

Shadow Authority for Westmorland and Furness Council

To: **ALL MEMBERS OF THE SHADOW AUTHORITY FOR
WESTMORLAND AND FURNESS COUNCIL**

You are hereby summoned to attend the meeting of the Shadow Authority for Westmorland and Furness Council to be held at the County Hall, Kendal, LA7 9RQ, on Wednesday, 28 September 2022 at 10.30 am

Yours sincerely

**Caroline Elwood
Interim Monitoring Officer
Shadow Authority for Westmorland and Furness Shadow Council**

20 September 2022

**Enquiries and requests for supporting papers to: Jackie Currie
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A.G.E.N.D.A

PART I - ITEMS CONSIDERED IN THE PRESENCE OF THE PRESS AND PUBLIC

1. ROLL CALL AND APOLOGIES FOR ABSENCE

To carry out the roll call and receive any apologies for absence.

2. DECLARATIONS OF INTEREST/DISPENSATIONS

To receive declarations of interest by Members of interests in respect of items on this Agenda, and to consider any dispensations.

Members may however, also decide, in the interests of clarity and transparency, to declare at this point in the meeting, any such disclosable pecuniary interests which they have already declared in the Register, as well as any other registrable or other interests.

3. EXCLUSION OF PRESS AND PUBLIC

To consider whether the press and public should be excluded from the meeting during consideration on any item on the agenda.

4. MINUTES OF PREVIOUS MEETING

To consider the minutes from the previous meeting held on 22 July 2022 (copy enclosed)

(Pages 9 - 18)

5. PUBLIC PARTICIPATION

To receive any questions or representations which have been received from members of the public and to receive any petitions.

(note any member of the public who wishes to ask a question or make representations or present a petition at the meeting should apply to do so no later than two working days before the day of the meeting. Information on how to apply can be obtained from the person named on the front of the agenda).

6. ANNOUNCEMENTS

To receive any announcements from the Chair, Leader, Members of the Cabinet or the Chief Executive.

7. APPOINTMENT OF THE INTERIM STATUTORY CHIEF FINANCE (SECTION 151) OFFICER

To consider a report from the Leader of the Council and Chair of the Senior Appointments Committee (copy enclosed)

(Pages 19 - 22)

8. APPOINTMENT OF THE CHIEF LEGAL AND MONITORING OFFICER AND DIRECTOR OF RESOURCES (SECTION 151 OFFICER)

To consider a report from the Leader of the Council and Chair of the Senior Appointments Committee (copy enclosed)

Pages 23 - 28)

9. SENIOR LEADERSHIP PAY POLICY

To consider a report from the Leader of the Council (copy to follow)

10. APPOINTMENT OF EXTERNAL AUDITOR

To consider a report from the Cabinet Member for Finance (copy enclosed)

(Pages 29 - 40)

11. NOTICE OF MOTIONS

The Shadow Council to consider the following notices of motion;

1. Climate and Biodiversity Emergencies

Cllr Giles Archibald to move (Cllr A Thomson to second) the following:

This Council confirms that we face climate and biodiversity crises which will have potentially catastrophic impact locally, nationally and internationally.

The Shadow Authority for Westmorland and Furness Council acknowledges that man-made greenhouse gas emissions play a major part in the climate crisis. Greenhouse gases are also diminishing our biodiversity, which is further adversely affected by habitat loss, pollution, overexploitation, increases of non native species and systemic weather disruption.

Climate change and biodiversity loss will have far-reaching effects on our economy, our society and our environment in the District, across the UK and across the globe.

Building on, and integrating the work of the current Councils (Cumbria County Council, Eden and South Lakeland District Councils and Barrow Borough Council), Cafs and many volunteer organisations, this council is committed to (a) reducing its own carbon emissions to net zero as soon as possible; (b) working with others to target a net zero carbon Westmorland and Furness by 2037; and (c) increasing biodiversity by, for example, restoring natural habitats, restricting invasive species and reducing pollution.

We are committed to working with Town and Parish Councils, communities and other partner organisations in tackling these emergencies in a just and fair manner.

Council further urges government to work with local authorities, health services, businesses, farmers, educational institutions and all other interested bodies to address the climate and biodiversity emergencies as quickly as possible.

2. Protected Characteristics

Cllr Judy Filmore to move (Cllr J Drake to second) the following:

The Independent Review of Children's Social Care headed by Josh McCallister published in May 2022 a final report and recommendations that included:

- "Government should make care experience a protected characteristic" and
- "New legislation should be passed which broadens corporate parenting responsibilities across a wider set of public bodies and organisations."

On Protected Characteristics for Care Experience

- "Many care experienced people face discrimination, stigma and prejudice in their day to day lives. Public perceptions of care experience centre on the idea that children are irredeemably damaged and that can lead to discrimination and assumptions being made." *Care Review May 2022*

One young person told the review that a teacher had told them "You're smart - for a kid in care" another young person said "I don't want people to point out that I am in care if I don't want that mentioned. It makes me so cross - that shouldn't happen."

This stigma and discrimination can be explicit and often comes with assumptions about the likely characteristics of children and adults that have care experience. They can also be implicit and are evidenced in the way care experience is discussed in schools, workplaces and the media.

At its worst this can lead to care experienced people being refused employment, failing to succeed in education or facing unfair judgements about their ability to parent when they have children and families of their own.

Hearing testimony from care experienced people sharing the discrimination they have experienced, even from a very young age, it is clear that such discrimination can be similar in nature to other groups that have a legally protected characteristic under the Equality Act (2010).

So, while there may be ways that society can help reduce stigma and discrimination, including creating greater public consciousness on these issues, just as with other areas of equality, there is a case to go further. Therefore, the government should make care experience a protected characteristic.

“Making care experience a protected characteristic would provide greater authority to employers, businesses, public services, and policy makers to put in place policies and programmes which promote better outcomes for care experienced people. It will make the UK the first country in the world to recognise care experienced people in this way. As a measure, it will bolster and pave the way for a number of the recommendations in this chapter.”
Care Review May 2022

Care experienced people face significant barriers that impact them throughout their lives;

- Despite the resilience of many care experienced people, society too often does not take their needs into account
- Care experienced people often face discrimination and stigma across housing, health, education, relationships, employment and in the criminal justice system
- Care experienced people often face a postcode lottery of support
- As corporate parents, councillors have a collective responsibility for providing the best possible care and safeguarding for the children who are looked after by us as an authority
- All corporate parents should commit to acting as mentors, hearing the voices of looked after children and young people and to consider their needs in any aspect of council work
- Councillors should be champions of our looked after children and challenge the negative attitudes and prejudice that exists in all aspects of society
- The Public Sector Equality Duty requires public bodies, such as councils, to eliminate unlawful discrimination, harassment and victimisation of people with protected characteristics

Westmorland & Furness Shadow Authority therefore **RESOLVES:**

That in preparing to become a Unitary Authority when making any decisions in relation to its policies or formulating its Council Plan that it recognises that Care Experienced people are an oppressed group who face discrimination;

That it recognises that Councils have a duty to put the needs of oppressed people at the heart of decision-making through co-production and collaboration;

That future decision, services and policies made and adopted by the Council should be assessed through Equality Impact Assessments to determine the impact of changes on people with care experience, alongside those who formally share a Protected Characteristic;

That in the delivery of the Public Sector Equality Duty the Council includes care experience in the publication and review of Equality Objectives and the annual publication of information relating to people who share a Protected Characteristic in services and employment;

That when it becomes a Unitary Authority it will treat care experience as if it were a Protected Characteristic;

To formally call upon all other bodies to treat care experience as a Protected Characteristic until such time as it may be introduced by legislation;

For the Council to proactively seek out and listen to the voices of care experienced people when developing new policies based on their views.

3. Cost of Living Crisis in Westmorland and Furness

Cllr John Murray to move (Cllr J Derbyshire to second) the following:

This Council is deeply aware of the pressure facing residents and businesses across Westmorland and Furness due to the cost of living crisis. Households, schools, health services and businesses are faced with successive and unaffordable price rises in fuel and energy and removal of additional benefit support, with the resultant increases in costs and prices across the board. The Council notes the energy policy announced 8th September, and further notes that the 'typical home' will still be paying more than twice as much this winter for energy compared to last winter. In rural areas the Council notes the increases in fuel costs further impact the costs incurred by residents, farmers and all businesses in travelling to shops, health centres, markets and customers. The Council notes the impact of all these additional costs combined with real terms pay cuts and the steady removal of support for families under pressure.

The Council is grateful for the support provided by Barrow Borough Council, Eden District Council, South Lakes District Council and Cumbria County Council has already provided for their residents and businesses and is committed to continuing and building on this support from 1 April 2023.

The Shadow Authority for Westmorland and Furness Council urges central government further to support our residents, businesses and services;

1. To take immediate action to freeze the price cap at April's rate, stop further increases in the price of fuel, including solid fuel, LPG and fuel oil as well as electricity and gas prices, and to tax energy firm's profits.
2. To immediately reduce VAT, including VAT on energy bills.
3. To bring back the supplement to Universal Credit.
4. To implement for immediate financial help/relief for small businesses to prevent imminent closures and job losses.

The Council calls for a local Cost of Living Emergency Summit building on the work of, for example, the Cumbria Poverty Working Group, with stakeholders, including Citizens Advice, Food Banks, Local Trades Unions, town and parish councils and Chambers of Commerce and local MPs to explore how more local help can be provided for those struggling with the cost of living.

The Council requests the Chief Executive Designate to write to the leaders of Cumbria County, Barrow Borough, Eden District and South Lakes District Councils as well as Cumberland, Copeland, Allerdale and Carlisle Councils asking them to pass similar emergency motions so we can take a united stand as Local Government to force the Government to do more to help local businesses and residents.

12. URGENT ITEMS

To consider any urgent items of business.

PART II - ITEMS NOT CONSIDERED IN THE PRESENCE OF THE PRESS AND PUBLIC

None for this meeting.

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SHADOW AUTHORITY FOR WESTMORLAND AND FURNESS COUNCIL

Minutes of a Meeting of the Shadow Authority for Westmorland and Furness Council held on Friday, 22 July 2022 at 2.30 pm at County Hall, Kendal Cumbria

PRESENT:

Cllr A Jama (Vice-Chair, in the Chair)

Cllr T Assouad	Cllr K Hamilton
Cllr C Atkinson	Cllr M Hanley
Cllr L Baker	Cllr E Hennessy
Cllr J Batty	Cllr H Hodgson
Cllr S Bavin	Cllr A Husband
Cllr P Bell	Cllr H Irving
Cllr T Biggins	Cllr A Jarvis
Cllr J Boak	Cllr D Jones
Cllr M Brereton	Cllr N McCall
Cllr D Brook	Cllr B McEwan
Cllr J Brook	Cllr I Mitchell
Cllr A Burns	Cllr B Morgan
Cllr T Callister	Cllr J Murphy
Cllr H Carrick	Cllr J Murray
Cllr F Cassidy	Cllr S Pender
Cllr H Chaffey	Cllr N Phillips
Cllr W Clark	Cllr D Rathbone
Cllr A Coles	Cllr M Robinson
Cllr A Connell	Cllr M Rudhall
Cllr B Cooper	Cllr S Sanderson
Cllr J Cornthwaite	Cllr B Shirley
Cllr J Derbyshire	Cllr G Simpkins
Cllr P Dew	Cllr D Taylor
Cllr J Drake	Cllr V Taylor
Cllr D Edwards	Cllr A Thomson
Cllr P Endsor	Cllr P Thornton
Cllr S Evans	Cllr R Worthington
Cllr J Filmore	
Cllr L Hall	

Officers in Attendance:

Mrs J Currie	Democratic Services
Ms L Fisher	Interim Monitoring Officer
Ms S Plum	Interim Chief Executive
Ms L Robb	Senior Manager – Workforce & Organisational Development
Ms H Smith	Interim Section 151 Officer

At the start of the meeting the Chair informed members that he had agreed to take an item of urgent business today on the Recruitment of an Interim Monitoring Officer.

Although this item had not been in the public domain for 5 clear days before the meeting there was an urgent need to appoint an interim monitoring officer, as the current interim Monitoring Officer would be leaving the Council before the next scheduled meeting. The Structural Changes Order required this as a matter of law. This was AGREED and would be dealt with under Urgent Items.

18 ROLL CALL AND APOLOGIES FOR ABSENCE

Apologies for absence were received from Cllrs Archibald, Audland, Dixon, Eyles, N Hughes, V Hughes, Ladhams, and Severn.

19 DECLARATIONS OF INTEREST/DISPENSATIONS

There were no disclosures of interest made at this meeting.

20 EXCLUSION OF PRESS AND PUBLIC

RESOLVED, that the press and public be not excluded during discussion of any items on the agenda today.

21 MINUTES OF PREVIOUS MEETING

RESOLVED, that the minutes of the previous meeting held on 10 June 2002 be agreed with the following amendments:-

Minute No 7 – Proposed Shadow Constitution, in the 5th paragraph, at the end of the first sentence change the word Barrow to Furness.

Minute No 9 – Election of Leader, in the paragraph after the resolution change the word 'my' to 'his' so it now read 'do his utmost'.

Minute No 13 – Calendar of Meetings 2022-23 in the 1st paragraph add the letter s after 'meeting' so it now read 'Calendar of Meetings'.

Minute No 16 – Members Allowances and Appointment of Independent Remuneration Panel in the last sentence of the 4th paragraph, change the words 'backdated to the beginning of the year' to read 'backdated to 9 May 2022'.

Members also asked that in future Council minutes the specific name of the members asking questions or making comments be included. This was **AGREED**.

22 PUBLIC PARTICIPATION

There were no public questions or representations made on this occasion.

23 CHIEF OFFICERS PAY POLICY

Ms S Plum left the meeting at this point.

The Leader of the Council presented a report which informed members that the Structural Changes Order required that each Shadow Authority must appoint a person to become the Westmorland and Furness Council's Head of Paid Service, on and after 31 December 2022. To enable this appointment to be made in line with this requirement, the report detailed proposals and recommendations on the Pay Policy for this role only.

Members noted that the Pay Policy Statement would be amended and come back to the full Shadow Authority at a later date, containing details for all Senior Leadership posts.

The Leader said that following a review of benchmarking data and advice received from the external recruitment partner and the LGA, the Senior Appointments Committee agreed an indicative salary in the region of £170,000 for the role of Chief Executive, and that a maximum of £8,000 be offered towards relocation costs.

The post of Chief Executive was the first role to be created for the new Unitary Council and would be used as a template for other senior roles in the new authority. The design principles for the new council reflected its significant ambition and of valuing the workforce as its greatest asset. The proposed reward principles to support this were the pay arrangements for the Chief Executive and subsequently other senior leaders.

The scale and scope of this and other senior roles would be significant, and in order to attract and retain high-quality senior leaders it was recommended that the new Council set its salaries by reference to sector benchmarking information along with current market forces.

Cllr Shirley had concerns about the level of salary being offered for this post, which appeared to be up to £30,000 more than the median data sets used by the Local Government Association (LGA). He wondered whether the council should have had a more flexible pay scale.

The Leader responded to say that the median data Cllr Shirley referred to was from 2018, and there were now a number of different data sets available.

In relation to the spot salary the Senior Manager – Workforce & Organisational Development at Cumbria County Council, said the rationale was a more modern approach to salaries, and the council wished to be known as a modern employer. She added that there were a number of

different ways of interpreting the data and the salary data from unitary councils was the most comparable set used to determine this salary.

Cllr Coles said he felt the salary had been set correctly and he would not want Westmorland and Furness Council to pitch the Chief Executive's salary lower than other unitary councils.

The recommendation was then proposed and seconded and put to a vote. With 45 voting for, 10 against and 1 abstention, it was

RESOLVED, that the Shadow Authority adopts the Pay Policy Statement as it relates to the Statutory Post of Chief Executive (Head of Paid Service).

24 **APPOINTMENT OF CHIEF EXECUTIVE (HEAD OF PAID SERVICE)**

The Vice Chair of the Senior Appointments Committee presented a report which informed members that at its meeting of 13 June the Senior Appointments Committee agreed the process and timeline for the recruitment of the substantive Chief Executive for Westmorland and Furness Council. This report provided details on the process to appoint to this role.

Following a competitive selection process, Gatenby Sanderson were appointed to work with Westmorland and Furness Shadow Council members on the Chief Executive recruitment and selection process.

The process involved longlisting and shortlisting of all the potential candidates, followed by final interviews held on 18 July 2022.

Following the final assessment and stakeholder involvement stage of the process for all shortlisted candidates on 18 July 2022 the **RECOMMENDATION** to full Council from the Senior Appointments Committee was that Samantha Plum be appointed to the post of Chief Executive of Westmorland and Furness Council.

Members asked a number of questions about the process for the interviews and the calibre of candidates that applied. All of the questions were answered and members of the cross party Senior Appointments Committee reassured all members that the process had been robust and rigorous. Cllr Filmore was disappointed to note that there were no representatives from the Anti-Racist Cumbria organisation on the interview panel. She understood the organisation had approached the council and volunteered to take part.

The Vice Chair of the Senior Appointments Committee apologised for the omission but said although Anti-Racist Cumbria were not part of the panel she was a committee member for Cumbria Race Equity Network (CREN) and she hoped this reassured Cllr Filmore.

The Cabinet Member for Customer and Environmental Services informed Council that she had spoken to Anti-Racist Cumbria recently and this would be the subject of member conversations before vesting day.

The recommendation was then put to a vote. With 46 for, 0 against and 10 abstentions, it was

RESOLVED, that the Shadow Authority

- (1) agrees that Samantha Plum be confirmed as the Chief Executive for Westmorland and Furness Council from 31 December 2022.
- (2) agrees the recommended spot salary and terms and conditions, as proposed by the Senior Appointments Committee, for the nominated candidate for this role.

Ms Plum returned to the meeting at this point.

25 STRATEGIC FINANCIAL PLANNING

The Cabinet Member for Finance presented a report which set out the proposed financial disaggregation and aggregation process from a funding, revenue cost and balance sheet perspective to give initial potential funding envelopes for the Unitary Councils and Cumbria Fire and Rescue Service.

The report provided clarity on the decisions required by each Unitary Council and Cumbria Fire and Rescue Service to deliver the strategic planning process to enable the development of their 2023/24 revenue and capital budgets and Medium Term Financial Plans, along with the timeline for the strategic planning approach required to support the establishment of two financial sustainable Unitary authorities and a financially sustainable Cumbria Fire and Rescue service (CFRS).

The Cabinet Member acknowledged that the members may have been expecting that at this stage in the planning cycle to be looking at a draft budget, but there were a significant number of issues that needed to be resolved before that could be done. In particular, there needed to be clarity on the shape of service delivery from 1st April 2023.

The Cabinet Member felt that the approval of the service baseline blueprints would provide greater clarity on this, but there was still a great deal of work to be done on splitting and aggregating services. This in turn would have significant consequences in terms of budgets, as well as the asset portfolios of the new councils and the shape of their balance sheets.

The Cabinet Member then took members through the very detailed report, highlighting the following:

- Financial Planning Process
- Process and Principles
- Council Tax
- Business Rates
- Balance Sheet Disaggregation
- Shared and Hosted Services

Cllr Hanley left the meeting at this point.

The Cabinet Members asked Council to note that at the meeting this morning, Cabinet agreed to note the proposed disaggregation principles and delegated to the Cabinet Member for Finance, in consultation with officers, the approval of the disaggregation principles, allowing these to be adopted as quickly as possible, without the need for a further Cabinet meeting.

As a result of this, the Cabinet Member for Finance proposed an amendment to recommendation 2, as follows:

'That the Shadow Council notes Shadow Cabinet decisions regarding the proposed disaggregation principles for allocation of the Funding for all three organisations as set out in the report.' This was agreed.

He then moved the recommendations which were proposed and seconded.

Cllr Phillips said there was not enough time to produce a zero based budget so the new authority was going to be left with the deficits of the sovereign councils. He asked whether the residents of Westmorland and Furness Council should expect council tax to rise in order to pay for the deficit.

The Cabinet Member responded to say that although the current predictions for deficit was £32m across all seven Cumbrian councils this may not be the case by February, and the level of council tax to be set would be dependent on the proposals from Government.

Cllr Carrick asked what the implications would be of the audited statement of accounts being used to influence budget planning, when these had to be prepared by the statutory deadline of 31 December 2022.

She also asked about the mechanism to be applied for the indicative baseline budget, and the reference in the final bullet point in 3.39 to checks and challenges. Who would be carrying out the checks and challenges and whether this would be prior to consultation.

The Cabinet Member said every year the council's budgets were impacted by balance sheets, and the final outcome would not be known before the end of the year. Budget setting was an iterative process and would be an ongoing to ensure that both new unitary councils began with sustainable budgets.

Cllr Callister asked a question about the future of the Cumbria Fire and Rescue Service (CFRS). The Cabinet Member for Finance responded to say

he was not the Cabinet Member responsible for the CFRS, so he suggested the relevant Cabinet Member provided a written response.

Cllr Shirley asked whether the Cabinet Member could rule out the possibility of increases in council tax next year.

The Cabinet Member reiterated that the level of council tax to be levied would be dependent on the levels set by the Government, so he was unable to rule out increases.

Cllr Dew said it would be difficult to balance the need to produce a baseline budget against the need to aggregate and disaggregate services, and this had to be achieved by October. He wondered whether this would be achievable whilst also having to produce a Council Plan.

The Cabinet Member responded to say that unfortunately the timetable had been set by Government, not by the Council, but in October a proposed budget would be presented for consultation. However, further down the line there may be a need to revisit the proposals. Transformation plans would not be a 'Day 1' requirement but would be prepared further down the line.

Cllr Pender was concerned to see the comments in the report from HR and equality. The reports stated that there were no direct implications for either of these, which was obviously not the case.

The Interim Monitoring Officer reassured all members that all of the reports before members had been assessed by legal, finance, HR and equality before they were published. She also said she felt it was too soon to know the direct implications for HR.

The recommendations were then put to a vote, which was unanimous.

RESOLVED, that Shadow Council

- (1) Note the progress to date;
- (2) Notes Shadow Cabinet decisions regarding the proposed disaggregation principles for allocation of the Funding for all three organisations as set out in the report; and
- (3) Note the next steps in preparing budgets for 2023/24.

26 **AMENDMENT OF THE MEMBER CODE OF CONDUCT**

This item was taken before item 6 at the meeting.

The Shadow Council considered a report from the Leader of the Council which proposed amendments to the agreed Member Code of Conduct to address the matter of declaration of interests for members who served on more than one local authority.

The report clarified that participation in discussion and decision making at one local authority would not by itself normally prevent members from taking part in discussion and decision making on the same matter at another local authority. This would remove the need for members to receive dispensations for being a member of another authority.

The Leader moved the recommendations which were proposed and seconded and put to a vote, which was unanimous.

RESOLVED, that Shadow Council

- (1) agrees the amendments to the Member Code of Conduct outlined in 3.5; and
- (2) notes that the Interim Monitoring Officer will make the necessary changes to the Westmorland and Furness Constitution and Member Code of Conduct.

27 **SUBSTITUTES**

RESOLVED, that Shadow Council notes the following substitutes for the Shadow Authority committees:

Committee	Reserve Member	Party
Overview & Scrutiny Committee	Colin Atkinson	Conservative
	Helen Irving	Conservative
	Judy Filmore	Ind/Green
	Theresa Assouad	Labour
	Frank Cassidy	Labour
	Andy Coles	Labour
	Doug Rathbone	Lib Dem
	John Murray	Lib Dem
Senior Appointments Committee	Matt Brereton	Conservative
	Anne Burns	Labour
	Anita Husband	Labour
	Patricia Bell	Lib Dem
	Andrew Jarvis	Lib Dem
Standards Committee	Colin Atkinson	Conservative
	Matt Brereton	Conservative
	Trevor Higgins	Labour
	Matt Severn	Lib Dem

28 **URGENT ITEMS - APPOINTMENT OF INTERIM STATUTORY MONITORING OFFICER**

Members considered a report from Leader of the Council and Chair of the Senior Appointment Committee, which informed them that the current Interim Statutory Monitoring Officer, was moving to another role and her last formal working day would be 9 September. The Leader said there was therefore a requirement for the Shadow Authority to designate a new interim Monitoring Officer for Westmorland and Furness Shadow Authority.

At its meeting on 18 July, the Senior Appointments Committee agreed the process to recruit an external interim officer to undertake the role of Interim Monitoring Officer. This process concluded on 21 July.

Given the existing workloads and pressures, and the fact that the recruitment process for the permanent Monitoring Officer was imminent, the Senior Appointments Committee agreed that an external interim officer be recruited to one of the sovereign councils in the Westmorland and Furness area or the County Council for 3 days a week, until a substantive appointment was made to the role of Monitoring Officer, which would be from 31 December 2022. This would give additional capacity into the programme at a time of high demand, without disrupting existing capability.

It had been agreed that Barrow Borough Council would be the recruitment authority for these purposes, and had undertaken the process. Members were asked to confirm the appointment of Caroline Elwood to this role.

Cllr Carrick commented that the report was received by members very late and she hoped in future this practice would be avoided.

The Leader of the Council responded to say that although he accepted the report was late it was unavoidable.

Upon conclusion of the discussions the recommendations were proposed and seconded and put to a vote, which was unanimous.

RESOLVED, that the Shadow Authority

- (1) Notes the recruitment process undertaken on the 21 July;
- (2) Confirms to the Interim Head of Paid Service that they agree the designation of Caroline Elwood as Interim Monitoring Officer with effect from 1 August 2022.
- (3) Notes the use of the implementation reserve to fund this post.

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Westmorland and Furness Shadow Authority

Date 28 September 2022

Title Appointment of the Interim Statutory Chief Finance (Section 151) Officer

Report from: Leader of the Council and Chair of the Senior Appointments Committee

Report Author: LGR Technical Lead, OD&HR Workstream

Wards: All

Key Decision: No

1.0 Purpose/Summary of report

1.1 At its meeting of 17 May the Westmorland and Furness Shadow Authority agreed the designation of the statutory responsibilities of the Interim Chief Finance (s151) Officer for the Westmorland and Furness Shadow Authority to the Finance Lead and s151 Officer at South Lakeland District Council.

1.2 The Finance Lead and s151 Officer at South Lakeland District Council now wishes to stand down as Interim Chief Finance (s151) Officer for Westmorland and Furness Shadow Authority and there is therefore a requirement for the Shadow Authority to designate a new interim Monitoring Officer for Westmorland and Furness Shadow Authority. These designations will move to the substantive s151 Officer when they take up post from 31 December 2022.

1.3 At its meeting on 5 September, the Senior Appointments Committee agreed to recommend to the Shadow Authority, the designation of Paul Sutton as Interim Chief Finance (s151) Officer.

2.0 Recommendation

2.1 It is recommended that the Shadow Authority:-

- (1) **Agrees the designation of Paul Sutton as Interim Chief Finance (s151) Officer**

3.0 Background and Proposals

- 3.1 At its meeting on 17 May, the Westmorland and Furness Shadow Authority approved the recommendation from the Westmorland and Furness Joint Committee that the designation of the statutory responsibilities of the Interim Chief Finance (s151) Officer for the Westmorland and Furness Shadow Authority to the Finance Lead and s151 Officer at South Lakeland District Council.
- 3.2 Following a request from the current Interim Chief Finance (s151) Officer to stand down, expressions of interest were sought from current s151 Officers within the Westmorland and Furness Area, in line with the requirements of the Structural Changes Order which specifies that the person occupying the role of interim Section 151 Officer role be an officer of the County Council or one of the District Councils in the area of Westmorland and Furness. Interest in the post was expressed by the current interim s151 Officer at Eden Council.
- 3.3 In his role as Chair of the Senior Appointments Committee, the Leader of Westmorland and Furness Shadow Authority and the Portfolio Holder for Finance for Westmorland and Furness Shadow Authority (and a reserve for the Senior Appointments Committee) undertook an interview with the interim s151 Officer for Eden Council on Thursday 25 August. Other members of the Committee were given to the opportunity to join the Interview Panel. The interview was also supported by the Interim Head of Paid Service and an HR representative.
- 3.4 Following the interview, the Senior Appointments Committee agreed to recommend to the Shadow Authority that Paul Sutton, interim s151 Officer for Eden Council, be designated as the Interim Chief Finance (s151) Officer for Westmorland and Furness Council.

4.0 Consultation

- 4.1 No consultation was required in the production of this report.

5.0 Alternative Options

- 5.1 No alternative option is recommended.

6.0 Implications

Financial, Resources and Procurement

- 6.1 None at this stage.

Human Resources

- 6.2 The role of Interim Statutory s151 Officer has previously been made available to all existing employees with the right skills and experience.

Legal

- 6.3 In order to meet the requirements contained in The Cumbria (Structural Changes) Order 2022, the Westmorland and Furness Shadow Authority is required to designate on an interim basis an officer to be its Chief Finance (s151) Officer from the date that the current designated Interim Section 151 Officer relinquishes the responsibilities of the role.
- 6.5 The officer designated to perform the duties of interim Chief Finance (s151) Officer does not have to be employed by but they must be an officer of one of the Councils that form the Westmorland and Furness Shadow Authority.
- 6.6 The Senior Appointments Committee has the responsibility in the Shadow Constitution to recommend appointments to the Shadow Authority for statutory roles including the role of Interim Chief Finance (s151) Officer so it is appropriate for the Committee to make a decision on the recommendations contained in this report

Health and Sustainability Impact Assessment

- 6.4 Have you completed a Health and Sustainability Impact Assessment? No
- 6.5 If you have not completed an Impact Assessment, please explain your reasons: There are no direct health and sustainability issues relating to this report.

Equality and Diversity.

- 6.6 Have you completed an Equality Impact Analysis? No
- 6.7 If you have not completed an Impact Analysis, please explain your reasons: There are no direct Equality and Diversity issues relating to this report.

Contact Officers

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Nicola Houwayek - Nicola@HRODSolutions.onmicrosoft.com

Appendices Attached to this Report

Appendix No.	Name of Appendix
None	

Background Documents Available

Name of Background document	Where it is available
None	

Westmorland and Furness Shadow Authority Meeting

Date 28 September 2022

Title Appointment of the Chief Legal and Monitoring Officer and Director of Resources (s151 Officer)

Report from: Leader of the Council and Chair of the Senior Appointments Committee

Report Author: LGR Technical Lead, OD&HR Workstream

Wards: Wards

Key Decision: No

1.0 Purpose/Summary of report

1.1 At its meeting of 18 July, the Senior Appointments Committee, agreed the process and timeline for the recruitment to roles of Monitoring Officer and Chief Finance Officer (s151 Officer) for Westmorland and Furness Council. The interviews took place on 15 and 16 September and recommendations are made to the Shadow Authority for the recommended appointments to these roles.

1.2 This report provides detail on the process to appoint to these roles. Further details in relation to the recommended candidates in respect of each post will be circulated to members in a supplementary report. This is to enable the Interim Monitoring Officer to notify the members of the Shadow Authority Cabinet of the proposed appointment and to allow for a formal period for objection as required under the Constitution.

2.0 Recommendation

It is recommended that the Shadow Authority:-

- (1) Notes the process undertaken by the Senior Appointments Committee in respect of the recruitment to the roles of the Chief Legal and Monitoring Officer and Director of Resources;**

- (2) Notes that a supplementary report will be circulated to all Members of the Shadow Authority setting out the details of the recommended candidate for each post and recommended salary, once the period for formal objection by the Shadow Authority Cabinet has expired.**

3.0 Background and Proposals

- 3.1 The Structural Change Order requires that each Shadow Authority must before 31 December 2022 appoint a person to become, on and after that date, in the case of Westmorland and Furness Council, that Council's Monitoring Officer and Chief Finance (s151) Officer.
- 3.2 At its meeting on 18 July 2022, the Senior Appointments Committee agreed that the recruitment process and timeline for these roles.
- 3.3 Work has been undertaken by the Interim Head of Paid Service to develop the proposed senior structure for the new Westmorland and Furness Council and, subject to the outcome of consultation, it is proposed that these roles are titled Chief Legal and Monitoring Officer and Director of Resources (s151 Officer).
- 3.4 Following a review of benchmarking data and advice received from the LGA, the Senior Appointments Committee agreed an indicative salary range of £77,000 - £109,000 for the post of Chief Legal and Monitoring Officer to be used for the purposes of recruitment and, as a Director Level post, an indicative range of £120,000 - £140,000 for the role of Director of Resources and that a maximum of £8,000 be offered towards relocation costs if appropriate.
- 3.5 Subsequently, further work has been undertaken in developing the Senior Leadership Pay Policy, with advice received from our external partners Korn Ferry on the recommended salary ranges for posts at different levels within the proposed senior leadership structure. A separate paper will be presented to the Shadow Authority at its meeting of 28 September on recommended pay and key terms and conditions for the posts in the senior leadership structure, including those of Chief Legal and Monitoring Officer and Director of Resources (s151 Officer).

Recruitment Process

- 3.4 The Senior Appointments Committee agreed that the roles should be filled by an open competition process, with applications invited from external and internal candidates at the same time.

3.5 It was also agreed that the recruitment and selection process be managed by the LGR HR&OD Workstream, with support from the LGR Communications and Engagement Workstream, with specific support on Executive Search only, provided by commissioning an external recruitment partner. Following a competitive selection process, Penna were appointed to work with Westmorland and Furness Shadow Authority to support the executive search process as part of the recruitment and selection process.

3.5 The following recruitment process was followed:

- The roles were advertised through the sovereign council and shadow authority websites, in various publications and supported by an Executive Search Process, conducted by the external recruitment specialists, Penna, with a closing date of 1 September.
- The Shadow Senior Appointments Committee met on 5 September with the Interim Head of Paid Service and agreed a shortlist of candidates.
- These candidates were interviewed by a technical assessor and a representative from Penna on 7,8 and 9 September.
- Following the Technical Interviews and as agreed by the Senior Appointments Committee, the Interim Head of Paid Service, in consultation with the Chair and Vice Chair of the Senior Appointments Committee, agreed some candidates not to be invited to the final interviews.
- The final member panel interviews took place on 15 September for the Chief Legal and Monitoring Officer and on 16 September for the Director Resources (s151 Officer).

Recommendation

3.6 Members are asked to note the process undertaken by the Senior Appointments Committee in respect of the recruitment to the roles of the Chief Legal and Monitoring Officer and Director of Resources

3.7 Members are also asked to note that a supplementary report will be circulated to all members of the Shadow Authority setting out the details of the recommended candidate for each post and recommended salary, once the period for formal objection by the Shadow Authority Cabinet has expired.

4.0 Consultation

- 4.1 In accordance with the Officer Employment Procedure Rules contained in the Shadow Constitution for Westmorland and Furness, the following process has taken place in advance of the Shadow Authority Meeting following the decision of the Senior Appointments Committee on their proposed candidate for appointment.
- 4.2 The Interim Monitoring Officer has received details from the Committee of the name of the person and details relevant to the appointment. Each member of the Shadow Cabinet has been notified of the proposed appointee and provided a timeframe for the Leader to confirm to the Lead Officer for Human Resources whether the Shadow Cabinet has any objection to the making of the provisional offer of employment.
- 4.3 In terms of consultation with affected employees, a sub-group of the LGR Joint Negotiation & Consultation Group, which provides the formal framework for negotiation and consultation with the Trade Unions, is in place to inform and consult on senior appointment issues.

5.0 Alternative Options

- 5.1 The Shadow Authority could choose not to accept the recommendations made by the Senior Appointments Committee but this will risk Westmorland and Furness Council not meeting the requirements of the Structural Change Order to appoint to these roles on and after 31 December 2022.
- 5.2 If the Shadow Authority does not approve the recommendation of the Committee then under the provisions of the Officer Employment Procedure Rules it must indicate how it wishes to proceed.

6.0 Implications

Financial, Resources and Procurement

- 6.1 The revenue budgets for the Unitary Councils for 2023/24 will be approved by Full Council in February/ March 2023 and will ensure sufficient budget is provided for these roles.

Human Resources

- 6.2 Appointment to these roles in the structure for Westmorland and Furness Council may impact on existing roles that hold these statutory designations. If not appointed to one these roles,

employees will transfer over to either Cumberland Council or Westmorland and Furness Council under the provisions of TUPE and in accordance with the staff allocation process. Affected staff may potentially be at risk of redundancy after 1 April 2023. These issues will be consulted on with the appropriate Trade Unions through the LGR JNCG meetings framework.

Legal

- 6.3 The Cumbria (Structural Changes) Order 2022 provides at para 9 (3) (b) that each shadow authority must on and after 31st December 2022 appoint a person to become, on and after that date in the case of Westmorland and Furness Council that Council's Monitoring Officer and Chief Finance (Section 151) Officer.
- 6.3.1 The Order further provides that the Interim Monitoring Officers and Section 151 Officers will cease to have their designation from 31 December 2022.
- 6.3.2 The Senior Appointments Committee has the responsibility in the Westmorland and Furness Shadow Authority Constitution (Article 6.1 (b)) for:
- undertaking the selection process for, and confirming the recommendation to the Shadow Authority for the appointment of, the permanent Monitoring Officer and section 151 Officer of the Westmorland and Furness Council before 31st December 2022 in accordance with the appropriate procedures set out in the Officer Employment Procedure Rules;
- 6.3.3 It is a function of the full Shadow Authority to confirm the appointment of the Monitoring Officer and the Chief Finance Officer (Part 3 (4.1 (i))) based on the recommendation provided to it by the Senior Appointments Committee which will follow in a subsequent report.
- 6.4 Confirmation will be provided in the subsequent report that the objections procedure set out in the Officer Employment Procedure Rules has been complied with and that either there are no objections to the proposed appointments or any objections are not upheld before recommending the persons for appointment.[Part 4 (f) of the Constitution]
- 6.5 If the Shadow Authority approve the appointments, then formal offers of employment will be made to the named appointees following the meeting today.

Health and Sustainability Impact Assessment

- 6.4 Have you completed a Health and Sustainability Impact Assessment? No
- 6.5 If you have not completed an Impact Assessment, please explain your reasons: There are no direct health and sustainability issues relating to this report.

Equality and Diversity

- 6.6 Have you completed an Equality Impact Analysis? No
- 6.7 If you have not completed an Impact Analysis, please explain your reasons: There are no direct Equality and Diversity issues relating to this report.

Contact Officers:

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Background Documents Available

Name of Background document	
Minutes of the meeting of the Senior Appointments Committee of 18 July 2022	Senior Appt Ctt Minutes 18 July
Minutes of the meeting of the Senior Appointments Committee of 5 September	westmorlandandfurness.moderngov.co.uk/documents/g218/Printed%20minutes%2005th-Sep-2022%2013.30%20Shadow%20Senior%20Appointments%20Committee.pdf?T=1

Westmorland and Furness Shadow Council Meeting

Date: 28 September 2022

Title: Appointment of External Auditor

Report from: Andrew Jarvis, Portfolio Holder Finance

Report Author: Helen Smith, Interim s151 Officer

Wards: All

Key Decision: No

1.0 Purpose/Summary of report

1.1. This report sets out the options around the appointment of external auditors from 1 April 2023 to ensure statutory requirements are met.

2.0 Recommendation

2.1 It is recommended that Shadow Council:-

- (1) Notes the decision by the Interim S151 Officer to opt-in to the Public Sector Audit Appointment national scheme for the appointment of external auditors for the 2022/23 financial year; and**
- (2) Accept Public Sector Audit Appointments' invitation to opt into the sector-led option for the appointment of external auditors to principal local government and police bodies for five financial years from 1 April 2023.**

3.0 Background and Proposals

Background

3.1 The current external auditor appointment arrangements cover the period up to and including the audit of the 2022/23 accounts. Sovereign Councils have opted into the 'appointing person' national auditor appointment arrangements established by Public Sector Audit Appointments (PSAA) for the period covering the accounts for 2018/19 to 2022/23.

- 3.2 PSAA is now undertaking a procurement for the next appointing period, covering audits for 2023/24 to 2027/28. During autumn 2021 all local government bodies were asked to decide about their external audit arrangements from 2023/24. They have options to arrange their own procurement and make the appointment themselves or in conjunction with other bodies, or they can join and take advantage of the national collective scheme administered by PSAA.
- 3.3 Under the Local Government Audit & Accountability Act 2014 ("the Act"), the Council is required to appoint an auditor to audit its accounts for each financial year. The Council has three options;
- a) To appoint its own auditor, which requires it to follow the procedure set out in the Act.
 - b) To act jointly with other authorities to procure an auditor following the procedures in the Act.
 - c) To opt into the national auditor appointment scheme administered by a body designated by the Secretary of State as the 'appointing person'. The body currently designated for this role is Public Sector Audit Appointments Limited (PSAA).

In order to opt into the national scheme, a council must make a decision at a meeting of the Full Council.

- 3.4 It was advised that all councils undergoing reorganisation opt-in under this invitation to ensure continuity of external audit cover if, for some reason, the implementation of the new unitary authorities is delayed. Each existing authority in Cumbria has duly opted-in to the invitation.
- 3.5 It is also necessary to ensure there is an external auditor for 2022/23: however, as Westmorland and Furness are still in shadow and have no turnover the appointment of auditor for 2022/23 is a decision of the Interim S151 Officer who can opt-in to existing arrangements for the audit of small bodies.

The Appointed Auditor

- 3.6 The auditor appointed at the end of the procurement process will undertake the statutory audit of accounts and Best Value assessment of the Council in each financial year, in accordance with all relevant codes of practice and guidance. The appointed auditor is also responsible for investigating questions raised by electors and has powers and responsibilities in relation to Public Interest Reports and statutory recommendations.

3.7 The auditor must act independently of the Council and the main purpose of the procurement legislation is to ensure that the appointed auditor is sufficiently qualified and independent. The auditor must be registered to undertake local audits by the Financial Reporting Council (FRC) and employ authorised Key Audit Partners to oversee the work. As the report below sets out, there is a currently a shortage of registered firms and Key Audit Partners. Auditors are regulated by the FRC, which will be replaced by a new body with wider powers, the Audit, Reporting and Governance Authority (ARGA) during the course of the next audit contract.

3.8 Councils therefore have very limited influence over the nature of the audit services they are procuring, the nature and quality of which are determined or overseen by third parties.

Appointment by the Council itself or jointly

3.9 The Council may elect to appoint its own external auditor under the Act, which would require the Council to;

- a) Establish an independent auditor panel to make a stand-alone appointment. The auditor panel would need to be set up by the council itself, and the members of the panel must be wholly or a majority of independent members as defined by the Act. Independent members for this purpose are independent appointees, excluding current and former elected members (or officers) and their close families and friends. This means that elected members would not have a majority input to assessing bids and choosing to which audit firm to award a contract for the Council's external audit.
- b) Manage the contract for its duration, overseen by the Auditor Panel.

Alternatively, the Act enables the Council to join with other authorities to establish a joint auditor panel. Again, this would need to be constituted of wholly or a majority of independent appointees. Further legal advice would be required on the exact constitution of such a panel having regard to the obligations of each council under the Act and the Council would need to liaise with other local authorities to assess the appetite for such an arrangement.

The national auditor appointment scheme

3.10 PSAA is specified as the 'appointing person' for principal local government under the provisions of the Act and the Local Audit (Appointing Person) Regulations 2015. PSAA let five-year audit services contracts in 2017 for the first appointing period, covering audits of the accounts from 2018/19 to 2022/23. It is now undertaking the work needed to invite eligible bodies to opt in for the next appointing period, from the 2023/24 audit onwards, and to complete a procurement for audit services. PSAA is a not-for-profit organisation whose costs are around 4% of the scheme with any surplus distributed back to scheme members.

3.11 In summary the national opt-in scheme provides the following:

- a) the appointment of a suitably qualified audit firm to conduct audits for each of the five financial years commencing 1 April 2023;
- b) appointing the same auditor to other opted-in bodies that are involved in formal collaboration or joint working initiatives to the extent this is possible with other constraints;
- c) managing the procurement process to ensure both quality and price criteria are satisfied. PSAA has sought views from the sector to help inform its detailed procurement strategy;
- d) ensuring suitable independence of the auditors from the bodies they audit and managing any potential conflicts as they arise during the appointment period;
- e) minimising the scheme management costs and returning any surpluses to scheme members;
- f) consulting with authorities on auditor appointments, giving the Council the opportunity to influence which auditor is appointed;
- g) consulting with authorities on the scale of audit fees and ensuring these reflect scale, complexity, and audit risk; and
- h) ongoing contract and performance management of the contracts once these have been let.

Pressures in the current local audit market and delays in issuing opinions

3.12 Much has changed in the local audit market since audit contracts were last awarded in 2017. At that time the audit market was relatively stable, there had been few changes in audit requirements, and local audit fees had been reducing over a long period. 98% of those bodies eligible opted into the national scheme and attracted very competitive bids from audit firms. The resulting audit contracts took effect from 1 April 2018.

- 3.13 During 2018 a series of financial crises and failures in the private sector led to questioning about the role of auditors and the focus and value of their work. Four independent reviews were commissioned by Government: Sir John Kingman's review of the Financial Reporting Council (FRC), the audit regulator; the Competition and Markets Authority review of the audit market; Sir Donald Brydon's review of the quality and effectiveness of audit; and Sir Tony Redmond's review of local authority financial reporting and external audit. The recommendations are now under consideration by Government, with the clear implication that significant reforms will follow. A new audit regulator (ARGA) is to be established, and arrangements for system leadership in local audit are to be introduced. Further change will follow as other recommendations are implemented.
- 3.14 The Kingman review has led to an urgent drive for the FRC to deliver rapid, measurable improvements in audit quality. This has created a major pressure for audit firms to ensure full compliance with regulatory requirements and expectations in every audit they undertake. By the time firms were conducting 2018/19 local audits during 2019, the measures they were putting in place to respond to a more focused regulator were clearly visible. To deliver the necessary improvements in audit quality, firms were requiring their audit teams to undertake additional work to gain deeper levels of assurance. However, additional work requires more time, posing a threat to the firms' ability to complete all their audits by the target date for publication of audited accounts. Delayed opinions are not the only consequence of the FRC's drive to improve audit quality. Additional audit work must also be paid for. As a result, many more fee variation claims have been needed than in prior years.
- 3.15 This situation has been accentuated by growing auditor recruitment and retention challenges, the complexity of local government financial statements and increasing levels of technical challenges as bodies explore innovative ways of developing new or enhanced income streams to help fund services for local people. These challenges have increased in subsequent audit years, with Covid-19 creating further significant pressure for finance and audit teams.
- 3.16 None of these problems is unique to local government audit. Similar challenges have played out in other sectors, where increased fees and disappointing responses to tender invitations have been experienced during the past two years.

The invitation

3.17 PSAA is now inviting the Council to opt in for the second appointing period, for 2023/24 to 2027/28, along with all other eligible authorities. Based on the level of opt-ins it will enter into contracts with appropriately qualified audit firms and appoint a suitable firm to be the Council's auditor.

The next audit procurement

3.18 The prices submitted by bidders through the procurement will be the key determinant of the value of audit fees paid by opted-in bodies. PSAA will:

- a) seek to encourage realistic fee levels and to benefit from the economies of scale associated with procuring on behalf of a significant number of bodies;
- b) continue to pool scheme costs and charge fees to opted-in bodies in accordance with the published fee scale as amended following consultations with scheme members and other interested parties (pooling means that everyone within the scheme will benefit from the prices secured via a competitive procurement process – a key tenet of the national collective scheme);
- c) continue to minimise its own costs, around 4% of scheme costs, and as a not-for-profit company will return any surplus funds to scheme members. In 2019 it returned a total £3.5m to relevant bodies and in 2021 a further £5.6m was returned.

3.19 PSAA will seek to encourage market sustainability in its procurement. Firms will be able to bid for a variety of differently sized contracts so that they can match their available resources and risk appetite to the contract for which they bid. They will be required to meet appropriate quality standards and to reflect realistic market prices in their tenders, informed by the scale fees and the supporting information provided about each audit. Where regulatory changes are in train which affect the amount of audit work suppliers must undertake, firms will be informed as to which developments should be priced into their bids.

3.20 The scope of a local audit is fixed. It is determined by the Code of Audit Practice (currently published by the National Audit Office), the format of the financial statements (specified by CIPFA/LASAAC) and the application of auditing standards regulated by the FRC. These factors apply to all local audits irrespective of whether an eligible body decides to opt into PSAA's national scheme or chooses to make its own separate arrangements. The

requirements are mandatory; they shape the work auditors undertake and have a bearing on the actual fees required.

- 3.21 There are currently nine audit providers eligible to audit local authorities and other relevant bodies under local audit legislation. This means that a local procurement exercise would seek tenders from the same firms as the national procurement exercise, subject to the need to manage any local independence issues. Local firms cannot be invited to bid. Local procurements must deliver the same audit scope and requirements as a national procurement, reflecting the auditor's statutory responsibilities.
- 3.22 PSAA's current procurement of local audit services is about to enter a concluding stage. The initial process has secured 96.5% of the capacity required to enable auditor appointments to all the bodies that have opted into PSAA's national scheme. A rapid supplementary procurement of four small-sized Lots will now take place to seek to secure the remaining outstanding capacity needed. The supplementary procurement will be launched on 25 August 2022. The nine registered suppliers that completed pre-qualification earlier this year will be invited to submit their responses by 13 September.

Assessment of options

- 3.23 If the Council did not opt in there would be a need to establish an independent auditor panel to make a stand-alone appointment. The auditor panel would need to be set up by the Council itself, and the members of the panel must be wholly or a majority of independent members as defined by the Act. Independent members for this purpose are independent appointees, excluding current and former elected members (or officers) and their close families and friends. This means that elected members would not have a majority input to assessing bids and choosing to which audit firm to award a contract for the Council's external audit.
- 3.24 Alternatively, the Act enables the Council to join with other authorities to establish a joint auditor panel. Again, this will need to be constituted of wholly or a majority of independent appointees. Further legal advice would be required on the exact constitution of such a panel having regard to the obligations of each Council under the Act and the Council would need to liaise with other local authorities to assess the appetite for such an arrangement.
- 3.25 These would be more resource-intensive processes to implement for the Council, and without the bulk buying power of the sector-led procurement would be likely to result in a more costly service. It

would also be more difficult to manage quality and independence requirements through a local appointment process. The Council is unable to influence the scope of the audit and the regulatory regime inhibits the Council's ability to affect quality.

- 3.26 Opting-into the national offer provides the appointment of an independent auditor with limited administrative cost to the Council. By joining the scheme, the Council would be acting with other councils to optimise the opportunity to influence the market that a national procurement provides.
- 3.27 Regulation 19 of the Local Audit (Appointing Person) Regulations 2015 requires that a decision to opt in must be made by a meeting of the Council (meeting as a whole). The Council then needs to respond formally to PSAA's invitation in the form specified by PSAA by the close of the opt-in period (11 March 2022). PSAA will commence the formal procurement process in early February 2022. It expects to award contracts in August 2022 and will then consult with authorities on the appointment of auditors so that it can make appointments by the statutory deadline of 31 December 2022.

4.0 Consultation

- 4.1 Cumbria Chief Finance Officers considered the advice from PSAA that all existing Councils should consider opt-in to this exercise as a contingency against delay in creating the new unitary authorities for Cumbria and have all opted-in.

5.0 Alternative Options

- 5.1 There are no practical alternative options.

6.0 Implications

Financial, Resources and Procurement

- 6.1.1 It is likely that current external audit fee levels for Councils nationally will increase when the current contracts end as it is clear that the scope of audit has increased, requiring more audit work. The duty to specify scales of fees is one of PSAA's statutory functions as the appointing person. Before setting a scale of fees, they are required to consult with opted-in authorities, relevant representative associations of local authorities and relevant bodies of accountants.
- 6.1.2 The scale fees for individual opted-in authorities are normally based on the scale fee for the previous year, reflecting the auditor's assessment of audit risk and complexity. PSAA approve proposed variations to the scale fee for an individual opted-in

authority, to reflect changes in circumstances. Scale fees assume that audited bodies are able to provide the auditor with complete and materially accurate financial statements, with supporting working papers, within agreed timeframes.

6.1.3 PSAA will charge fees for considering objections from the point at which auditors accept an objection as valid, or any special investigations such as those arising from disclosures under the Public Interest Disclosure Act 1998, as a variation to the scale fee.

6.1.4 The fees for 2021/22 (the latest year published by PSAA) are:

Organisation	Sector Type	2021/22 Scale Fee
Allerdale Borough Council	District Council	40,059
Barrow-in-Furness Borough Council	District Council	42,362
Carlisle City Council	District Council	44,033
Copeland Borough Council	District Council	41,324
Cumbria County Council	County Council	89,254
Cumbria Pension Fund	Pension Fund audit	20,457
Eden District Council	District Council	38,796
South Lakeland District Council	District Council	46,005
		362,290

6.1.5 There are also concerns about capacity and sustainability in the local (external) audit market. Opting into a national scheme provides maximum opportunity to ensure fees are as realistic as possible, while ensuring the quality of audit is maintained, by entering into a large-scale collective procurement arrangement.

6.1.6 If the national scheme is not used, additional resource would be needed to establish an auditor panel and conduct a local procurement.

Human Resources

6.2 There are no direct implications associated with this report.

Legal

6.3.1 The relevant legislation is the Local Audit and Accountability Act 2014 and the subordinate Local Audit (Appointing Person) Regulations 2015. Under the provisions the Council is obliged to:

- appoint a local auditor to audit its accounts for a financial year not later than 31 December in the preceding year
- follow the process contained therein
- allocate the appointment as a function of Council

Through the Act and the Regulations, the Secretary of State has appointed PSAA as the appointing person for the purposes of the audit function. Through the proposal to accept Public Sector Audit Appointments' invitation to opt into the sector-led option for the appointment of external auditors, the Council will be meeting its legal requirement with regards to the appointment of a local auditor as a result of the above legal framework.

6.3.2 The process detailed within the report that will be taken by PSAA to appoint the provider will comply with the procurement requirements and is therefore considered a compliant route of appointment in procurement terms.

Health and Sustainability Impact Assessment

6.4 Have you completed a Health and Sustainability Impact Assessment?
No

6.5 If you have not completed an Impact Assessment, please explain your reasons: There are no direct implications arising from this report.

Equality and Diversity

6.6 Have you completed an Equality Impact Analysis? No

6.7 If you have not completed an Impact Analysis, please explain your reasons: There are no direct implications arising from this report.

Risk Management	Consequence	Controls required
That the Council fails to appoint an auditor in accordance with the requirements and timing specified in local audit legislation	Reputational damage and additional costs to carry out separate exercise	To opt-in to the sector-led approach through PSAA
That the Council fails to achieve value for money in the appointing process	Additional expenses incurred	

Contact Officers

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Appendices Attached to this Report

Appendix No.	Name of Appendix
None	

Background Documents Available

Name of Background document	Where it is available
PSAA Appointing Person Information: Appointing period 2023/24 – 2027/28	<u>PSAA appointing-person-information</u>

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