

# **Taunton Deane Borough Council**

## **SPECIAL COUNCIL – 19 March 2018**

### **TRANSITIONING TO A NEW COUNCIL**

**This matter is the responsibility of the Leader of the Council – Cllr J Williams**

**Report Authors: (Penny James, Chief Executive and Shirlene Adam, Director – Operations)**

#### **1 Executive Summary**

- 1.1 In March 2016, Taunton Deane Borough Council (TDBC) and West Somerset District Council (WSC) confirmed commitment to a core, and on-going JMASS (Joint Management & Shared Services) Partnership and authorised and prioritised work to create a high level Transformation Business Case that tested what transformation could deliver under three governance scenarios.
- 1.2 In July (TDBC) and September (WSC) 2016, the councils agreed to progress work to create a new transformed council for their combined areas. Following this ground-breaking and ambitious decision, a public consultation exercise was carried out seeking views on the proposal before submitting a case to Government for consideration in March 2017.
- 1.3 The creation of a new Council will, if supported, follow the successful legacy of both Councils working closely together since 2013. It will be a model that other authorities will increasingly follow as they decide how best to grapple with the significant challenges facing local government. Councils need to be of a scale large enough to face these challenges by having a loud enough voice, a strong bargaining position, a healthy balance sheet and a resilient workforce, yet small enough to feel connected to their residents. The creation of the new Council for Taunton Deane and West Somerset will strike that balance.
- 1.4 Since submitting the case to Government in March 2017, engagement with the Ministry for Housing & Local Government (MHCLG) has continued and although a number of high profile matters have diverted the government's attention away from progressing local government issues, the Secretary of State published his "minded to implement" decision on 30 November 2017.
- 1.5 Following this, the Secretary of State invited representations on the proposal (closing date of 19 January 2018). The final decision is awaited. If this is positive, this will set in train the parliamentary process for making the statutory Orders required to bring the new Council into effect. The Secretary of State will – with the consent of the Councils – lay

orders before Parliament that will dissolve both Taunton Deane Borough Council and West Somerset Councils and create a new single Council covering both areas.

1.6 In order to facilitate this, both Councils are now being asked to consider:-

- Granting consent to the making and laying of Orders to dissolve TDBC and WSC and create a new single Council covering both areas; and
- That a Community Governance Review of the unparished area of Taunton Deane Borough Council be commenced at the earliest opportunity.

1.7 In addition, following both Council meetings, the Executive / Cabinet will be asked to consider some key information for inclusion in the Order – (e.g. name / size of council / shadow authority arrangements). Copies of these papers have been shared with all Councillors who are invited to attend the Member Briefing scheduled to follow this Council meeting.

## **2 Recommendations**

2.1 That subject to the Secretary of State confirming his final decision, the following be approved:-

- a) To give consent under Section 15(4) of the Cities and Local Government Devolution Act 2016 to the making and laying of the necessary Orders for the dissolution of Taunton Deane Borough Council and West Somerset District Council and the creation of a single new council covering both areas.
- b) Subject to recommendation a) above being supported, a Community Governance Review of the unparished area of Taunton Deane Borough Council be commenced at the earliest opportunity (taking into consideration the guidance from both the Local Government Boundary Commission for England (LGBCE) and Ministry for Housing, Communities and Local Government (MHCLG)).

### 3 Risk Assessment

#### Risk Matrix

Description	Likelihood	Impact	Overall
Secretary of State may not support the submission made by both Councils to create a new council for our combined communities.	Unknown	5	Unknown
<i>Arguments made in submission submitted to the Secretary of State as to the importance of the proposal proceeding to secure a sustainable local government structure for the future across the two existing council areas</i>	1	5	5
The timing of the formal decision may make the objective of establishing a new council to be operational by April 2019 challenging.	2	5	10
<i>Working with MHCLG and LGBCE to still deliver overall timescale objective. The Councils will need to prepare balanced budgets for 2019/20 without relying on savings from creating the new Council. In particular, West Somerset Councillors will need to deliver an affordable plan to budget for additional provision in the business rates reserve.</i>	1	5	5

#### Risk Scoring Matrix

<b>Likelihood</b>	5	Almost Certain	Low (5)	Medium (10)	High (15)	Very High (20)	Very High (25)	High
	4	Likely	Low (4)	Medium (8)	Medium (12)	High (16)	Very High (20)	High
	3	Possible	Low (3)	Low (6)	Medium (9)	Medium (12)	High (15)	
	2	Unlikely	Low (2)	Low (4)	Low (6)	Medium (8)	Medium (10)	
	1	Rare	Low (1)	Low (2)	Low (3)	Low (4)	Low (5)	
			1	2	3	4	5	
			Negligible	Minor	Moderate	Major	Catastrophic	
			<b>Impact</b>					

<b>Likelihood of risk occurring</b>	<b>Indicator</b>	<b>Description (chance of occurrence)</b>
1. Very Unlikely	May occur in exceptional circumstances	< 10%
2. Slight	Is unlikely to, but could occur at some time	10 – 25%
3. Feasible	Fairly likely to occur at same time	25 – 50%
4. Likely	Likely to occur within the next 1-2 years, or occurs occasionally	50 – 75%
5. Very Likely	Regular occurrence (daily / weekly / monthly)	> 75%

## 4 Background

- 4.1 Taunton Deane Borough Council and West Somerset Council have been working closely together since first sharing a Chief Executive in 2013. This strong and successful partnership culminated in the support for the Business Case option of creating a new transformed council for the combined areas (July 2016 TDBC, and September 2016 WSC).
- 4.2 This is a positive step by both Councils towards developing financial sustainability for public services to the communities, encouraging growth across both areas, enabling communities to develop, and providing further resilience to service delivery. The creation of a new council will, as well as addressing the imminent viability issues facing West Somerset Council, provide a sustainable model for the delivery of local public services for the foreseeable future, and have a stronger voice locally, regionally and nationally.
- 4.3 This, alongside the radical transformation programme, will allow continuation of valued services to our residents, visitors and businesses. It will ensure focus on the largest proportional growth agenda in the South West for Taunton and sustained leadership and support to our communities as we enable the build of Hinkley Point C new nuclear power station in West Somerset.
- 4.4 Working in partnership has already enabled the Councils to save over £7.2m since 2014. The Councils are however committed to building further upon this successful shared services partnership to completely transform everything they do. This will bring efficiencies and improved customer service which will bring benefit to our People, Place and enhance Prosperity for all. This change is vital as the Local Government world is continually changing and the Government is committed to further public sector reform.
- 4.5 The business case and submission to Government in March 2017 described the transformation and governance changes proposed to create one new transformed council.
- 4.6 The legislative framework under which the governance arrangements of the two councils are being reviewed is Section 15 of the Cities and Local Government Devolution Act 2016. This allows the Secretary of State at the request of the authorities, to review requests to modify governance arrangements. The Council's submission of March 2017 formally requested him to consider the case for creating a new council for the area covered by TDBC and WSC.

- 4.7 On 30 November 2017, the Secretary of State published his “minded to” decision – indicating support for the proposal – and asked for further representations to be made. The closing date for these was 19 January 2018 and we now await his formal decision, having taken these into account.
- 4.8 During this “period of representation” West Somerset Council at its meeting on 13 December 2017, considered a motion to revisit its decision to form a new council. The Council decision reaffirmed its wish to proceed with the creation of a new council and resolved that the proposal to form a new council should incorporate:
- a) An Economic Plan for Rural and Coastal Areas and Market Towns should be prepared similar to TDBC’s economic plan as set out in Higher Level Business Case.
  - b) An Agreement be put in place to ensure significant staffing is in West Somerset.
  - c) Some Council meetings should be held in West Somerset.
  - d) An undertaking is given that the whole of TDBC area is parished prior to the new council being formed.
  - e) West Somerset is made fully conversant with TDBC’s financial commitments, both now and ongoing.
- 4.9 The latest position in regard to the points raised is as follows:-
- a) Upon the creation of a new Council the needs of all communities will be met and the new council will represent and serve all communities equally, this will include effective planning for the economic future of the whole geographical area of the new council.
  - b) The staffing structure is already fully joined and deployed across the full geography of both Councils. Transformation will ensure this continues and investment in the localities agenda will also improve visibility of Council staff in and across the new council community.
  - c) As part of the wider Transformation commitment to putting the customer at the heart of everything we do – ensuring that all residents have access to the democratic process - will be an important priority. The time between a positive announcement and it ‘going live’ in April 2019 will be used to design exciting new ways to achieve this.
  - d) Every effort has been made to achieve this. Discussions with MHCLG and the Boundary Commission have confirmed that it is not possible to have this matter resolved prior to the new Council being formed. Reviewing arrangements in the unparished area of Taunton Deane will require a Community Governance Review to be undertaken. This is a prescribed process and allows all interested parties to input. The process requires the involvement of the LGBCE and they, along with MHCLG have advised that they cannot start this work whilst warding of the new council area is under way. To demonstrate the strength of commitment to the resolution of this matter a specific recommendation is included in the report to council that a Community Governance Review of the unparished area should be commenced at the earliest opportunity. This point is covered later in the report.
  - e) This has been facilitated by two briefings held at West Somerset House and led by the s151 and the deputy s151 officers. The meetings were held earlier this year and were open to all members.
- 4.10 In the event of formally approving our submission to create a new council, the Secretary of State will initiate a process whereby he will request the making of Orders that will

(subject to the Parliamentary process) dissolve the current councils and create a new council, transferring the powers, functions and responsibilities of Taunton Deane Borough Council and West Somerset Council to the new Council on 1 April 2019. The Orders must receive the approval of both Houses of Parliament, and be accompanied by a report setting out why the Secretary of State believes it appropriate to create the new Council, and any consultation he has taken into account.

4.11 The outline process is as follows:-



4.12 The delay in receiving the “minded to” decision, and any further formal decision has an impact on the timetable for creating the new council – not least due to space in Parliament to consider the enabling legislation. If the Councils are to meet their objective of creating a new Council by 2019 it is imperative that any further delays are minimised. Although delays in central government are very much outside of the Councils’ control, engagement continues with Government to ensure the request of both Councils is considered in a timely way.

4.13 The decisions to be considered at the meetings on 19 March 2018 are the next steps in the journey which the two Councils have been on since their respective decisions to request that the Secretary of State agree to establish a new council.

4.14 Both Full Council meetings are being asked to consider giving “consent” to the Secretary of State to lay the legislation in Parliament for formal consideration (the Secretary of State requires this consent to be granted by the Councils). The second issue for consideration is whether a Community Governance Review should be initiated as soon as possible for the Unparished area within TDBC.

4.15 The “content” of the legislation (size of council, name of council, governance of council) is a decision for the Executive / Cabinet and is being considered as an urgent item on 19 March 2018 – allowing the Councils to “stand ready” to respond quickly to any positive decision made by the Secretary of State.

### **The Issues for Consideration on 19 March 2018**

#### **Consent**

4.16 The request of both Full Council meetings is to consider giving consent (under Section 15(4) of the Cities and Local Government Devolution Act 2016) to the making and laying

of the necessary Orders for the dissolution of Taunton Deane Borough Council and West Somerset District Councils and the creation of a single new council covering both areas.

- 4.17 The request of the Executive / Cabinet meetings is to consider a series of detailed matters to be included in the Orders which the Secretary of State is required to lay before the Houses of Parliament. As is referenced in the Legal Implications Section of the report, as these matters are not specifically reserved for full Council in the respective Councils' Constitutions, they are classified as executive decisions and are, therefore, being considered as urgent items at Special Executive/Cabinet meetings following the Special Council meetings.
- 4.18 These matters are deemed urgent as the Government has indicated their legislative timetable requires the Orders to be laid before parliament by the end of March 2018 to ensure that the legislation can be progressed in time for the new Council to be established by 1 April 2019 and for the May 2019 elections. Full details regarding the recommendations that are to be considered by the Executive/Cabinet in this regard are set out in the respective papers that have been circulated to all councillors.
- 4.19 Following a briefing with the Leaders of all political groups across the two Councils and the Scrutiny Chairmen and the Mayor of Taunton Deane Borough Council and the Chairman of West Somerset Council it was agreed that, in the interests of transparency and fairness, that simultaneous special meetings of the two full councils and of the Executive and Cabinet would be held at the same venue to consider these important and urgent matters.

### **Community Governance Review of Unparished Area of Taunton Deane**

- 4.20 Discussions around the creation of the a new council have identified that carrying out a Community Governance Review of the Unparished Area of Taunton Deane is a priority for a number of groups and individuals.
- 4.21 In December 2017, West Somerset Council resolved:  
"An undertaking is secured that the whole of TDBC area is parished prior to the new council being formed".
- 4.22 To facilitate this, a Community Governance Review would need to be conducted. Such a review is a prescribed process and advice from both MHCLG and LGBCE is that it will not be possible to complete this review prior to the vesting of a new authority in April 2019.
- 4.23 A Community Governance Review is an inclusive process which seeks the views of all interested parties and looks at all potential governance arrangements for a specified geographical area.
- 4.24 To recognise the organisational commitment to undertake this review at the earliest possible opportunity, a specific recommendation is included in this report.

### **5 Links to Corporate Aims / Priorities**

- 5.1 The ambition to create a new transformed Council for the combined communities of West Somerset and Taunton Deane was agreed by both Full Councils in 2016. Since then, in

pursuant of this decision, a submission to the Government was made in March 2017 which he has subsequently indicated he was “*minded to*” support in November 2017. In preparation for any formal decision being made, this report will ensure the Councils have given the necessary consent under the Cities and Local Government Devolution Act 2016 for the making and laying of the necessary Orders for the dissolution of Taunton Deane Borough Council and West Somerset District Council and the creation of a new council covering both of the existing two areas.

- 5.2 The creation of a new Council for the combined area will, together with the transformation programme, deliver significant financial savings which will help continuation of investment in our priorities as well as delivering services valued by the communities of Taunton Deane and West Somerset.

## **6 Finance / Resource Implications**

### **Financial Implications**

- 6.1 The Transformation Business Case was approved by Full Council meetings in July 2016 (TDBC) and September 2016 (WSC). The ambitions of the business case were clearly set out, and included a clear purpose for both existing councils to make savings. For Taunton Deane this is to enable continued investment in growth, and for West Somerset this is in response to financial viability challenges. It is evident that in addition to transforming services, greater savings are achievable through forming a new council.

### **Financial Viability**

- 6.2 The financial viability challenge for West Somerset has been well reported and long-standing. More recently, in 2015, the Affordability Review (and Bill Roots report) concurred that West Somerset has significant financial viability challenges.
- 6.3 In 2016 both Councils agreed the Transformation business case and both approved the option to jointly progress with transformation and to request Government approval for the creation of a new single council covering both areas. This ultimately led to the Submission to the Secretary of State at the end of March 2017.
- 6.4 Prior to the Submission to the Secretary of State in March 2017, confirmation of the 2017 business rates valuation (‘Rateable Value’ - RV) for Hinkley B Nuclear Power Station had been received. This resulted in an increase in RV for Hinkley B – which contributes around 46% of business rates income in West Somerset – and the Budget Gap estimates were updated in time for, and included in, the Submission. Whilst this has resulted in an increase in the current estimated funding under Business Rates Retention, it has not resolved the fundamental financial viability challenge. West Somerset is not resilient to volatility in its business rates funding base, and would be faced with significant cuts to services to balance the budget in the event of such volatility.
- 6.5 This point has been reiterated through a Peer Challenge undertaken by the LGA in 2017, and the opinion of the Council’s external auditor.
- 6.6 The independent auditor, Grant Thornton LLP, said in its’ annual report on West Somerset: “We have reviewed the current progress of the creation of the new Council and note that the consultation has now been completed with a final decision expected from central government. We do, however, note that the future longer term financial position of the Council is still predicated on the savings expected from the



implementation of the New Council. Alternatives include implementation of greater shared working arrangements with Taunton Deane Borough Council or cuts to services.

6.7 In respect of Taunton Deane, Grant Thornton commented in its' annual report:

"...we concluded that the Council has demonstrated sufficient arrangements to secure the medium term financial position of the Council."

6.8 The Local Government Association undertook an assurance review (Peer Challenge) in the autumn of 2017 and stated: "The proposal, to merge two councils to form One Council, is the best long-term solution for Taunton Deane Borough Council (TDBC) and West Somerset District Council (WSDC)".

6.9 "It is also the best solution for the communities served by the two councils. Without a solution the future for WSDC is likely to be very bleak, being described by one principal partner as "catastrophic", with the community of West Somerset facing the prospect of watching their council lurch from financial uncertainty to potential oblivion, along with the degradation of services."

6.10 The Budget Reports for 2018/19 of both Councils, approved by respective Full Councils in February 2018, report balanced budgets for 2018/19 and a relatively positive indicative position for 2019/20. However, as explained in the reports and emphasised in the S151 Officer's statements regarding robustness of the budget and adequacy of reserves, there is significant uncertainty in financial estimates beyond the next 1-2 years and in particular for West Somerset there is a need to strengthen financial resilience to future business rates funding volatility. For both Councils – like all authorities – there is uncertainty regarding the possible impacts of:

- The Government's 2019 Comprehensive Spending Review
- The Fair Funding Review for local government funding
- The first reset of the business rates baseline and funding target expected in 2020
- The impact of future implementation of 100% business rates retention, and unknown costs of additional devolved responsibilities this will bring
- Possible further reviews of New Homes Bonus in future years

6.11 It is clear from the financial benefits summarised below that the creation of a new single council with transformed service delivery will strengthen the financial resilience of council services to further funding reductions beyond 2019/20.

### **Financial Benefits**

6.12 The total annual savings that are identified as achievable through transformation of services – improving services to customers and increasing efficiency – are estimated to reach £2.678m per year by 2021/22, as summarised below. These are already included in the approved budgets and Medium Term Financial Plans (MTFP) for each Council.

6.13 In addition to this the Business Case identifies the potential for further additional financial benefits of at least £0.551m per year through the creation of a single new council to replace to two existing ones. These additional savings would be factored into a new combined MTFP for the new Council, and are not currently included in the individual MTFP positions for the two existing Councils.

- 6.14 Note: The Councils approved additional one off costs for the creation of the new council of c£0.3m within the Business Case in 2016. This provides a payback period of less than one year for this proposal, providing excellent value for money.

***Financial Savings – Transformation and move to single new Council***

	2017/18 £k	2018/19 £k	2019/20 £k	2020/21 £k	2021/22 £k
TDBC General Fund	164	775	1,465	1,479	1,493
TDBC Housing Account	82	386	730	737	744
TDBC Total	246	1,161	2,195	2,216	2,237
WSC General Fund	48	229	432	436	441
<b>Sub-Total – Two transformed Councils</b>	<b>294</b>	<b>1,390</b>	<b>2,627</b>	<b>2,652</b>	<b>2,678</b>
<b>One New Council additional savings</b>			<b>360</b>	<b>466</b>	<b>551</b>
<b>Overall Total Savings</b>	<b>294</b>	<b>1,390</b>	<b>2,987</b>	<b>3,118</b>	<b>3,229</b>

- 6.15 The 2018/19 budgets recognise there is a risk of one-off cash flow timing difference to the initial projected business case savings in 2018/19, and budgets have absorbed a reduced requirement for savings within approved budget for the year without using reserves. The expectation is that full year savings projected for 2019/20 onwards will be fully delivered in line with the business case.

**Indicative Initial MTFP for New Council**

- 6.16 An earlier priority during the transition to the new Council will be the formation of an updated financial strategy and initial MTFP for the General Fund (GF). Based on a simple adding together of the two up to date existing MTFPs it is possible to provide a draft indicative starting position for the projected budget gap facing the new Council. In view of the identified financial planning risks, as emphasised by the S151 Officer in his Robustness Statements for the 2018/19 budget reports, an allowance is included below for additional transfers to a business rates reserve to provide greater resilience to future funding volatility.

Indicative MTFP for New Council	Budget 2018/19 £k	Indicative 2019/20 £k	Indicative 2020/21 £k	Indicative 2021/22 £k	Indicative 2022/23 £k
TDBC GF Budget Gap	0	-86	23	-66	170
WSC GF Budget Gap	0	-98	64	92	178
Combined Budget Gap	0	-184	87	26	348
Less: New Council savings		-360	-466	-551	-551
Add: Provisional BRR Reserve Funding		500	500	500	500
New Council Indicative GF Budget Gap		-44	121	-25	297

- 6.17 The table shows that, subject to caveats regarding future funding uncertainty highlighted above and in previous reports, the New Council could plan for a broadly sustainable budget position through to 2021/22, with a projected Gap of c£0.3m in 2022/23 (which would represent around 1.5% of projected Net Budget for the New Council). This would provide management and Members time to develop and implement further measures to

secure long term financial sustainability, for example progressing with existing priorities such as the disposal of poorly performing assets and further commercialisation initiatives, to address the longer term position and generate funding to support future priorities.

- 6.18 Without the strong joint commitment to transformation and the creation of a new Council, the two Councils would be facing a combined General Fund savings requirement rising to an estimated £3.5m plus per year by 2022/23. In addition the Housing Revenue Account budget gap/savings requirement would be higher by c£0.75m, which if not achieved would lead to reduced services for Housing tenants.
- 6.19 In conclusion, advice from the S151 Officer is that the financial case for continuing the strong commitment to transforming services and creating a new single council – in line with the mandate provided by the decisions of both Full Councils in 2016 – is clearly evident and significant concerns remain regarding the financial viability of West Somerset as a standalone Council in the medium term.

## **7 Legal Implications**

- 7.1 The proposals for the dissolution of the existing two Councils and the creation of a new Council are being carried out under the Cities and Local Government Devolution Act 2016. This provides the primary legislation by which the Secretary of State may, by regulations, make provision for the governance arrangements of local authorities, and their structural and boundary arrangements.
- 7.2 Once the Secretary of State has made a final decision to proceed with the creation of a single new Council, he will need to set in train the parliamentary process required to bring the new Council into effect. A number of Orders will need to be laid and approved by Parliament. The first will be an Order, which among other things, will dissolve the two existing Councils and create a new authority from the 1 April 2019. It will also set up a Shadow Authority, made up of all existing Councillors which will oversee the transfer of functions and responsibilities to the new Council from that date.
- 7.3 The second Order will be a procedural one to allow for a proposal for boundary change affecting the area to be made by the relevant local authorities without the requirement of a review or recommendation from the Local Government Boundary Commission.
- 7.4 As part of this the Secretary of State producing and laying the above draft Orders, the Councils will be asked to make representations on a number of matters including, the name, size and composition of the new Council. In addition the existing Councils will need to formally consent to the laying of these Orders in Parliament to bring the new Council into effect on the 1 April 2019. It should be noted that the timescales are extremely tight to enable all the relevant matters to be completed in time for the 1 April 2019. For this purpose, appropriate delegations are being recommended so that the Councils are in a position to move swiftly over the coming weeks.
- 7.5 Under the Councils' Constitutions, as the detailed matters referred to are not reserved for Full Council, they are, by implication, Executive decisions. Full Council can, nevertheless, grant consent under section 15(4) of the Cities and Local Government Devolution Act 2016 as recommended in the report as this is a pre-condition for the exercise of power by the Secretary of State and is not governed by the normal rules

relating to Executive and non-Executive functions. Given that this issue impacts on the very existence of a local authority it is considered appropriate for both Full Councils to have an input as set out in this report.

## **8 Environmental Impact Implications**

8.1 None in respect of this report.

## **9 Safeguarding and/or Community Safety Implications**

9.1 None in respect of this report.

## **10 Equality and Diversity Implications**

10.1 Please see equality impact assessment attached as appendix F of the Business Case approved in 2016.

## **11 Social Value Implications**

11.1 None in respect of this report.

## **12 Partnership Implications**

12.1 This report brings forward the significant decision to formalise the request made of both Councils in 2016 to create a transformed council for the combined communities of Taunton Deane and West Somerset. Existing partnership arrangements are set out in the Inter-Authority Agreement. The proposal strengthens the existing joint working arrangements.

## **13 Health and Wellbeing Implications**

13.1 None in respect of this report.

## **14 Asset Management Implications**

14.1 This report paves the way for the process for the laying of orders in Parliament that will create a new council for the combined communities of Taunton Deane and West Somerset. The new Council will take on the assets and liabilities of the existing Councils.

## **15 Consultation Implications**

15.1 Following the decisions taken by both Councils in 2016, a public consultation exercise was undertaken and the results shared with the Secretary of State along with the formal submission. The Secretary of State has also sought representations and will fully consider these as part of his review and decision making process.

**Democratic Path:**

- **Scrutiny / Corporate Governance or Audit Committees – No**
- 
- **Cabinet/Executive – No**
  
- **Full Council – Yes**

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**Background Papers**

Transformation Business Case – July 2016 (TDBC) and September 2016 (WSC)

Mandate Report – March 2016

Submission to Government – March 2017

Full Council Meetings & Cabinet/Executive meetings – 19 March 2018