

CUMBERLAND JOINT COMMITTEE

Meeting date: 30 March 2022

Report of: Linda Fisher –Technical Lead Legal and Democratic Work Stream and Monitoring Officer (South Lakeland District Council)

Subject: Joint Committee Terms of Reference and Procedural Rules

1.0 SUMMARY:

- 1.1 This report attaches the Procedural Rules incorporating the agreed Terms of Reference in relation to the operation of the Cumberland Joint Committee.
- 1.2 The purpose of these is to ensure that there are clear rules around the operation and conduct of the Joint Committee so that Members are able to consider and determine matters in an effective way.
- 1.3 The key elements included in the documents reflect those proposed for the Westmorland and Furness Joint Committee.

2.0 RECOMMENDATION:

- 2.1 **That Members endorse the Procedural Rules which incorporate the Terms of Reference as agreed by sovereign Councils for the Cumberland Joint Committee.**

3.0 BACKGROUND, INTRODUCTION AND CONSIDERATIONS:

- 3.1 Members are aware that local government in Cumbria is being reorganised into two Unitary Councils.
- 3.2 The Cumbria (Structural Changes) Order 2022 came into force on 18 March 2022. This requires the establishment of two Joint Committee one for the Cumberland area and one for the Westmorland and Furness area.
- 3.3 Terms of Reference for the Joint Committees have been agreed by the sovereign Councils, based on the content of the Structural Changes Order, and are incorporated into the attached Procedural Rules which have been prepared by the Cumbrian Monitoring Officers.

4.0 OPTIONS, INCLUDING ALTERNATIVES (IF ANY)

- 4.1 Members are asked to note the Terms of Reference and endorse the Procedure Rules.
- 4.2 The Terms of Reference have already been agreed by the sovereign Councils and, as such, Members of the Joint Committee are only required to note the same.

5.0 IMPLICATIONS:

5.1 Financial and Procurement:

There are no direct financial implications in noting the procedures and terms of reference.

5.2 Staffing:

The Committee will be resourced through arrangements between the Cumberland Council district resources.

5.3 Legal:

The Joint Committee is the joint committee for the purposes of The Cumbria (Structural Changes) Order 2022 with terms of reference as agreed through the respective councils.

5.4 Information Governance:

There are no direct information governance implications in noting the procedures and terms of reference.

6.0 HEALTH AND SUSTAINABILITY IMPACT:

6.1 There are no direct health and sustainability implications associated with this report.

7.0 EQUALITY AND DIVERSITY IMPACT:

7.1 There are no direct equality and diversity implications associated with this report.

8.0 RISKS:

8.1 The risk of not approving the Procedure Rules is that the business which needs to be transacted by the Joint Committee is not carried out in time for the first meeting of the Shadow Authority for Cumberland Council.

9.0 CONCLUSION:

9.1 Members of the Cumberland Joint Committee are recommended to endorse the Procedural Rules which incorporate the Terms of Reference as agreed by sovereign councils.

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APPENDICES

Appendix 1 - Procedural Rules including Terms of Reference for Cumberland Joint Committee

CUMBERLAND JOINT COMMITTEE – PROCEDURE RULES

1.0 Purpose

- 1.1 The purpose of the Joint Committee ('JC') is to bring together local authority partners in a robust, formally constituted arrangement for the purposes of duties in accordance with The Cumbria (Structural Changes) Order 2022 ("the 2022 Order").

2.0 Governance

- 2.1 The JC will be a Joint Committee pursuant to powers under the Local Government Acts 1972 and 2000 and under the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2012, and also for the purposes of The Cumbria (Structural Changes) Order 2022.
- 2.2 The JC will comprise of twelve persons in accordance with the 2022 Order. Any reference to 'executive', 'executive arrangements', 'executive function' or 'committee system' has the meaning given by Part 1A of the Local Government Act 2000.
- 2.3 The JC may establish sub-committees or advisory groups, to undertake elements of its work, if required.
- 2.4 Each constituent authority operating executive arrangements will be responsible for considering whether it is necessary [in order to comply with Access to Information legislation regarding the publication of agendas including Forward Plan requirements] to treat prospective decisions as 'key decisions' and/ or have them included in their Forward Plan.

3.0 Remit

- 3.1 The terms of reference of JC are:

Cumberland Joint Committee – Terms of Reference

1. The formation of an Implementation Team to assist the Joint Committee and if required the Shadow Authority in the discharge of its functions.
2. To prepare, keep under review, receive updates on progress and revise as necessary the Implementation Plan.
 - i. This to include such plans and timetables as are in the opinion of the Joint Committee necessary to secure the effective, efficient and timely discharge of such of its functions, property, rights and liabilities as relate to Westmorland and Furness and its inhabitants.
 - ii. To agree budgets and plans as are considered necessary or desirable to facilitate the economic, effective, efficient and timely discharge on and after the 1 April 2023 of the functions of the Westmorland and Furness Councils.
3. Preparing for and facilitating the economic, effective, efficient and timely transfer to the new Councils of functions, property, rights and liabilities.

4. To consider and recommend a Members Code of Conduct to be adopted by the Shadow Authority at its inaugural Full Council meeting.
5. To agree the process for an independent review of a scheme of Members Allowances for the Shadow Authority, including the setting up of an Independent Remuneration Panel and to recommend to the Shadow Authority a scheme of Members Allowances for adoption at its inaugural meeting.
6. To consider and recommend a Constitution and schemes of delegation to be adopted by the Shadow Authority at its inaugural full Council meeting.
7. To agree and undertake the recruitment process for the selection of the posts of Interim Head of Paid Service, Interim Chief Finance Officer (Section 151 Officer) and Interim Monitoring Officer for the Shadow Authority and recommend to the Shadow Authority at its inaugural meeting nominations for the three interim statutory Officers
8. To establish and propose a Calendar of Meetings for the Shadow Council for adoption at its inaugural meeting
9. To Manage the transition to the Shadow Authority under the Structural Changes Order.
10. To oversee the smooth transition of all matters Civic and Ceremonial
11. The Joint Committee must have regard to:
 - (a) The information supplied to the Secretary of State
 - (b) Sections 27 and 28 of the Localism Act 2011 in formulating proposals for the codes of conduct to be adopted by the Shadow Authorities.

4.0 Membership

- 4.1 Membership is as set out in the 2022 Order and consists of three persons nominated by the county council, each of whom is for the time being a member of that council for an electoral division whose area is within the Cumberland/Westmorland and Furness districts; and nine persons nominated by the Cumberland/Westmorland and Furness Councils (with each Cumberland/Westmorland and Furness council nominating three persons), each of whom is for the time being a member of the nominating council. ("Principal Members")
- 4.2 In the event of any principal member of the JC ceasing to be a member of the constituent authority which appointed them, the relevant constituent authority shall as soon as reasonably practicable appoint another principal member in their place.
- 4.3 Each constituent authority may remove its principal members and appoint different members as per that authority's rules and by providing twenty-four hours' notice to the Secretary.

5.0 Quorum

5.1 The quorum shall be four which shall not include any requirement that each of the principal authorities be represented. No business will be transacted at a meeting unless a quorum exists at the beginning of a meeting. If at the beginning of any meeting, the Chair or Secretary after counting the members present declares that a quorum is not present, the meeting shall stand adjourned.

6.0 Chair and Vice Chair

6.1 The chair of the JC will be appointed at the first meeting of the Joint Committee from amongst its members. The Chair or in their absence the Vice Chair (if one is appointed) shall preside at any meeting of the JC.

6.2 Where, at any meeting or part of a meeting of the JC both the Chair and Vice Chair (if appointed) are either absent or unable to act as Chair or Vice Chair, the JC shall elect one of the principal members of the JC present at the meeting to preside for the meeting or part of the meeting, as appropriate.

7.0 Voting

7.1 The JC's decision making will operate on the basis of mutual co-operation and consent. Where a formal vote is required it shall be one vote each made by the principal members for each constituent authority.

7.2 All questions shall be decided by a majority of the votes of the members present, the member presiding over the meeting having the casting vote in addition to their vote as a member of the Committee. Voting at meetings shall be by show of hands or by an electronic system of voting where available.

7.3 Where immediately after a vote is taken at a meeting, if any member so requests, there shall be recorded in the minutes of the proceedings of that meeting whether each person cast their vote for or against the matter or whether they abstained from voting.

8.0 Hosting, Administration and Lead Authority

8.1 The JC will be hosted by Carlisle City Council, with the host authority's Monitoring Officer being the Secretary to the Board ('the Secretary' which shall act as legal adviser to the JC (the position may be taken by a representative on their behalf). The Host Authority will also identify representatives to provide relevant financial, governance and legal advice to the JC. The historic official records of the JC will pass to each host authority. The administrative costs of supporting the JC will be met equally by the constituent authorities, with each authority being responsible for receiving and paying any travel or subsistence claims from its own members, or co-opted members representing that area.

8.2 For the avoidance of doubt, the Monitoring Officer of the host authority shall be 'Proper Officer' for the purposes of publishing the agendas, background papers and recording decisions and shall also perform the following functions as Secretary to the JC:-

- (a) to maintain a record of membership of the JC and any sub-committees or advisory groups appointed;
- (b) to summon meetings of the JC or any sub-committees or advisory groups;

- (c) to prepare and send out the agenda for meetings of the JC or any subcommittees or advisory groups; in consultation with the Chairman and the Vice Chairman of the Board (or sub-committee/ advisory group);
- (d) to keep a record of the proceedings of the JC or any sub-committees or advisory groups, including those in attendance, declarations of interests and to publish the minutes;
- (e) to take such administrative action as may be necessary to give effect to decisions of the JC or any sub-committees or advisory groups, and;
- (f) to perform such other functions as may be determined by the JC from time to time.

9.0 Meetings

- 9.1 The JC will meet as required, with an outline schedule being agreed at its first meeting.
- 9.2 Meetings will be held at such times, dates and places as may be notified to the members of the JC by the Secretary, being such time, place and location as the JC shall from time to time resolve. Meeting papers will be circulated five clear working days in advance of any meeting.
- 9.3 The Secretary shall settle the agenda for any meeting of the JC after consulting, where practicable, the Chair or in their absence the Vice Chair (if one is appointed); and shall incorporate in the agenda any items of business and any reports submitted by:
- (a) the Chief Executive of any of the constituent authorities;
 - (b) the officers responsible for legal, governance, finance and economic development at any of the constituent authorities;
 - (c) any Member of the JC.
- 9.4 The JC shall, unless the person presiding at the meeting or the JC determines otherwise in respect of that meeting, conduct its business in accordance with these procedure rules.

10.0 Access to Information

- 10.1 Meetings of the JC will be held in public except where confidential or exempt information, as defined in the Local Government Act 1972, is being discussed. Only members of the JC and relevant advising officers from the constituent authorities and any person referred to in paragraph 11.2 below, will be permitted to be present for such items.
- 10.2 These rules do not affect any more specific rights to information contained elsewhere under the law.
- 10.3 The Secretary will ensure that the relevant legislation relating to access to information is complied with. Each constituent authority is to co-operate with the Secretary in fulfilling any requirements.
- 10.4 Any Freedom of Information Act requests received by the JC should be directed to the relevant constituent authority for that authority to deal with in the usual way, taking account of the relevant legislation. Where the request relates to information held by two or more constituent authorities, they will liaise with each other before replying to the request.

11.0 Attendance at meetings

- 11.1 The Chair may invite any person, whether a member or officer of one of the constituent authorities or a third party, to attend the meeting and speak on any matter before the JC.
- 11.2 Where agenda items require independent experts or speakers, the officer or authority proposing the agenda item should indicate this to the Secretary and provide the Secretary with details of who is required to attend and in what capacity. The participation of independent experts or speakers in JC meetings will be subject to the discretion of the Chair.

12.0 Order of Business

- 12.1 Subject to paragraph 12.2, the order of business at each meeting of the JC will be:
- i. Apologies for absence
 - ii. Declarations of interests
 - iii. Approve as a correct record and sign the minutes of the last meeting
 - iv. Matters set out in the agenda for the meeting which will clearly indicate which are key decisions and which are not and which items are subject to 'call in'.
 - v. Matters on the agenda for the meeting which, in the opinion of the Secretary are likely to be considered in the absence of the press and public.
- 12.2 The person presiding at the meeting may vary the order of business at the meeting.

13.0 Codes of Conduct and Disclosable Pecuniary Interests

- 13.1 Principal members of the JC are governed by the provisions of their own Council's Codes and Protocols including the code of conduct for members and the rules on Disclosable Pecuniary Interests.

14.0 Minutes

- 14.1 There will be no discussion or motion made in respect of the minutes, except as to their accuracy. If no such question is raised or if it is raised then as soon as it has been disposed of, the Chairman shall sign the minutes.

15.0 Role of the Chair

- 15.1 A Member wishing to speak shall address the Chair and direct their comments to the question being discussed. The Chair shall decide the order in which to take representations from members wishing to speak and shall decide all questions of order. Their ruling upon all such questions or upon matters arising in debate shall be final and shall not be open to discussion.
- 15.2 The Chair shall have the discretion to regulate the behaviour of all individuals present at the meeting in the interests of the efficient conduct of the meeting, including excluding members of the press and public in the event of a disturbance.

16.0 Motions / Amendments

- 16.1 A motion or amendment shall not be discussed unless it has been proposed and seconded.

When a motion is under debate no other motion shall be moved except the following:

- i. To amend the motion
- ii. To adjourn the meeting
- iii. To adjourn the debate or consideration of the item.
- iv. To proceed to the next business
- v. That the question now be put
- vi. That a member be not further heard or do leave the meeting
- vii. To exclude the press and public under Section 100A of the Local Government Act 1972.

17.0 Application to Sub-Committees

17.1 These procedure rules shall apply to meetings of any sub-committees of the JC.

18.0 Dissolution of the JC

18.1 The JC will be dissolved on the day following that on which the Shadow Authority for Cumberland/Westmorland and Furness Council hosts its first meeting

19.0 Amendment of these Procedure Rules.

19.1 These Procedure Rules can only be amended by unanimous resolution of the JC, following the consideration of advice from the Monitoring Officers of each of the constituent authorities.