

# Shadow Dorset Council

**Committee:** Shadow Overview and Scrutiny Committee  
**Date:** Thursday, 3 January 2019  
**Time:** 9.30 am  
**Venue:** Committee Rooms A/B, South Walks House,  
South Walks Road, Dorchester, DT1 1EE

**Membership:**

T Jones (Chairman), C Brooks (Vice-Chair), S Bartlett, K Brookes, R Bryan, M Byatt, S Christopher, C Finch, S Gibson, B Goringe, N Lacey-Clarke, R Nowak, J Sewell, J Somper, J Tanner and M Wiggins

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**Chief Executive (Designate) for the Dorset Council: Matt Prosser**

For more information about this agenda please telephone Democratic Services on 01305 252209 or email [lwatson@dorset.gov.uk](mailto:lwatson@dorset.gov.uk)

For more information about the scrutiny items please telephone Lee Ellis (Scrutiny Officer) 01202 795251 or email [lellis@christchurchandeastdorset.gov.uk](mailto:lellis@christchurchandeastdorset.gov.uk)

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# **A G E N D A**

**Page No.**

## **1 APOLOGIES**

To receive any apologies for absence.

## **2 DECLARATIONS OF INTEREST**

Councillors are required to comply with the requirements of the Localism Act 2011 regarding disclosable pecuniary interests.

## **3 PUBLIC PARTICIPATION**

To receive any public questions or statements on the business of the Shadow Overview and Scrutiny Committee in accordance with the procedure rules as set out in the Shadow Dorset Council Constitution.

## **4 CALL TO ACCOUNT - TRANSFER OF ASSETS**

3 - 24

To undertake a Call to Account as agreed by the committee at the meeting on 7 November 2018.

## **5 URGENT ITEMS**

To consider any items of business which the Chairman has had prior notification and considers to be urgent pursuant to section 100B (4) b) of the Local Government Act 1972. The reason for the urgency shall be specified in the minutes.

# Shadow Dorset Council

Date of Meeting	Shadow Overview and Scrutiny Committee - 3 January 2019
Officer	Lee Ellis – Scrutiny Officer (Christchurch and East Dorset Council)
<b>Subject of Report</b>	<b>Call To Account – Transfer of Assets</b>
Executive Summary	To undertake a Call to Account as agreed by the Shadow Overview and Scrutiny Committee at the meeting on 7 November 2018.
	<p>Equalities Impact Assessment: Not Applicable</p> <p>Use of Evidence: Not Applicable</p> <p>Budget: Not Applicable</p> <p>Risk Assessment: Not Applicable</p> <p>Other Implications: Not Applicable</p>
Recommendation	<p>It is RECOMMENDED that the Shadow Overview and Scrutiny Committee either:-</p> <ol style="list-style-type: none"> <li>a. Agree with the evidence provided by Members and Officers during the Call to Account; or</li> <li>b. Do not agree with the evidence provided by Members and Officers during the Call To Account</li> <li>c. The recommendation of the Shadow Overview and Scrutiny Committee, along with the reasons for its recommendation will be forwarded to the next available meeting of the Shadow Executive Committee.</li> </ol>

Reason for Recommendation	To provide clarity on the decision of the Shadow Overview and Scrutiny Committee
Appendices	<p>Appendix 1 Extract from minutes of the Shadow Overview and Scrutiny Committee on 7 November 2018 with regard to the decision to undertake a Call to Account</p> <p>Appendix 2 Key lines of enquiry</p> <p>Appendix 3 Transfer of assets to town and parish councils principles agreed by the Shadow Executive Committee on 20 July 2018</p> <p>Appendix 4 Statement received from Councillors Keith Day, Dave Rickard and David Harris, Verwood Town Council and Bridport Town Council.</p>
Background Papers	Published Works
Officer Contact	<p>Name: Lee Ellis</p> <p>Tel: 01202 795251</p> <p>Email: <a href="mailto:lellis@christchurchandeastdorset.gov.uk">lellis@christchurchandeastdorset.gov.uk</a></p>

## 1. Call To Account – Transfer of Services and Assets

1.1 At the Shadow Overview and Scrutiny Committee on 7 November 2018, the committee considered a potential Call to Account in respect of issues around the transfer of services and assets. Following this discussion the committee resolved the following:

*“That a Call to Account with regard to the transfer of assets to town and parish councils be supported and considered at the next meeting of the committee in December. The Leader, relevant Portfolio Holders and Interim Monitoring Officer and S151 Officer to be asked to attend the meeting.”*

1.2 In accordance with the Shadow Dorset Council Constitution (Overview and Scrutiny Procedure Rules, paragraph 7 – Shadow Councillors and Officers giving account) the committee require the attendance of the Leader of the Shadow Dorset Council at this meeting, and any relevant Portfolio Holders in relation to property and assets, finance and communities, who have a relevant involvement in this subject.

1.3 The committee also request through the Chief Executive (Designate), the attendance of the Interim Monitoring Officer and Interim S151 Officer.

1.4 Notification of the meeting has been sent to all Shadow Dorset councillors, who are asked to liaise with their local town and parish councils as relevant.

1.5 The following documents are attached:

- Extract from minutes of the Shadow Overview and Scrutiny Committee on 7 November 2018 with regard to the decision to undertake a Call to Account
- Key lines of enquiry
- Transfer of assets to town and parish councils principles agreed by the Shadow Executive Committee on 20 July 2018
- Statement received from Councillors Keith Day, Dave Rickard and David Harris, Verwood Town Council and Bridport Town Council

1.6 Any further statements received following the publication of the agenda, will be circulated to members separately.

1.7 Following the evidence provided by Members and Officers, the Shadow Overview and Scrutiny Committee will need to decide the following:

- a. That they agree with the evidence provided by Members and Officers during the Call to Account; or
- b. That they do not agree with the evidence provided by Members and Officers during the Call To Account

1.8 The recommendation of the Shadow Overview and Scrutiny Committee, along with the reasons for its recommendation will be forwarded to the next available meeting of the Shadow Executive Committee.

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## **Extract of minutes of Shadow Overview and Scrutiny Committee – 7 November 2018**

### **Proposed Call to Account**

The Chairman introduced an item to ask the committee to consider a proposed Call to Account with regard to the decision of the Shadow Executive Committee on 17 September 2018 on the transfer of services and assets in West Dorset. If agreed, the Call to Account would be considered at a future meeting of the committee and the relevant people would be required to come to the meeting to provide information in respect of the decision taken.

Reference was made to the principles for the transfer of assets to town and parish councils, which had been agreed by the Shadow Executive Committee on 20 July 2018 and the amount of work that had been undertaken in West Dorset. The recommendations put forward by West Dorset District Council had been considered by the Shadow Executive Committee, but had not received support from the committee. A point was raised that when the Shadow Dorset Council came in to being there was a wish to empower people by enabling local communities to be in charge of their own assets. A report had subsequently been considered by West Dorset Full Council which sought to leave the door open for future discussions, within the principles agreed by the Shadow Council and which had received cross party support.

The Chairman noted that the purpose of the discussion at this meeting was to determine whether there was committee support to proceed with a Call to Account.

Members discussed the issues arising and during discussion the following points were raised:

- A lot of time and effort had been put into negotiations with town and parish councils in West Dorset and it was felt that the Council had been caught out by the principle that a proposal must not exceed £100k value
- A point was made that market towns should be treated differently, similar to the exception provided to Weymouth Town Council and Portland Town Council. The point was made that many councils had low tax bases
- It was felt that there was not a uniform process in place across the county
- In response to a point raised it was noted that there could be a need for clarification with regard to the £100k cap that had been put in place and whether this was per town or parish council or per individual asset, or whether it was in place for all transactions proposed by a district council
- A question was raised as to what action could be taken as a result of undertaking a Call to Account? It was noted that the committee could make recommendations to the Shadow Executive Committee

## Appendix 1

- The Interim Monitoring Officer noted that the Shadow Executive Committee had agreed a set of principles for this area. It was the view of the Shadow Executive Committee that the proposals put forward by West Dorset, did not fit with the agreed principles
- Clarification was sought as to whether the Call to Account related to the specific decision with regard to the transfer of assets and services in West Dorset or whether it was with regard to the wider issues with the consistent application and implementation of the principles?
- A point was raised that the decision made by the Shadow Executive Committee in September 2018 could mean that there were no transfers of assets or services and this could have implications for the councils relationship with town and parish councils
- It was noted that some transfers had been agreed, for example in Purbeck
- Reference was made to the recognition by the Shadow Executive Committee of the unique circumstances of Weymouth Town Council and Portland Town Council and that these were to be considered separately. It was noted that this was an amendment to the principles which had been agreed by the Shadow Executive Committee in order to recognise the unique circumstances in forming a new town council for Weymouth. A point was noted that Portland Town Council although already formed, had also been included
- The committee was reminded that they were here as Shadow councillors and the suggestion made that the issue was not so much to do with the specific West Dorset decision but instead with regard to exploring the suggested inconsistencies in how the agreed principles had previously been applied and would be applied in the future. The Call to Account, if agreed, could therefore seek to gain an understanding of the situation in terms of how the principles were applied and the perceived inconsistencies. It was suggested that the position in West Dorset was the case that had triggered the request to undertake a Call to Account
- Reference was made to work undertaken by the county council to devolve services
- A point was raised that it was felt that there were inconsistencies in how the principles were being applied with Weymouth and Portland being treated differently. The point was made that there were a significant number of market towns with low council tax bases which would have an impact. It was felt that the policy was not working to a fair degree and therefore should be subject to a Call to Account
- Clarification was provided in respect of the asset transfer agreed in Purbeck which was six car parking spaces for residential use with only a small amount of income attached

Following the discussion, it was proposed by T Jones seconded by J Sewell that a Call to Account with regard to the transfer of assets to town and parish councils be supported and considered at the next meeting of the committee in December. Members discussed the people who would be called to account and it was felt that this should include the Leader, relevant Portfolio Holders, the Interim Monitoring Officer and Interim S151 Officer.



**Decision**

That a Call to Account with regard to the transfer of assets to town and parish councils be supported and considered at the next meeting of the committee in December. The Leader, relevant Portfolio Holders and Interim Monitoring Officer and S151 Officer to be asked to attend the meeting.

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## Shadow Overview & Scrutiny Committee

### Draft Key Lines of Enquiry (KLoE's)

#### *Transfer of Assets*

“As the Shadow Executive Committee (SEC) have discussed, agreed and established these 9 key Principles....”:

- Who was consulted in the formulation and development of these principles and when?
- How will the SEC ensure a fair, objective and consistent application of the principles to decision making?
- How is the de minimis level of £100,000 to be applied i.e. to each individual asset, or a collection of assets if covered by a single resolution?
- Why is it considered necessary to apply '*unique circumstances*' to Weymouth & Portland Town Councils if the agreed 'principles' are considered to provide a fair and objective approach to transfer? ....and, therefore What principles does the SEC propose to apply to asset transfers to Weymouth & Portland?
- What is the relationship between principle (vii) and principle (viii)? Should principle (vii) be expressed to be without prejudice to principle (viii)?
- Why should Town & Parish Councils not expect to retain income to fund and maintain transferred assets going forwards?
- The Structural Change Order includes an obligation on predecessor councils to cooperate with the Shadow Authority. Under what circumstances would the SEC consider that the Secretary of State might be persuaded to issue a direction restricting the ability of predecessor councils to transfer assets?
- In respect of the decision of the SEC on 17 September 2018 concerning the proposed transfer of assets by West Dorset DC (*Min 52 refers*), what were the reasons why the SEC decided not to support the proposal?
- The Case for Change submitted as part of the proposals for the re-organisation of local government in Dorset refers to reorganisation offering the chance to enhance the relationships between councils, their members and the community (page 76) and to Dorset already being served by a network of town and parish councils, which provided a strong platform to follow the examples of the 2009 unitary authorities and introduce local area governance structures (page 78):
  - How does the SEC reconcile these statements with the principles on the transfer of assets?

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**Amended Transfer of Assets to Town and Parish Councils principles:**

- (i) All assets required for the delivery of Council services and those capable of generating income are transferred to the new unitary Dorset Council, **but the unique circumstances of Weymouth Town Council and Portland Town Council will be considered separately.**
- (ii) **Any resolution prior to 26 May 2018 by sovereign councils to dispose of an asset but not yet legally completed may continue unless it contradicts these principles.**
- (iii) Property held as public open space, community buildings, free car parks and public toilets can be considered for transfer to the appropriate town or parish council.
- (iv) Any transfer of assets will usually be by transfer of the freehold to a public or charitable body or via a long lease (25 years minimum). Transfer will also be dependent on an assessment of the capacity of the receiving authority/organisation to take on the asset.
- (v) Councils can consider asset transfer to community groups other than parish and town councils where appropriate and subject to the same assessment of the capacity of such groups but such transfers are considered to be lower priority because of timescales and capacity.
- (vi) Any transfer (other than by a lease) of open spaces will contain overage clauses that will retain the land for public use or, if the land is sold the new Dorset Council will receive a proportion of the proceeds from the sale.
- (vii) Where a Council has negotiated the devolution of a service to a town or parish council and asset is transferred to support the delivery of that service, there will be no financial loss to the new Dorset Council i.e. the transfer is cost neutral.
- (viii) No financial agreement will be made with a town or parish council, or other receiving body to support the maintenance and running of a transferred asset after 1 April 2019.
- (ix) Any asset transfer that could have a financial impact upon the new Dorset Council will be initially assessed by the interim Section 151 Officer and, if it has a significant financial impact, **or potential significant impact**, seek approval by the Shadow Executive. De minimis levels of £100,000 are proposed in order to avoid the process becoming unmanageable.

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Call To Account – Councillor Keith Day

For the attention of Members of the Shadow Dorset Council Overview and Scrutiny Committee. 06 December 2018

I would like to add the following two items to the information being considered regarding the ‘call to account’.

**Item 1. An attempt to obtain accurate information.**

*A brief outline/background.*

I am a County, District and Town Councillor for Bridport.

I have been and still am involved with the 'transfer of assets' saga which came to an abrupt stop at a Shadow Executive meeting on 17 September.

As this particularly involves Bridport and the enormous amount of work that has taken place to come to an agreement with WDDC, I felt it necessary to follow-up and establish why we had reached this point.

I had organised a ‘call-in’ petition regarding the decision – with a reasonable degree of support, but this was eventually rejected by the Shadow Monitoring Officer (Jonathan Mair).

It was unfortunate that I was not advised by Democratic Services or the Shadow Monitoring Officer that I could have applied for a ‘call to account’ in place of the ‘call-in’ – and saved several weeks.

*The ‘Problem’.*

On 17 October I visited Rebecca Knox in her office at DCC. It was an impromptu visit as I was speaking at another Committee meeting that afternoon. I asked why we had not been able to progress the ‘transfer of assets’ matter and was there another way forward?

I was told that Mr Stephen Hill (WDDC Strategic Director) had been told well in advance that the process he was following was not going to work and the way forward was to have it broken into smaller modules. Needless to say I was somewhat surprised at this statement and concerned that all the work undertaken so far – by so many – could have been avoided. Taking Rebecca at her word I said that I would raise the matter at the full District Council the following day.

*Consequence.*

At WDDC full Council on 18 October, I challenged Stephen Hill to explain Rebecca's comments. (This was following our party pre-meeting where it was accepted that I should voice my concern at full Council).

Stephen Hill refuted the allegations and said he would not have allowed so much work to continue - if he had known. (A stance he maintained after the meeting when I visited him in

his office). This public confrontation resulted in embarrassment to both Stephen Hill and myself.

*Follow-up.*

At this stage it was clear that the information given by Stephen Hill and Rebecca Knox could not be reconciled. I felt it necessary to get to the reality of the situation and consequently I wrote to Jonathan Mair the Shadow Monitoring Officer (in confidence) asking for his advice on how I should determine the facts.

After several prompts over about 10 days, Jonathan Mair still did not give me the advice I sought, but told me that the matter would be subject to a 'call to account'.

**Item 2. Shadow Executive Committee 17 Sept. – original decision making process.**

Assuming that Cllr Knox (as Leader) had already determined at the time of the Shadow Executive Committee meeting that there was a more acceptable approach than that suggested by WDDC, why was this alternative not recommended as part of the Shadow Executive Committee resolution - rather than simply 'not supporting' the proposals?

There appears to be a degree of ambivalence and inconsistency in the proceedings to date.

I do hope you will be able to achieve clarity. Not just for me, but for the Councils and all the people involved. Perhaps more importantly, to ensure that such occurrences are not repeated, thus preventing further damage to the trust between the Shadow Executive and sovereign councils in the lead up to the implementation of the new Dorset Council.

*Keith Day*



**Call To Account – Councillor Dave Rickard**

I wish the Call to Account to address the perfunctory manner with which the West Dorset Assets report was discussed and dealt with.

Much detailed work had been undertaken by officers and councillors to return appropriate public assets to the communities of origin to enable local services to be funded in perpetuity at a local level, thus satisfying key elements of the Local Communities Act.

The benefits of the transfers to local communities and recognising the benefits of removing the liabilities of those assets and services from the new Unitary Authority were completely ignored by the Scrutiny Committee and its Chair.

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### **Principles**

When I attended an early meeting discussing the principles for transfer to lower tier authorities it was stated very clearly that the unitary authority should not be taking on assets that did not contribute to its statutory functions. Functions that are clearly only applicable to a particular town or parish should be left to that particular town or parish.

In Weymouth we have a crematorium which clearly provides a need for a much wider area than Weymouth and so I would see this asset becoming one for the unitary council. I cannot see how the seafront hotels and b and b properties in Weymouth owned by the Borough Council, and Weymouth and Melcombe council before that, can be remotely seen as meeting these principles for transfer. I am not aware that it is a statutory responsibility for a unitary council to run sea front hotels. The only possible reason for these to be transferred is for their capital value as they are not likely to be included in any strategic development plans for the Borough pertinent to unitary business. However a town council may wish to change these assets into different assets for the benefit of the town, eg selling one property to provide different resources beneficial to the town's needs, such as quality toilets.

A slightly more controversial discussion might be held regarding the ownership of car parks. In the case for change it suggested that LGR offers the chance to enhance the relationship between councils, their members and the community with a strong platform of towns and parishes. The proposed asset transfer to Weymouth encourages us as a town to provide beautiful parks, gardens and open spaces, all of which cost money. It also allows us to provide events on the beach and other areas of Weymouth to help promote the town and encourage visitors. Getting road closures, clearing up the rubbish left by visitors, promoting the events all cost money, some of which are payments to the DWP and Dorset Council. Income from such events comes from tourists parking in the town, all of which presently would go to Dorset Council. If a growth of visitors stimulates the business community the rates from Businesses goes to Dorset Council. Where is the encouragement for the town to engage in stimulating this sort of activity in partnership with Dorset Council? Swanage has its own car parks, Lyme Regis owns some of its car parking space, and the other tourist parking at places such as Kimmeridge and Lulworth Cove are in private hands. As a town I believe we should be allowed to manage and have the income from the two main tourist car parks, Lodmoor and the Swannery so that we can benefit from the activities we might wish to provide. We could then work in partnership with the Dorset council in their plans to reduce traffic in our town centre, by using the income from these car parks to provide a free electric bus service around the town centre, esplanade and harbour side, using the car park income as it should be used and not to subsidise the rates.

That is the sort of relationships I thought that the LGR plans were meant to develop and presently the shadow executive seems to have interpreted this in a very narrow and unacceptable way for the largest town in the Council area.

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## Call To Account – Val Bright (Clerk of Verwood Town Council)

‘Why should Town and parish Council not expect to retain income to fund and maintain transferred assets going forwards?’

Because current District Council have no money. Parish and Town Councils wish to ensure the assets are available for their residents.

That is the only comment that some of the Clerks wished to give on this overall that we want to make sure that our residents keep the assets which are important to each community.

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## Call To Account - Will Austin (Clerk to Bridport Town Council)

Bridport Town Council requests that the Call to Account considers the following:

- The Shadow Executive may have exceeded its powers by considering matters beyond the value of assets.
- The £1.3m reserve for service/asset transfers is demonstrably allocated. Shadow Council had no business discussing this.
- Minute 52 of Shadow Executive refers to a 'decision'. The item was a matter for consultation – a 'decision' was unconstitutional.
- The minutes do not reflect the Shadow Executive debate.
- The debate was inadequate– there was no discussion of assets or savings.
- The interpretation used to reject a 'call-in' was incorrect.
- The decision and Call to Account have not taken input from town/parish councils.

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