

To: Members of the Shadow Authority for
Westmorland and Furness Council

Supplement

Dear Members

Further to the agenda for the Shadow Authority for Westmorland and Furness Council being held on Tuesday 17 May 2022, please find enclosed in this supplement, the following item:

- Item 7 Updated Proposed Shadow Authority Constitution Addendum Report. (Pages 332-337)
- Item 12 Updated Political Balance and Allocation of Committee Places Addendum Report. (Pages 338-345)
- Item 12 Appendix 2 – which was marked ‘to follow’. Appendix 3 which was also marked ‘to follow’ will be available on Monday.
- Item 15 Appendix 2 (b) – which was marked ‘to follow’. (Pages 346-349)
- Item 16 Updated Members’ Allowances and Appointment of Independent Remuneration Panel Addendum Report. (Pages 350-353)

Yours sincerely

Jackie Currie
Democratic Services
Tel 07919 056193

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Agenda Item 7

Westmorland and Furness Shadow Authority Meeting

17 May 2022

Proposed Shadow Authority Constitution

(Addendum Report)

Report from: Linda Fisher, Technical Lead, Legal and Democratic Workstream and Monitoring Officer (South Lakeland District Council)

Report Author: Debbie Storr, Monitoring Officer (Barrow Borough Council)

Wards: All

Key Decision: N

1.0 Purpose/Summary of report

1.1 This report is an addendum to the report on the Council agenda with regards to adoption of the Constitution and provides a revised set of recommendations for Members to consider.

2.0 Recommendation

2.1 It is recommended that the Shadow Authority for Westmorland and Furness:

- (1) approve that the seats on Overview and Scrutiny Committee be established as 14, rather than 12 as shown in the original report;**
- (2) agree that each group may appoint substitutes to the other committees and that the Chairs/Vice-Chairs of committees be confirmed by full Council and note that a future report on the agenda makes provision for this;**
- (3) agree the additional amendments to the Constitution with regards to Dispensations and the responsibilities of the Monitoring Officer as set out in paragraph 3.5 of the report.**
- (4) agree the additional amendments to the Constitution with regards to the Employment Procedure Rules Officer as set out in paragraph 3.6 of the report.**

- (5) with the additions proposed at (1), (2), (3) and (4) above approve and adopt the proposed Constitution and therefore, amongst other things, create a Leader and Cabinet Executive within the meaning of Part 1A of the Local Government Act 2000;
- (6) should Members have any amendments to the Constitution which they resolve should be made or considered further, that they instruct their Officers to report back to the next meeting of the Shadow Authority, accordingly; and
- (7) Establish a cross-party Constitution Review Group of 7 Members as set out in paragraph 3.7 of the report to contribute towards the review of the Shadow Authority constitution and the preparation of the required post vesting day Westmorland and Furness Council Constitution.

3.0 Background and Proposals

3.1 This report is an addendum to the report issued with the agenda and provides some additional recommendations as shown at (1) and (2) which reflects changes proposed following discussions with the political groups following the elections held on 5 May 2022.

3.2 Consequently it is proposed that the size of Overview and Scrutiny Committee be increased from 12 Members to 14 Members and to allow for substitute members. If this is agreed then **Article 6 (3.1)** will be revised to show Overview and Scrutiny as comprising fourteen members and **Article 8** be revised to show the table of other committees as follows:

Committee	Shadow Members
Shadow Overview and Scrutiny Committee	Fourteen
Senior Appointments Committee	Seven
Standards Committee	Seven

And for an additional paragraph 1.5 as follows.

Substitute members may sit on the other committees subject to the substitutes being confirmed by the shadow authority and where

substitutes attend for those to be confirmed to the Monitoring Officer in advance of the meeting.

3.3 Part 3 - Responsibility for Functions of the Shadow Authority

3.4 To avoid delays in establishing Chairs of Committee it is proposed that the Shadow Authority appoint the Chairs and Vice-Chairs of Committees at the first meeting. It is therefore proposed to amend 4.1(c)(iii) outlining the functions of the Shadow Authority with regards to appointments as shown in bold as follows:

(iii) Chair and Vice-Chair of Committees (except the Executive Committee), Sub-Committees and Special Committees, Panels and Working Groups I the relevant Committee, Sub-Committee, Special Committee, Panel or working group fails to elect a chair of vice-chair **and where the shadow authority has not confirmed those appointments at its first meeting.**

Likewise under the heading **Chair of Meeting and Appointment of Chairs of Committee** 6.2 of the Shadow Authority Procedural Rules an amendment will be made to reflect this amendment to read

6.2 Unless appointed by the Shadow Authority, every committee, sub-committee, panel or working group shall at its first meeting before proceeding to any other business elect a chair and may at any time elect a vice-chair.

3.5 Dispensations

To reflect that dispensations for members may be required during this shadow year an additional amendment is proposed with regards to responsibility of the Standards Committee to include an additional 8.3 as follows

8.3 "to determine any request for a dispensation under s.33 of the Localism Act 2011 – with delegation to the MO as set out in the constitution

And for the Monitoring Officer responsibilities to include:

"the power to grant dispensations under s.33 of the Localism Act 2011 up to a maximum of 4 years in the following circumstances:

- (1) that they consider that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body

transacting the business as to impede the transition of the business;

- (2) that, without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business
- (3) that, without a dispensation, no member of the Executive would be able to participate on this matter.
- (4) that the authority considers that the dispensation is in the interests of persons living in the authority's area;
- (5) that the authority considers that it is otherwise appropriate to grant a dispensation.

3.6 **Part F – OFFICER EMPLOYMENT PROCEDURE RULES, page 202.**

6. Appointment of Monitoring Officer and section 151 Officer

Replace:

6.2 Where, following the above procedure, there are no objections to the proposed appointment or any objections are not upheld, the Committee will make a formal offer of appointment.

With:

6.2 Where, following the above procedure, there are no objections to the proposed appointment or any objections are not upheld, the Committee will recommend that person for appointment at the next meeting of the Shadow Authority or at a specially convened meeting of the Shadow Authority. If the Shadow Authority approve the recommendation, then a formal offer of appointment can be made.

3.7 **Constitution Working Group**

The Joint Committee recommended a cross party working group to contribute to the review of the Constitution post vesting day. It is proposed that this be 7 Members based on political balance of 4 Liberal Democrats, 2 Labour, 1 Conservative and 1 Independent/Green Member.

3.8 Subject to the above amendments the constitution is as circulated with the agenda.

4.0 Consultation

- 4.1 The draft Constitution has been consulted upon with all of the various workstreams working on local government reorganisation, including the Chief Executives' Programme Board. The Constitution was reported to the Westmorland and Furness Joint Committee which recommended the document to the Shadow Authority for consideration at its inaugural meeting.
- 4.2 The amendments the subject of this addendum have been discussed with the elected Group Leaders.

5.0 Alternative Options

- 5.1 The Shadow Authority must adopt a Constitution at its first meeting and, as catered for in the recommendations, amendments may be made easily and in due course.

6.0 Implications and risks

- 6.1 The implications and risks are as set out in the main cover report.

Contact Officers

Linda Fisher, Technical Lead Legal and Democratic Workstream and Monitoring Officer for South Lakeland District Council

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Agenda Item 12

Westmorland and Furness Shadow Authority Meeting

17 May 2022

Political Balance, Allocation of Committee Places

Report from: Linda Fisher, Technical Lead Legal and Democratic Workstream and Monitoring Officer (South Lakeland District Council)

Report Author: Debbie Storr, Monitoring Officer (Barrow Borough Council)

Wards: All

Key Decision: N

1.0 Purpose/Summary of report

1.1 This report provides the political balance information following elections on 5 May 2022 and invites the Shadow Authority to agree the allocation of committee places between the political groups in accordance with the political balance requirements of the Local Government and Housing Act 1989.

2.0 Recommendation

2.1 It is recommended that Council:-

- (1) notes the political balance of the Council, as set out in Appendix 1; and**
- (2) notes the creation of a Leader and Cabinet Executive within the meaning of Part 1A of the Local Government Act 2000(s) arrangements with respect to local authority governance ("the shadow executive");**
- (3) agrees the allocation of places on committees between the political groups in accordance with the political balance requirements of the Local Government and Housing Act 1989, as set out at paragraph 3.11 and Appendix 2; and**

- (4) receives nominations of councillors to serve on each committee (details to be circulated at the meeting) and agrees to the appointment of Members to the Council's committees as set out in Appendix 3.**
- (5) Considers the appointment of Chairs and Vice Chairs (details to be circulated prior to the meeting)**

3.0 Background and Proposals

- 3.1 The Cumbria (Structural Changes) Order 2022 ("the 2022 Order") provided for the establishment of a single tier of local government in Cumbria. Westmorland and Furness Council is one of two new Councils which will be established on 1 April 2023. The new councils to which elections were held on 5 May 2022 will operate as "Shadow Authorities" until 1 April 2023. This report provides an update of the makeup of the Council following the elections and seeks to agree allocation of committee places in accordance with the political balance requirements.
- 3.2 Following the elections held on 5 May 2022, details of the political balance of the Council and political membership of the Council are as shown in Appendix 1.
- 3.3 The responsibility for Council functions delegated to each committee and the size of each committee is set out in Part 3 of the Council's Constitution considered elsewhere on the agenda. Copies of the Constitution have been made available to all members prior to this meeting and will be made available on the Council's website.
- 3.4 Under the 2022 Order the Shadow Authority at its first meeting must create a leader and cabinet executive ("the shadow executive within the meaning of Part 1A of the Local Government Act 2000). Adoption of the Constitution will establish the leader and cabinet executive. Items elsewhere on this agenda will deal with the election of the Leader and receive names of the Executive Members.
- 3.5 In addition, the Local Government and Housing Act 1989 ("the 1989 Act") and its associated regulations, requires the Shadow Authority at its first meeting, or as soon as practicable afterwards following any changes to its political makeup, to review the representation of political groups and determine the allocation of seats (i.e. proportionality) to committees.
- 3.6 The 1989 Act states that when carrying out calculations to apply political balance to committees, only those elected members who are members of political groups are to be counted. However, Council can determine whether it wishes to allocate a seat(s) to a member not part of a political group on such committees as Council deems necessary by passing a resolution with no- Members voting against it.

- 3.7 The composition of the political groups is as show in Appendix 1.
- 3.8 The following principles must be applied in allocating committee places, in order of priority;
- 3.8.1 that not all seats on all committees are allocated to the same political group;
 - 3.8.2 That the majority of seats on all committees are allocated to the political group that has a majority of the Shadow Authority's membership or otherwise reflects the make-up of the Shadow Authority;
 - 3.8.3 That subject to 3.8.1 and 3.8.2 above, the number of seats for all main committees which are allocated to each political group bears the same proportion to the total of all the seats on the main committees as is borne by the number of members of that group to the membership of the Shadow Authority; and
 - 3.8.4 Subject to 3.8.3 the number of seats on the individual committees allocated to each political group bears the same proportion to the number of seats of that committee as is borne by the number of members of that group to the membership of the Authority.
- 3.9 There are 28 Committee places which must be allocated. (NB constitutional requirement that no member of the Shadow Executive may be a member of the Overview and Scrutiny Committee, and at least one member of the Senior Appointments Committee should be a Shadow Executive member).
- 3.10 The allocation of seats for the recognised groups is shown in appendix 2 which will be circulated prior to the meeting. The proposed allocation of places on the committees will be circulated in an Appendix 3 prior to the meeting together with nominations for Chairs and Vice-Chairs of the appropriate committees.

4.0 Consultation

- 4.1 The leaders of the political groups are in the process of being consulted and have been asked for nominations in relation to committee places where applicable.

5.0 Alternative Options

- 5.1 The Council is required to give consideration to the allocation of committee places, etc as provided for in this report.

6.0 Implications

Financial, Resources and Procurement

6.1 There are no financial, resource or procurement implications arising as a result of this report.

Human Resources

6.2 There are no additional staffing implications arising as a result of this report.

Legal

6.3 The report and its recommendations have regard to the relevant legislation and constitutional requirements.

Health and Sustainability Impact Assessment

6.4 Have you completed a Health and Sustainability Impact Assessment? No - there are no health, or sustainability impacts arising as a result of this report.

Equality and Diversity

6.6 Have you completed an Equality Impact Analysis? No it is considered that the recommendations will have a neutral effect on equality and diversity.

Risk Management	Consequence	Controls required
Committees not properly constituted	Challenge to decision making process	Review constitutional makeup
Constitution not up to date	Challenge to decision making process Failure to comply with relevant legislation	Ensure review and make any necessary changes

Contact Officers

Linda Fisher, Monitoring Officer and Technical Lead Legal and Democratic Work Stream (South Lakeland District Council)

7.0 Appendices Attached to this Report

Appendix No.	Name of Appendix
1	Political Make up and membership of the Council
2	Allocation of Committee Places
3	Committee membership list and nominations for Chairs/Vice-Chairs(to follow)

Background Documents Available

Name of Background document	Where it is available
Constitution	As attached to agenda
Local Government and Housing Act 1989	https://www.legislation.gov.uk/id/ukpga/1989/42
Localism Act 2011	https://www.legislation.gov.uk/ukpga/2011/20/contents/enacted

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SIZE AND SEATS TO BE ALLOCATED TO POLITICAL GROUPS ON COMMITTEES

Political Group Numbers	Conservative	(11)
	Labour	(15)
	Liberal Democrat	(36)
	Independents/Green	(3)

Committees subject to political balance

	Conservative		Labour		Liberal Democrat		Independents/Green	
	A	B	A	B	A	B	A	B
Committees (28 places)	4.74	5	6.46	6	15.51	16	1.29	1
Overview and Scrutiny (14)	2.369	2	3.231	3	7.754	8	0.646	1
Standards Committee (7)	1.185	2	1.615	1	3.877	4	0.323	0
Senior Appointments (7)	1.185	1	1.615	2	3.877	4	0.323	0
Total	4.74	5	6.46	6	15.51	16	1.29	1

A – Exact Proportion of Seats

B – Number of Seats Proposed for Each Group

Nb – constitutional working group not a formal committee therefore not included in balance figure

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MINUTE EXTRACT FROM A MEETING OF THE WESTMORLAND AND FURNESS JOINT COMMITTEE HELD ON 10 MAY 2022:

W&F30 – IMPLEMENTATION PLAN

At its meeting on 29 March 2022, the Joint Committee had received a report on the Implementation Plan and Programme Governance and had adopted the Plan pending the establishment of the two Shadow Authorities in May (Minute No.W&F/10 (2021/22) refers). The Joint Committee had at that meeting indicated a wish for further clarification and information on a number of matters, including in relation to the responsibility and process for agreeing blueprints, the options for the Fire and Rescue Service, and spend in relation to the LGR Implementation Reserve. Officers had since provided further information on these matters. The LGR Programme Manager now presented an update.

Progress had continued to be made in delivering the LGR Programme and the Implementation Plan attached at Appendix 1 to the report had subsequently been updated to reflect the progress made and in light of comments made by the Joint Committees. The report provided details on progress made on the Implementation Plan since it had last been considered by the Joint Committee.

In terms of the development of draft Blueprints, the advice was now that these would be an Executive function of the Shadow Authorities, and it was anticipated that, when established, Members of Shadow Authorities would want to have the benefit of and give early consideration to the work carried out to date. Members would be able to discuss and steer this through a range of informal and more formal mechanisms to enable further development over the spring/summer and beyond as part of the Strategic Planning process.

For each Shadow Authority, the draft Blueprint would pull together at a high level, the work carried out on baselining and options appraisal to date, information relating to budget disaggregation/aggregation, provide a baseline statement as to what services, staff and budget each Authority was likely to have on Vesting Day. In a number of service areas, transitional arrangements might be required/recommended pending any preferred option being deliverable. The focus of draft Blueprints would be on making the transition to the new Authorities a safe, legal, and smooth one, whilst paving the way for further transformation, and longer-term options development/consideration should Authorities so wish. The development of draft Blueprints was further described in the updated Implementation Plan attached at Appendix 1 to the report.

Members sought confirmation that the task and finish groups and scrutiny would run independently of each other and queried how this would be resourced. The LGR Programme Manager confirmed that this was the case and added that the Leader and Executive Members would be considering the task and finish groups and that work had begun to assess the resource needs for the task and finish groups and supporting scrutiny.

A question was raised regarding how differences between the programme and Members' ambitions would be resolved and how decisions would be made if the Cumberland and Westmorland and Furness Councils had differing solutions. The LGR Programme Manager responded, that officers had given consideration to how Members would be supported in that process. She noted that many of the decisions would be interdependent, so one authority would be unable to decide on a shared service without the agreement of the other. As with all decisions, officers would look at the best recommendations and reasons for the decision which often had practical options and were provided to assist Members in making decisions. At the base was the need to be safe and legal and have a smooth transition into the new authority. The LGR Programme Manager highlighted that the report hinted at a member liaison group, which would discuss decisions with members once the executive had been established.

Members sought reassurance over the level of their involvement in discussions and refining blue prints between May and July and expressed concern over being presented with a *fait accompli*. Attention was drawn to the need for dialogue between the new Shadow Authority Members and the Implementation Team throughout the process. The Chief Executive and Senior Responsible Officer (Barrow Borough Council) responded, informing Members that work had begun to put together options to be presented to Members and that once the first Shadow Authority meeting had passed, officers would be working with Members to set up the task and finish groups.

Members felt it important to set out the timescales for Member involvement to ensure their involvement before decisions are made and that Shadow Authority Councillors should be providing guidance on acceptable outcomes to ensure that the new Council is able to arrive at the best possible solutions.

Further discussion raised a query regarding how much information would be available and which members would have access to this. The LGR Programme Manager responded, informing Members that the blue print focus was an iterative process with details currently being discussed with HR and Finance Officers. She added that the timing would, to, some extent depend on the mechanisms and timing for the new authorities but that there would be a principle of openness with Members and reassured

members that the plans would evolve as members work through choices around budget service levels.

Members emphasised the importance of the Forward Plan and felt it was crucial for the Cabinet members to have a detailed understanding of their Portfolios and of the associated budgets. The Technical Lead Legal and Democratic Work Stream and Monitoring Officer (South Lakeland District Council) set out the training programme for Shadow Authority Members going forwards and added that beyond 15 June, there would be a clear programme with wide ranging training sessions covering the full range of services which Members would be invited to co-design.

RESOLVED – That the updated Implementation Plan (April 2022) attached at Appendix 1 to the report be noted, pending the establishment of the two Shadow Authorities in May 2022.

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Agenda Item 16

Westmorland and Furness Shadow Authority Meeting

17 May 2022

Members' Allowances and Appointment of Independent Remuneration Panel

(Addendum Report)

Report from: Linda Fisher, Technical Lead, Legal and Democratic Workstream and Monitoring Officer (South Lakeland District Council)

Report Author: Lisa Tremble, Monitoring Officer (Eden District Council)

Wards: All

Key Decision: N

1.0 Purpose/Summary of report

1.1 This report is an addendum to the report on the Council agenda with regards to the adoption of the Members' Allowance Scheme and the appointment of an Independent Persons Panel. This report provides a revised set of recommendations which have been put forward by the Westmorland and Furness Joint Committee for Members to consider.

2.0 Recommendation

2.1 It is recommended that the Shadow Authority for Westmorland and Furness:

- 1. Note the attached report;**
- 2. Consider the recommendations of the Independent Remuneration Panel and the Scheme of Member Allowances which it has proposed (Appendix 1) to be adopted for the shadow year with effect from the 9 May 2022**
- 3. Note that in the light of the limited time that the Independent Remuneration Panel had to collect evidence for the scheme, the lack of opportunity for member engagement and given the significant disparity with comparator councils, the Joint Committee cannot recommend to the Westmorland and Furness Shadow Authority to adopt, in its entirety, the proposed Scheme at its inaugural meeting for the shadow year.**

4. **Recommend that the Shadow Authority immediately authorises the Interim Monitoring Officer advertises the recruitment of an Independent Remuneration Panel of 5 members for the Council to consider a scheme of members' allowances to be adopted by Westmorland and Furness Council.**
5. **As an interim measure, that the Shadow Authority adopts the scheme to pay the basic allowance as proposed, subject to immediate review. Due to the points noted in (3) above, the scheme for payment of all Special Responsibility Allowances are set at zero, pending the immediate review. Allowances will be adjusted and back-dated as soon as the Westmorland and Furness Independent Remuneration Panel (as proposed in 4) has reported and recommendations adopted.**

3.0 Background and Proposals

- 3.1 This report is an addendum to the report issued with the agenda and provides some amended and additional recommendations. These amendments reflect changes proposed following discussions and considerations of the Joint Committee held on 10 May 2022.
- 3.2 The Joint Committee considered that the Independent Remuneration Panel had limited time to collect evidence for the scheme and a lack of opportunity for member engagement. Additionally Members felt that there was significant disparity with comparator councils. Consequently the Joint Committee could not recommend to the Westmorland and Furness Shadow Authority to adopt, in its entirety, the proposed Scheme at its inaugural meeting for the shadow year and therefore suggested the amended recommendations outlined above.

4.0 Consultation

- 4.1 The amendments to the recommendation as set out in this addendum have been proposed and approved by the Westmorland and Furness Joint Committee.

5.0 Alternative Options

- 5.1 The Shadow Authority must adopt a Member Allowance Scheme as required by the Cumbria (Structural Changes Order) 2022.

6.0 Implications and risks

- 6.1 The implications and risks are as set out in the main cover report.

Contact Officers

Linda Fisher, Technical Lead Legal and Democratic Workstream and Monitoring Officer for South Lakeland District Council

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