Government Act 2000;
- 8.8 Promoting high standards of ethical behaviour among Members;
- 8.9 Advising the Shadow Council on the adoption of the Codes of Conducts for Members and Officers;
- 8.10 Making arrangements for dealing with any complaints made under the Members' Code of Conduct;

## **9.0 Powers of Officers**

- 9.1 This Constitution, and the Procedure Rules contained within it, refer to various powers of officers in respect of Shadow Council functions and responsibilities
- 9.2 The Shadow Council will appoint an Interim and Appointed Monitoring Officer, and an Interim and Appointed Chief Finance Officer who both have statutory powers which are identified in the t Somerset West and Taunton (Local Government Changes) Order 2018
- 9.3 The Shadow Council and its Executive may delegate such powers, responsibilities and decisions to any of its own officers, or to any officers of the Central Implementation Team.

# Part Four Rules of Procedure

## Procedure Rules for Shadow Council

### Business at Shadow Council

1. The functions of Shadow Council are set out in the Structural Changes Order 2018.

The business to be transacted at the Shadow Council is set out in the Order and in Article 4.1 of the Constitution.

### Variation of order Of business\*

2. The Chair may, with the consent of the Council, vary the order of business.

### Minutes\*

3.
  - (a) At the next ordinary meeting, the Chair shall, with the Council's assent, sign the minutes of the business transacted at the previous meeting as a correct record.
  - (b) The only discussion allowed upon the Minutes shall be as to their accuracy, and any objection upon that ground shall be made by motion. A question may be put to the Chair as to the accuracy of the Minutes.

### Notices of motion

4.
  - (1) If a councillor wishes to move a motion at a meeting of the Council then notice in writing shall be given to the Legal and Democratic Services of its terms and the name of a Councillor who has agreed to second it. Such notices shall be dated, numbered as received and available for the inspection of councillors.
  - (2) Seven clear working days' notice is needed in order to have a Notice of Motion included in the summons. This means that written notice must be delivered to the Democratic Services Manager by 4.00 pm on the Thursday of the week prior to the week that the summons for the meeting is to be dispatched or by 4.00 pm on the day that provides seven clear working days before the Council meeting (excluding the day of the meeting itself).
  - (3) The motion shall relate to the work of the Council.

- (4) A motion shall not be taken if its proposer is not present, unless another councillor has been asked to propose it and the Council so agree.
- (5) Such motions shall be taken before the reports of the Executive Councillors have been presented
- (6) A motion or amendment to rescind a decision within 6 months of it being approved should be made in accordance with Standing Order 23 of this Constitution

**Motions during a debate\***

- 5. (1) A Councillor may at the conclusion of a speech of another Councillor, move without debate one of the following motions:
  - (a) to amend the motion;
  - (b) to defer consideration of the motion;
  - (c) to adjourn the meeting;
  - (d) to adjourn the debate;
  - (e) to proceed to the next item of business;
  - (f) that the question be now put;
  - (g) to request a recorded vote; see standing order 18(2)
  - (h) that Councillor\_\_\_\_\_ be not further heard;
  - (i) that Councillor\_\_\_\_\_ do leave the meeting;
  - (j) that the (identified) recommendation be referred back for further Consideration (a deferral);
  - (k) that the press and public be excluded;
  - (l) to suspend any one or more Standing Orders during all or part of the meeting;
  - (m) to refer a petition which has been presented to a meeting of the Council to a Committee for consideration;
- (2) If the motion is seconded then (subject to the proviso set out in (c) below) the Chair shall proceed as follows:-
  - (a) the motion shall be put to the vote forthwith and without discussion;
  - (b) then - subject only to the right of reply of the councillor who either

presented the report or who proposed the original motion - the motion shall be immediately acted upon;

- (c) The Chair shall have the discretion not to accept such a motion when of the opinion that the matter before the meeting has not yet been sufficiently discussed.
- (3)
- (a) If the Planning Committee votes against an officer recommendation it must either give reasons if it is a refusal or conditions in the case of permitting development;
  - (b) The Committee must vote on the reasons/conditions which will then form part of the substantive motion;
  - (c) The substantive motion must then be voted upon;
  - (d) If the Committee fails to agree the reasons/conditions then the motion fails.

### **Amendments\***

6. (1) An amendment shall be either:

- (a) to leave out words;
- (b) to leave out words and insert or add others; or
- (c) to insert or add words;

but shall not have the effect of introducing a significantly different proposal or of negating the motion.

- (2) Before moving an amendment a Councillor shall ensure that there is likely to be a seconder for that amendment.
- (3) When an amendment has been moved and seconded no further amendments shall be moved until the first amendment has been voted upon.
- (4) If an amendment is carried, it shall be incorporated into the motion which shall become the substantive motion upon which further amendments may be moved. If an amendment is voted down, further amendments may then be moved on the motion.
- (5) With the agreement of any seconder and with the assent of the Council, given without comment, a councillor proposing a motion or amendment may:-

- (a) Withdraw that proposal, or
  - (b) Alter its wording, or
  - (c) Accept an amendment
- (6) If there is to be an amendment to the proposed budget then it must be received by the Democratic Services Manager by 4.00 pm on the Thursday before the Council meeting or by 4.00 pm on the day that provides two clear working days before the Council meeting (excluding the day of the meeting itself).

### **Points of order or personal explanation**

7. A councillor may rise on a point of order or in personal explanation and shall be allowed by the Chair to be heard forthwith.
- (1) A point of order shall relate only to an alleged breach of a specified Standing Order or statutory provision and the councillor raising it shall immediately identify how it has been broken.
  - (2) A personal explanation shall be confined solely to a brief explanation of how a speech in the current debate by that councillor appears to have been factually misunderstood. It shall not be used to introduce new material.

### **Proposers and seconders**

8. (1) If the mover of a motion or of an amendment sits down without speaking to it, the right to speak shall be lost but the mover of a motion shall retain the right of reply.
- (2) The seconder of a motion or of an amendment may declare that s/he is reserving the right to speak:-
- (a) until later in the debate; or
  - (b) until it appears to the Chair that - at that point - there are no more speakers to be called and before the mover of the motion exercises the right of reply.

### **Rights to speak during debates**

9. A councillor who has spoken once on any motion, amendment or on an Executive Councillor's report may not speak again. The exceptions to this rule are that a councillor who has already thus spoken may also:
- (1) speak once to an amendment moved by another member;

- (2) move a subsequent amendment; if a councillor wishes to exercise this right, then s/he shall immediately make the purpose of this second speech clear to the Chair;
- (3) exercise a right of reply under Standing Order 12; or,
- (4) make a point of order or personal explanation.

### **Rights of reply**

- 10.** (1) (a) The mover of a motion shall have a right of reply to any debate on that motion.
- (b) The member of the Executive presenting a report shall have a right of reply to any discussion upon that report.

In both cases this right shall be in addition to that councillor's speech introducing the motion or the report.

- (2) The mover of a motion shall also have a right of reply to any debate:-
  - (a) on any amendment to that motion,
  - (b) on a reference back to the Executive of that recommendation, and
  - (c) immediately before the following closure motions are put to the vote:-
    - (i) to postpone consideration of the motion,
    - (ii) to adjourn the debate
    - (iii) that the question be now put.
- (3) The Executive Councillor presenting a report shall also have a right of reply to the following closure motions immediately before they are put to the vote:-
  - (a) that the Council proceed to the next business;
  - (b) to adjourn the debate; or
  - (c) that the question be now put.
- (4) A councillor who has moved a motion or introduced a report shall only have the further rights to speak which are defined in this Standing Order but shall not otherwise speak during that debate.
- (5) A councillor exercising a right of reply shall not introduce new factual material.



- (6) The mover of an amendment or of any of the procedural motions referred to in Standing Order 5 shall not have a right of reply.

### **Speeches**

11. (1) (a) A councillor shall not speak on a motion or amendment or on an Executive Councillor's report for longer than three minutes.
- (b) The exceptions to this rule shall be that:-
- (i) the mover of a recommendation (or of a motion of which notice has been given in accordance with Standing Order No.4) may speak for not more than ten minutes when moving such recommendation or motion,
  - (ii) a councillor exercising a right of reply may speak for 5 minutes, and
  - (iii) the mover of an amendment may speak for five minutes.
- (2) A councillor shall normally stand when speaking and shall address the Chair. When the Chair rises all councillors shall be silent. No-one else shall speak until the Chair has been resumed.

### **Questions from Councillors**

12. (1) At a Full Council meeting any Councillor, upon giving 5 working days written notice to the Democratic Services Manager, may ask the Chair a question on a matter which concerns the Council's functions, powers, duties.
- (2) Any Councillor, upon giving written notice to the Democratic Services Manager by 4.00 pm on the Thursday before the Council meeting or by 4.00 pm on the day that provides two clear working days before the Council meeting (excluding the day of the meeting itself), may ask the Leader of the Council, a portfolio holder, chair of a committee or another member who has been appointed to an outside body, a question which concerns the Executive's or committee's functions, powers and duties or the work of the outside body
- (3) The leader, portfolio holder, or committee chair may direct the question to be answered by the Chair of the appointed sub-committee which has been delegated the subject matter of the question.
- (4) The member asking the question may ask a supplementary question related to the question or arising from the answer to seek further clarification.
- (5) Questions are to be asked and answered without further discussion by other members present. The Leader of the Council, Executive

Councillor, or a committee chair to whom the question has been addressed may ask another member or officer to answer it if they are of the opinion that a discussion is required or they may refer it to another relevant meeting of the Executive or Committee.

**Public question time\***

13. (1) questions from electors shall be taken at the beginning of each meeting.
- (2) The period allowed for questions and answers shall not exceed 15 minutes except with the consent of the Chair; each individual questioner shall be restricted to speaking for a total of four minutes.
- (3) Questions shall be directed to the Chair, who may request the appropriate member or officer to reply.
- (4) Every question shall relate to matters before the Council on the Agenda.
- (5) However, if a question relates to a ward-based issue, the Chair shall invite a contribution from one councillor representing that ward before calling for the formal reply.
- (6) Questions shall not be disallowed merely because advance notice in writing has not been given. Such questions may not be answered immediately but later in writing. However it is always preferred that questions are put in writing in order to assist members and officers to be able to give answers at the meeting.
- (7) An answer may take the form of:-
- (a) an immediate oral answer; or
- (b) a written answer where the necessary information is not readily available.
- (8) Subject to the time limit in paragraph (2) above, and to the discretion of the Chair, the questioner shall be permitted to ask one supplementary question relating to the issue raised.
- (9) Any question shall be disallowed which the Chair believes to be scurrilous, offensive, improper, repetitious, capricious, irrelevant or otherwise objectionable.

## Presentation of petitions\*

14. (1) (a) A petition is a written request signed by the requisite number of people appealing to an authority about a particular cause or issue.
- (b) A petition requiring debate by full Council is a petition that contains more than 200 signatures and will be debated by full Council.
- (2) Excluded Matters are matters that are excluded from the scope of the petitions duty and these are:-
- (a) Any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
- (b) Any matter which the Chair believes to be scurrilous, offensive, improper, repetitious, capricious, irrelevant or otherwise objectionable.
- (3) Petitions submitted to the Council must include:-
- (a) A clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take;
- (b) The name and address and signature of any person supporting the petition;
- (c) The name and address of the petition organiser.
- (4) All petitions will be acknowledged within 10 working days.
- (5) If a petition contains more than 200 signatures the petition will be debated at the next scheduled meeting of ordinary Council; the normal convention will be to debate no more than one petition at any one Council meeting on a first come basis, subject to the discretion of the Chair.
- 5.1 The petition organiser will be given 5 minutes to present the petition to the meeting;
- 5.2 Councillors will discuss the petition up to a maximum of 15 minutes;
- 5.3 The Council will decide how to respond to the petition which may include to take the action requested, not to take the action requested for the reasons given in the debate, refer the matter

for further investigation, or refer the matter to the Council Executive for final decision.

- (6) A petitioner has the right to request a review of the steps taken in response to the petition if they are unhappy and that request shall be made to the Council's Scrutiny Committee.

### **Deputations\***

15. (1) Any elector may ask that a deputation should be received by a meeting which has powers or duties relating to the matter of concern to that deputation.

Such a request shall be made by written notice to the Democratic Services Manager at least 3 working days before the meeting to which it relates unless the Chair has, because of special circumstances, given approval to a lesser period of notice.

- (2) The person making the request shall indicate in the notice:
  - (a) the matter to which the request relates;
  - (b) the number and the names and the addresses of those making up the deputation, and
  - (c) the name of the leader who will speak for them.
- (3) On being called by the Chair the leader of the deputation may speak for not more than 4 minutes about the matter described in the notice given.
- (4) For a further period of 5 minutes, councillors may ask questions of the deputation, which questions shall be asked and answered without discussion.
- (5) Having heard from the deputation, the Chair (or councillor chairing the meeting) may either:-
  - (a) give an immediate oral response to their request, or
  - (b) ask that an immediate oral response be given to the deputation by the Leader (or other Executive Councillor who is present) or by an officer; or,
  - (c) call for a report to be considered at the next meeting of that – or the relevant Committee unless the request relates to business which is already on the Committee's agenda.
  - (d) ask that a written answer be given to the deputation where the necessary information is not readily available.

## Voting\*

16. (1) All motions and amendments, unless the law otherwise requires, shall be decided by affirmation or by a show of hands, as the Chair shall choose.
- (2) If before the Chair calls for the vote, either,
- (a) the mover and seconder of the motion - or of the amendment, or,
  - (b) any councillor supported by the votes of at least a quarter of the councillors present,

request that a Recorded Vote be taken, then votes shall be publicly declared, and recorded in the minutes.

- (i) Immediately after any vote is taken at a budget decision meeting there must be a recorded vote in the minutes of the proceedings of that meeting given the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.
  - (ii) 'Budget decision meeting' means the meeting at which the Council makes a calculation (whether originally or by substitute) in accordance with any sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52 of the Local Government Finance Act 1992 or subsequent amendments; or
  - (iii) Issues a precept under Chapter 4 of Part 1 of that Act and includes a meeting where making the calculation or issuing the precept as the case may be was included as an item of business on the agenda for that meeting.
  - (iv) References to a vote are references to a vote on any decision related to the making of the calculation or the issuing of the precept as the case may be.
- (3) In addition to the option under SO 18 (2), any member may require - immediately after a vote is taken - that the manner in which that member's vote was cast (for, against or abstaining) shall be recorded in the minutes.
- (4) Where a vote is taken upon the choice of more than two candidates for an appointment and there is not an absolute majority in favour of one candidate, the candidates receiving the least number of votes shall be excluded and a further vote taken, the procedure being continued until there is an absolute majority in favour of one candidate.
- (5) (a) in the case of an equality of votes, the Chair shall have a second or casting vote.
- (b) The Chair shall have unfettered discretion as to its use for or against the proposition.

### **Offensive or disorderly conduct\***

17. (1) If at a meeting a councillor uses an expression which another councillor believes is offensive and the latter draws the attention of the Chair to it, the Chair may request the councillor to withdraw the expression.
- (2) If at a meeting the Chair believes a councillor to be guilty of persistently disregarding the ruling of the Chair by behaving improperly or offensively, or by deliberately obstructing business, the Chair or any other councillor may move “that Councillor \_\_\_\_\_ be not further heard” and the motion, if seconded, shall be put to the vote and voted on without discussion.
- (3) If a councillor continues to behave improperly after such a motion has been carried, the Chair may either:-
- (a) move “that Councillor \_\_\_\_\_ do leave the meeting”, or
- (b) adjourn the meeting for a specified period;
- if seconded the motion shall be put and voted on without discussion,
- (4) If a councillor does not leave the meeting after a resolution to that effect, the Interim Monitoring Officer (IMO) shall arrange for the removal of the councillor and shall take such measures as may be necessary to prevent the councillor from re-entering the meeting.
- (5) In the event of any significant disturbance which makes the due and orderly dispatch of business impossible, the Chair, in addition to the exercise of any other power, may, without the need for the Council’s approval, adjourn the meeting for such period as s/he thinks necessary.

### **Disturbance by members of the public\***

18. (1) If a member of the public interrupts the proceedings at a meeting, the Chair shall request that there be no further interruptions. If the interruptions continue the Chair shall order the removal of the person interrupting from the room.
- (2) If there should be general disturbance in any part of the room open to the public the Chair may order that part to be cleared.

### **Interests of Members and Officers\***

19. (1) Where at a meeting any matter is being considered in which a councillor then present has a “*prejudicial interest*” as defined by the Council’s adopted Code of Conduct, that councillor shall be entitled to make representations, answer questions or give evidence provided that members of the public also have the same right. The Councillor must then leave the meeting immediately thereafter unless:-

- (a) a dispensation has been granted in accordance with the relevant due process in exercise of its powers under the Local Government Act; or,
  - (b) a dispensation has been granted in accordance with the relevant due process in exercise of its powers under the Local Government Act; or,
  - (c) the item merely forms part of minutes submitted and is dealt with as “for information” only.
- (2) Where any matter is being considered in which a Councillor then present has a “disclosable pecuniary interest” as defined by the Council’s adopted code of Conduct, that Councillor must disclose to that meeting the existence and nature of that interest (except where the matter is considered a sensitive interest and so there is no requirement to disclose the nature of it) and withdraw from the meeting room or chamber as soon as it becomes apparent that the business is being considered at that meeting, unless a dispensation has been granted in accordance with the relevant due process.
- (3) Where a councillor present at such a meeting has a “*personal interest*” (as defined in the adopted Code) which is not a “*prejudicial interest*” then the councillor shall immediately draw the attention of the meeting to that personal interest.
- (4) (a) Any officer of the Council present at a meeting when an item involving a disclosable interest is under consideration shall draw the attention of the meeting to that interest.
- (b) A “disclosable interest” is an interest which, if the officer were a Member of the Council, would need to be declared under the Council’s adopted Code of Conduct as a *prejudicial interest*.
- (c) No such duty shall arise regarding an item which merely relates to the general terms and conditions of employment of all staff employed by the Council.

**Exclusion of press and public\***

- 20.** (1) Press representatives and public shall withdraw from a meeting if an exclusion resolution (under the Local Government (Access to Information) Act 1985) is passed.
- (2) Even where an item or report has been marked either “Exempt” or “Confidential”, it is for the meeting itself to decide whether, taking the wider public interest into account, the item (or part of it) should nevertheless be considered in the presence of the press and public.

- (3) If an issue should arise during a debate as to the appointment, promotion, dismissal, salary, conditions of service or conduct of any identifiable employee of the Council, the councillor chairing the meeting shall move the exclusion resolution (due to the likelihood that exempt information about a particular employee would be disclosed to the public).

The motion shall be immediately approved or rejected before the issue is further considered.

- (4) When an exclusion resolution is passed those permitted to remain include all those who are members of the Council, the officers or consultants serving that meeting and those specifically invited by the meeting to remain for reasons set out in the minutes.

### **Rescindment and variation of resolutions\***

21. (1) A resolution passed within the previous six months shall not be rescinded or varied unless either:-
  - (a) there has been a significant change of circumstances (noted in the minutes of the meeting) since the previous resolution was passed and is agreed by 50% of the members, or
  - (b) by resolution of the Full Council on a motion of which notice has been given under Standing Order 4 signed by not less than 12 members.
- (2) Where it is intended that such an item should appear on the agenda for a meeting, the agenda item shall say that this "6 month rule" applies.
- (3) This Standing Order shall not apply in the case of a planning or licensing application.
- (4) Every such notice of motion shall specify the resolution to be rescinded or varied

### **Ruling of the Chair \***

22. The ruling of the Chair on any question under these Standing Orders, on a point of order, or, on the admissibility of a personal explanation shall be final and shall not be open to discussion.

### **Quorum\***

23. No business shall be transacted at a meeting unless at least the indicated number of its members is present:



Meeting	Quorum
Full Council	21
Corporate Governance Standards Committee	4
The Executive	3
The Scrutiny Committee	4
Any other Member body	¼ of its members, or 2 (whichever is the greater)

### Agenda and attendance at meetings

24. (1) A councillor has the right to receive agenda and papers for all meetings of the Council, the Executive, the Scrutiny Committee and to attend and speak at all such meetings – whether the councillor is a member of the body or not.

### Summoning of meetings

25. Those listed below may request the Interim Monitoring Officer to call a Full Council meeting in addition to ordinary meetings:-
- (a) The Council (by resolution),
  - (b) The Chair,
  - (c) The “Designated Officers” [see Constitution - Article 12],
  - (d) Any five members of the Council - if they have signed a requisition presented to the Chair and the Chair has either refused to, or has failed to call, such a meeting within seven days of presenting their requisition,
  - (e) The notice convening such a requisitioned meeting shall state the names of those councillors requesting it and the business which they wish to have dealt with.

### Time limits for all meetings\*

26. (1) A meeting of full council or other committees including Scrutiny Committee shall not exceed three hours in duration except in accordance with 29 below.
- (2) If the business of the meeting has not been completed within that time the Chair or Chair will interrupt the debate to announce the time and call for a vote to be taken immediately on the item under discussion.
- (3) No member will be able to address the meeting after the Chair’s or Chair’s interruption on any item appearing on the agenda.

- (4) Any items remaining on the agenda, which have not been considered, will be adjourned to the next scheduled meeting or a date to be fixed before the meeting adjourns.
- (5) Any suspension of time for adjournments during the meeting shall not count towards the 3 hour time limit.

### **Suspension of Council procedure rules\***

27. (1) A motion to suspend a particular procedural rule shall state the particular purpose and require a majority of at least half the total number of members appointed to that Council Meeting or Committee.
- (2) on occasions that rule 29(1) (guillotine) is being waived, the duration of the suspension shall not exceed 30 minutes and shall, if seconded, be put to the vote without discussion.
- (3) Rules 21 and 25 cannot be suspended. But section 5 still applies

### **Application of standing orders\***

28. These Standing Orders shall apply to meetings of the Full Council. Those Standing Orders marked “\*”, shall also apply to meetings of all Regulatory Committees, the Scrutiny Committee (subject to the necessary changes in wording).

### **Withdrawal from meetings**

29. Where a member has a Disclosable Pecuniary Interest in any business of the Council, whether registered under paragraphs 2.2 or 2.3 of the Council’s Code of Conduct or not, and you attend any meeting of the Council, its Executive or any Committee, Sub-Committee, Joint Committee at which that business is to be considered you must:-
  - (a) not seek to influence a decision about that business;
  - (b) disclose to that meeting the existence and nature of that interest no later than the start of the consideration of the business in which you have that interest, or (if later) the time at which the interest becomes apparent to you. The exception to the requirement to disclose an interest is if the matter is a sensitive interest as set out in paragraph 2.11 of the code of conduct.
  - (c) Withdraw from the meeting room or chamber including the public gallery as soon as it becomes apparent that the business is being considered at that meeting;

Unless you have obtained a dispensation from the Council’s Interim Monitoring Officer or Corporate Governance and Standards Committee.

- 30.** Where a member has a prejudicial interest as defined by paragraph 2.9 of the Council's Code of Conduct the member must:-
- (a) not participate in any discussion of the matter at the meeting
  - (b) not participate in any vote on the matter at the meeting
  - (c) disclose the existence and nature of the interest to the meeting and leave the room where the meeting is being held while any discussion or voting takes place on the matter.
- 31.** Where a member has a prejudicial interest in any business of the Council, the member may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business and he/she must leave the meeting immediately after making those representations, answering questions or giving evidence.

# **Access to Information Procedure Rules**

## **Scope**

1. These rules apply to all meetings of the Council, scrutiny committee, and Corporate Governance and Standards Committee, together with public meetings of the Executive.

## **Additional rights to information**

2. These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

## **Rights to attend meetings**

3. Members of the public may attend all meetings subject only to the exceptions in these rules.

## **Notices of meeting**

4. The Council will give at least five clear days' notice of any meeting by posting details of the meeting at the Deane House, Taunton or West Somerset House, Williton.

## **Access to agenda and reports before the meeting**

5. The Council will make copies of the agenda and reports available for inspection at the Deane House and West Somerset House at least five clear days before the meeting. As described later in this section the reports will not include those which are to be treated as 'Exempt' (see paragraph 10.2)

If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda.

Where reports are prepared after the agenda has been sent out, the Interim Monitoring Officer shall make each such report available to the public as soon as the report is completed and sent to councillors

The term 'clear days' referred to in these rules has two definitions in the relevant legislation depending on the circumstances.

A – where the term 'clear days' refers to a short period of 5 days, the terms excludes any Saturday, Sunday, Bank Holiday, Christmas Day or Good Friday, the day that an agenda is sent to the Members of a Committee and the day of the meeting.

B – where the term 'clear days' refers to a longer period such as 28 days, this reference is to calendar days and therefore includes weekends and public holidays.

## **Supply of copies**

6. The Council will supply copies of:
- (a) any agenda and reports which are open to public inspection;
  - (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
  - (c) if the Interim Monitoring Officer thinks fit, copies of any other documents supplied to councillors in connection with an item to any person on payment of a charge for postage and any other costs.

## **Access to minutes and other papers after the meeting**

7. The Council will make available copies of the following for six years after a meeting - either on its Website or on paper:-
- (a) the minutes of the meeting (or records of decisions taken together with reasons) for all meetings of the Executive. These will not include those minutes for any parts of the meeting when it was not open to the public - or which disclose exempt or confidential information;
  - (b) in order to fill the gap left by Rule 7(a), a summary of any proceedings not open to the public where the ordinary minutes would not provide a reasonably fair and coherent record;
  - (c) the agenda for the meeting; and
  - (d) reports relating to items when the meeting was open to the public.

## **Background papers**

8. 8.1 List of background papers

The Relevant Officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10)

For the purpose of this Rule, the 'Relevant Officer' shall be the officer who is the author of that report. For joint reports, the duty shall apply to each such officer.

## 8.2 Public inspection of background papers

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

### **Summary of public's rights**

9. A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Deane House, Taunton and West Somerset House, Williton.

### **Exclusion of access by the public to meetings**

#### 10. 10.1 'Confidential information' - legal duty to exclude the public

The Council has no choice but to exclude the public from meetings whenever it is likely in view of the nature of the business to be transacted, or the nature of the proceedings, that 'confidential information' (defined in Rule 10.3 below) would be disclosed.

#### 10.2 'Exempt information' - discretion to exclude the public

The public **may** legally be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that 'exempt information' would be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

#### 10.3 Meaning of 'Confidential' Information

'Confidential information' means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed because of a Court Order.

#### 10.4 Meaning of 'Exempt' Information

'Exempt Information' means information is similar to 'Confidential Information' but is derived from a number of categories defined in legislation. Their statutory categories are as follows:

Category	Condition
1. Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder under, the authority	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated
2. Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder under, a magistrates' court committee or probation committee	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated.
3. Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of the authority	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated
4. Information relating to any particular applicant for, or recipient or former recipient of any service provided by the authority	Information is not exempt information unless it relates to an individual if that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicates
5. Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by the authority	Information is not exempt information unless it relates to an individual of that description in the capacity indicate by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated
6. Information relating to the adoption, care, fostering or education of any particular child	Child means a person under 18 and anyone who is 18 and is still registered as a school pupil, or is the subject of a care order, within the meaning of section 31 Children Act 1989

Category	Condition
7. Information relating to the financial or business affairs of any particular person (other than the authority)	Information within paragraph 7 is not exempt if it must be registered under various statutes, such as the Companies Act or Charities Act. To be exempt the information must relate to a particular third person who must be identifiable.
8. The amount of any expenditure proposed to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services	Information within paragraph 8 is only exempt if, and for so long as, disclosure of the amount involved would be likely to give an advantage to a person entering into or seeking to enter into a contract with the authority in respect of the property, goods or services, whether the advantage would arise as against the authority or as against other such persons
9. Any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services	Information within paragraph 9 is only exempt if, and for so long as, disclosure to the public of the terms would prejudice the authority in those or any other negotiations concerning that property or those goods or services. (The disposal of property includes granting an interest in or right over it.)
10. The identity of the authority (as well as of any other person, by virtue of paragraph 7 above) as the person offering any particular tender for a contract for the supply of goods or services	For the purpose of this paragraph 'tender' includes a DLO/DSO written bid
11. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or officer-holders under the authority	Information within paragraph 11 is only exempt if and for so long as its disclosure to the public would prejudice the authority in those or any other consultations or negotiations in connection with a labour relations matters  'Labour relations matters' are as specified in paragraphs (a) to (g) of section 29(1) of the Trade Unions and Labour Relations Act 1974, i.e. matters which may be the subject of a trade dispute



Category	Condition
<p>12. Any instructions to counsel and any opinion of counsel (whether or not in connection with any proceedings) and any advice received. Information obtained or action to be taken in connection with:</p> <p>(a) any legal proceedings by or against the authority; or</p> <p>(b) the determination of any matter affecting the authority.</p> <p>whether, in either case, proceedings have been commenced or are in contemplation</p>	
<p>13. Information which, if disclosed to the public, would reveal that the authority proposes:-</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment</p>	<p>Information within paragraph 13 is exempt only if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made</p>
<p>14. Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</p>	
<p>15. The identity of a protected informant</p>	<p>A 'protected informant' means a person giving the authority information which tends to show that:</p> <p>(a) a criminal offence;</p> <p>(b) a breach of statutory duty;</p> <p>(c) a breach of planning control; or</p> <p>(d) a nuisance,</p> <p>has been, or is being, or is about to be committed</p>

Information falling within any of paragraphs 1-15 is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

### **Exclusion of access by the public to reports**

11. If the Interim Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public.

Such reports will be marked 'Not for publication' together with the category of information likely to be disclosed.

### **Application of rules to the Executive**

- 12.** Rules 13-24 apply to the Executive and its committees. If the Executive or its committees meet to take a 'key decision' then it must also comply with Rules 1-11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is defined in Article 13.02 of this Constitution

If the Executive or its committees meet to discuss a key decision to be taken collectively, with an officer, within 28 days of the date (according to the Forward Plan) by which it is to be decided, then it must also comply with Rules 1-11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. This requirement does not include meetings, whose sole purpose is for officers to brief members.

### **Procedure before taking key decisions**

- 13.** Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:
- (a) a notice (called here 'a Forward Plan') has been published in connection with the matter in question;
  - (b) at least three clear days have elapsed since the publication of the Forward Plan; and
  - (c) where the decision is to be taken at a meeting of the Executive or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

### **The Forward Plan – key decisions**

**14.** 14.1 Period of Forward Plan

The Council is required to give a minimum of 28 clear days' notice of key decisions to be taken by the Executive, Executive Members or Officers. However the Forward Plan will where possible be prepared by the Leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

14.2 Contents of Forward Plan

The Forward Plan will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Executive, a committee of the Executive, individual members of the Executive, officers, area committees or under joint arrangements in the course of the discharge of an Executive function during the period covered by the plan. It will describe the following

particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps which any person might take who wishes to make representations to the Executive or to a decision taker about the matter and the date by which those steps must be taken; and
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.
- (h) Whether the decision contains any exempt information requiring a resolution for it to be considered in private and the reasons for this.

#### 14.3 Publication of Forward Plan

The Forward Plan must be published at least 14 days before the start of the period covered. The Interim Monitoring Officer will publish once a year a notice in at least one newspaper circulating in the area, stating:

- (a) that *key decisions* are to be taken on behalf of the Council;
- (b) that a Forward Plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (c) that the plan will contain details of the *key decisions* to be made for the four month period following its publication;
- (d) that each plan will be available for inspection at reasonable hours free of charge at the Council's offices;
- (e) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the *key decisions* on the plan;

- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Forward Plan is available;
- (g) that other documents may be submitted to decision takers;
- (h) the procedure for requesting details of documents (if any) as they become available; and
- (i) the dates on each month in the following year on which each Forward Plan will be published and available to the public at the Council's offices. Exempt information need not be included in a Forward Plan and confidential information cannot be included.

### **General exception – key decisions**

- 15.** If a matter which is likely to be a key decision has not been included in the Forward Plan, then subject to Rule 16 (special urgency), the decision may still be taken if:
- (a) the decision must be taken by such a date which means that it is impracticable to defer the decision until it has been included in the next Forward Plan and until the start of the first month to which the next Forward Plan relates;
  - (b) the Interim Monitoring Officer has informed the chair (or in his/her absence the vice-chairs) of the Scrutiny Committee, or if there is no such person immediately available at that time, each member of that Scrutiny Committee in writing, by notice, of the matter to which the decision is to be made;
  - (c) the Interim Monitoring Officer has made copies of that notice available to the public at the offices of the Council; and
  - (d) at least three clear days have elapsed since the Assistant Chief Executive complied with (a) and (b).

Where such a decision is taken collectively, it must be taken in public.

### **Special urgency – key decisions**

- 16.**
- (a) Cases can arise where because of the sudden need for an urgent decision to be made, Rule 15 (general exception) cannot therefore be followed.
  - (b) In such a case the decision can only be taken if the decision taker (if an individual) or the chair of the body making the decision, first obtains the agreement of the chair of the Scrutiny Committee that the taking of the decision cannot be reasonably postponed. Should such an agreement be withheld then detailed reasons shall be given.

- (c) If, either the chair of a relevant Scrutiny Committee is either not immediately available, or is unable to act, then the agreement of the Chair, or in his/her absence the Vice Chair (in their roles as Chair and Vice Chair of the Council) will suffice.

## **Report to Council – key decisions**

### **17. 17.1 When a Scrutiny Committee can require a report**

If a Scrutiny Committee thinks that a key decision has been taken which was not:

- (a) included in the Forward Plan; or
- (b) the subject of the general exception procedure (Rule 15); or
- (c) the subject of an agreement with a relevant Scrutiny Committee chair, or the Chair or Vice Chair under Rule 16;

the Scrutiny Committee may require the Executive to submit a report to the Council within such reasonable time as the Scrutiny Committee specifies. The power to require a report rests with the Scrutiny Committee, but is also delegated to the Proper Officer, who shall require such a report on behalf of the Scrutiny Committee when so requested by (the Chair or any 5 of its members). Alternatively the requirement may be raised by resolution passed at a meeting of the Scrutiny Committee.

### **17.2 Executive's report to Council**

The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and, if the Leader is of the opinion that it was not a key decision, the reasons for that opinion.

### **17.3 Quarterly reports on special urgency decisions**

In any event the Leader will submit quarterly reports to the Council on the Executive decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## **Record of decisions**

- 18.** After any meeting of the Executive or any of its committees, the Interim Monitoring Officer or, where no officer was present, the person presiding at the

meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

### **Executive meetings relating to matters which are not *key decisions***

19. The law permits the Executive to hold meetings in private when the business relates to matters which are **not** *key decisions*. However, the Shadow Council Executive has decided that - so as to ensure the maximum transparency - all decision-making meetings of the Executive should be held in public. The press and public will therefore only be excluded from those in rare cases where confidential or exempt information needs to be protected.

### **Attendance at meetings of the Executive**

20. No decisions may be taken at a meeting of the Executive (or of its committees) unless the Interim Head of the Paid Service, the Interim Section 151 Officer and the Interim Monitoring Officer and their nominees are given the right to attend.

### **Decisions by individual members of the Executive**

21. 21.1 Reports intended to be taken into account

Where an individual member of the Executive receives a report which he/she intends to take into account in making any *key decision*, then he/she will not make the decision until at least three clear days after receipt of that report.

- 21.2 Provision of copies of reports to Scrutiny Committee

On giving of such a report to an individual decision maker, the person who prepared the report will make a copy of available to all councillors as soon as reasonably practicable and make it publicly available at the same time.

- 21.3 Record of individual decision

As soon as reasonably practicable after an Executive decision has been taken by an individual member of the Executive or a *key decision* has been taken by an officer, he/she will prepare, or instruct the Proper Officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected.

The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Executive. This does not require the disclosure of exempt or confidential information.

## **Scrutiny Committee access to documents**

### **22. 22.1 Rights to copies**

Subject to Rule 23.2 below, a Scrutiny Committee (including its sub-committees or task and finish groups) will be entitled to copies of any document which is in the possession or control of the Executive or its committees and which contains material relating to

- (a) any business transacted at a public or private meeting of the Executive [or its committees]; or
- (b) any decision taken by an individual member of the Executive.

### **22.2 Limit on rights**

A Scrutiny Committee will not be entitled to:

- (a) any document which is at the stage of being an incomplete draft; or
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise

## **Additional rights of access for members**

### **23. 23.1 Material relating to previous business**

All members of the Council will be entitled to inspect any document which is in the possession or under the control of the Executive or its committees and contains material relating to any business previously transacted at a private meeting unless it contains exempt information falling within paragraphs 1 to 6, 9, 11, 12 and 14 of the categories of exempt information

### **23.2 Material relating to *key decisions***

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive or its committees which relates to any *key decision* unless paragraph 23.1 above applies.

### **23.3 Nature of rights**

These rights of a member are additional to any other right he/she may have.

# Executive Procedure Rules

## How does the Executive operate?

### 1. 1.1 Who may make Executive decisions?

Executive functions may be discharged by:

- i) the Executive as a whole and/or (if so delegated);
- ii) a committee of the Executive;
- iii) an individual member of the Executive;
- iv) an officer.

### 1.2 Accountability

Whilst the Executive may agree to the delegation of functions as above, formal accountability for those functions shall remain at all times with the Executive itself.

### 1.3 Delegation by the Leader

At the Annual Meeting of the Shadow Council, the Leader will present to the Shadow Council a written record of delegations made by him/her. The document presented by the Leader will contain the following information about Executive functions in relation to the coming year:

- i) the names of the councillors appointed to the Executive by the Leader;
- ii) the extent of any authority delegated to Executive Councillors individually, including details of the limitation on their authority;
- iii) the terms of reference and constitution of such Executive committees as the Leader appoints and the names of Executive Councillors appointed to them;
- iv) the nature and extent of any delegation of Executive functions to area committees, any other authority or any joint arrangements and the names of those Executive members appointed to any joint committee for the coming year; and
- v) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.



#### **1.4 Conflicts of interest**

- (a) Where the Leader (or every member of the Executive) has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct.

#### **1.5 Executive meetings - when and where?**

The Executive will meet at least every six weeks at times to be agreed by the Leader. The Executive shall meet at The Council Offices or another location to be agreed by the Leader.

#### **1.6 Meetings of the Executive**

The Executive intends to hold all their meetings in public save for those exceptional items of exempt or confidential business when the press and public need to be excluded.

#### **1.7 Quorum**

The quorum for a meeting of the Executive, or a committee of it, requires:-

- (a) the attendance of 3 members of the Executive; and
- (b) one of the three to be the Leader or his/her nominated substitute.

#### **1.8 How are decisions to be taken by the Executive?**

- (a) Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (b) Where Executive decisions are delegated to a committee of the Executive, the rules applying to Executive decisions taken by them shall be the same as those applying to those taken by the Executive as a whole.

### **How are Executive Meetings conducted?**

#### **2. 2.1 Who presides?**

If the Leader is present he/she will preside. In his/her absence, then a person appointed by him/her shall preside.

#### **2.2 Who may attend?**

Agenda and reports for meetings of the Executive shall be circulated to all councillors who shall be free to attend those meetings. The meetings shall

(subject to the exception in para 1.6 (above) be open to the press and the public.

### **2.3 What business?**

At each meeting of the Executive the following business will be conducted:

- i) approval of the accuracy of the minutes of the last meeting;
- ii) declarations of interest, if any (which may be made either early in the agenda or immediately before the item is considered.);
- iii) matters referred to the Executive (whether by a Scrutiny Committee or by the Council) for reconsideration by the Executive in accordance with the provisions contained in the Scrutiny Committee Procedure Rules or the Budget and Policy Framework Procedure Rules - both of which are set out in Part 4 of this Constitution;
- iv) consideration of reports from the Scrutiny Committee;
- v) matters set out in the agenda for the meeting, and which shall indicate which are *key decisions* and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution; and
- vi) matters required by the West Somerset and Taunton (Local Government Changes) Order 2018 and any supplementary legislation.

### **2.4 Consultation**

All reports to the Executive from any member of the Executive or an officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation with stakeholders and relevant Scrutiny Committee and its outcome. Reports about other matters will set out the details and outcome of consultation as has been appropriate.

### **2.5 Who can put items on the Executive agenda?**

- (i) The Leader will decide upon the schedule for the meetings of the Executive. He/she may put on the agenda of any Executive meeting any Executive matter which he/she wishes, whether or not authority has been delegated to the Executive, a committee of it or any member or officer in respect of that matter.
- (iii) Any member of the Executive may require the Interim Monitoring Officer to place an item on the agenda of the next available meeting of the Executive for consideration.
- (iv) The Interim Monitoring Officer will place an item on the agenda of the next available meeting of the Executive where a Scrutiny Committee or the full Council have resolved that an item be considered by the Executive. There may only be up to two such items on any one

agenda, any other such items shall be given priority at the following meeting of the Executive.

## **Procedure Rules for Scrutiny**

### **Terms of reference of the Scrutiny Committee**

1. The terms of reference and role of Scrutiny is set out in Article 8.1 and 8.2 of the Constitution.

### **Who may sit on the Scrutiny Committee and Task and Finish groups**

2. Any councillor except a member of the Executive may be a member of the Scrutiny Committee or Task and Finish group. But, no member may be involved in reviewing a decision in which he/she has been directly involved.

### **Co-opted members**

3. Each task and finish group shall be entitled to recommend to the relevant Scrutiny Committee the appointment of people to their membership as non-voting co-optees.

### **Meetings of the Scrutiny Committee**

4. The Scrutiny Committee shall meet every six weeks. Other meetings may be called from time to time as and when its business requires or where the committee deem appropriate to look at a particular issue.

### **The party whip**

5. Whilst the “party whip” can play a proper part in the political environment of local government, it is acknowledged that any “whipping” arrangements do not readily have a place where “Scrutiny” are concerned.

A party whip shall not apply to the Scrutiny business of the committee or the task and finish groups.

### **Size, substitutions and quorum**

6. (a) The membership of the Scrutiny Committee shall consist of pro-rata to the number of elected members who must not be members of the Executive.
- (b) The membership of any task and finish group will be no more than 7 and no less than 4 members.
- (c) The allocation of seats and the Scrutiny Committee shall be on the basis of the ‘proportionality rules’ in the 1989 Local Government and Housing Act.

- (d) Each party/group - to whom seats have been allocated on any Scrutiny Committee or task and finish group may - by giving formal notice to the Democratic Services Officer - substitute different members for those seats - either on a temporary or permanent basis. Such formal notice must be given to the Democratic Services Officer not later than the beginning of the meeting concerned, and such substitution will last for the whole of that meeting.
- (e) The quorum for the Scrutiny Committee and task and finish groups shall be 4 of its members.

### **Who chairs meetings?**

- 7. (a) The chairship and vice-chairship of the scrutiny committees shall not be a member of the controlling administration.
- (b) The chairships of the task and finish groups shall be decided by the relevant group leaders
- (c) Appointments to the chairmanships of the Scrutiny committee will be made according to section 16.2.
- (d) If the chair and vice-chair are absent from a meeting of the committee then its members shall appoint one of their number to chair that meeting.

### **Requests from members**

- 8. Any member who requests an item is placed on the agenda for Scrutiny must include representations as to why it would be appropriate for the committee to deal with this matter.

### **Reports from the Scrutiny Committee**

- 9. (a) Once it has formed recommendations, the Scrutiny Committee will prepare a formal report and submit it to the Democratic Services Manager for consideration either:-
  - (i) by the Executive, or
  - (ii) to the Council.
- (b) The Executive (or the Council as appropriate) shall, where possible, consider the committee's report at its next available meeting.
- (c) If a matter has been referred to the Scrutiny Committee by a member, a copy of any report or recommendation made by the committee shall be sent to that member.

### **Reports from the Scrutiny Committee to the Executive and the Council**

10. (a) If the Scrutiny Committee publishes its report or recommendations the committee must in writing require the Executive or Council to:-
- (i) consider the report or recommendations;
  - (ii) respond to the Scrutiny Committee indicating what (if any) action the Executive/Council proposes to take;
  - (iii) if the Scrutiny Committee has published the report or recommendations to publish the response;
  - (iv) if the Scrutiny Committee provided a copy of the report or recommendations to a member of the Council, to provide the member with a copy of the response.
- (b) The Executive or Council must do so within two months beginning with the date on which it receives the report or recommendations from Scrutiny.

#### **Rights of Scrutiny Committee members to documents**

11. In addition to their rights as councillors, members of Scrutiny and task and finish groups have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules of this Constitution (Part 4B).

#### **Members and officers giving account**

12. (a) The Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions within that committee's Terms of Reference as detailed in Article 9.

It may review any documents and/or require the Leader and any member, the Head of Paid Service and/or any senior officer to attend before it to explain matters within their remit which about:-

- i) any particular decision or series of decisions they have taken;
- ii) the extent to which any such actions taken assist in implementing Council policy; and/or
- iii) the members' or officers' performance.

and it is the duty of those persons to attend if so required.

- (b) Where any member or officer is required to attend a scrutiny committee under this provision, the chair of that committee will notify the Democratic Services Manager, who shall inform the member or officer in writing giving at least 5 working days' notice of the meeting at which he/she is required to attend. The notice will state the nature of the item

on which he/she is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for its preparation.

- (c) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Democratic Services Manager shall consult with the member or officer so as to make alternative arrangements for attendance.

### **Attendance by others**

13. A scrutiny committee may invite people other than those referred to in paragraph 10 above to address it, discuss issues of local concern and/or answer questions.

### **Call-in**

#### **14. 14.1 Types of Decisions which are affected by the Call-in mechanism**

The call-in mechanism set out below shall apply to the following types of decision:-

- (a) To **any** decision made by:-
- the Executive, or
  - an individual member of the Executive.

and

- (b) To any *Key Decision* \* - by whomever it is made.

[\* a Key decision is defined as a decision which will have a significant impact within the administrative borough, an operational impact on the community of more than one electoral ward, or involves a significant level of expenditure to be incurred by the Council relating to the discharge of a specific Council function (rather than solely staff related), e.g. where the aggregate expenditure is £50k or more (but not to include any expenditure included in a budget which has been approved in a framework policy).

#### **14.2 Decisions which are not subject to call-in**

These include:-

- decisions made by full Council
- all decisions taken by officers within the Scheme of Delegations - **unless** they are '*key decisions*'
- decisions to which the urgency mechanism has been applied under paragraph 14.9

### 14.3 Publication of decision

- (a) With the exception of meetings of the Executive itself, a written record of any decision made shall be compiled by the decision-taker and immediately e-mailed (or otherwise forwarded) to the Interim Monitoring Officer for publication.
- (b) The record shall be in such standard form as s/he prescribes (the 'decision record') and it (including the minutes of meetings of the Executive) must contain the following details provided by the decision-maker:-
- the decision,
  - the reasons for the decision,
  - any alternative options considered at the time but rejected,
  - any conflict of interest on the part of any Executive Councillor involved in or consulted about the decision
  - a note of any dispensation which has been granted in relation to such a declared interest
  - a note of any report considered when reaching that decision, and
  - a list of any "Background Papers" taken into account by the decision-taker.
- (c) By 5:00 pm on the 2<sup>nd</sup> working day after the decision has been accepted, the Interim Monitoring Officer shall publish it in the following ways:-
- (i) the record shall be made available for public inspection at the Council Offices
  - (ii) a copy shall be dispatched by email (unless a request has been made for it to be sent by ordinary post) to every councillor,
  - (iii) a copy shall be posted on the Council's Web site
  - (iv) it shall be included in the Council's 'Weekly Bulletin'
- (d) The decision record will be dated and will show the date on which the decision will become effective - unless written notice (as described below) calling in the decision is received. That right of call-in will expire at 12 noon on the 5<sup>th</sup> working day after the decision has been published. (The call-in period of decisions included in the 'Weekly Bulletin' therefore expires at noon on the Wednesday following its publication). If the Interim Monitoring Officer is not satisfied that the decision record does not contain sufficient detail, then s/he shall not accept it and shall return it to the decision-taker for further clarification.
- (e) Any decision listed in paragraph 14.1 shall:-
- (i) not be implemented for 5 working days unless it has been subject to the special urgency mechanism set out in paragraph 17.9

- (ii) not be capable of being implemented unless and until it has been published as prescribed in this paragraph

#### 14.4 Call-in procedure

With each decision record being taken, a standard 'call-in request form' will be included for every councillor to complete if they wish to challenge a decision. The form will require the decision to be identified and for the detailed reasons justifying the call-in to be described.

The 'detailed reasons' shall relate to the merits of that decision only, when those calling it in have evidence which would result in a different decision being made.

On receipt of 2 such completed call-in request forms - in respect of the same decision and within the prescribed call-in period - the Monitoring Officer is authorised to call in that decision. In consequence, the Democratic and Legal Services Manager shall then immediately:-

- (a) give notice of the call-in and its consequences to the following:-
  - the decision taker,
  - the Executive Councillor holding the relevant service portfolio,
  - those Councillors who have challenged the decision and to
  - the Director and/or Service Manager primarily affected, and
  - the Leader of the Executive and the Head of Paid Service,
  - the Chair of the relevant Scrutiny Committee,
  - the next weekly bulletin.
- (b) include the call-in request - together with the detailed justification given by the challengers - on the agenda for the next ordinary meeting of the relevant Scrutiny committee together with a copy of the report which gave rise to the challenged decision.
- (c) if no Scrutiny Committee meeting is programmed within 14 days, and the committee's chair believes that an earlier decision would be in the Council's best interests, then s/he may instruct the Interim Monitoring Officer to convene a special meeting.

#### 14.5 The Role of the Scrutiny Committee

- (a) It is the function of the Scrutiny Committee to consider both the views of the challengers and of the decision-taker(s). Each shall have the right to attend and address the committee. Having done so the committee shall decide whether it wishes to pursue the challenge further. The committee's options are:-
  - (i) to support the challenge and to refer the decision to the Executive for further consideration (stating the grounds justifying that request)



- (ii) to take no further action on the call-in, or
  - (iii) to ask the Executive to consider the decision (under the Council referral process in paragraph (b) below).
- (b) Where the committee certifies those substantial reasons which it believes would justify the issue being brought before full Council for its advice or decision, then it can adopt the following exceptional course of action - a 'Council Referral' resolution. The resolution will be in two parts:-
- (i) to ask the Executive to re-consider the decision; and
  - (ii) if the Executive is not prepared to reverse or modify its decision in the way that the Committee requests, then the Referral resolution will require that the Executive's decision is immediately referred to an meeting of the full Council.
- (c) A 'Council Referral' resolution can only be agreed at an Scrutiny Committee meeting when at least 7 of its 13 members vote for that option. The Referral shall be taken to the full Council in the names of those councillors who have voted for it and they shall be deemed to have requisitioned any Special Council meeting.

#### 14.6 Council Referral procedure

- (a) Where the Scrutiny Committee passes such a valid Council Referral resolution, then if the Executive is unwilling to substantially accede to the committee's request to reverse or modify its decision, the matter will be automatically referred to full Council as follows:-
- (i) If the Referral can be taken to an ordinary meeting of the Council within 14 days of the Executive meeting, then it will be reported to that meeting;
  - (ii) If such an ordinary meeting of the Council is not thus available then the Interim Monitoring Officer will treat the committee's Referral resolution as a requisition for a Special Meeting of the Council to be held within two weeks of the Executive meeting
- (b) Full Council's role will be to consider one of the following:
- (i) to give its advice on the matter
- if the decision challenged is one which, only the Executive can determine, then the Council will be asked to give its advice on how the matter should be dealt with; or
- (ii) to decide the issue itself

This alternative will apply in two instances, either:

- (a) where the decision challenged is one which, under the Act, only the Executive can determine, but the Interim Monitoring Officer has nevertheless certified that the decision being challenged is one which is contrary to the Policy Framework, or contrary to or not wholly consistent with the Budget, or
- (b) where the matter is **not** one reserved under the Constitution to the Executive.

(iii) to take no action on the Referral

If such a resolution is passed then the decision which was challenged shall become immediately effective.

- (c) Recommendations shall be taken to Council in the name of the Scrutiny Committee chair. The report will either seek the advice of the Council on the matter, or will propose the decision to be taken.

#### 14.7 **The effect of a Call-in**

The effect of any call-in is that implementation of the decision is 'frozen' until such time as:-

- (a) the councillors who requested the call-in withdraw their request; or
- (b) 14 days elapse without the notice convening an Scrutiny Committee being given for a meeting of the committee resolving to pursue the call-in further; or
- (c) the meeting of the committee has decided (under 14.5 (ii) ) to take no further action on the call-in.
- (d) the decision-taker (whether the Executive, an Executive Councillor or an Officer) - on considering the report of the Scrutiny Committee or the Council - decides to proceed with implementing the previous decision, whether modified or unmodified.

#### 14.8 **Exceptions and limitations on Call-In**

- (a) To ensure that call-in is not abused, nor causes unreasonable delay through the freeze upon implementation which it brings about, certain further limitations are placed on its use. These are:
  - (i) any decision may only be called in once.
  - (ii) any recommendation from the Executive to full Council or to the Scrutiny Committee shall not be subject to the call-in mechanism.

- (b) Whilst every effort will be made to circulate all councillors with such Executive decisions (whether as draft minutes or as an individual “decision records”) there may be exceptional circumstances where this proves to be impossible. In such cases:
  - (i) These procedure rules shall be interpreted so as to ensure that no Executive decision shall be frozen for any longer than the periods described in 14.7
- (c) (i) Whilst the above limits apply to the full **call-in** mechanism, members may instead request that any decision (and the consequences found to result from it) is subsequently reviewed at a future meeting of the Scrutiny Committee.
- (ii) Requests to include such later reviews on an Scrutiny Committee agenda will be dealt with under paragraph 8.0 above. Such requests will therefore **not** bring about any freeze upon the implementation of the decision referred to.

#### 14.9 **Call-in and urgency**

- (a) The call-in procedure set out above shall not apply where the decision is certified under this paragraph as urgent. The factors to be taken into account as to whether a decision is urgent will include whether any delay caused by the call in process would be likely to seriously prejudice the Council’s or the public’s interests.

#### (b) **Urgency Certification and Dispute Resolution**

Certification will work as follows:

- (i) The matter must first be identified as being urgent at or before the time the decision is made.
- (ii) The written record of the decision (under paragraph 14.3 above) shall thus state that - in the opinion of the decision making body or person - the decision is an urgent one, and therefore cannot reasonably be subject to call-in.
- (iii) If it is intended that the decision should be carried out immediately after it is taken then the decision-maker must first obtain the agreement of both the chair of the relevant Scrutiny Committee - or (in his/her absence the vice-chair of the relevant Scrutiny Committee) - and the Leader before that decision is implemented. Such agreement shall be confirmed in writing or e-mail.
- (iv) If the approval of both is given, then the Interim Monitoring Officer shall publish a copy of that decision record (in the same manner prescribed under paragraph 14.3). A copy of the

decision record shall also be included for information on the next full Council agenda.

- (v) If such approval is refused by either, then those called upon to make that decision under paragraph (iii) above, shall sign and endorse the written record of the decision with his/her reasons for so deciding. This shall be subject to publication and reporting as in (iv) above.
- (vi) Where the Head of Paid Service believes that, in all the circumstances, this rejection is unreasonable and that the interests of the Council are significantly threatened, then s/he may convene a meeting of the chair of the relevant Scrutiny Committee or (in their absence) their vice-chair - together with the Leader. That meeting shall be convened with the minimum legal notice and shall review that rejection. The meeting shall have the power to confirm, modify or overturn that rejection and their decision shall not be subject to any further review but shall be reported to the next ordinary Council meeting for its information.

#### **Appointment of substitute members of Committees**

15. It is not possible to have substitute members for the Executive. Substitute members may speak and vote at committee meetings if they have been appointed. Each party/group – to whom seats have been allocated on any committee – may be giving formal notice to the Democratic Services Office to substitute different members for those seats either on a temporary or permanent basis. Such formal notice must be given to the Democratic Services Officer not later than the beginning of the meeting concerned and such substitution will last for the whole of that meeting. In the event the substantive member of the Committee subsequently attends the meeting, the substitute member must take no further part in the meeting.

# Financial Procedure Rules

## Financial Regulations – Somerset West and Taunton Council

### 1. Introduction

- 1.1. Article 11 of the Changes Order provides that the Shadow Council must prepare, keep under review, and revise as necessary an Implementation Plan. The Implementation Plan must include such plans and timetables as the Council considers necessary for the effective, efficient and timely discharge of its functions. The Implementation Plan must also include such budgets and plans as the Council considers necessary or desirable to facilitate the economic, effective, efficient and timely discharge, on or after 1 April 2019, of the functions that, before that date, are the District Councils' functions.
- 1.2. Article 13 of the Changes Order provides that the Shadow Council must take all practicable steps as are necessary or expedient to:
  - a) commence and sustain its running as a Shadow Council;
  - b) prepare the Council for the assumption, as Somerset West and Taunton Council, of local government functions and full local authority powers on 1 April 2019;
  - c) prepare any budgets or plans required by Somerset West and Taunton Council when those functions are assumed; and
  - d) liaise with Somerset County Council and the District Councils to ensure continuity of the delivery of public services on and after 1 April 2019.
- 1.3. These Financial Regulations are part of the Shadow Council's Constitution and provide the framework for managing the Council's financial affairs, and are intended to support the requirements of the Order and delivery of the Implementation Plan. They apply to every member and officer of the Shadow Council and anyone acting on its behalf.
- 1.4. The adoption of the Financial Regulations in its entirety would contain a number of guidelines that would reference the ongoing regulation of the agreed budget, policies, and strategies, and the procedures Members and Officers should adhere to in order to maintain the financial integrity of the Shadow Council and Taunton Deane Borough Council and West Somerset Council (the extant Authorities).
- 1.5. The Shadow Council, the Interim Statutory Officers and the Implementation Team must adhere to these Financial Regulations when incurring expenditure from the Transformation Programme budget during 2018/19 in order to implement the new Council on behalf of the extant Councils.
- 1.6. The Shadow Council's responsibility will be concerned with ensuring that the necessary activities are undertaken to ensure that the new Council is 'legal, safe and functional' for the 1 April 2019. This will involve the Shadow Executive monitoring the performance of the Implementation Team to ensure this is

undertaken safely. The Shadow Council will also play an important role in ensuring that any decisions relating to spend, policies, or strategies that have an impact in 2019/20 onwards are safe and aligned to the future strategies and plans of the new Council before approval.

- 1.7. These Financial Regulations focus on those elements that will support the Shadow Council in fulfilling its role.

## **2. The Statutory Officers**

### **Interim Head of Paid Service (Chief Executive)**

- 2.1. The Interim Head of Paid Service (HOPS) is responsible for

- a) The corporate and overall strategic management of the Shadow Council
- b) Reporting to and providing information for the full Shadow Council, the Shadow Executive, the Shadow Scrutiny function and other Committees and Panels
- c) establishing a framework for management direction, style and standards and for monitoring the performance of the organisation
- d) Together with the Interim Monitoring Officer, the system of record keeping in relation to all the full Council's decisions.

### **Interim Monitoring Officer**

- 2.2. The Interim Monitoring Officer is responsible for

- a) promoting and maintaining high standards of conduct and therefore providing support to the Corporate Governance and Standards Committee
- b) reporting any actual or potential breaches of the law or maladministration to the full Shadow Council and/or to the Shadow Executive
- c) ensuring that the procedures for recording and reporting key decisions are operating effectively
- d) ensuring that Executive decisions and the reasons for them are made public
- e) ensuring Shadow Council Members are aware of decisions made by the Shadow Executive and of those made by Officers who have delegated Executive responsibility
- f) advising all councillors and officers about who has authority to take a particular decision
- g) advising the Executive or full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the policy framework
- h) Together with the Interim Chief Finance Officer, for advising the Shadow Executive or full Shadow Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget. Actions that may be contrary to the budget include:
  - initiating a new policy
  - committing expenditure in future years to above the budget level
  - incurring budget transfers (virements) above the limits set by Council;

- causing the total expenditure financed from Council Tax, Business Rates, Grants, and corporately held reserves to increase, or to increase by more than a specified amount
- i) maintaining an up-to-date constitution
- j) maintaining a register of Member and Officers interests

### **Interim Chief Finance Officer**

2.3. The Interim Chief Finance Officer (Section 151 Officer) has statutory duties in relation to the financial administration and stewardship of the Shadow Council. The statutory responsibility cannot be overridden. The statutory duties arise from:

- Section 151 of the Local Government Act 1972
- The Local Government Finance Act 1988
- The Local Government and Housing Act 1989
- The Local Government Act 2003
- The Accounts and Audit Regulations 2015

2.4. The Interim Chief Finance Officer is responsible for

- a) the proper administration of the Shadow Council's financial affairs
- b) setting and monitoring compliance with financial management standards
- c) advising the Shadow Council on insurance and financial risk
- d) advising the Shadow Council on effective systems of internal control
- e) ensuring that there is an effective system of internal financial control
- f) advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
- g) providing financial information
- h) preparing the revenue budget and capital programme
- i) treasury management
- j) selecting and applying appropriate accounting policies

2.5. Section 114 of the Local Government Finance Act 1988 requires the Interim Chief Finance Officer to report to the full Shadow Council, Shadow Executive and external auditor if the Shadow Council or one of its Officers:

- a) has made, or is about to make, a decision which involves incurring unlawful expenditure
- b) has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Shadow Council
- c) is about to make an unlawful entry in the Shadow Council's accounts

2.6. The course of conduct which led to the report must not be pursued until the full Shadow Council has considered the report. The Shadow Council must consider the report within 21 days and decide whether it agrees or disagrees with the views in the report and what action it proposes to take.

2.7. Section 114 of the 1988 Act also requires:

- a) the Interim Chief Finance Officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under Section 114 personally;
- b) the authority to provide the Interim Chief Finance Officer with sufficient staff, accommodation and other resources - including legal advice where this is necessary - to carry out the duties under Section 114.

### **3. Financial Management**

3.1. Financial Management covers all financial accountabilities in relation to the running of the Shadow Council and the setting up of the new Council, including the policy framework and budget.

3.2. The Shadow Council will be responsible for

- a) Approving the policy framework and budget
  - In terms of financial planning (the budget) the key elements are:
    - The Corporate Plan
    - The Budget
    - The Capital Programme
  - In terms of the policy framework the statutory plans and strategies are
    - Annual Report
    - Asset Management Plan
    - Sustainable Community Plan
    - Capital Strategy
    - Climate Change Strategy
    - Corporate Strategy
    - Crime and Disorder Reduction Strategy
    - Housing Strategy
    - Local Development Framework
    - Treasury Management Strategy Statement and Investment Policy, as adopted from CIPFA's Code of Practice for Treasury Management in Local Authorities
- b) Approving the Council Tax Base for the financial year commencing 1 April 2019. This responsibility is delegated to the Interim Chief Finance Officer.
- c) Approving the Council Tax Determination including council tax precepts for Somerset West and Taunton Council for the financial year commencing 1 April 2019, comprising basic tax rate, special expenses and additional precept for the Somerset Rivers Authority if applicable.
- d) Approving the average Housing Rents, as part of the approved budget for the Housing Revenue Account, to be applied from 1 April 2019 for housing tenants of Somerset West and Taunton Council.

3.3. The Shadow Executive will be responsible for

- a) Proposing the policy framework and budget reports to the Shadow Council, as detailed above;
- b) Discharging Executive functions in accordance with the policy framework and budget;



- c) Establishing protocols to ensure that individual Executive Councillors consult with relevant Officers before taking a decision within his or her delegated authority. In doing so, the individual Member must take account of legal and financial liabilities and risk management issues that may arise from the decision;
- d) Delegating executive decisions to an individual Executive Councillor, Interim Statutory Officer, or Implementation Team as required;
- e) The Forward Plan containing details of any future key decisions requiring approval by the Shadow Executive or Shadow Council;
- f) Approving the operational frameworks for the Shadow Council / Somerset West and Taunton Council's participation in partnerships or joint working arrangements with other local public, private, voluntary and community sector organisations, after seeking advice and guidance from the Interim Monitoring Officer and Interim Chief Finance Officer;
- g) Agreeing procedures for carrying forward the year end under / overspend of the extant Authorities;
- h) Monitoring the implementation of the new Council and ensuring appropriate internal controls exist to guarantee that this objective is achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.

3.4. The Shadow Scrutiny will be responsible for:

- a) Scrutinising Executive decisions before or after they have been implemented and for holding the Shadow Executive to account;
- b) Making recommendations on future policy options and for reviewing the general policy and service delivery of the Shadow Council / Somerset West and Taunton Council.

3.5. The Shadow Corporate Governance and Standards Committee will be responsible for:

- a) Taking on the functions of the Standards Advisory Committee, Audit Committee and Governance Committee functions as required during the Shadow Council arrangements;
- b) Promoting and maintaining high standards of conduct amongst Councillors;
- c) Agreeing the internal and external audit plans;
- d) Considering the annual audit report and management letter for the Council;
- e) Approving the annual Statement of Accounts;
- f) Approving the annual Governance Statement;
- g) Approving the Risk Management Policy statement and strategy;
- h) Having an overview role in relation to the Council's risk management framework in relation to the implementation of the new Council.

### **Joint Committees**

- 3.6. The extant Councils may establish new joint arrangements with one or more local authorities and/or executives to exercise functions, on the approval of the Shadow Executive. Such arrangements may involve the appointment of a joint committee with these other local authorities.

3.7. The current constituted joint committees for the extant Councils are as follows:

- The South West Audit Partnership
- The Somerset Waste Partnership

3.8. There will be no new Joint Committees created from 1 April 2019 until after the elections have concluded and the existing Joint Committees updated to include Somerset West and Taunton Council in place of the extant Councils.

#### **Virements**

3.9. The extant Councils will be incurring expenditure to implement the new Council in line with established budgets for the Transformation Business Case. Initially the Shadow Council will not have any budget, with new Council set up costs incurred under the extant authorities shared cost arrangements for the Transformation Business Case. Any further budget requests or request for virements between budget headings will be undertaken through the extant Councils' current Constitutional arrangements. Any virement requests that may arise under the Shadow Constitutional arrangements will be delegated to the Interim Chief Finance Officer. Any future virements for 2019/20 will be based on the new constitution as agreed in May 2019.

#### **Transfer of Year End Balances**

3.10. The Shadow Executive will delegate to the Interim Chief Finance Officer to be responsible for agreeing the procedures for the transfer of assets, liabilities and reserves to the new Council as part of the transition to the new authority, in line with the requirements of the Transfer Order and any related 'Finance' Order(s) and following proper accounting practices.

### **4. Financial Planning**

4.1. The Shadow Council is responsible for agreeing the Somerset West and Taunton Council's policy framework and budget (as discussed above), which will be proposed by the Shadow Executive.

4.2. In practice it is not expected the Shadow Authority will prepare a budget for costs in 2018/19, with new Council set up costs incurred under the extant authorities shared cost arrangements for the Transformation Business Case. This will be kept under review and any budget requirement of the Shadow Council will be determined by agreement of funding and cost sharing by the extant Councils.

#### **Budget Setting**

4.3. The Shadow Council has, and Somerset West and Taunton Council will have, a statutory duty to set a balanced budget. The Interim Chief Finance Officer is responsible for ensuring that a revenue budget and capital programme is prepared on an annual basis and a medium term financial plan is prepared for consideration by the Shadow Executive, before submission to the Shadow Council for approval.

- 4.4. The draft budget should include allocation to functions, services and projects, proposed taxation levels, and information on any contingency funds and reserves, and the prudent level of reserves to be maintained. The draft budget should comply with agreed policies and strategies. The Shadow Council may amend the budget or ask the Shadow Executive to reconsider it before approving it, in line with the Budget and Policy Framework.
- 4.5. Guidelines on budget preparation are issued to Directors, Heads of Functions and Managers by the Interim Chief Finance Officer following agreement with the Shadow Executive. These are to ensure the robustness of the budget and the adequacy of the Council's reserves position. The guidelines will take account of:
- legal requirements
  - medium term planning prospects
  - corporate strategies and plans of the new Council
  - available resources
  - spending pressures
  - other relevant government guidelines
  - other internal policy documents
  - cross-cutting issues where relevant
  - risk

### **Budget Monitoring**

- 4.6. The monitoring and control of the 2018/19 budget will be the responsibility of the extant Authorities via their current respective constitutional arrangements and financial monitoring and control systems and procedures. The extant Authorities will be required to provide details to the Interim Chief Finance Officer, who will report to the Shadow Executive, of forecast variances from agreed budgets.
- 4.7. Budget Monitoring and Control arrangements will be reviewed in line with any Finance Order(s) issued by Government.

## **5. Financial Regulation Financial Risk Management**

- 5.1. Risks are those events or circumstances which impinge on the ability of the Shadow Council to achieve its corporate goals. These risks will be managed by the Heads of Functions and the Implementation Team by assessing and reviewing the controls needed to manage those risks.

### **Audit Requirements**

- 5.2. The Accounts and Audit Regulations 2015 require every local authority to maintain an adequate and effective internal audit of the Council. The Interim Chief Finance Officer will liaise with the extant Authorities Internal Auditor to determine appropriate activity under the extant Authorities audit plans in respect of the transition to the new Council.

- 5.3. The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998. As the costs related to the creation of the new Council will be incurred by the extant Authorities it is not expected the Shadow Council will undertake financial transactions directly or be required to prepare a Statement of Accounts for 2018/19.

#### **Assets**

- 5.4. Managers shall ensure that all financial records, physical assets and supporting documentation are properly maintained and securely held, and suitably recorded in the extant Council's registers. This will support the safe transfer of assets to the new Council under the Transfer Order and any related Finance Order(s).
- 5.5. Any proposals of the extant Councils to enter into leasing agreements, or the leasing of any property, or the taking or granting of any interest in property must be undertaken after consultation with and approval of the Interim Chief Finance Officer. The Interim Chief Finance Officer will refer to the terms of the Transfer Order and any related Finance Order(s) with regards to any restrictions to the buying, selling and leasing of assets during the shadow arrangements.

#### **Any other duties as required**

- 5.6. It is assumed that any item not directly referred to within these Procedure Rules from the adopted financial regulations relate to the activities and continued responsibilities of the extant Authorities and as such, those Council's current Constitutions will be applicable.

# Somerset West and Taunton Shadow Council

## Shadow Council Meeting – 7th June 2018

### Appointment of Interim Statutory Officers

Report Author: Bruce Lang

#### 1 Executive Summary

- 1.1 This report asks Members to agree to appoint a number of officers on an Interim basis as Statutory Officers for the Shadow Authority.

#### 2 Recommendations

- 2.1 To appoint Penny James as the Interim Head of Paid Service in accordance with the Local Government and Housing Act 1989.
- 2.2 To appoint Bruce Lang as the Interim Monitoring Officer in accordance with the Local Government and Housing Act 1989.
- 2.3 To appoint Paul Fitzgerald as the Interim Chief Finance Officer in accordance with the Local Government Finance Act 1988.

#### 3 Risk Assessment

- 3.1 The main risk in respect of this report is shown in the matrix below.

##### Risk Matrix

Description	Likelihood	Impact	Overall
It is a requirement of the Shadow Authority that the three Interim Statutory Officers are appointed to manage a smooth transition. Failure to do so would be a breach of the legislative requirements and expose the Shadow Authority to significant risk.	3	5	15
To make the necessary appointments at the first meeting of the Shadow Council.	1	5	5

### Risk Scoring Matrix

<b>Likelihood</b>	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
<b>Impact</b>							

<b>Likelihood of risk occurring</b>	<b>Indicator</b>	<b>Description (chance of occurrence)</b>
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 In accordance with the Somerset West and Taunton (Local Government Changes) Order 2018, the Shadow Authority at its first meeting must designate, on an interim basis, individual officers to carry out a number of various statutory roles. These are:
- a) Interim Head of Paid Service
  - b) Interim Monitoring Officer
  - c) Interim Chief Finance Officer
- 4.2 The appointed Interim officers will continue to carry out the roles required of them in relation to the various statutes until such time as the Shadow Authority makes arrangements for permanent appointments to these posts.

- 4.3 It is expected that the permanent appointments will be made in the lead-up to the new authority being set up on the 1st of April 2019.
- 4.4 At the present time, both Taunton Deane and West Somerset Councils share their Statutory Officers and it is proposed that the existing officers also take on the roles of Interim Statutory Officers for the Shadow Authority.
- 4.5 The relevant officers will carry out the roles on existing terms and conditions and there is no additional payment to be made for carrying out these roles.
- 4.6 Members of the Shadow Authority should also be aware that it is open to the Interim Monitoring Officer and Interim Finance Officer to appoint a deputy to undertake tasks in their absence. In accordance with this, it should be noted that, if appointed, Bruce Lang would intend to appoint Richard Bryant as the Deputy Monitoring Officer.
- 4.7 The Shadow Authority is being advised separately in relation to this matter by an Independent Legal Consultant.

## **5 Links to Corporate Aims / Priorities**

- 5.1 This is part of a statutory process

## **6 Finance / Resource Implications**

- 6.1 As the officers appointed will be carrying out their roles on current terms and conditions, and their costs will continue to be shared directly by Taunton Deane and West Somerset Councils in line with current cost sharing arrangements for the one team of officers, there are no resource implications at the present time.

## **7 Legal Implications**

- 7.1 The appointment of Interim Statutory Officers is a requirement under the Somerset West and Taunton (Local Government Changes) Order 2018.

## **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.

**11 Social Value Implications**

11.1 None.

**12 Partnership Implications**

12.1 None.

**13 Health and Wellbeing Implications**

13.1 None.

**14 Asset Management Implications**

14.1 None.

**15 Consultation Implications**

15.1 The relevant officers affected by these proposals have been consulted and agree to these proposals.

**Democratic Path:**

- **Scrutiny / Corporate Governance or Audit Committees – No**
- **Cabinet/Executive – / No**
- **Full Council – Yes**

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

**Contact Officers**

Name	Bruce Lang
Direct Dial	01823 217556
Email	<a href="mailto:bdlang@westsomerset.gov.uk">bdlang@westsomerset.gov.uk</a>



# Somerset West and Taunton Shadow Council

7 June, 2018

## Political Balance and Appointment to the Shadow Executive, Committees, Working Groups and Standards Arrangements

Report Author: Bruce Lang, Interim Monitoring Officer

### 1 Purpose of the Report

To provide clarity as to the political group arrangements and appointments to the Shadow Executive, Standing Committees and any Working Groups for the Shadow Council.

### 2 Recommendations

- 2.1 To note the current position in respect of the formation of Political Groups
- 2.2 To endorse the nominations for the Shadow Executive, Shadow Scrutiny Committee, Shadow Corporate Governance and Standards Committee and New Council Working Group as set out in the report/ advised at the meeting by the Leaders of the Political Groups.
- 2.3 To approve the appointment of Louise Williams to serve as the Independent Person for the Shadow Council in accordance with Section 28(7) of the Localism Act 2011 from the date of the meeting for a term of 12 months.
- 2.4 To approve the arrangements for dealing with Standards Allegations under the localism Act 2011 raised in respect of any member whilst acting as a member of the Somerset West and Taunton Shadow Council as set out in Appendix A to this report

### 3 Risk Assessment

#### Risk Matrix

Description	Likelihood	Impact	Overall
Necessary appointments are not made in a timely manner	3	5	15
<i>Necessary appointments are made at initial Shadow Council meeting held with i4 days of Structural Change Order being made</i>	1	5	5

Risk Scoring Matrix

<b>Likelihood</b>	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
<b>Impact</b>							

<b>Likelihood of risk occurring</b>	<b>Indicator</b>	<b>Description (chance of occurrence)</b>
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**

##### **Shadow Executive**

4.1 The Somerset West and Taunton (Local Government Changes) Order 2018 (the Order) stipulates that at its first meeting it must create a Leader and cabinet executive within the meaning of part 1A of the Local Government Act 2000. The Order further states that the Shadow Executive is to consist of the two persons who are for the time being the leaders of the district councils, plus three persons to be nominated from the existing membership of West Somerset Council (WSC) and three persons to be nominated from the existing membership of Taunton Deane Borough Council (TDBC).

4.2 In the light of this, the nominations for the Shadow Executive are:

Councillor A Trollope-Bellew - Leader of WSC

Councillor J Williams – Leader of TDBC

WSC three additional nominations – Councillor M Dewdney, Councillor A Hadley and Councillor S Pugsley

TDBC three additional nominations – Councillor R Habgood, Councillor A Sully and Councillor J Warmington.

The Shadow Council is requested to endorse these nominations to form the Shadow Executive

It should be noted that when electing its Leader and Deputy Leader under items 10 and 11 on the agenda, the Order requires that both of these posts must be from among the members of the Shadow Executive.

### **Political Groups**

- 4.3 The Shadow Council will operate under the same political proportionality rules as do the extant two councils and so all existing Group Leaders have been contacted to give some thought to this issue and indicate what their intentions are so that seats can be properly allocated on shadow standing committees and working groups.

At the time of writing the report, the following groups have been formally notified to the Interim Monitoring Officer:

Somerset West and Taunton Conservative Group consisting of 53 members with Councillor J Williams as Group Leader and Councillor A Trollope-Bellew as Deputy Group Leader

Liberal Democrat Group consisting of 15 members with Councillor S Coles as Group Leader

Labour Group consisting of 3 members with Councillor L Lisgo as Group Leader

Independent Group consisting of 7 members with Councillor E Gaines as Group Leader

With one seat currently vacant, this leaves five members not currently allocated into any Group although this may change by/at the Shadow Council meeting.

The Council is invited to note the formation of the political groups as listed and, if appropriate, updated at the meeting.

### **Scrutiny Committee and Corporate Governance and Standards Committee**

- 4.4 In terms of having the minimum Committees in place to safely ensure the proper operation from day one of the Shadow Council, it is proposed to stand up a Scrutiny Committee and a Corporate Governance and Standards Committee.

Both committees are to have 16 members and to be politically proportional. Based on the figures in respect of political groups above, this would mean that for both Committees there would be 10 conservative seats, 3 liberal democrat seats one independent seat, one labour seat, and one seat available for the residual group(s). Group Leaders are invited to submit their respective nominations to the Interim Monitoring Officer before or at the meeting.

The two committees will elect their Chairman and Vice-Chairman at their first meetings.

In order to provide an element of independence, should the Corporate Governance and Standards Committee be called upon to consider any standards matters, then it is proposed to co-opt the two independent Chairmen of the Taunton Deane and West Somerset Standards Advisory Committees for these specific items as non-voting members. Both individuals have been contacted and are prepared to offer this support.

These two standing committees will be open to the press and public and subject to the usual access to information rules.

The Council is invited to endorse the nominations made by the Group Leaders in respect of membership of the two Standing Committees.

### **Appointment of Independent Person and Arrangements for Dealing with Complaints**

- 4.5 It is a requirement of the Localism Act 2011 that every Council appoint at least one Independent Person whose role is to advise the Council with regard to the process for dealing with complaints that Councillors have breached the Code of Conduct. It is therefore considered sensible to nominate Louise Somerville who is the current Independent Person for both Taunton Deane Borough Council and West Somerset Council, to provide this function for the Shadow Council. The Council is invited to endorse this nomination.

The Localism Act also requires all Councils to have in place arrangements for dealing with Standards Complaints and so the Council is requested to approve the proposals set out in Appendix A to this report which have been adapted to apply in instances when a formal complaint is made in regard to an allegation of a potential breach of the Code of Conduct by a councillor when acting in their capacity as a member of the Somerset West and Taunton Shadow Council.

### **New Council Working Group**

- 4.6 The Shadow Council may establish such Working Groups as it considers appropriate to support its functions. One of the key functions of the Shadow Council will be to develop governance proposals for arrangements to be operated by the new Council and it is considered appropriate to establish a representational Working Group to support this developmental work. This Group would replace the existing New Council Working Group that operated under the auspices of the Joint Partnership Advisory Group (JPAG) that would be stood down.

It is proposed that the Shadow New Council Working Group should consist of 16 members and be politically proportionate as above and Group Leaders have been requested to submit their nominations to the Interim Monitoring Officer before or at the meeting.

Whilst the Working Group will have a core membership of 16 members, any councillor will be welcome to attend Working Group meetings.

The meetings of Working Group are not open to the press and public.

The Council is invited to endorse the nominations made by the Group Leaders for the core membership of the New Council Working Group.

## **5 Links to Corporate Aims / Priorities**

- 5.1 Not applicable as this report relates to meeting statutory requirements in relation to the establishment and proper operation of the Shadow Council.

## **6 Finance / Resource Implications**

- 6.1 None in respect of this report.

## **7 Legal Implications**

7.1 The proposals set out in this report form part of actions required to satisfy the governance requirements for the Shadow Council as set out in the Somerset West and Taunton (Local Government Changes) Order 2018.

## **8 Environmental Impact Implications**

8.1 None in respect of this report.

## **9 Safeguarding and/or Community Safety Implications.**

The three aims the authority must have due regard for are:-

- Eliminate discrimination, harassment, victimisation;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.1 None in respect of this report.

## **10 Social Value Implications**

10.1 None in respect of this report.

### **10.2 Partnership Implications**

10.3 None in respect of this report.

## **11 Health and Wellbeing Implications**

*The Council has given due regard to:-*

- *People, families and communities taking responsibility for their own health and wellbeing;*
- *Families and communities are thriving and resilient; and*
- *Somerset people are able to live independently.)*

11.1 None in respect of this report.

## **12 Asset Management Implications**

12.1 None in respect of this report.

## **13 Consultation Implications**

*All Group Leaders were provided a general written briefing on 4<sup>th</sup> May, 2018 and with more specific consultation regarding the issues covered in this paper by an e-mail dated 10<sup>th</sup> May, 2018.*

## **Democratic Path:**

- Scrutiny / Corporate Governance or Audit Committees – No
- Cabinet/Executive – No
- Full Council – Yes

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

**Contact Officers**

Name	Bruce Lang	Name	
Direct Dial	01823 217556	Direct Dial	
Email	bdlang@westsomerset.gov.uk	Email	

Name		Name	
Direct Dial		Direct Dial	
Email		Email	

# Appendix A

## Somerset West and Taunton Shadow Council Arrangements for dealing with standards allegations under the Localism Act 2011

### **1 Context**

These “Arrangements” set out how you may make a complaint that an elected or co-opted member of this authority] has failed to comply with the authority’s Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the authority’s Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of the authority, or of a Committee or Sub- Committee of the authority, has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member against whom an allegation as been made.

### **2 The Code of Conduct**

The Council has adopted a Code of Conduct for members, which is attached as Appendix One to these arrangements and available for inspection.

### **3 Making a complaint**

If you wish to make a complaint, please write or email to –

The Interim Monitoring Officer

The Council Offices  
Belvedere Road  
Taunton  
TA1 1HE or  
The Council Offices  
Killick Way  
Williton  
TA4 4QA

Or email

[BDLang@westsomerset.gov.uk](mailto:BDLang@westsomerset.gov.uk)

The Interim Monitoring Officer has a statutory responsibility for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the model complaint form, which can be downloaded from the Taunton Deane and West Somerset Councils' Websites, next to the Code of Conduct, and is available on request from Reception at the Council Offices.

Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the member against whom you make the complaint, without your prior consent. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Interim Monitoring Officer will acknowledge receipt of your complaint within 10 working days of receiving it, and will keep you informed of the progress of your complaint. In addition the Monitoring Officer will also notify the subject member of the complaint.

#### **4 Will your complaint be investigated?**

The Interim Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within 2 calendar months of receipt of your complaint. Where the Interim Monitoring Officer has taken a decision, you will be informed of that decision and the reasons for it.

Where additional information is required in order to come to a decision, the Interim Monitoring Officer may come back to you and may also request information from the member against whom your complaint is directed



In appropriate cases, the Interim Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the member or the authority make a reasonable offer of local resolution, but you are not willing to accept that offer, the Interim Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Interim Monitoring Officer has the power to call in the Police and other regulatory agencies.

## **5 How is the investigation conducted?**

If the Interim Monitoring Officer decides that a complaint merits formal investigation, an Investigating Officer may be appointed. That Investigating Officer may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether they need to meet or speak to you to understand the nature of your complaint, this will allow you to further explain your understanding of events and suggest what documents the Investigating Officer may need to see or who the Investigating Officer may need to interview.

The Investigating Officer would normally write to the member against whom you have complained and provide him/her with a copy of your complaint. They will ask the member to provide his/her explanation of events, and to identify what documents they need to see and/or who he needs to be interviewed. In exceptional cases, the Interim Monitoring Officer may delete your name and address from the papers or delay notifying the member until the investigation has progressed sufficiently where it might prejudice the investigation.

At the end of their investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send their final report to the Interim Monitoring Officer.

## **6 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**

The Interim Monitoring Officer will review the Investigating Officer's report and, if satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned notifying you that no further action is required. A copy of the Investigating Officer's final report will be given to both of you. If the Interim Monitoring Officer is not satisfied that the investigation has been conducted properly, the Investigating Officer may be asked to reconsider their report.

## **7 What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?**

The Interim Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.

### **7.1 Local Resolution**

The Interim Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, the Independent Person will be consulted with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the member complies with the suggested resolution, the Interim Monitoring Officer will report the matter to the Corporate Governance and Standards Committee for information, but will take no further action. However, if you tell the Interim Monitoring Officer that any suggested resolution would not be adequate, the Interim Monitoring Officer will consider whether to refer the matter for a local hearing.

### **7.2 Local Hearing**

If the Interim Monitoring Officer considers that local resolution is not appropriate, then the Interim Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

Essentially, the Interim Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing. The Chair of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present their report, call such witnesses as they consider necessary and make representations to substantiate their conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Panel. The member will then have an opportunity to give his/her evidence, to call witnesses and to make

representations to the Hearings Panel as to why they consider that they did not fail to comply with the Code of Conduct.

If the Hearings Panel, with the benefit of any advice from the Independent Person, conclude that the member did not fail to comply with the Code of Conduct they will dismiss the complaint. If the Hearings Panel concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Hearings Panel will then consider what action, if any, the Hearings Panel should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the member an opportunity to make representations to the Panel and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

## **8 What action can the Hearings Panel take where a member has failed to comply with the Code of Conduct?**

The Council has delegated to the Hearings Panel such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearings Panel may –

- 8.1 Publish its findings in respect of the member's conduct;
- 8.2 Report its findings to Council for information;
- 8.3 Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.4 Recommend to the Leader of the Council that the member be removed from the Executive, particular Portfolio responsibilities, as chairman of a committee or from a committee itself;
- 8.5 Instruct the Interim Monitoring Officer to arrange training for the member;
- 8.6 Remove from all outside appointments to which he/she has been appointed or nominated by the authority;
- 8.7 Withdraw facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- 8.8 Exclude the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

The Hearings Panel has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

## **9 What happens at the end of the hearing?**

At the end of the hearing, the Chair will state the decision of the Hearings Panel as to whether the member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel resolves to take.

As soon as reasonably practicable thereafter, the Interim Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to the Complainant, to the member, make the decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

## **10 Who are the Hearings Panel?**

The Hearings Panel is a Sub-Committee of the Council's Corporate Governance and Standards Committee. The Panel it will comprise a maximum of five members of the Council, including not more than one member of the authority's Executive and comprising members drawn from at least 2 different political parties plus the two Co-opted non-voting members of the Committee who are the current independent Chairpersons of the Taunton Deane and West Somerset Standards Advisory Committees..

The Independent Person is invited to attend all meetings of the Hearings Panel and their views are sought and taken into consideration before the Hearings Panel takes any decision on whether the member's conduct constitutes a failure to comply with the Code of conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

## **11 Revision of these arrangements**

The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Hearings Panel the right to depart from these arrangements where they considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

## **12 Appeals**

There is no right of appeal for you as complainant or for the member against a decision of the Interim Monitoring Officer or of the Hearings Panel

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

.