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## **Cherwell District Council**

### **Council**

Minutes of an extraordinary meeting of Full Council held at Bodicote House, Bodicote, Banbury, Oxon OX15 4AA, on 7 February 2022 at 6.30 pm

#### Present:

Councillor Hannah Banfield (Chair)  
Councillor Les Sibley (Vice-Chairman)  
Councillor Andrew Beere  
Councillor Nathan Bignell  
Councillor Maurice Billington  
Councillor Mike Bishop  
Councillor John Broad  
Councillor Hugo Brown  
Councillor Phil Chapman  
Councillor Mark Cherry  
Councillor Colin Clarke  
Councillor Patrick Clarke  
Councillor Ian Corkin  
Councillor Nick Cotter  
Councillor Sandy Dallimore  
Councillor John Donaldson  
Councillor Matt Hodgson  
Councillor David Hughes  
Councillor Shaida Hussain  
Councillor Tony Ilott  
Councillor Mike Kerford-Byrnes  
Councillor Nicholas Mawer  
Councillor Andrew McHugh  
Councillor Tony Mephram  
Councillor Ian Middleton  
Councillor Perran Moon  
Councillor Richard Mould  
Councillor Adam Nell  
Councillor Cassi Perry  
Councillor Lynn Pratt  
Councillor George Reynolds  
Councillor Barry Richards  
Councillor Dan Sames  
Councillor Jason Slaymaker  
Councillor Dorothy Walker  
Councillor Tom Wallis  
Councillor Douglas Webb  
Councillor Lucinda Wing  
Councillor Barry Wood  
Councillor Sean Woodcock

Apologies for absence:

Councillor Conrad Copeland  
Councillor Carmen Griffiths  
Councillor Timothy Hallchurch MBE  
Councillor Simon Holland  
Councillor Kieron Mallon  
Councillor Katherine Tyson  
Councillor Fraser Webster  
Councillor Bryn Williams

Officers:

Yvonne Rees, Chief Executive  
Steve Jorden, Corporate Director Commercial Development, Assets & Investment  
Lorna Baxter, Director of Finance & Section 151 Officer  
Anita Bradley, Director Law and Governance & Monitoring Officer  
Nathan Elvery, Interim Chief Operating Officer  
Michael Furness, Assistant Director of Finance & Deputy S151 Officer  
Shahin Ismail, Recommended appointee as Interim Monitoring Officer  
Natasha Clark, Governance and Elections Manager

60 **Welcome**

The Chair welcomed Members, officers and the press and public to the extraordinary Council meeting.

The Chair welcomed Nathan Elvery, interim Chief Operating Officer, and Shahin Ismail, recommended appointee as interim Monitoring Officer, to their first meeting at Cherwell District Council.

61 **Declarations of Interest**

8. Appointment of Interim Monitoring Officer.

Shahin Ismail, Declaration, as she was to be proposed to be appointed Monitoring Officer for Cherwell District Council on an interim basis and would leave the meeting for the duration of the item.

9. Appointment of Section 151 Officer.

Michael Furness, Declaration, as he was to be proposed to be appointed Section 151 Officer for Cherwell District Council and would leave the meeting for the duration of the item.

62 **Communications**

The Chair made the following announcements:

**Extraordinary Council meeting**

The Chair reminded Members that as this was an extraordinary meeting, the minutes of committees were not taken and there were no questions or motions on the agenda. These items would be included on the agenda at the next scheduled Council meeting on Monday 28 February.

**Addressing Council, length of speeches and voting**

The Chair reminded Members of the length of speeches and the approach he would apply with regards seconders speaking on reports and motions.

**Members' Pigeon Holes**

The Chair reminded Members to check their pigeon hole and remove any post.

63 **Petitions and Requests to Address the Meeting**

There were no petitions or requests to address the meeting.

64 **Urgent Business**

There were no items of urgent business.

65 **Minutes of Council**

The minutes of the meeting held on 13 December 2021 were agreed as a correct record and signed by the Chairman.

66 **Section 113 Agreement Cherwell District Council and Oxfordshire County Council**

The Chief Executive submitted a report for Council to agree the arrangements to end the formal partnership arrangements between Cherwell District Council and Oxfordshire County Council.

**Resolved**

Subject to no amendments to the proposed recommendations when considered at Oxfordshire County Council's Full Council meeting on 8 February 2022:

- (1) That the s.113 partnership with Oxfordshire County Council be terminated.

- (2) That Oxfordshire County Council be formally notified of Cherwell District Council's decision to give 6 months' notice of its intention to terminate the s.113 Agreement dated 31 August 2018 regarding joint working between the two authorities.
- (3) That the ongoing role of the Joint Shared Services and Personnel Committee (JSSP) in providing suitable oversight and decision-taking concerning the termination of the s.113 Agreement be agreed.
- (4) That a revised Terms of Reference for the JSSP (Annex to the Minutes as set out in the Minute Book) be adopted.
- (5) That the Partnership Working Group be disbanded and the conclusion of its business be noted.
- (6) That the Chief Executive of Cherwell District Council be instructed to work alongside Oxfordshire County Council officers to establish a Joint Officer Transition Working Group
- (7) That the Financial Principles for the termination of the s.113 Agreement (annex to the Minutes as set out in the Minute Book) be adopted.
- (8) That amendments to the existing dispute resolution process as set out in the Annex to the Minutes (as set out in the Minute Book) be agreed.
- (9) That the Monitoring Officer be requested to undertake a review of the existing Scheme of Delegation to ensure that decision making is both effective and efficient.
- (10) That responsibility be delegated to the Monitoring Officer to undertake amendments to the Council's Constitution to reflect the resolutions arising from this report to Council.
- (11) That it be agreed to keep the best interests of its mutual residents at the centre of its decision making, endeavouring to ensure that such actions will not be to their detriment.

67

### **Appointment of Interim Monitoring Officer**

The Chief Executive submitted a report for Council to appoint a Monitoring Officer on an interim basis in place of Anita Bradley, Director of Law and Governance, in light of the end of formal partnership working arrangements between Cherwell District Council and Oxfordshire County Council.

On behalf of Council, the Chair thanked Anita Bradley for her services and diligence as the council's Monitoring Officer over the past thirteen months.

**Resolved**

- (1) That Shahin Ismail be appointed as the Council's Monitoring Officer on an interim basis with effect from 9 February 2022.

Following her appointment and return to the Chamber, Shahin Ismail addressed Council, thanked Members for her appointment and commented that she was looking forward to working with them.

68 **Appointment of Section 151 Officer**

The Chief Executive submitted a report for Council to appoint a Section 151 (S151) Officer in place of Lorna Baxter, in light of the end of formal partnership working arrangements between Cherwell District Council and Oxfordshire County Council.

On behalf of Council, the Chair thanked Lorna Baxter for her hard work and service as the council's Section 151 Officer over the past two years.

**Resolved**

- (1) That Michael Furness be appointed as the Council's Section 151 Officer with effect from 9 February 2022.

Following his appointment and return to the Chamber, Michael Furness addressed Council, thanked Members for appointing him as Section 151 Officer and that he was looking forward to his new role.

The meeting ended at 7.15 pm

Chairman:

Date:

## **Annex to Minutes - Revisions to the Terms of Reference of the Joint Shared Service and Personnel Committee**

### JOINT SHARED SERVICE AND PERSONNEL COMMITTEE

#### CHERWELL DISTRICT COUNCIL and OXFORDSHIRE COUNTY COUNCIL

Under the Local Government Act 1972 s.101 (5) two or more local authorities may appoint a joint committee to discharge any of their functions that are not reserved for the sole decision of a single authority in legislation. The Joint Committee can authorise an officer employed by either authority to act on its behalf. Whilst it is envisaged that the majority of daily business and processes such as recruitment, personnel and appeals will be carried out under each employing authority's decision-making processes, there are a few functions which are best delivered through joint arrangements.

Area: the Joint Committee shall exercise its authority for the areas comprising of Cherwell District Council and Oxfordshire County Council.

Membership: the Committee shall be comprised of 10 Councillors, 5 from Cherwell District Council and 5 from Oxfordshire County Council with 5 named substitutes from each authority.

Quorum: will be 3 Members from each authority (i.e. a total of 6).

Chair: the Chair and Vice Chair will be elected by the committee and will be representative of each authority.

Decision making: Since both Councils have resolved to terminate the Agreement under Section 113 of the Local Government Act 1972 decisions will be by unanimity of the committee present and who choose to cast their vote.

#### Terms of Reference

- To have responsibility for and to take any decision on staffing matters, (other than those delegated to officers) and any other non-executive decisions function specifically delegated to the committee by the respective councils, for any shared service established for the councils
- To have responsibility for and to take any executive decisions (other than those delegated to officers), specifically delegated to it by the respective Executive arrangements of the councils with regard to any shared service established for the councils
- To ensure that any shared service meets the requirements of the councils in furthering the objectives of their respective corporate plans.

- To take all executive decisions with regard to any established and future shared service.

### Shared Posts

Where a business case has been agreed by the councils and a decision made to share a service between them to:

- Agree posts to be declared 'at risk', and to approve dismissal, including compulsory or voluntary redundancy and the exercise of discretionary awards to any post where costs are shared or are going to be shared. This excludes the dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer (if shared) on the grounds of misconduct which must be the subject of a resolution of the relevant full Council following compliance with the procedure set out in the Officer Employment Procedure Rules.

### Termination of the Section 113 Agreement

In circumstances where the Section 113 Agreement is resolved by both Councils to be terminated:

- To instruct relevant officers of both Councils to establish a Joint Officer Working Group to consider and report upon the implementation of the termination of the Section 113 Agreement to include:
  - to carry out a short and directed due diligence exercise on the extent and cost of the s 113 arrangements;
  - thereafter to prepare a transition plan to separate the joint working arrangements between the two authorities;
  - to ensure steps are put in place to maintain effective operational activity in accordance with the s 113 Agreement during the transition period.
- The Joint Committee shall oversee the role of the Joint Officer Working Group
- The Joint Committee shall monitor progress regarding the termination arrangements
- The Joint Committee shall take non-executive decisions as necessary
- All decisions of the Joint Committee will be taken by unanimity of the committee present and who choose to cast their vote.

## **Annex to Minutes – Financial Principles**

Financial Principles adopted as being applicable for the apportionment of the costs of terminating the s.113 Agreement:

- i. The Councils will, acting reasonably, utilise the due diligence exercise to help identify and agree the costs that will be included in the costs of settlement calculation including any time frame for their inclusion in said calculation.
- ii. The s.113 Agreement indicates that the majority of costs of termination should, in the ordinary course, be borne equally by the two Councils.
- iii. It is acknowledged however, that the historic utilisation and therefore cost of the provision of the services has not been equally split and often utilisation is often weighted in favour of one council over the other. The Councils also recognise their size, and the future utilisation of arrangements will also not be equal as between them.
- iv. To this end the Councils will use all reasonable endeavours to agree the apportionment of settlement costs arising from the termination proportionately, fairly and taking into account historic or actual cost sharing percentages and any mutual provision that it is agreed will be put in place for discrete service areas
- v. Unless otherwise agreed, the Councils agree that any internal or external costs incurred by them in relation to the management of the transition period shall be borne by each Council
- vi. However, if in relation to any specific item of cost, it is not possible to agree a different apportionment of the cost utilising the earlier stages of the Dispute Resolution Process, the apportionment will be referred to mediation in accordance with the Dispute Resolution process.

## **Annex to Minutes – Dispute Resolution**

Dispute Resolution Principles adopted:

- i. If a dispute arises each Council will endeavour to resolve that dispute between the officers involved in the relevant service area or function;
- ii. If the dispute continues then it will be referred to a director of each Council for consideration with a view to the two Directors evaluating the issues and seeking to reach a resolution.
- iii. If the dispute continues then it will be referred to the Monitoring Officer and Chief Executive of each Council for consideration with a view to the respective Monitoring Officers and Chief Executives evaluating the issues and seeking to reach a resolution.
- iv. If the dispute continues then it will be referred to the JSSP Committee for consideration and resolution.
- v. Only if having followed this dispute resolution process and having failed to reach Agreement should any dispute be referred for mediation. Any mediator would be appointed by Agreement or otherwise by the Chairperson for the time being of the Local Government Association.