

Shadow Dorset Council

SHADOW OVERVIEW AND SCRUTINY COMMITTEE

Extract from the minutes of the meeting held
on 3 January 2019.

68. **Call to Account - Transfer of Assets**

A brief introduction was provided by Councillor C Brooks, Vice-Chairman (in the Chair), as the Chairman Councillor T Jones indicated that he would not chair the meeting as he wished to take a full part in the meeting.

Members were informed that written statements had been received from:

- Councillor Keith Day
- Councillor David Rickard
- Councillor David Harris
- Verwood Town Council
- Bridport Town Council

The following councillors had informed the Scrutiny Officer, prior to the meeting, that they wished to speak to the item.

Councillor C Reynolds, representing West Dorset District Council (WDDC), stated her belief that the same standards for transferring assets had not been upheld across the county, using the proposals WDDC had put forward to the Shadow Executive Committee as an example of this.

Councillor D Rickard, WDDC, stated that he believed the benefits of transferring assets in West Dorset had been ignored by the Shadow Council. He informed members that much of what had been proposed would have returned assets to their communities and be funded at a local level.

Councillor M Rennie stated that Dorchester Market was not an asset as it had been described in transfer documents, and that it was important historically for the town. Councillor Rennie believed that discussion should continue with Dorchester Town Council, so that not only the market continued beyond April 2019, but also so that relations with the current operator could continue.

Councillor Susie Hosford represented Dorchester Town Council and wished to express support for the previous statements.

Councillor D Harris stated he was representing Weymouth and Portland. Councillor Harris also stated he believed that initial discussions over transfer of assets had been clear that the Unitary Authority would not be taking on assets that did not contribute to its statutory functions. Councillor Harris stated that whilst he understood why an asset such as the crematorium in Weymouth should be run by the new authority, he did not understand why the seafront hotels owned by Weymouth and Portland Borough Council should be under

the control of the new Dorset Council. Councillor Harris also stated that he believed the transferring of the car parks in Weymouth to the Town Council could also encourage its relationship of working with the Unitary Authority.

Will Austin, Clerk of Bridport Town Council, stated that he believed the Shadow Executive Committee had exceeded its powers by considering matters beyond physical assets and that the Shadow Council should not have a say in the £1.3 million reserve WDDC had earmarked for service/asset transfers. Mr Austin also stated that he did not believe the minutes of the meeting of the Shadow Executive Committee were accurate and that the actual debate was also inadequate, as there was no discussion of assets or revenue savings. Mr Austin also did not believe that Town/Parish Councils had been given any input into the Shadow Executive's initial decision, or the Call to Account.

Councillor Alan Thacker expressed support for the statements that had already been given, and also wished to thank officers who had contributed to the proposals.

For clarity Councillor S Bartlett informed the committee he was also a member of Wimborne Minster Town Council.

Some members expressed concern that the same standards for the transfer of assets had not been upheld across the county.

Members suggested that some Town and Parish Councils may need some reassurance the asset transfers would proceed as expected.

The Call to Account also included the panel of the following members and officers, who were involved in the decision making process:

- Councillor Rebecca Knox – Leader of Shadow Dorset Council
- Councillor Tony Ferrari – Executive Lead, Finance
- Councillor Jeff Cant – Executive Lead, Property and Assets
- Jonathan Mair – Monitoring Officer
- Jim McManus – Chief Accountant, Deputy Section 151 Officer DCC

Stuart Caundle, Head of Paid Service, Dorset Councils Partnership had also been invited to the meeting.

In reference to the first line of enquiry, the Monitoring Officer informed members that they had received information from Rebecca Kirk, General Manager (PDC) on how these principles had been developed. The General Manager (PDC) had stated that they were asked by the Chief Executives to provide an update to themselves and the programme board relating to asset transfers from predecessor councils. This report was drafted and circulated to the Chief Executives, who then asked for a set of principles to be drafted. The report was presented to the programme board, who gave their feedback and amendments. The report was then presented at the Shadow Executive Committee on 20 July 2018, where the principles were amended further.

Members asked the panel if the structural change order was considered by officers when creating these principles. The Monitoring Officer replied that during meetings between MHCLG and Chief Finance Officers it had been discussed whether it would be necessary to impose Article 24, which would limit the ability of predecessor Councils to transfer assets of a certain value. However, it was decided that this would not be necessary. The Monitoring Officer informed members that the decision of the threshold value had been decided locally, although in previous Local Government Reorganisations this had also been set at £100,000.

The Leader of the Shadow Dorset Council confirmed that whilst they had been working with advice from MHCLG, the formulation of these principles had been a local decision. She explained the principles were developed in line with previous experiences of officers and also by the judgement of the Section 151 Officer.

In reference to the second line of enquiry, the Leader of the Dorset Shadow Council stated that the principles did not only apply to asset transfers. She informed members that each proposal for a transfer of assets was looked at individually, therefore the principles were needed to make sure decisions were consistent.

The Executive Lead for Property and Assets recognised that this process could be seen as confusing to those not on the committee. He informed members their main focus had been to look at whether there had been the chance of substantial or valuable assets being transferred, to the detriment of residents.

Members questioned the consistency of the Shadow Executive Committee, as the proposed asset transfers by West Dorset District Council were not approved as they had exceeded £100,000. However the committee had then approved Weymouth and Portland Borough Council (WPBC) securing an £11 million loan. The Executive Lead for Property and Assets explained to members that the two proposals were not comparable, as WPBC were not borrowing from the unitary tax base and would not have any impact on the new authority.

Some members stated concerns as to whether the Lead Member for Property and Assets may have had a conflict in interest in promoting the £11 million loan that had been proposed by WPBC, as they were also the Leader of WPBC. The Leader of the Shadow Dorset Council stated that there was not a conflict, as all members of the Shadow Executive Committee were leaders of the sovereign Councils, or had been nominated by their leader. The Lead Members were then decided based on who would be most appropriate for the role. The Monitoring Officer also added that the Lead Members had not been agreed when the set of principles had been agreed. The Monitoring Officer informed members that the Lead Member for Property and Assets had no pecuniary interest. The officer also informed the committee the structural change order allowed all members to participate, as nothing ruled out members from participating and decision making if it affected their predecessor Council.

Councillor R Bryan left the meeting at 10.46 am.

In reference to the third line of enquiry, members were informed that the report that went to the 18 June 2018 meeting of the Shadow Executive Committee stated that each asset would be considered individually.

Members asked how the values of some assets were determined and if their marriage value was considered. The example of Kiosks in Lyme Regis was given, if they would be considered in isolation or together. The Monitoring Officer replied that this would depend on the proposal. The Lead Member for Property and Assets agreed, stating that they had worked with a list of potential assets but could only work out their value under certain circumstances.

In reference to the fourth line of enquiry, the Lead Member for Property and Assets informed the committee that the Weymouth Town Council had been considered to have 'unique circumstances' as it was a brand new Council still being created.

Members asked the panel if the loan secured by WPBC could have been delayed and considered by the new Unitary Authority. The Lead Member for Property and Assets stated that a lot of work had already gone into securing the loan, and that they were aware the new authority would probably not be able to carry on this work during its initial set up.

In reference to the fifth line of enquiry, the Monitoring Officer informed members that principle (vii) and principle (viii) were separate and did not have a relationship. They explained that principle (vii) ensured that all transfers were cost neutral, whereas principle (viii) set out that ongoing revenue support of an asset should not be provided.

Members asked if that where a Town or Parish Council carried out a statutory service on behalf of the Unitary Authority, would there be a contribution for this? The Monitoring Officer replied that Town or Parish Councils had been contracted on behalf of the Unitary Authority.

Following questions from members, the Monitoring Officer confirmed that principle (vii) would mean there would be no negative effect on Dorset Council.

In reference to the sixth line of enquiry, the Leader of the Shadow Dorset Council stated that this presumed how the new authority would proceed. By creating these principles, the Shadow Executive Committee was instead trying to establish ways of working and what the new Dorset Council should be looking at. The Leader of the Dorset Shadow Council also informed members that through the constitutional structure of the new Unitary Authority, there would be a forum for these discussions to take place.

In reference to the seventh line of enquiry, the Monitoring Officer stated that under the current circumstances the Secretary of State would not do this, as

there was not enough time left. The Monitoring Officer also informed members that the Shadow Council could also use a direction to restrict a predecessor Council from transferring assets, as this was a provision of the structural change order.

In reference to the eighth line of enquiry, the Leader of the Shadow Dorset Authority stated that they could not speak as to the reasons for individual members of the committee. However as Chairman, after questioning they felt that the proposal went against the agreed principles. The Shadow Executive Committee felt these proposals could be considered in the future, but that it was not currently appropriate to consider these at present.

Members asked if the Shadow Executive Committee had considered the Wednesbury Principles when deciding on proposals, as some members felt that other Market Towns should have also been looked at under 'unique circumstances'. The Monitoring Officer informed members that this didn't apply to the decision surrounding Weymouth Town Council.

Members expressed concern at the first principle as they felt the wording was vague. However, they stated that clarification from the panel had addressed these concerns.

In reference to the ninth line of enquiry, the Leader of the Shadow Dorset Council stated that she believed previous answers had revealed where these parameters had been set, after new members had been elected.

Members expressed the view that whilst great efforts had been made into communication, this had not reached the Town and Parish Councils in enough detail. Members also hoped this would be corrected under the new authority. The Leader of the Shadow Dorset Council agreed that a discussion in further depth would have been of great benefit, but due to time constraints this was not able to take place.

Members also stated that there was also a reliance on Shadow Executive members to filter information back to the members of their sovereign Councils.

Recommendation A, that the Shadow Overview and Scrutiny Committee agree with the evidence provided by members and officers during the Call to Account, was proposed.

Decision

That the Shadow Overview and Scrutiny Committee:

- (a) Agree with the evidence provided by members and officers during the Call to Account;
- (b) That this decision be forwarded to the Shadow Executive Committee, for their information.