

Somerset West and Taunton

Taunton Deane and West Somerset Councils
working together

SOMERSET WEST AND TAUNTON SHADOW COUNCIL

Meeting of the Shadow Corporate Governance and Standards Committee

Date: 24th September 2018

Time: 3.00pm

Venue: Council Chamber, West Somerset House, Killick Way, Williton, TA4 4QA

AGENDA

- 1. Appointment of Chairman.**
- 2. Appointment of Vice-Chairman.**
- 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. 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.

- 6. Development of a New Constitution (attached).**

This report outlines to Members the requirement to formulate and agree a new Constitution for the new Council, note the principles within which the various documents will be produced and sets out the proposed timetable for its production.

- 7. Forward Plan**

To consider items to be added to the Forward Plan.

Somerset West and Taunton Shadow Council

Corporate Governance and Standards Committee – 24th September 2018

Development of a New Constitution

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 This report outlines to Members the requirement to formulate and agree a new Constitution for the new Council, note the principles within which the various documents will be produced and sets out the proposed timetable for its production.

2 Recommendations

2.1 Members are asked to:

- a) Note this report
- b) Agree the timetable for production of the constitution as set out in paragraph 6.3
- c) Agree to receive further reports on the constituent parts of the Constitution over the coming months

3 Risk Assessment (if appropriate)

Risk Matrix

Description	Likelihood	Impact	Overall
That a Constitution for the New Council is not prepared and approved by the Shadow Council by 1 April, 2019	3	5	15
<i>The mitigations for this are the proposed changes as set out in the report</i>	1	5	5

Risk Scoring Matrix

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

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

4 Background and Full details of the Report

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

- a) The Executive arrangements that are to be operated by the new Council, Somerset West and Taunton
- b) A Code of Conduct to be adopted by the new Council
- c) A Scheme of Member Allowances to be adopted by the new Council

- 4.2 In addition, the Shadow Council is required under Regulation 12(b) of the Order to prepare the Authority for the assumption, as Somerset West and Taunton Council, of Local Government functions and full Local Authority powers as of 1st April 2019.
- 4.3 The first meeting of the Shadow Council agreed an Interim Constitution for its operation which, by its nature, is a 'shell' document. It was stated in the report to Members that this will be supplemented over the forthcoming months by a number of key additional documents, including the Employment and Finance Procedure Rules. The Shadow Council on its recent meeting on 10th September has already received the Employment Procedure Rules which allow the Authority to appoint permanently to the Statutory Officers.
- 4.4 However, work must also now start on developing the documents, which together will comprise the Constitution for the new Council. Members were given an assurance at the original Shadow Council meeting that in developing these documents there would be a full opportunity for Members to be engaged in the process. At the same time, it must be recognised that the new Council with its newly elected Members will still have the opportunity at the first meeting and subsequent ones to amend the documents as they feel appropriate.
- 4.5 The documents which are required to be formulated are:
- 1) Summary and Explanation
 - 2) Articles
 - 3) Responsibility for Functions
 - 4) Rules of Procedure for Council
 - 5) Access to Information Procedure Rules
 - 6) Budget and Policy Framework Procedure Rules
 - 7) Finance Procedure Rules
 - 8) Contract Procedure Rules
 - 9) Executive Procedure Rules
 - 10) Overview and Scrutiny Procedure Rules
 - 11) Employment Procedure Rules
 - 12) Member Code of Conduct
 - 13) Protocol for Member Officer Relationships
 - 14) Planning Code of Conduct
 - 15) Member Allowances Scheme

5 Principles for the New Constitution

- 5.1 The new Council will face many challenges. It is essential that if it is to be effective in making decisions in a timely manner, it operates within a Constitution that is fit for purpose and agile for a modern authority to operate within. Accordingly, Members are asked to note the following principles which should be borne in mind as part of producing the documents:
- a) The Constitution should be '**enabling and facilitating**' within a corporate framework.
 - b) There should be **maximum levels of delegation** within which both Executive Members and Officers operate.

- c) There is a **strong corporate framework** which ensures safeguards for decision-making with the emphasis being to be **risk aware rather than risk averse**.
- d) Decisions are able to be made **swiftly and efficiently** within the above parameters.
- e) There should be **transparency** within the process of decision-making, including the appropriate level of **scrutiny** and **engagement** of members of the public.
- f) Decision-making is undertaken with the highest levels of **ethics, propriety and probity**.
- g) There is **clear accountability** within the decision-making process of who is **responsible** for what.

5.2 The above principles were recently discussed at both the Strategic Forum and the New Council Working Group on the Constitution. They received unanimous agreement and therefore are intended to be used as principles for the purpose of drafting the Constitution.

6 Timetable

- 6.1 It is proposed that at least 2-3 documents set out in paragraph 4.5 will be prepared and taken to Members for discussion and agreement on a rolling programme of 4-6 weeks. This will ensure that there is proper discussion and Member involvement. For this purpose, it is intended that the substantive discussions and agreement will take place at the Corporate Governance and Standards Committee. The documents will then proceed to Full Council during the period October 2018 to April 2019. There will also be as required a discussion at the New Council Working Group on the new Council as well as any detailed discussion required at the Sub-Group set up specifically for dealing with details on the Constitution.
- 6.2 In parallel to this process of Member engagement it is important that there is discussion at officer level as well. This will ensure that any documents produced have ownership by senior officers. Accordingly the Interim Monitoring Officer will ensure that there is appropriate officer involvement as well.

6.3 The following table sets out the production of the documents and their intended tasks during the next 6 months.

Description of Document	Decision-Making	Date	Forwarded To	Date
Report to Members Setting out the Requirements and Timetable	Corporate Governance and Standards Committee	24 th September 2018		
Summary and Explanation	Corporate Governance and Standards Committee	Monday, 12 th November 2018	Shadow Council	Monday, 17 th December 2018
Articles	Corporate Governance and Standards Committee	Monday, 12 th November 2018	Shadow Council	Monday, 17 th December 2018
Responsibility for Functions	Corporate Governance and Standards Committee	Monday, 12 th November 2018	Shadow Council	Monday, 17 th December 2018
Rules of Procedure for Council	Corporate Governance and Standards Committee	Monday, 28 th January 2019	Shadow Council	Thursday, 21 st February 2019
Access to Information Procedure Rules	Corporate Governance and Standards Committee	Monday, 28 th January 2019	Shadow Council	Thursday, 21 st February 2019
Budget and Policy Framework Procedure Rules	Corporate Governance and Standards Committee	Monday, 28 th January 2019	Shadow Council	Thursday, 21 st February 2019
Finance Procedure Rules	Corporate Governance and Standards Committee	Monday, 28 th January 2019	Shadow Council	Thursday, 21 st February 2019
Contract Procedure	Corporate Governance and Standards	Monday, 28 th January 2019	Shadow Council	Thursday, 21 st February 2019

Rules	Committee			
Executive Procedure Rules	Corporate Governance and Standards Committee	Monday, 28 th January 2019	Shadow Council	Thursday, 21 st February 2019
Overview and Scrutiny Procedure Rules	Corporate Governance and Standards Committee	Monday, 18 th March 2019	Shadow Council	Monday, 15 th April 2019
Employment Procedure Rules	Corporate Governance and Standards Committee	Monday, 18 th March 2019	Shadow Council	Monday, 15 th April 2019
Protocol for Member Officer Relationships	Corporate Governance and Standards Committee	Monday, 18 th March 2019	Shadow Council	Monday, 15 th April 2019
Member Code of Conduct	Corporate Governance and Standards Committee	Monday, 18 th March 2019	Shadow Council	Monday, 15 th April 2019
Planning Code of Conduct	Corporate Governance and Standards Committee	Monday, 18 th March 2019	Shadow Council	Monday, 15 th April 2019
Member Allowances	Corporate Governance and Standards Committee	Monday, 18 th March 2019	Shadow Council	Monday, 15 th April 2019

- 6.4 The Council has engaged the services of an experienced consultant who specialises in Local Government law. He has also been Monitoring Officer in at least three other Authorities. He has already been supporting this project in relation to the original submission and subsequent work in relation to the Orders coming through Parliament. He will undertake the task of producing the various documents but it is intended he will be supported by a junior solicitor from Shape Legal Services. Both the consultant and the junior solicitor will work under the ambit of Shape Legal Services to ensure professional responsibility and indemnity. The whole project will be overseen by the Interim Monitoring Officer.
- 6.5 The alternative would be to engage an external solicitors firm which would inevitably be very expensive. It is the view of Officers that this is the most cost-effective way of undertaking this project.

7 Finance / Resource Implications

- 7.1 No direct financial implications other than officer and Member time in developing and formal adopting elements of the Constitution for the new Council. The cost of legal services will be part of the budget allocation for setting up the new Council allocated within the Transformation Business Case previously approved by Taunton Deane and West Somerset Councils.

8 Legal Implications

- 8.1 The legal implications are set out in section 4 of the report.

9 Environmental Impact Implications

- 9.1 None directly in respect of this report.

10 Safeguarding and/or Community Safety Implications

- 10.1 None directly in respect of this report.

11 Equality and Diversity Implications

- 11.1 Elements of the Constitution will relate to the new Council adhering to any equality and diversity responsibilities.

12 Social Value Implications

- 12.1 None directly in respect of this report.

13 Partnership Implications

- 13.1 None directly in respect of this report.

14 Health and Wellbeing Implications

- 14.1 None directly in respect of this report.

15 Asset Management Implications

- 15.1 None directly in respect of this report.

16 Consultation Implications

- 16.1 It is important that there is wide consultation undertaken among both Councillors and Senior Officers to ensure that the final documents produced are not only owned by the organisation but are user-friendly. Therefore, in addition to the involvement of Members set out in paragraph 6.1, the Interim Monitoring Officer will also ensure that there is appropriate consultation within the Officer Core.

17 Scrutiny Comments / Recommendation

- 17.1 None.

Democratic Path:

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

Reporting Frequency: Once only

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**SHADOW CORPORATE GOVERNANCE & STANDARDS COMMITTEE
FORWARD PLAN 2018-19**

Meeting	DRAFT AGENDA ITEMS	LEAD OFFICER
12 November 2018	New Council Constitution Progress Report Appointment of Auditor Forward Plan	Bruce Lang Paul Fitzgerald/Sue Williamson
28 January 2019	Grant Thornton External Audit – Progress Report Risk Management Update New Council Code of Conduct – Complaints Procedure Members Allowances – New Council Counter Fraud and Related Policies Forward Plan	Grant Thornton Richard Doyle Bruce Lang Bruce Lang Paul Fitzgerald
18 March 2019	Grant Thornton External Audit – Interim Audit Update Grant Thornton External Audit – Final Accounts Audit Plan SWAP Internal Audit - Audit Plan 2019/20 and Audit Charter Risk Management Update Forward Plan	Grant Thornton Grant Thornton Alastair Woodland Richard Doyle