

SHADOW AUTHORITY FOR WESTMORLAND AND FURNESS **COUNCIL**

Minutes of a Meeting of the Shadow Authority for Westmorland and Furness Council held on Monday, 23 January 2023 at 1.30 pm at County Hall, Kendal

PRESENT:

Cllr M Severn (Chair)

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|-------------------|--------------------------|
| Cllr T Assouad | Cllr M Eyles |
| Cllr C Atkinson | Cllr M Hanley |
| Cllr R Audland | Cllr H Hodgson |
| Cllr L Baker | Cllr N Hughes |
| Cllr J Battye | Cllr V Hughes |
| Cllr S Bavin | Cllr A Husband |
| Cllr P Bell | Cllr A Jama (Vice-Chair) |
| Cllr T Biggins | Cllr A Jarvis |
| Cllr J Boak | Cllr D Jones |
| Cllr M Brereton | Cllr H Ladhams |
| Cllr D Brook | Cllr N McCall |
| 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 Derbyshire | Cllr B Shirley |
| Cllr P Dew | Cllr G Simpkins |
| Cllr P Dixon | Cllr D Taylor |
| Cllr J Drake | Cllr V Taylor |
| Cllr D Edwards | Cllr P Thornton |
| Cllr P Endsor | Cllr R Worthington |
| Cllr S Evans | |

Also in Attendance:

| | |
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| Mrs J Currie | Democratic Services |
| Ms P Duke | Director of Resources (Section 151 Officer) |
| Mrs C Elwood | Interim Monitoring Officer |

63 ROLL CALL AND APOLOGIES FOR ABSENCE

Apologies for absence were received from Cllrs Archibald, Cornthwaite, Filmore, Hall, Hamilton, Hennessy, Irving, McEwan, and Thomson.

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64 DECLARATIONS OF INTEREST/DISPENSATIONS

There were no declarations of interest made on this occasion.

65 EXCLUSION OF PRESS AND PUBLIC

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

66 MINUTES OF PREVIOUS MEETING

RESOLVED, that the minutes of the previous meeting held on 19 December 2022 be agreed with the following amendments:

On Minute No 59 – Adoption of Westmorland and Furness Council Plan the last paragraph on Page 11 change the letters VGA to read Gross Value Added.

On Minute 61 page 13 para 3 - after the words Cllr Dew add the words 'referred to the recent Cabinet meeting and' asked the Leader ... a significant number of staff who had not been told'.

Change the final paragraph to read 'He also asked about the budget gap of £19m and if any cuts in services were anticipated to fund this'.

67 PUBLIC PARTICIPATION

Mr John Hall attended the meeting to speak about available housing stock and the high number of Air BnB landlords in the areas.

He spoke to say the high preponderance of Air BnB/holiday lets was causing an enormous drain on the available housing stock in Ulverston and South Cumbria.

Occupied flats and houses were being cleared by landlords seeking a high return from visitors. In some cases vulnerable families with young children had lost their homes and found themselves reliant on the safety nets provided by an already stretched support service.

When places came up for sale they were sold instantly, and left empty. Currently, in Ulverston he was aware of 102 Air BnB properties, including a cluster of properties owned by a single 'out of town' landlord.

Among the victims of this were the very people who made Ulverston attractive to visitors; young people working in the service industries, living with their parents, sharing or couch surfing.

This was both a local and national issue, and some regions had acted in response to concern. He asked whether Westmorland and Furness Council recognised that the region's young people and its most vulnerable families were being priced out, driven away and even made homeless by Air BnB landlords and others exploiting the regulations on second homes, and whether it would consult with local people to make the region less attractive to those only wishing to exploit those attractions at the expense of those who provide them.

The Chair thanked Mr Hall for his question and asked the Cabinet Member for Housing and Homelessness to respond.

The Cabinet Member also thanked Mr Hall and read out the following response.

'The Council was acutely aware of the issues arising in relation to the number of second and holiday homes particularly in the South Lakeland and Eden District area. The negative impact on housing supply, price and labour supply was something the Council wanted to address with a number of actions already underway as part of existing Councils work as well as key high level commitments in the Council Plan.

She indicated that, tackling the impact of second home was one of the key parts of the Council's budget consultation and community views had been sought on the introduction of a 100% Council Tax increase on the area's 5,440 second homes, which would double the amount that homeowners would pay from April 2024 and generate significant additional income to help the Council deliver its priorities for the area and provide additional assistance to communities most affected by second home ownership.

In addition Westmorland and Furness Council would continue the work of SLDC to deliver 1000 homes for rent and 650 homes to buy during the period 2014 to 2025 and would continue to work with developers and housing associations to identify suitable sites for affordable housing and to enable the delivery of these homes and to deliver affordable housing across the Westmorland and Furness area, and where possible to ensure that local occupancy was a condition.

South Lakeland Council also currently provided grant funding to make up funding gaps to deliver more affordable homes to housing

associations and also worked with community led housing groups. The Council supported a number of Community Led Housing Trusts and supported newly forming Community Led Housing Trusts with grant funding to meet the housing needs of local communities.

The working relationships with the Lake District National Park Authority would continue and they had been lobbying the Government to change planning law which if successful would require a planning application to change use of a home following change of ownership from a first to a second home. Written evidence was submitted on behalf of the partnership to the Public Bill Committee and it was hoped that if successful that this would prevent the loss of further homes into the second homes market.

Nationally, there had been a consultation on short term holiday lets which closed in Autumn 2022 to both understand the benefits and the challenges of them as there had been a reported surge in numbers, but as the Air BNB industry in particular was unregulated, the level of Air BNBs was quite difficult to measure effectively. Westmorland and Furness Council awaited the outcomes of this consultation and what that would mean for more effective regulation of short term holiday lets.

The Cabinet Member also offered Mr Hall an opportunity to meet up outside of the meeting to discuss this further together with a written response if that would be helpful. Mr Hall thanked the Cabinet Member and advised he would be in touch to arrange a meeting.

68 ANNOUNCEMENTS

The Leader of the Council announced that there was only 10 weeks left until vesting day for the new Westmorland and Furness Council.

The Leader of the Conservatives made an announcement about the sad passing of one of County Councillors - Mr Arthur Lamb. Councillors passed on their thoughts and heartfelt condolences to his family and friends.

The Cabinet Member for Finance briefed members on the recently launched Westmorland and Furness Council Tax Consultation.

69 WESTMORLAND AND FURNESS COUNCIL - CONSTITUTION

Before this item was considered the Chair stated that members should have received a short supplementary report which dealt with amendments to the Terms of Reference to the Pensions Committees and also a minor amendment to the Terms of Reference the Local Area Planning Committees for clarification on non-residential development matters.

He took the opportunity to thank all members of the Constitution Review Group for the time and effort they had extended to ensure this Council had an agreed Constitution before vesting day. This had been a monumental task and their efforts were appreciated.

It had also been agreed with the three main Group Leaders that in accordance with the process set out at paragraph 3.8 of the report any amendments which members would like to see to this initial draft of the Constitution would be noted today and referred on to the Constitution Review Working Group for further consideration and a report back to the March meeting of the Shadow Authority.

It was important that an initial draft was in place so that members understood the Committee structure and work could continue on the Members Allowance Scheme, the calendar and induction. In practice it was quite difficult to amend such a lengthy and complex document from the floor as there may be various implications which need to be considered.

The Monitoring Officer had asked for any amendments from Groups to be submitted in writing and this had been circulated and copies were on the desks in front of members today.

The Chair closed by informing members that Mr Phil McCourt from the external solicitors who were commissioned to draft a new Constitution was in attendance to assist with any issues which may arise.

The Interim Monitoring Officer then presented a report which recommended a Constitution for the new Westmorland and Furness Council to take effect from vesting day on 1 April 2023.

At the inaugural meeting of the Westmorland and Furness Shadow Authority on 17 May 2022 members approved a Constitution for the Shadow period, on the understanding that this was a different document to that required by the new Unitary Council post vesting day when a new Constitution would be required to cover all functions and services to be delivered by the new authority.

In recognition of the need to prepare a new Constitution to take effect from April 2023, the meeting also approved the creation of a cross party Constitution Review Group to assist with the preparation of document and this has now met on a number of occasions. The Interim Monitoring Officer had also been assisted by external solicitors, Bevan Brittan LLP, as well as by Members and officers of the sovereign local authorities, to consider, draft and review the initial documentation.

Over this period a cross party Member Constitution Review Working Group has been established and held four meetings, alongside which the Informal Cabinet and relevant portfolio holders have had input into

the process and the Overview and Scrutiny Committee has had the opportunity to make recommendations as to the appropriate Overview and Scrutiny structure. As a result, the first draft of the Constitution was consulted upon and amended in order to reflect the committee structure and processes which the new Council wishes to adopt going forward. An all Member Briefing to explain the broad outline of the contents of the Constitution was held on the 11 January 2023 and will continue on 19 January 2023.

The Constitution was a lengthy and complex document. There had been considerable consultation as to its contents at both officer and member level but, given the pace of change and a certain level of uncertainty regarding structures and processes before and following adoption, vesting day and the Annual Meeting, there were likely to be a number of insertions, additions and amendments required to be made to the Constitution, for which delegated power for the Monitoring Officer to make was sought.

The Monitoring Officer took members through the report which contained detail on the following:-

- The proposed sections contained in the Constitution
- The Leader and Cabinet Governance
- The Council Committee Structure, specifically detailing the Pensions Committee, Strategic Planning Committee, Local Area Planning and Locality Boards
- Codes and Protocols
- Local Choice Functions and Statutory and Proper Officers

The Monitoring Officer said there would be a workshop held in the near future to look at Local Choice Functions in more detail.

The Leader then moved the recommendations, including the additional one contained in the supplementary report and these were seconded by Cllr D Brook.

Cllr Dew thanked the Monitoring Officer for the very informative briefing session that took place recently, and the quick response to the suggestions made re locality boards. He asked for clarification on a number of points.

Firstly, whether the Highways and Transport Strategic Board would be authorised to enter into agreements with operators for financial support to public transport operators, as this would be a departure from the current practice at Cumbria County Council.

The Leader replied to say that this had been scripted to allow for this to be considered in future should the need arise.

Secondly, Cllr Dew asked about the number of members that would be on each Local Area Planning Committee and the Monitoring Officer replied to say this was still to be decided but would be decided based on local political proportionality rules.

Cllr Dew asked about Part 3 Council Procedure Rules Section 11.1 and the reference to members having the ability to ask questions on reports of the Cabinet and Committees. How would this be done as up to date none of the minutes of Cabinet have been to full Council. The Leader responded to say this was still under consideration.

Cllr D Taylor said it was vitally important that the Council had a clear constitution from the start to allow for decision to be taken quickly and efficiently. However, he had concerns about his ward of Dalton in Furness was not recognised as a major town and not included in Paragraph 1.2 of the Introduction to the Constitution. He asked that this be passed to the Constitution Review Working group for consideration.

Cllr Shirley wanted to be certain that locally elected members would be making decisions on licensing in the districts, as the wording in the Constitution could be interpreted differently.

The Interim Monitoring Officer explained the reasons for the number of members on the Licensing and Licensing and Regulation Committees and how this would work in practice.

Cllr Shirley asked for clarification on the need for all members to vote in favour of the recommendations. Mr McCourt provided the explanation that a member may abstain but may not vote against the recommendation for it to be validly carried.

The Leader said the Cabinet had aspirations to devolve decision making to localities going forward, but not at that stage yet.

Cllr Robinson asked whether there was any intention of each committee having reserve members, and the Interim Monitoring Officer confirmed that reserve members would be appointed where necessary.

A vote then took place on each individual recommendation, all of which were agreed unanimously.

RESOLVED, that the Shadow Authority:

- (1) approves the draft Constitution for Westmorland and Furness Council (attached as Appendix A) to take effect from 1 April 2023
- (2) notes and approves that different provision is made from political balance requirements by the following arrangements:

- (a) that the membership of each Local Area Planning Committee will be proportionate to the balance of membership of political groups within the defined areas; and
 - (b) that Sub-Committees of the Regulatory Committee (hearing panels) will consist of between three and five members of the Committee to be appointed from time to time by the proper officer, which shall be arranged to consist of members of more than one political group where the proper officer considers it practicable to do so but which shall otherwise not be subject to political balance;
- (3) notes that the draft Constitution necessarily contains structures, processes or areas to be finalised, including detail to be inserted, and accordingly authorises the Monitoring Officer to make consequential and minor amendments to the Constitution once approved.
- (4) requests that the Constitution Member Working Group continue to review the Constitution throughout this period, noting the continuation of the Working Group as a function of the future Standards and Governance Committee and the intention of the current Working Group to keep the Constitution under review throughout the new municipal year to ensure it reflects the requirements of the new authority;
- (5) that any proposals to amend or review the first draft of the Constitution are referred to the Constitution Member Working Group to consider and report back to the next meeting of the Shadow Authority in March 2023;
- (6) approves the Terms of Reference set out at Appendices 1 and 2 of the supplementary report to form part of the draft Constitution to take effect from 1 April 2023.

**70 COUNCIL TAX REDUCTION SCHEME AND WAR PENSIONS
DISREGARD (Housing Benefit Local Scheme)**

The Cabinet Member for Finance presented a report which asked Council to approve a new single Council Tax Reduction Scheme for 2023/24 for Westmorland and Furness Council in accordance with Schedule 1A (3) of the Local Government Finance Act 1992.

The scheme would be a single, unified Council Tax Reduction with effect from 1st April 2023.

Each year all Councils were required to review their Council Tax Reduction (CTR) Scheme in accordance with the requirements of the schedule 1A(3) of the Local Government Finance Act 1992 and to either maintain the scheme or replace it.

In the case of Westmorland and Furness Council, as it was a new unitary, there was a requirement to agree a scheme which covered the whole of the new Council's area and replaced the schemes previously operated by the former districts and borough.

Effectively the Council Tax Reduction scheme was in two 'parts', working age and pension age. The new unitary Council does not need to make any decision in relation to pension age applicants as that scheme was prescribed by Government and operated by all English authorities in a similar way.

As with all of authorities, the Council needed to adopt a CTR scheme for working age applicants. However, unlike most authorities, the formation of the new Council from the existing districts and borough meant that a single scheme needed to be agreed which would be implemented across the whole of the Westmorland and Furness area.

The Cabinet Member took members through the background and proposals contained in the report and then moved the recommendations, which were seconded by Cllr Brook.

Cllr Dew commented that although the report indicated there was a high degree of support for the proposals when reading the responses in the appendix he did not feel this read like a great deal of support for the proposals.

Cllr Carrick referred to the consultation responses on Universal Credit and asked the Cabinet Member if he thought this approach would be effective in achieving the aim to support those who most needed it.

The Cabinet Member responded to say that although the Council currently had a number of different policies for dealing with Universal Credit he felt that one policy would be the most effective way. However, he reassured members that any changes in policy would be presented to Council before agreed.

Upon conclusion of the debate, and having been moved and seconded the recommendations were put to a vote, which was unanimous.

RESOLVED, that Shadow Council

- (1) approves a new single Council Tax Reduction Scheme for 2023/24 for Westmorland and Furness Council, as outlined in this report, in accordance with Schedule 1A(3) of the Local Government Finance Act 1992;

- (2) approves the 100% voluntary disregard is applicable under the scheme of War Disablement Pensions, War Widows Pensions and War Widowers' Pensions, under Section 134(8) and 139(6) of the Social Security Administration Act 1992.

71 CUMBRIA PENSION FUND - DELEGATION OF SPECIFIC PENSIONS' ADMINISTRATION FUNCTIONS ("Discharge of Functions") TO LANCASHIRE COUNTY COUNCIL

The Council considered a report from the Director of Resources (Section 151 Officer) which asked the Shadow Authority Council to approve the delegation of specific pensions' administration functions to Lancashire County Council (LCC) to help facilitate the safe and legal transition of Administering Authority responsibilities for Cumbria Local Government Pension Scheme from Cumbria County Council to Westmorland and Furness Council along with administration responsibilities relating to the legacy Teachers' Compensation Scheme.

The matter was considered by the Shadow Authority Cabinet at its meeting on 11 November 2022. At that meeting Cabinet agreed to recommend to the Shadow Authority Council that it approved the discharge of functions to LCC.

The discharge of functions arrangement required the approval of both Councils (i.e. both LCC and this Council). At its meeting on 15 December 2022 LCC considered and agreed the delegation of the pension fund administration function of Westmorland and Furness Council to Lancashire County Council pursuant to section 101 of the Local Government Act 1972 subject to the council entering into appropriate legal agreements with the parties.

It was anticipated that, once the aforementioned national changes to regulations and other key changes were embedded, the arrangement would be reviewed.

Ensuring the appropriate provision of pensions' administration was a crucial and substantial part of the role of the Administering Authority of a Local Government Pension Scheme (LGPS) Fund.

LGPS administration services included the payment of pension benefits (in Cumbria this included monthly payments to over 18,000 pensioners and dependents); managing employer data (of which there currently were 130 in Cumbria); and maintaining detailed pension records (for over 60,000 scheme members in Cumbria). As such the continued safe and legal delivery of pensions' administration services was a vital part of Westmorland and Furness Council's responsibilities as Administering Authority for Cumbria Pension Fund.

The current arrangement between CCC and LCC could not be "novated" from 1 April 2023. This meant that the arrangement would come to an

end on 31 March 2023 and alternative arrangements for the provision of pensions' administration would need to be in place from that point onwards.

Cllr Thornton moved the recommendations and these were seconded by Cllr N Hughes. This was then put to a vote which was unanimous.

RESOLVED, that the Shadow Authority:-

- (1) Agrees the recommendation by the Westmorland & Furness Shadow Cabinet that it approve the delegation of the specified pensions' administration functions ("discharge of functions") to Lancashire County Council pursuant to section 101 of the Local Government Act 1972, subject to the council entering into appropriate legal agreements with the parties. These arrangements include the discharge of pension administration functions relating to the Local Government Pension Scheme and the Teachers' Compensation Scheme.
- (2) Agrees that the Director of Resources (s151 Officer) be authorised to agree the final legal agreements on behalf of Westmorland & Furness Council.

72 STANDARDS COMMITTEE - APPOINTMENT OF INDEPENDENT PERSON

The Chair of the Standards Committee presented a report which updated councillors on the recruitment process to recruit a second candidate to the role and sets out the recommendation from the Standards Committee to make a formal appointment for an initial period of two years.

At the full Council meeting of the Shadow Authority on the 17 May 2022 Councillors approved that Monitoring Officers be authorised to initiate a recruitment process to enable the Shadow Authority to appoint an Independent Person and following the meeting the vacancy was advertised on the Shadow Authority website and also in the local media.

Shadow Council had previously appointed one Independent Person and this report was to seek approval to appoint a second person to this role.

Three applications were received for the role and members of the Standards Committee interviewed two applicants (one had subsequently withdrawn) on 9 January 2023.

The Standards Committee was recommending the appointment of Mr David Tweddle, who was one of the existing Independent Persons at both Eden and South Lakeland Councils and at the Lake District National Park Authority for an initial fixed term period of 2 years.

The Committee were also very impressed with the calibre of the second candidate, and although it was not clear at this stage whether the Authority would have the workload to justify appointing a third Independent Person, approval was sought to approach the candidate at a future date, if needed.

The recommendation was proposed by Councillor Ladhams and seconded by Councillor Clark and put to a vote, which was unanimous.

RESOLVED, that the Shadow Authority

- (1) approves the appointment of Mr David Tweddle as the Independent Person under section 28 (7) of the Localism Act 2011 for an initial fixed term of 2 years;
- (2) authorises the Monitoring Officer to approach the second candidate the Committee interviewed at a future date, should it be apparent that it would be beneficial to the authority to have a third Independent Person assisting the Standards Committee, and to report back to Members on any recommended appointment.

73 QUESTIONS BY MEMBERS

There had been no written questions submitted to this meeting.

Cllr Brereton asked the Cabinet Member for Highways and Assets for an update on the current situation regarding the replacement of Windermere Ferry.

The Cabinet Member replied to say that the decision on the replacement of the Windermere Ferry was currently for the County Council to take and not Westmorland and Furness. However, he assured Cllr Brereton that this Council would have an efficient and effective ferry service going forward.

Cllr Dew commented that the Shadow Cabinet had met on 13 January, 2023, and received an LGR update but there was no report on the agenda today about the Draft Budget and Medium Term Financial Plan for 2023/24. He asked about the expenditure/income detailed in the recent Council Tax Consultation, and whether this reflected the current situation.

The Cabinet Member for Finance responded to say work was still taking place on drafting the first budget, and it was scheduled to go to Cabinet at the end of February. It was hoped that briefings would be arranged for all the political groups in advance of this. He confirmed that unfortunately the plan was to increase council tax again this year, partly due to the way the Government funded adult social care.

Cllr Shirley asked the Cabinet Member for Finance what would legally define a second home and whether this council was open-minded to locality boards defining what constitutes a second home?

The Cabinet Member replied to say that the definition of a second home was included in the levelling up bid currently going through Parliament, and would be known once this was agreed. Currently there were different second homes policies between the districts of Westmorland and Furness and although it was unlikely the decision on the policy would be taken at the Locality Boards it was important to have a scheme/s that worked.

Cllr Phillips asked the Leader whether the new authority would consider becoming an armed forces employer and would sign up to the Armed Forces Covenant.

The Leader responded to say he would provide a written reply to this.

Cllr Burns reminded members about a motion passed by this council referencing 'protected characteristics' and asked the Cabinet Member for Children's Services, Education and Skills to ensure this was not forgotten during budget discussions re Council Tax.

The Cabinet Member replied to say that it would be very important to keep this at the forefront of all budget decisions.

Cllr Cooper commented that anti-social behaviour in Ulverston and crimes carried out in rural areas were on the increase. He asked the Leader of the Council if he would ensure that Westmorland and Furness Council was engaged in the Safer Streets Funding initiative in order to obtain future funding for these.

The Leader responded to say that he would be looking at all funding opportunities made available to Westmorland and Furness Council. He had already engaged with the Chief Constable and recognised the concerns raised about the increase in rural crime.

74 NOTICE OF MOTION

None for this meeting.

75 URGENT ITEMS

None for this meeting.

The meeting ended at 3.25 pm