

# Somerset West and Taunton

Taunton Deane and West Somerset Councils  
working together

## **SOMERSET WEST AND TAUNTON SHADOW COUNCIL**

### **Meeting of the Shadow Council**

Date: 10<sup>th</sup> September 2018

Time: 6pm

Venue: The Shire Hall, Shuttern, Taunton.

### **AGENDA**

**1. Apologies for Absence.**

**2. Public Participation**

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

**3. 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.

**4. Employment Procedure Rules (report attached).**

**5. Recruitment of Chief Executive for Somerset West and Taunton Council (report attached with Appendix A to follow).**

## **Shadow Full Council**

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

## **Shadow Executive**

- Wednesday, 26 September 2018, at 4.30pm, Council Chamber, Williton.

## **Shadow Scrutiny Committee**

- Thursday, 18<sup>th</sup> September 2018 at 4.30pm, Meeting Room C – Flook House.



## Somerset West and Taunton Shadow Council

### Shadow Council Meeting – 10 September 2018

#### Employment Procedure Rules

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

Report Author: Bruce Lang – Interim Monitoring Officer

#### 1 Executive Summary

- 1.1 This report asks Members to agree to the adoption of a set of Employment Procedure Rules in relation to Statutory Officers for the Shadow Council.

#### 2 Recommendations

- 2.1 Subject to the coming into force of Local Government (Boundary Changes) (General) Regulations 2018:

(a) To agree the Employment Procedure Rules (as attached at Appendix 1).

(b) To amend the Terms of Reference for the Shadow Executive to include responsibility for dealing with the recruitment of Statutory and Non-Statutory Chief Officers and dealing with any personnel issues in relation to them.

#### 3 Risk Assessment

##### Risk Matrix

Description	Likelihood	Impact	Overall
The shadow council has no governance arrangements for appointing senior staff	2	4	8
The mitigations for this are the proposals as set out in the report			

### 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

- 4.1 At the first meeting of the Shadow Council held on 7 June 2018, Members agreed an Interim Constitution which set out the responsibilities of the constituent parts of the Council and how its executive arrangements would operate. The Interim Constitution provides a framework within which the Shadow Council operates.
- 4.2 At the time of the meeting, Members were advised that due to time constraints the document by its nature was intended to be a ‘shell’ which would be added to as time goes by. One of the documents which was indicated as being required at a subsequent Council meeting was a set of Officer Employment Procedure Rules to deal with the employment issues in relation to Senior Officers and, in particular, the making of any appointments to Statutory Officer roles before 1 April 2019.
- 4.3 This report now sets out the requirements of such a set of Employment Procedure Rules and attaches a draft for Members to agree.

## 5 Legislative Requirements

- 5.1 The last meeting of the Shadow Council also received a report in relation to the

appointment of Interim Statutory Officers.

- 5.2 The Council appointed the three Statutory Officers on an interim basis and it was stated that this was until such time as the Shadow Council was able to make arrangements for permanent appointments to these posts. It was also indicated there was an expectation that the permanent appointments were likely to be made in the lead-up to the new Council being set up on 1 April 2019. In view of the need to create some stability in the lead-up to the new Council being set up, Members may now wish to proceed to permanent appointments in relation to one or more of the roles.
- 5.3 Accordingly, should the Council now wish to move towards any permanent appointments, it would require the adoption of a set of Council Procedure Rules as required under the Local Council's (Standing Orders) Regulations 1993. In addition, should a matter arise in relation to discipline or grievance in relation to any of these Officers, then again, the Council would need to have available to it appropriate Procedure Rules which would deal with the situation.
- 5.4 The attached set of Employment Procedure Rules seeks to deal with any permanent appointments and any disciplinary or grievance procedures that may be required.
- 5.5 Members will be aware that, traditionally in Local Government, employment matters are reserved for Council as opposed to the Executive. The reason for this is that under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, employment issues are not to be the responsibility of an Executive of an Authority. Accordingly, provisions are normally made in the Constitution for:
- a) The Chief Executive to determine employment matters in relations to most staff
  - b) Chief Officer roles are dealt with by a Committee of the Council.
- 5.6 However, in relation to the new draft Local Government (Boundary Changes) (General) Regulations 2018, significant changes are made for the purposes of the Shadow Authority. These regulations provide for amending the 2000 regulations in a significant way so as to make the responsibility for appointing senior staff under Section 112 of the Local Government Act 1972 not the responsibility of the Council, but one which is to be determined by the Executive.
- 5.7 In accordance with the above provisions, the Employment Procedure Rules which are proposed for adopting by the Council incorporate the above requirements.

## **6 Finance / Resource Implications**

- 6.1 None.

## **7 Legal Implications**

- 7.1 The legal implications are contained within the body of this report. In particular, the Council is required to have a set of Employment Procedure Rules in accordance with Local Council's (Standing Orders) Regulations 1993. As stated in the body of the report, these are significantly amended by the proposed Local Government (Boundary Changes) (General) Regulations 2018.
- 7.2 The power of a Shadow Authority to appoint a Chief Officer (including the Head of Paid Service) is the responsibility of the Shadow Executive of the Shadow Authority. This is

prescribed and is not a matter of choice for the Shadow Authority. As this is different from the normal arrangements for an Authority, expert legal advice has been sought on this matter and the position has been confirmed accordingly.

## **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.

## **16 Scrutiny Comments / Recommendation(s)**

16.1 None.

### **Democratic Path:**

- **Full Council – Yes**

### **List of Appendices**

Appendix A	Employment Procedure rules
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### **Contact Officers**

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## Staff Employment Procedure Rules

### 1 General

- 1.1 The Shadow Council has limited powers in connection with the employment and designation of staff. It relies upon staff resources provided by Taunton Deane and West Somerset Council to carry out its work. These Rules must therefore be read in that context.
- 1.2 Staff within the organisation are employed, appointed, designated or engaged on behalf of the whole Shadow Council and not by parts of the organisation or individuals.
- 1.3 The employment, appointment, designation or engagement of all staff will be in compliance with the law and any policies and practices of the Shadow Council.
- 1.4 Generally (except for certain senior staff appointments) the function of appointment and dismissal of and taking disciplinary action against a member of staff of the Shadow Council must be discharged on behalf of the authority by the Head of the Paid Service or by an officer nominated by him/her.

### 2 Recruitment and Appointment of Staff

- 2.1 Subject to the provisions of these Procedures, the recruitment, designation and appointment of staff will be conducted in accordance with the law and the Shadow Council's policies and procedures.
- 2.2 Any candidate for any designation or appointment with the Shadow Council who knows that he/she is related to a Shadow Councillor or employee of the Shadow Council shall, when making application, disclose, in writing, that relationship to the Interim Monitoring Officer. A person who deliberately fails to disclose such a relationship shall be disqualified from designation or appointment and, if designated or appointed, shall be liable to dismissal.
- 2.3 Every Shadow Councillor and employee of the Shadow Council shall disclose to the Interim Monitoring Officer any relationship known to him/her to exist between him/herself and any person he/she knows is a candidate for a designation or appointment by the Shadow Council.
- 2.4 Any candidate for designation or appointment who directly or indirectly seeks the support of a Shadow Councillor or officer of the Shadow Council in any designation or appointment shall be disqualified and, if designated or appointed, shall be liable to dismissal. A Shadow Councillor shall not solicit for any person in respect of any designation or appointment with the Shadow Council, but may give a written testimonial of a candidate's ability, experience or character.
- 2.5 Persons shall be deemed to be related to a candidate or officer if they are a spouse, partner (i.e. member of a couple living together) parent, parent-in-law, grandparent, child, stepchild, adopted child, grandchild, child of partner, brother,

sister, uncle, aunt, nephew or niece or the spouse or partner of any of the preceding persons.

- 2.6 In the case of a dispute under paragraph 2.5 above about the status of a relationship in relation to an appointment, the Interim Monitoring Officer will rule and such ruling will be applied. If the Interim Monitoring Officer is involved, then the matter will be referred to his deputy.
- 2.7 The Interim Monitoring Officer will ensure that the provisions of these Rules are reflected, as appropriate, in application forms or in any accompanying detailed procedures for each post, following advertisement.

### **3 Responsibility of the Executive**

- 3.1 In addition to the responsibilities of the Executive contained in the Terms of Reference within the Interim Constitution the Executive will also be responsible for dealing with the recruitment of Statutory and Non-Statutory Chief Officers and dealing with any personnel issues in relation to them.

### **4 Appointment of Head of the Paid Service**

- 4.1 The appointment of Head of the Paid Service is subject to specific requirements as set out below.
- 4.2 Where the Shadow Council proposes to appoint to the Head of the Paid Service, the Executive will oversee the arrangements for filling the vacancy.
- 4.3 The Executive shall:
- (a) draw up/confirm a statement specifying the duties of the officer concerned and any qualifications or guidelines to be sought in the person to be appointed;
  - (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it;
  - (c) make arrangements for a copy of the statement mentioned above to be sent to any person on request;
  - (d) where a post has been advertised as required above, the Executive will select from the applications a short list of qualified candidates and will then interview those included in the short list.
- 4.4 Following the interview of candidates, the Executive will come to a view as to the most suitable person for the position.
- 4.5 An offer of appointment must wait until the matter has been ratified by a meeting of the full Shadow Authority. Once the Shadow Council has approved the appointment, a formal letter of appointment can be made.

### **5 Appointment/Dismissal of Interim/Appointed Head of Paid Service,**

## **Statutory Chief Officers, Non-Statutory Chief Officers and Deputy Chief Officers**

- 5.1 The Shadow Executive will also be responsible for appointment to the other Officers including the Monitoring Officer, Chief Finance Officer, Non-Statutory Chief Officers.
- 5.2 The requirements of the Local Authorities (Standing Orders) (England) Regulations 2001 (“the Regulations”) will be followed in respect of those posts which fall within the definitions of Head of Paid Service, Statutory Chief Officer, Non-Statutory Chief Officer and Deputy Chief Officer.
- 5.3 This requires among other things, that the Executive undertakes the process set out at paragraph 4.3 and 4.4 above; however, there is no requirement for the appointment to be ratified by full Council.
- 5.4 The Shadow Executive will also be responsible for dealing with any disciplinary and grievance procedures relating to all Statutory Officers and other Chief Officers.

## **6 Appointments/Dismissal of Other Officers**

Where any appointments are made to positions other than those referred to in paragraph 6 above, or where such persons are dismissed, these shall be the responsibility of the Head of the Paid Service, or another officer to whom he/she has delegated that responsibility.

# Somerset West and Taunton

Taunton Deane and West Somerset Councils  
working together

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

**Shadow Council – 10<sup>th</sup> September, 2018**

### **Recruitment of Chief Executive for Somerset West and Taunton Council**

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

**Report Author: Bruce Lang – Interim Monitoring Officer**

#### **1 Executive Summary / Purpose of the Report**

- 1.1 The purpose of this report is to consider the recommendations regarding the recruitment to the Chief Executive post for the new Council and note the associated job description and person specification,
- 1.2 Subject to the approval of the Employment Procedure Rules, to also note the arrangements whereby the Shadow Executive will oversee the recruitment process.
- 1.3 These considerations relate to the ongoing permanent arrangements for the new council and do not impact on any of the interim arrangements in place to support the shadow authority.
- 1.4 Any further requirements to support the leadership team will be left to the consideration of the Chief Executive following their appointment.
- 1.5 The HR Recruitment policy underpinning the recruitment to the new organisational structure which has been applied by the two existing authorities has been on the principle of no assimilation and the Chief Executive post will be treated in the same

way. To date the first phase of any appointment process for a post has been ring fenced internally, however given the importance of the Chief Executive role and to ensure transparency and fairness it is proposed that the Chief Executive role should go straight out to external recruitment.

## 2 Recommendations

- 2.1 That the role of Chief Executive goes out directly to external recruitment.
- 2.2 That the attached job description and person specification – appended as Appendix A (to follow) to this report - be noted for use in the Chief Executive recruitment process

## 3 Risk Assessment

### Risk Matrix

Description	Likelihood	Impact	Overall
<i>Current Chief Executive is the programme sponsor for the New Council - Disruption to the preparatory work required for the standing up of the New Council</i> <i>[Mitigation – put transition arrangements in place]</i>	3	3	9
<i>Disruption to existing partnerships and relationships at Chief Executive level.</i> <i>[[Mitigation – transition arrangements</i>	3	2	6
<i>Opportunity - test the market in a competitive process</i>			

### Risk Scoring Matrix

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

#### 4.1 **Background Information**

Both councils have been on a significant journey of change since they decided to work together in December 2012. They have been bold in their ambition and the pace of change and now culminating in the creation of a new council from 1 April, 2019 together with a new organisational structure and way of working through a transformation programme. This is the foundation for the Somerset West and Taunton Council that can deliver the aspirations for its electorate and customers in the 21st Century. The appointment of a Chief Executive that believes in and can deliver on these aspirations is fundamental to the success of the new council and the supporting organisation.

4.1.1 The LGA (Local Government Association) have been supporting the Shadow Executive in their thinking on the Chief Executive recruitment. They ran a session in July to shape the Shadow Executive's initial thinking regards the timing and recruitment process for the Chief Executive post. They were also able to provide insight from other councils (Dorset and Suffolk) that are going through the same process to establish a new council. The LGA's national workforce team were also available to provide guidance and any advice on HR issues as well as being able to provide comparative job details from across the region and nationally.

4.1.2 Conclusions from these discussions with the LGA were that:

- For the purposes of transparency and fairness it is important that an external recruitment exercise is undertaken for the Chief Executive post, this does not exclude the current Chief Executive from applying.
- Going out to external recruitment will ensure that the new Council has the best possible person to take them through these times of significant change.
- In the interests of ensuring there is stability and continuity as the new council is stood up on the 1 April 2019, the recruitment process be progressed as soon as possible.
- By progressing the recruitment as soon as possible, the new Chief Executive will be in a position to consider the leadership team requirements at the earliest opportunity.

4.1.3 The process for recruitment of the Chief Executive will follow the Employer Procedure Rules that have been drafted and been presented to this council meeting for approval. The timetable for the recruitment and appointment process reflects these rules.

4.1.4 It should be noted that in accordance with the Employment Procedure rules the Shadow Executive operate as the “Appointments and Disciplinary Committee” and in doing so, conduct the assessment and interviews and oversee the recruitment process. The intention is to ensure appropriate cross group involvement in this process, recognising that the responsibility lies with members of the Shadow Executive, who will submit their decision for ratification by the Full Shadow Council.

4.1.5 The indicative timeline for the recruitment process is detailed below:

Late Sept-Mid Oct '18	Advertise Chief Executive post
Mid Oct	Shortlisting of applicants
End Oct	Interviewing and Assessment of shortlisted candidates
Early Nov	Appointment Decision.

- 4.1.6 Following the LGA session in July, a further session took place on 29 August, 2018, to which all members of the Shadow Executive and Shadow Group Leaders were invited. This session was held to discuss and define the requirements for the role of a Chief Executive for the new council and has shaped and informed the job description and person specification that are being presented to this council for noting.
- 4.1.7 The LGA undertook some research on behalf of the Shadow Executive, to provide salary data for comparative roles in the south west together with national data for shared councils. Informed by this information. The salary range offered will be between £115k - £125k.

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

- 5.1 The Councils are currently developing their corporate priorities in preparation for the New Council standing up in April 2019. The work to date has developed priorities focussing on the 3Ps – People, Place and Prosperity. The Chief Executive role is vitally important in shaping and directing the organisation to deliver the outputs, outcomes and intent to reflect the corporate priorities.

## **6 Finance / Resource Implications**

### **6.1 Associated Costs**

The Transformation programme budget includes £50k allocated to Chief Executive recruitment and any costs associated with the Chief Executive recruitment process will be covered by this budget. This will include the use of an external recruitment agency who will be appointed in accordance with the relevant Financial Regulations and Officer Delegated Powers as set out in the Constitutions of the extant Councils.

- 6.2 Current estimates are that the total cost of the above should not exceed £35k

## **7 Legal Implications**

- 7.1. In accordance with the amendments proposed by the draft Local Government (Boundary Changes) (General) Regulations 2018, an appointment of Head of Paid Service may take effect before the date the new Council comes into existence. The person may be appointed as an Officer of the Shadow Authority or an Officer of one of the predecessor Councils.

- 7.2 As the Authority is proposing to make a selection from an external advertisement, including any internal application, the process as set out in the report dealing with the Employment Procedure Rules earlier on the agenda is required under the Local Authority (Standing Orders) Regulations 1993 as amended.
- 7.3 As indicated in the previous report dealing with the Council's Employment Procedure Rules, the appointment is a matter for the Shadow Executive of the Authority. This is prescribed and is not a matter of choice for the Shadow Authority. However, in view of the importance of this role, the appointment will still be ratified by a meeting of the full Shadow Authority.

## **8 Environmental Impact Implications**

- 8.1 There are no Environmental Impact implications associated with this report.

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

- 9.1 There are no Safeguarding and/or Community Safety implications associated with this report.

## **10 Equality and Diversity Implications**

- 10.1 The recruitment for the Chief Executive will be undertaken in accordance with Shadow Council policies which will ensure that equality monitoring is undertaken and that any legislative requirements are adhered to.

## **11 Social Value Implications**

- 11.1 There are no Social Value implications associated with this report.

## **12 Partnership Implications**

- 12.1 External Communications will be used to keep key stakeholders informed at key stages of the process.

## **13 Health and Wellbeing Implications**

- 13.1 There are no Health and Wellbeing implications associated with this report.

## 14 Asset Management Implications

14.1 There are no Asset Management implications associated with this report.

## 15 Consultation Implications

15.1 The LGA have been supporting the Shadow Executive in their thinking on the Chief Executive recruitment. A session was held with members of the Shadow Executive on 24 July. A further LGA session was held at the end of August which was attended by all members of the Shadow Executive, plus the Shadow Group Leaders.

15.2 UNISON have also been kept informed of the proposals in this report at their TJUB (Transformation Joint UNISON Board) meeting of 22 August, 2018 and provided with a copy of this report.

15.3 The current Chief Executive and other senior staff affected have been advised on this matter and provided a copy of the report for consultation purposes. Any comments received will be reported at the meeting,

### Democratic Path:

- Full Council – Yes

### List of Appendices

Appendix A	Job Description and person specification – To follow
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### Contact Officers

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