

WESTMORLAND AND FURNESS JOINT COMMITTEE

Minutes of the proceedings at a meeting of the Westmorland and Furness Joint Committee held in the District Council Chamber, South Lakeland House, Kendal, on Monday, 11 April 2022, at 10.00 a.m.

Present

Councillors

Jonathan Brook (Chairman)
Ann Thomson (Vice-Chairman)

Patricia Bell
John Holmes
Peter Thornton

Derek Brook
Andrew Jarvis

Anne Burns
Virginia Taylor

Apologies for absence were received from Councillors Les Hall, Mary Robinson and Debra Wicks.

Officers

Inge Booth	Legal, Governance and Democracy Specialist
Pam Duke	Section 151 Officer and Programme Finance Lead (Cumbria County Council)
Linda Fisher	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)
Ian Frost	Chief Executive (Eden District Council)
Rachel Ireland	Trainee Solicitor
Julia Krier	Legal, Governance and Democracy Specialist
Richard Machin	Communications Specialist
Adam Moffatt	Legal, Governance and Democracy Specialist
Catherine Parkinson	Monitoring Officer (Cumbria County Council)
Dawn Roberts	Executive Director - Corporate, Customer and Community Services and Acting Deputy Chief Executive (Cumbria County Council)
Debbie Storr	Monitoring Officer (Barrow Borough Council)
David Sykes	Director of Strategy, Innovation and Resources

W&F/18 APOLOGIES

Apologies for absence were received from Councillors Mary Robinson and Debra Wicks.

W&F/19 MINUTES

With regard to Minute No.W&F/10 and an undertaking by the Executive Director – Corporate, Customer and Community Services and Acting Deputy Chief Executive, Cumbria County Council to provide written clarification, a written statement on Fire Governance from John Beard, Chief Fire Officer, had been circulated to Members prior to the meeting.

In response to a query, the Technical Lead Legal and Democratic Work Stream and Monitoring Officer (South Lakeland District Council) informed Members that the Programme Director had at Minute No.W&F/10 undertaken to bring an update on issues around development of the Implementation Plan back to the May meeting of the Joint Committee. She explained that the Monitoring Officers were currently working on the Forward Plan which would include clarity around governance and decision-making and that these details would be included within that report.

In response to a further request for information under Minute No.W&F/10, the Section 151 Officer and Programme Finance Lead (Cumbria County Council) indicated her intention to share with Members the monthly monitoring report on Local Government Reorganisation Programme expenditure this week.

RESOLVED – That the Chairman be authorised to sign, as a correct record, the minutes of the meeting of the Westmorland and Furness Joint Committee held on 29 March 2022.

W&F/20 DECLARATIONS OF INTEREST

No declarations of interest were raised.

W&F/21 LOCAL GOVERNMENT ACT 1972 - EXCLUDED ITEMS

There were no excluded items on the Agenda.

W&F/22 MEMBERS' CODE OF CONDUCT

The Head of Legal and Governance – Monitoring Officer (Barrow Borough Council) presented a report informing Members that the Joint Committee was required to formulate proposals for the Code of Conduct to be adopted by the Shadow Authority for Westmorland and Furness and to present those proposals to the first meeting of that Shadow Authority. The report recommended an appropriate Code of Conduct; arrangements for dealing with Code of Conduct matters; and guidance, to fulfil this obligation. The report further sought authority for the Monitoring Officer to start recruitment of the Independent Person(s).

Attention was drawn to the fact that the local authorities across Cumbria had adopted, subject to minor local variations, a consistent Code of Conduct, arrangements and guidance. This Code had only recently been updated across the authorities (or was in the process of being updated) following the publication of a model template by the Local Government Association (LGA) which had been designed to incorporate the best practice recommendations made by the Committee on Standards in Public Life which had been published in 2019.

The recommended Code was based on the LGA Model Code of Conduct and collaborative work undertaken by the Cumbrian Monitoring Officers.

The Head of Legal and Governance – Monitoring Officer (Barrow Borough Council) referred to a number of minor grammatical errors within Appendix 2 to the report which would be corrected prior to presentation of the document to the Shadow Authority meeting.

It was queried as to whether there was to be any Member oversight of the recruitment process for the appointment of the Independent Person(s) and the Head of Legal and Governance – Monitoring Officer (Barrow Borough Council) explained that this would be a full Shadow Authority appointment, with the recruitment process being started by the Monitoring Officers, however, suggested that this matter could be taken back to the Constitution Group.

Officers were thanked for their work on the Code of Conduct.

RESOLVED – That

- (1) the Shadow Authority for Westmorland and Furness be recommended to adopt from the date of its first meeting the Code of Conduct, the Arrangements for Dealing with Standards Matters and the Code of Conduct Guidance and Register of Interests Form, as set out in the report; and
- (2) the Monitoring Officers be authorised to initiate a recruitment process to enable the Shadow Authority Westmorland and Furness to appoint an Independent Person(s) at the earliest opportunity.

W&F/23

CIVIC AND CEREMONIAL

The Head of Legal and Governance – Monitoring Officer (Barrow Borough Council) presented a detailed report informing Members about the work currently being undertaken in respect of civic and ceremonial matters and updates on the timetable for the Consequential Order to implement the establishment of Charter Trustees to preserve the Civic and Ceremonial Rights of the existing councils. She explained to Members that there were many matters relating to Civic and Ceremonial affairs arising from the closure of the sovereign councils, some of which were dealt with in the Structural Changes Order and others which would require further attention, including, in some cases, further legislative provision known as “mopping up” or Consequential Orders. During the summer, civil servants would be working with officers to agree what should be in the Order.

Attention was drawn to paragraph 3.3.1 of the report and to the fact that there should only be one High Sherriff. The Head of Legal and Governance – Monitoring Officer (Barrow Borough Council), in response to a query, explained that, details around Charter Trustees were currently being worked up, but that these would be representatives of the relevant areas.

RESOLVED – That the work being undertaken and timings provided by the Department of Levelling Up, Housing and Communities in respect of the Consequential Order be noted.

W&F/24 CONSTITUTION AND SCHEMES OF DELEGATION

The Technical Lead Legal and Democratic Work Stream and Monitoring Officer (South Lakeland District Council) presented a report recommending a Constitution for adoption by the Shadow Authority for Westmorland and Furness Council at its first meeting on 17 May 2022. The report drew attention to the fact that the Shadow Authority Constitution was a different document to the Unitary Council Constitution which would be required post vesting day, with the latter document having to cover all functions and services delivered by the new councils. The Monitoring Officer Constitution Workstream had reviewed several examples of previous shadow authority constitutions with a view to identifying best practice. The proposed Shadow Authority Constitution was attached as Appendix 1 to the report and was intended to be a living document and that could be easily amended to cater for and changes as the Shadow Authority became established.

The Executive was to be the Leader plus between two and nine appointed persons. The Shadow Authority would have three committees and the Constitution provided that the Overview and Scrutiny Committee would have twelve Members, whilst the Senior Appointments Committee and the Standards Committee would each have seven Members. The Overview and Scrutiny Workstream preference was for one Scrutiny Panel which then utilised task and finish groups. The Chair of the Shadow Authority included the remit of attending such civic events as were appropriate. Any such events would continue to be organised by the relevant existing authorities.

If Members of the Shadow Authority wished their Constitution to have different provisions then the recommended course of actions was for them to approve the proposed Constitution and instruct officers to report to the next meeting of the Shadow Authority appropriate revisions to the said Constitution.

The views of the Joint Committee were sought, as well as delegated authority for the Monitoring Officers to make such further amendments to the document as may be felt to be beneficial, following consultation with the Chair and Vice-Chair, any such changes to be reported to the May meeting of the Joint Committee.

In presenting the report, the Technical Lead Legal and Democratic Work Stream and Monitoring Officer (South Lakeland District Council) drew Members' attention to the fact that this was not a static document and that it could be amended throughout the year. She referred to Section 24 of the Public Involvement in Health Act 2007 and said that a detailed report would be brought to the Shadow Authority Executive on how the consents would work and that it was likely that there would be a need for a delegation to Section 151 Officers and Members about general consents so as not to stifle business as usual for sovereign councils. She further informed Members that, since the draft had been sent out, additional information had been received about responsibility for Implementation Plan decision-making which would be the responsibility of the Shadow Authority Executive. Article 15 would therefore be amended and this would be removed from the Budget and Policy Framework list. In addition, feedback had been

received from officers for reference to the Housing Revenue Account and so it was intended to include details to reflect Finance Officers' responsibility for this. Members had indicated a preference for five minutes for speeches instead of ten and for the requirement to stand when speaking to be for Shadow Authority meetings only.

Although recognising that sovereign councils would continue to consider planning applications, a Member referred to the lack of mention about the future for Planning within the document and raised the need for the Shadow Authority to address this. The Technical Lead Legal and Democratic Work Stream and Monitoring Officer (South Lakeland District Council) explained that decisions on development plan documents, local plans, etc., would fall within the remit of the Shadow Authority if required. The finer detail around the shape of local decision-making on Planning, for example delegations and area committees, would be addressed within the next Constitution for the new Unitary Authority. In terms of Planning, service design and how that was developed, it was envisaged that this would be part of the Implementation Plan and blueprint, which would come forward as part of the corporate planning exercise, which was part of the Budget and Policy Framework. The Section 151 Officer and Programme Finance Lead (Cumbria County Council) added that the statutory responsibility remained with the sovereign authorities until 31 March 2023 and stressed that the need for consultation with the Shadow Authorities was recognised. In response to a further query, the Section 151 Officer and Programme Finance Lead (Cumbria County Council) agreed that this might be something for a Shadow Authority Task and Finish Group to examine. The Technical Lead Legal and Democratic Work Stream and Monitoring Officer (South Lakeland District Council) drew attention to Article 15 of the draft Shadow Authority Constitution and the Policy Framework which included the Development Plan Documents, explaining that there would be a role for the Shadow Authority if required. Some Development Plan Documents required council authority and some executive, and details would be included within the Forward Plan.

A Member referred to disabilities and equalities legislation and drew attention to the draft Shadow Authority Procedure Rules, 18.1 – Standing to Speak. He sought modification to caveat the requirement to stand when speaking, pointing out that there may be Members who were wheelchair users. It was further suggested that officers might consider if there were any other parts of the document that needed to address any similar issues around equalities, for example where Members who required carers to be present and how this would be dealt with, for example when discussing exempt information. The Technical Lead Legal and Democratic Work Stream and Monitoring Officer (South Lakeland District Council) undertook, with the agreement of Members, to take the matter away and ensure that the Constitution reflected this.

It was queried as to how the newly-elected Members would be able to have input into the Constitution if it had to be adopted at the first meeting of the Shadow Authority. The Technical Lead Legal and Democratic Work Stream and Monitoring Officer (South Lakeland District Council) advised that the Agenda for the first meeting including the draft Constitution would be sent to Shadow

Authority Members on 9 May, and that Members could provide feedback between now and the meeting on 17 May. Although a Constitution would have to be adopted at the first meeting, she reminded the Joint Committee that this was an agile document and could be amended as required. In response to a further query, she referred to Article 14 and explained that any Member could request the Monitoring Officer to consider changes to the Constitution and, if the suggested change was compliant with statute, a report would accordingly be submitted to the Shadow Authority. Also included in Article 14 was wording to allow the Monitoring Officer to make minor amendments in consultation with the Chief Finance Officer, the Leader and the Chair. Any proposed changes to Executive Arrangements had to comply with necessary statute. She informed Members that the Monitoring Officers' Group had a workstream which would be examining a Constitution for the new Unitary Authority which would include elements of the Shadow Authority's Constitution but would include more relating to service delivery, functions, delegations to officers, etc.

The need for a Constitution Review Group was raised, with the main aim of ensuring the correct balance of powers between Council and Cabinet. The Technical Lead Legal and Democratic Work Stream and Monitoring Officer (South Lakeland District Council) agreed that it was important that everyone understood the lines of decision-making and said that this was something that the Joint Committee could suggest as a recommendation. To this end, a proposal was made and seconded for the establishment of a cross-party Constitution Review Group.

RESOLVED – That

- (1) subject to the amendments raised at the meeting and outlined above, the said Constitution be recommended for adoption by the Westmorland and Furness Shadow Authority at its inaugural meeting on 17 May 2022 and thereby, amongst other things, creates a Leader and Cabinet Executive within the meaning of Part 1A of the Local Government Act 2000;
- (2) the Monitoring Officer for South Lakeland District Council be delegated authority, following consultation with the Chair and Vice-Chair of the Joint Committee, to make further amendments which may be beneficial between the date of today's Joint Committee meeting and the publication of the relevant report for the Westmorland and Furness Shadow Authority; and
- (3) the Westmorland and Furness Shadow Authority be recommended to establish a cross-party Constitution Review Group.

The meeting ended at 10.35 a.m.