



Councillor Richard Auger  
Councillor Stephen Legg  
Councillor Suresh Patel  
Councillor Ian McCord  
Councillor Rebecca Breese  
Councillor Peter Rawlinson  
Councillor Chris Lofts

Northamptonshire County Council  
Northamptonshire County Council  
Northamptonshire County Council  
South Northamptonshire Council  
South Northamptonshire Council  
South Northamptonshire Council  
South Northamptonshire Council

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### **SPEAKING AT WNJC MEETINGS**

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**WEST NORTHAMPTONSHIRE JOINT COMMITTEE**

Your attendance is requested at a meeting to be held:  
in Council Chamber, South Northamptonshire Council, The Forum, Moat  
Lane, Towcester, NN12 6AD  
on Wednesday, 5 June 2019  
at 6:00 pm.

**AGENDA**

- 1. APOLOGIES**
- 2. MINUTES**
- 3. DECLARATIONS OF INTEREST**
- 4. QUESTIONS FROM PUBLIC AND MEMBERS**
- 5. REPORT OF THE GOVERNANCE TASK AND FINISH GROUP**  
(Copy herewith)
- 6. MATTERS OF URGENCY WHICH BY REASON OF SPECIAL CIRCUMSTANCE THE CHAIR IS OF THE OPINION SHOULD BE CONSIDERED**

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# Agenda Item 2

## WEST NORTHAMPTONSHIRE JOINT COMMITTEE

### Daventry District Council Offices

Tuesday, 14 May 2019

**PRESENT:** Councillors Auger (Northamptonshire County Council), Brown (Daventry District Council), Chantler (Daventry District Council), Golby (Northamptonshire County Council), Hibbert (Northampton Borough Council), Larratt (Northampton Borough Council), Legg (Northamptonshire County Council), Lofts (South Northamptonshire Council), Grant (substitute for McCord) (South Northamptonshire Council), Millar (Daventry District Council), Nunn (Northampton Borough Council), Patel (Northamptonshire County Council), Rawlinson (South Northamptonshire Council), Ritchie (Daventry District Council) and Stone (Northampton Borough Council).

Councillor Jonathan Nunn advised that the announcement had been made by the Secretary of State to replace the eight councils of Northamptonshire with two unitary councils from April 2021. There would be elections to the Shadow Authority in May 2020. The existing county divisions would be used, with three members per division, resulting in 93 members for West Northamptonshire. There would also be a single Children's Trust for the whole of the county.

#### 1. APOLOGIES

There were none.

#### 2. MINUTES

The minutes of the meeting held on Tuesday 26<sup>th</sup> March 2019 were approved, subject to the following amendment to Section 8, para 2: replace '*He continued that the two new authorities' websites will go live on 1<sup>st</sup> April 2020, and that elections will be held on the first Thursday in May 2020.*' with '*He continued that work was ongoing towards the two new authorities' websites going live on 1<sup>st</sup> April 2020, and for elections to be held on the first Thursday in May 2020.*'

The minutes were approved and signed as a correct record.

#### 3. DECLARATIONS OF INTEREST

There were none.

#### 4. QUESTIONS FROM PUBLIC AND MEMBERS

There were none.

#### 5. LOCAL GOVERNMENT REORGANISATION UPDATE

Keith Cheesman stated that when the report was published, the decision of the Secretary of State had been expected. This had now been delivered, so changes would need to be made in the light of this. The report status was mostly amber, reflecting the challenges around the delays. The most significant milestones were charted in Appendix 1, although this did not show the entire plan. There was some work in progress, and some behind schedule; however in view of the Secretary of State's announcement, this was not considered insurmountable.

The budget details shown in the report were a snapshot, and not yet fully refined. Councillor Chris Millar welcomed the announcement and asked whether the Programme

Milestone Plan would be extended for the new date and whether there would now be scope for transformation rather than simply ensuring the new authority was safe and legal on vesting day. Keith Cheesman advised that the plan would be updated and whilst there would not be time for full transformation, it was likely that some changes would be implemented.

Councillor Phil Larratt requested that documents were provided in colour when they include coloured content.

Councillor Richard Auger asked whether Keith Cheesman was working closely with the transformation at NCC. It was confirmed that this was the case, and further discussion would take place at the Chief Executives' Meeting on 15<sup>th</sup> May 2019.

## **RESOLVED:**

That the West Northamptonshire Joint Committee noted the progress made and that the report would be updated in the light of the Secretary of State's decision.

## **6. REPORT OF THE GOVERNANCE TASK AND FINISH GROUP**

Councillor Peter Rawlinson stated that the proposed Constitution was based on the 115 page Dorset Constitution, with some local preferences. Appendix A had been completed and Appendix B was in progress. The outstanding items would be discussed at the Task and Finish Group on 20<sup>th</sup> May 2019 and reported at the next WNJC meeting.

The Constitution was intended to work for the Shadow Authority, to form the basis for the unitary Council and to be as accessible to residents as possible.

It was proposed that Council would meet at 6.30 pm until 10.00 pm at the latest. There would be an Overview and Scrutiny Committee made up of 18 people and chaired by the largest opposition group. The committees would be politically balanced and the constitution gender neutral.

Councillor Peter Rawlinson expressed thanks to the Task and Finish Group and officers for their contributions.

Councillor Danielle Stone considered that 30 minutes was not long enough for public contributions. Councillor Peter Rawlinson pointed out that there would be 30 minutes for the public to speak in addition to 30 minutes for questions. It was important to get a balance between conducting business and retaining openness with residents. The timings could be changed by the Council if desired.

Councillor Adam Brown drew Members' attention to page 28, 1.2 and 1.3 and expressed concern that consultation with the Executive regarding Overview and Scrutiny might make it difficult to hold them to account. It was important to have a firm line between the functions of scrutiny and the Executive. Councillor Richard Auger stated that independent scrutiny had definitely been the intention, although he acknowledged the wording in 1.2 and 1.3 may have been a little clumsy.

Councillor Alan Chantler congratulated the Task and Finish Group on their work. He was pleased to note the gender neutrality, but pointed out that page 121, point 3, the phrase 'shall normally stand' could have been more sensitively worded.

Councillor Andrew Grant queried the figure of £10 for gifts and hospitality and considered it to be rather low. Councillor Richard Auger stated that there had been a long debate about this figure, which had subsequently been voted on by the Group.

Councillor Chris Millar expressed congratulations to the Task and Finish Group. The time allowed for the public to speak was important and it was the responsibility of the chair to sift out the pertinent points and decide whether there was duplication.

Councillor Stephen Hibbert asked for clarification regarding twin hatters. Seven signatures were required for a call in and three twin hatters could provide six votes. This would not be an issue once the Shadow had been elected, but could be a problem in the meantime.

Councillor Danielle Stone asked whether there would be provision for pre-scrutiny to allow participation by backbenchers. Councillor Peter Rawlinson stated that pre-scrutiny had been discussed and would be included. On being put to the meeting, the resolution was declared carried unanimously.

#### **RESOLVED:**

- a) The WNJC noted the discussions undertaken and the subsequent conclusions drawn by the Governance Task and Finish Group outlined in the report; furthermore it noted that the conclusions drawn had informed the drafts at the appendices to the report.
- b) The WNJC noted that work undertaken, including the content of the Appendices to the report were based upon assumptions on the content of the expected Structural Changes Order of Northamptonshire and the documents may need to change to reflect the SCO when available.
- c) That with regard to b), the WNJC approved the parts of the draft constitution of the proposed West Northamptonshire Shadow Authority at Appendix A of the report.
- d) The WNJC noted the work in progress of the draft constitution of the proposed West Northamptonshire Shadow Authority at Appendix B of the report.
- e) The WNJC noted that the Task and Finish Group will be reconvened with a view to bringing a completed draft constitution to the WNJC's meeting in June 2019.
- f) The WNJC thanked all the Councillors who sat on the Task and Finish group for their considerable efforts, over the extremely tight and challenging timescales for the delivery of substantial amounts of complex documentation which will shape the workings of the Shadow Council should approval be granted in the Structural Changes Order (SCO).

#### **7. REPORT OF THE INTERIM APPOINTMENTS TASK AND FINISH GROUP**

*The Senior Officers left the meeting for this item.*

Councillor Alan Chantler acknowledged the excellent support of Gill Kennedy in preparing the report. The Task and Finish Group had met twice and had sought advice from HR concerning Job Descriptions and Person Specifications. No additional payment would be received for the secondment. Initially secondment would be restricted to existing officers, extending to other suitable officers in the Councils, then suitable officers in North Northamptonshire Councils if necessary. The process could be put on hold if the timetable changed. There would be a selection process if there was more than one candidate. The panel would be the same for each post, but not necessarily for all posts. Councillor Chris Lofts requested that opposition members be represented on the selection panel.

Councillor Auger considered that it was important for the Head of Paid Service to have a successful track record of delivering Children's and Adult Services within budget. Keith

Cheesman pointed out that the Interim Head of Paid Service would not be running any services and that this could limit the potential applicants. Councillor Chris Millar pointed out that this role required a people manager. On being put to the meeting, the resolution was declared carried with the majority voting in favour, Councillor Chris Lofts voted against and Councillor Ken Ritchie abstained.

## **RESOLVED:**

2.1 The WNJC approved the proposed process (Appendix A) to designate officers as Interim Head of Paid Service (to include Returning Officer), Interim Monitoring Officer and Interim S.151 for the Shadow Authority.

2.2 The WNJC agreed to nominate Councillors to participate in the recruitment and selection process, in accordance with the recommended process at Appendix A, ie:

- a) A panel comprising one elected Member from each of the constituent West Northamptonshire Councils to be established to undertake the selection process, including an interview and presentation.
- b) The panel to be comprised of the same Members for the interviews for each statutory role, but the same panel does not need to consider all of the roles.

## **8. REPORT OF THE INDEPENDENT REMUNERATION PANEL TASK AND FINISH GROUP**

*(As Senior Officers would leave the meeting during discussion of agenda Item 7, it was moved to the end of the agenda.)*

Councillor Suresh Patel outlined the report.

Councillor Ken Ritchie considered that the proposed panel was a potential PR disaster. He stated that Members served people who struggled and allowances should be decided by them.

Councillor Danielle Stone considered that best practice should be employed at all times. Time pressures were not too pressing and setting up a new panel would be better than risking reputational damage.

Councillor Richard Auger pointed out that the proposed panel comprised of people who were represented by Members. Members' allowances were a technical issue and the panel therefore needed a technical understanding. Councillor Chris Millar concurred and questioned whether there were examples of procedures followed elsewhere.

Councillor Matt Golby stated that the process for appointment of the panel was open and transparent.

Councillor Adam Brown noted that the remuneration panel was independent and there needed to be an arm's length relationship to ensure fairness. Reducing allowances could reduce the diversity of councillors.

Councillor Chris Lofts considered that public perception was key and that it was dangerous to be seen to be putting together a panel consisting of people with whom Members already had a relationship. There was time to conduct an open recruitment process.

It was agreed that this issue would be discussed further by the Task and Finish Group. On being put to the meeting, the resolution was declared carried with the majority voting in

favour and Councillor Chris Lofts, Councillor Ken Ritchie and Councillor Danielle Stone voting against.

**RESOLVED:**

The WNJC considered and approved the following recommendations of the IRP (Independent Remuneration Panel (IRP) Task and Finish Group:

- 2.1 That the following individuals be appointed as members of the IRP for the proposed West Northamptonshire Shadow Authority:
  - Person D (Northampton Borough Council IRP Member) – Chair of the IRP
  - Person B (Daventry District Council Panel IRP Member)
  - Person F (Northamptonshire County Council IRP Member)
  - Person G (South Northamptonshire Council IRP Member)
- 2.2 That Officers be tasked with contacting the individuals above to make preliminary arrangements for meetings of the IRP.
- 2.3 That the Lead Monitoring Officer for the West Northamptonshire Authorities be given delegated authority, in consultation with the Chair of the Task and Finish Group, to determine the remuneration of the IRP members, taking account of the remuneration received by IRP members in each of the four West Northamptonshire authorities.
- 2.4 That the report of the IRP regarding its recommendations in relation to a Scheme of Members' Allowances for the West Northamptonshire Shadow Authority is presented to the Shadow Authority at its inaugural meeting for consideration.

**9. MATTERS OF URGENCY WHICH BY REASON OF SPECIAL CIRCUMSTANCE THE CHAIR IS OF THE OPINION SHOULD BE CONSIDERED**

There were none.

The meeting concluded at 7:26pm

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## WEST NORTHAMPTONSHIRE JOINT COMMITTEE

**5 JUNE 2019**

<b>Report Title</b>	<b>REPORT OF THE GOVERNANCE TASK &amp; FINISH GROUP</b>
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### **1. Purpose**

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- 1.1 This report follows an initial report of the Governance Task & Finish Group made to the 14<sup>th</sup> May 2019 meeting of the West Northamptonshire Joint Committee ('WNJC').
- 1.2 The initial report consisted of two appendices:
  - a) The first appendix consisted of completed parts of the draft constitution of the proposed West Northamptonshire Shadow Council
  - b) The second appendix consisted of parts of the draft constitution of the proposed West Northamptonshire Shadow Council that were then works in progress
- 1.3 The content of the second appendix has, subsequently, been considered and finalised by the Governance Task & Finish Group at a meeting held on 20 May 2019; it is, therefore, included within the draft full Shadow Constitution at Appendix A of this report.
- 1.4 Appendix B of this report includes commentary from the Governance Task & Finish Group on what it believes should be included in the Unitary Council Constitution, at the point at which it is developed.
- 1.5 Although Appendix B has been included for future reference, it is important to note that the focus of the Task & Finish Group was the development of the draft constitution for the Shadow Council, rather than that of the Unitary Council.
- 1.6 The report also discusses the expected Structural Changes Order ('SCO') for Northamptonshire, with regard to the way in which the draft constitution of the proposed West Northamptonshire Shadow Council will be modified in accordance with it.

### **2. Recommendations**

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2.1 It is recommended that:

- a) The WNJC note the discussions undertaken and the subsequent conclusions drawn by the Governance Task & Finish Group at its meeting on 20 May, as stated in section 3 of this report; furthermore, to note that the conclusions drawn have informed the relevant sections in the draft Shadow Constitution at Appendix A of this report.
- b) The WNJC note that on 14<sup>th</sup> May 2019, the Secretary of State for the Ministry of Housing, Communities and Local Government made a written statement to Parliament confirming that the new Unitary Council for the West would, subject to parliamentary approval, be operational from 1<sup>st</sup> April 2021, with the Shadow Council being set up beforehand.
- c) The WNJC note that work undertaken, including the content of the Appendices to this report, is based on assumptions on the content of the expected SCO for Northamptonshire and the documents will, following the Ministerial announcement referred to in b) above need to change to reflect the detail in the SCO.
- d) The WNJC approve the draft Shadow Constitution of the proposed West Northamptonshire Shadow Council at Appendix A.
- e) The WNJC delegate to the Lead Monitoring Officer for the proposed West Northamptonshire unitary project, the power to make non-substantive changes, including making any typographical changes, to the draft Shadow Council Constitution in consultation with the Chair and Vice-Chair of the WNJC.
- f) The WNJC note that changes will be required to be made to the draft constitution arising from the SCO, once approved by Parliament, and further approvals to the draft constitution will be brought back to the WNJC for approval.
- g) That the WNJC note the commentary at Appendix B, from the Governance Task & Finish Group, on what it believes the established Unitary Council should include in the Unitary Council constitution, at the point at which it is adopted.

### **3. Governance Task & Finish Group conclusions**

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#### **3.1**

- a) The documents appended to this report were drafted on the basis of the West Unitary Council becoming operational in April 2020. However, the Secretary of State for the Ministry of Housing, Communities and Local Government made a written statement to Parliament on 14<sup>th</sup> May 2019 confirming that the Northamptonshire Councils' proposal for two Unitary Councils would, following a consideration of the consultation responses, be taken forward for parliamentary approval to become operational in April 2021. Changes to the documents will therefore be required to reflect the new dates and to reflect the changes to the document that will be required as a result of the SCO once it has been formally approved by Parliament.

**3.2 In relation to revised Article 10 of Appendix A, it was agreed that:**

- a) Guidance would be produced for the Standards Committee to ensure that the Hearings Panel would be constituted in such a way that its business could be transacted fairly and according to the principles of natural justice and this is made explicit in the drafting.
- b) A Review Panel with the ability to deal with reviews of decisions of the Hearings Panel be established in addition to a Hearings Panel.

**3.3 In relation to revised arrangements for dealing with allegations**, it was agreed that:

- a) There would be a mandatory requirement for the Monitoring Officer to consult with the Independent Person in relevant circumstances and the wording of that section be amended accordingly.
- b) A review process be included, to review decisions of the Hearings Panel, if requested.

**3.4 In relation to revised responsibility for functions**, it was agreed that the Monitoring Officer be delegated authority to grant dispensations.

**3.5 In relation to Councillor/Officer Relations**, the document was agreed, subject to reinforcing the principle that officers are professional staff and that the principles of public service and the Nolan Principles must be adhered to at all times.

**3.6 In relation to Part 2 – Article 12**, it was agreed that the key decision threshold of £500k was not likely to be required as it was expected to be disproportionate to the likely budget of the shadow council, but further information would be sought from the Chief Finance Officer group.

**3.7 In relation to Financial Procedure Rules**, the rules were agreed from the Task and Finish Group's perspective, with minor comments, subject to the Chief Finance Officers Group signing off the document. CFOs have now considered the document further and have made the point that the most the document can be at the moment is a working draft, and must be considered in that light.

**3.8 In relation to the General Purposes Committee**, it was agreed that the General Purposes Committee should comprise 18 councillors, with a quorum of 12, and should have the functions as set out in Part 3, Responsibility for Functions, at paragraph 10.

**3.9 In relation to Part 4D, Meeting Procedure Rules**, it was agreed that:

- a) Section 2 be revised in order to reinforce the apolitical nature of the role of Chair
- b) Section 12 be reworded to enable Cabinet members to report to the Shadow Council outlining developments and matters of relevance to their work.
- c) Section 18 include that the Shadow Council would elect committee chairs but that committees themselves would elect vice-chairs

3.10 The Task and Finish Group were conscious that their remit was fairly limited in that they were tasked with producing a draft constitution for the Shadow Council to

adopt and to operate during the Shadow Council period. However, the Task and Finish Group were keen on providing commentary arising from their consideration and debate which may be of use for the unitary council once established. Their commentary is attached at Appendix B.

#### **4. Implications (including financial implications)**

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##### **4.1 Policy**

4.1.1 None arising directly, as the material presented is in draft form.

##### **4.2 Resources and Risk**

4.2.1 Ongoing support of the Governance Task & Finish Group will be required once the expected SCO for Northamptonshire has been received.

##### **4.3 Legal**

4.3.1 A constitution is a fundamental governance document for the Shadow Council. The legal implications are contained within the document itself. Changes will need to be made to the draft constitution to implement any changes required by the SCO and the approvals process for enabling this is described within the body of this report.

##### **4.4 Equality and Health**

4.4.1 There are no equality and health implications arising directly, as the material presented is in draft form.

##### **4.5 Consultees (Internal and External)**

4.5.1 Members of the Task & Finish Group, Chief Executives (and through them their nominees).

#### **5. Background Papers**

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5.1 Agendas and papers presented to the WNJC on 26 March 2019 with regard to the Governance Task & Finish Group.

5.2 Initial report of the Governance Task & Finish Group made to the 14 May 2019 meeting of the WNJC.

**Francis Fernandes**  
**Borough Secretary and Monitoring Officer**  
**Northampton Borough Council**  
**Tel: 01604 837334**

**Matters for Consideration by the West Northamptonshire Shadow Council when developing the Constitution for the West Northamptonshire Unitary Council**

1. The Terms of Reference of the Governance Task & Finish Group focussed on the development of the draft constitution for the proposed West Northamptonshire Shadow Council.

However, during the course of its discussions, the Governance Task & Finish Group identified topics that the Shadow Council may wish to consider when it develops the draft constitution for the Unitary Council; these are as follows:

- a) The unitary council should consider the merits of the Committee System vs. Leader and Cabinet system.
- b) The potential to utilise Area Committees, including what roles and responsibilities they may hold
- c) The merits of rotating the role of Chair of the Council, to evaluate a greater level of inclusivity
- d) The merits of developing a Youth Council and/or other groups to represent other sections of the community
- e) The mechanisms that the Unitary Council should use to monitor the work of the proposed Children's Trust
- f) Careful consideration should be given the monetary threshold for a key decisions

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# West Northamptonshire Shadow Council

## CONSTITUTION

### PART 1 - SUMMARY AND EXPLANATION

*The content of this part of the Constitution is heavily dependent on the content of the Structural Changes Order ('SCO') and the timing of local government reorganisation. It is drafted based on current assumptions and follows the model set out in the Dorset SCO. However, Northamptonshire's SCO may be different and change the current assumptions.*

## **Part 1 - Constitution - summary and explanation**

### **General**

West Northamptonshire Shadow Council (the “Shadow Council”) is one of two authorities that have been created by the Northamptonshire (Structural Changes) Order 2019 (the “2019 Order”). It will operate as the Shadow Council for a new local authority that will come into being on 1 April 2020 to be known as West Northamptonshire Council. The Shadow Council will exist for the period beginning with the day on which the 2019 Order comes into force and ending on the fourth day after the 2020 Election Day (the “Shadow Period”). As required under the Local Government Act 2000, the Shadow Council has approved this Constitution which sets out:

- how the Shadow Council operates;
- how its decisions are made; and
- the procedures that will be followed.

Some of the processes in the Constitution are required by law while others are considered by the Shadow Council to be necessary to ensure that it operates effectively and efficiently; and in the interests of the people it serves.

### **The Constitution and its content**

The Constitution is divided into five parts:

**Part 1** sets out an explanation of what the Shadow Council is and how it works.

**Part 2** sets out the formal articles of the Constitution:

Article 1	The Constitution
Article 2	The Shadow Council
Article 3	Rights and Responsibilities of members of the public
Article 4	The Full Shadow Council
Article 5	The Role of the Chair of the Shadow Council
Article 6	Overview and Scrutiny
Article 7	The Shadow Executive Committee
Article 8	Other Committees
Article 9	Joint Arrangements
Article 10	Arrangements for promoting good standards of behaviour by Members
Article 11	Officers
Article 12	Decision Making
Article 13	Legal Matters
Article 14	Review, Revision, Suspension, Interpretation and Publication of the Constitution.

**Part 3** sets out the responsibility of bodies and individuals for various functions carried

out by the Shadow Council in relation to the exercise of its powers.

**Part 4** contains the Rules of Procedure which are designed to regulate the conduct of the Shadow Council's business to ensure decisions are made in accordance with the law and the wishes of the Shadow Council.

**Part 5** includes the Code of Conduct for Shadow Councillors which is designed to ensure that Councillors carry out their duties to the highest ethical standards. It also includes a protocol on Member/Officer Relations.

**Part 6** covers the Scheme of Shadow Councillors' Allowances. Article [] of the 2019 Order provides that the Shadow Council has to prepare and adopt a scheme for the payment of allowances to its members.

### **The Shadow Council and how it operates in making decisions**

There are 134 Shadow Councillors who sit on the Shadow Council. They are the councillors who were elected to Daventry District Council, Northampton Borough Council and South Northamptonshire Council; and those councillors who were elected to Northamptonshire County Council for the County Divisions within the area of Northamptonshire covered by the three districts and boroughs. The Councillors will continue in office after 1 April 2020 when a new local authority to be known as West Northamptonshire Council will come into existence before retiring from office on the expiry of the Shadow Period (being the fourth day after the May 2020 election day).

The role of the Shadow Council is to:

- prepare for the assumption of local government functions and full local authority powers on 1 April 2020;
- prepare budgets and plans required to be put in place on 1 April 2020; and
- liaise with other local authorities in its area to ensure continuity of public service delivery on or after 1 April 2020 and thereafter.

The Shadow Councillors are directly accountable to their constituents for the running of the Shadow Council. Whilst Shadow Councillors have this very broad role they have a duty to represent the interests of all their constituents. They also work closely with Officers in developing policies and strategies to give direction to the Shadow Council's vision and to implement the requirements of the 2019 Order.

The Shadow Council will meet on a number of occasions during the Shadow Period. Meetings are open to the public, but the public may be excluded where an item of a confidential or exempt nature is being discussed.

At its first meeting, the Shadow Council will appoint its Chair and Vice-Chair; and the Chair and Vice-Chair of any Committees and Sub-Committees. It will also agree the range of responsibilities to be exercised by Shadow Councillors individually or collectively. All these individuals and bodies are directly accountable to the Shadow Council.

There are two main areas in the Shadow Council's political structure. These are the Shadow Executive Committee and Overview and Scrutiny and are covered in more detail within the Constitution.

The Shadow Executive Committee is that part of the Shadow Council which is responsible for most of the day-to-day decisions. The Shadow Executive Committee comprises 16 Shadow Councillors nominated in accordance with Article **X** of the 2019 Order.

At the first meeting of the Shadow Executive Committee it will elect a Councillor from among those who have been nominated to the Shadow Executive Committee to chair the Shadow Executive Committee. The Shadow Council will elect from amongst its Members at its first meeting a Shadow Councillor to serve as the Chair of the Shadow Council for the Shadow Period. The Shadow Council will also appoint the Vice-Chair of the Shadow Council.

Any Key Decisions to be made by the Shadow Executive Committee are published on a monthly basis in the Shadow Executive Committee's Forward Plan which looks at the forthcoming four-month period. It is not always possible to anticipate all the items to be included in the Forward Plan. However, in cases where this is not possible, items will be added to the Forward Plan at the next date of publication. Special arrangements apply where a matter is urgent or cannot be included in the Plan.

The Shadow Council's Overview and Scrutiny arrangements ensure that Shadow Councillors who are not on the Shadow Executive Committee can be involved in Shadow Executive Committee decisions by questioning and making recommendations.

The Overview and Scrutiny arrangements will reflect as far as practicable the overall political proportionality of the Shadow Council. Members of the Shadow Executive Committee cannot sit on the Overview and Scrutiny Committee.

In performing their various roles, Shadow Councillors are supported by the Officers who give advice and implement. Officers ensure the Shadow Council acts within the law and uses resources efficiently and effectively.

As the Shadow Council is a public body, members of the public have a number of rights in their dealings with it. Whilst some are legal rights such as the right to film, audio record or to report on meetings that are open to the public, others will depend on the Shadow Council's own processes. These rights are set out in Parts 2 and 4 of this Constitution.

The Constitution will be updated to reflect changes within the Shadow Council, its procedures and processes.

# PART 2 – ARTICLES OF THE CONSTITUTION

Article 1	The Constitution
Article 2	The Shadow Council
Article 3	Rights and Responsibilities of members of the public
Article 4	The Full Shadow Council
Article 5	The Role of the Chair of the Shadow Council
Article 6	Overview and Scrutiny Committee
Article 7	The Shadow Executive Committee
Article 8	Other Committees
Article 9	Joint Arrangements
Article 10	Arrangements for promoting good standards of behaviour by Shadow Councillors
Article 11	Officers
Article 12	Decision Making
Article 13	Legal Matters
Article 14	Review, Revision, Suspension, Interpretation and Publication of the Constitution

## **Article 1 - The Constitution**

### **1 Powers and Duties of the Shadow Council**

- 1.1 The powers and duties of the Shadow Council are set down in Acts of Parliament and secondary legislation. The Shadow Council will exercise those powers and duties in accordance with the law and its Constitution.

### **2 The Constitution**

- 2.1 The Shadow Council's Constitution includes all those parts listed in Part 1 – Summary and Explanation.

### **3 Purpose of the Constitution**

- 3.1 The objectives of this Constitution are:
- (a) to support the Shadow Council's preparations;
  - (b) to provide a framework for clear leadership to the community in partnership with its people, businesses and other organisations;
  - (c) to enable decisions to be taken efficiently and effectively;
  - (d) to provide a robust and effective overview and scrutiny function;
  - (e) to ensure that a decision will not be reviewed or scrutinised by anyone who was directly involved in making the decision; and
  - (f) to ensure that those responsible for decision making can be clearly identified by local people and that they can explain the reasons for their decisions.
- 3.3 The Shadow Council will ensure that the articles, procedural rules and protocols in this Constitution reflect and deliver the objectives set out above.

## **Article 2 - The Shadow Council**

### **1 Composition**

- 1.1 The Shadow Council comprises the 134 Shadow Councillors who are the councillors who were elected to Daventry District Council; Northampton Borough Council, South Northamptonshire Council and those councillors who were elected to Northamptonshire County Council for the County Divisions within the area of Northamptonshire covered by the three district and borough councils. The councillors will continue in office until after 1 April 2020 when a new local authority, known as the West Northamptonshire Council, will come into existence before retiring from office on the expiry of the shadow period. Appendix 1 to this Article lists details of the Shadow Councillors and the area each represents. Further information on the Shadow Councillors can be found on the Shadow Council's website.

### **2 Term of Office**

- 2.1 Shadow Councillors' term of office will commence on the day after the day on which the 2019 Order is made and continue for the Shadow Period.
- 2.2 Where a casual vacancy occurs in the office of a Shadow Councillor on or before 30 September 2019, a by-election will be held and the person elected will serve until the fourth day after the date of the 2020 election.

### **3 Role of Shadow Councillors**

- 3.1 Shadow Councillors will undertake the following roles:
- (a) as a body, they will: set the Shadow Council's major plans, policies and strategies as required by law; perform those functions identified in the 2019 Order; and will take decisions on such matters as must be reserved to the full Shadow Council by law or as provided for in this Constitution;
  - (b) oversee the Shadow Council's strategic and corporate management;
  - (c) represent their communities and the views of their electorate in the decision making process;
  - (d) support, as appropriate, individuals in their dealings with the Shadow Council and represent them in seeking to resolve particular concerns or grievances;
  - (e) balance the different interests of people within their constituency with a view to representing their constituency as a whole;
  - (f) participate, as appropriate, in the decision-making, and overview and scrutiny processes; and

- (g) maintain the highest standards of conduct and ethics and will observe the Shadow Council's Members' Code of Conduct.

#### **4 Shadow Councillors' Representational Roles**

- 4.1 All Shadow Councillors represent their constituents and the Shadow Council sees this as an important role and responsibility under this Constitution.
- 4.2 Shadow Councillors have an important job in consulting their communities on the development of policies, plans and strategies and other local initiatives.
- 4.3 The Shadow Council will ensure in its processes that appropriate procedures are in place so that Shadow Councillors can contribute to the Shadow Council's business on behalf of their local community both in terms of policy development and decision making.

#### **5 Shadow Councillors' Rights**

- 5.1 Shadow Councillors will have rights of access to any document, information, land or buildings of the Shadow Council where this is necessary for the proper discharge of their functions as a Shadow Councillor and in accordance with the law and this Constitution.
- 5.2 A Shadow Councillor is not permitted to make available to the press or to a member of the public any information which they have been sent or given in whatever form and which is exempt or confidential information as defined in the Access to Information Procedure Rules which are set out in Part 4 of this Constitution.
- 5.3 A Shadow Councillor shall not divulge information given in confidence to anyone other than a Shadow Councillor or officer or other person legally entitled to know it.

#### **6 Chair and Vice-Chair of the Shadow Council**

- 6.1 The Shadow Council will elect, from amongst its number, at its first meeting, a Shadow Councillor to serve as Chair of the Shadow Council for the Shadow Period.
- 6.2 Similarly the Shadow Council will appoint the Vice-Chair of the Shadow Council for the Shadow Period.
- 6.3 Where a vacancy occurs in respect of either office the Shadow Council will elect/appoint as appropriate a successor at its next meeting.
- 6.4 A member of the Shadow Executive Committee cannot be elected or appointed as Chair or Vice-Chair of the Shadow Council while serving on the Shadow Executive Committee. Otherwise any Shadow Councillor is eligible for election as Chair or Vice Chair of the Shadow Council.

- 6.5 Where the Chair and Vice-Chair of the Shadow Council are both absent from a meeting of the Shadow Council, or a part of it, the Shadow Council will appoint one of their members, other than a member of the Shadow Executive Committee, to preside.

## **7 Leader and Deputy Leader of the Shadow Council**

- 7.1 The Shadow Executive Committee will elect, from amongst its number, at the first meeting of the Shadow Executive Committee, a chair and deputy chair, who upon election will be the Leader and Deputy Leader of the Shadow Council and will hold office in accordance with paragraph 3(1) of Article 7.

## **8 Other Offices**

- 8.1 The Shadow Council will elect other Members to fill such other offices as it may determine from time to time in accordance with any requirements set out in law or this Constitution.

## **9 Conduct of Shadow Councillors**

- 9.1 All Shadow Councillors are required, at all times, to observe the Shadow Councillors' Code of Conduct and to have appropriate regard to such other protocols, policies, guidance and advice as may be issued from time to time through the Shadow Council's formal processes.

## **10 Shadow Councillors' Scheme of Allowances**

- 10.1 Shadow Councillors shall be entitled to receive such allowances as are laid down from time to time in the Shadow Councillors' Scheme of Allowances.

## **11 Shadow Councillor Support**

- 11.1 The Shadow Council will also provide support to Shadow Councillors as appropriate to enable them to fulfil their roles and responsibilities.

## COUNCILLORS OF THE SHADOW COUNCIL

The Shadow West Northamptonshire Council comprises all councillors that currently serve Daventry District Council; Northampton Borough Council, South Northamptonshire Council and those councillors who were elected to Northamptonshire County Council for the County Divisions within the area of Northamptonshire covered by the three district and borough councils.

The Shadow West Northamptonshire Council consists of 134 councillors. (20 councillors are dual-hatted.)

Contact details and further information about councillors are available at:

[Daventry District Council](#)

[Northampton Borough Council](#)

[Northamptonshire County Council](#)

[South Northamptonshire Council](#)

Daventry District Council	Northampton Borough Council	Northamptonshire County Council	South Northamptonshire Council
Number of Wards: 16	Number of Wards: 33	Number of Divisions: 32	Number of Wards: 27
Number of Councillors: 36	Number of Councillors: 45	Number of Councillors: 31	Number of Councillors: 42
Johnnie Amos Richard Auger Adam Brown Nick Bunting Alan Chantler Daniel Cribbin Stephen Dabbs Deanna Eddon Fabienne Fraser-Allen Rupert Frost Jo Gilford Liz Griffin Alan Hills Amy Howard Wayne Howard Cécile Irving-Swift David James Catherine Lomax Malcolm Longley Peter Matten	Tony Ansell Rufia Ashraf Mohammed Azizur-Rahman Sally Beardsworth Jane Birch Alan Bottwood Muna Cali John Caswell Nasim Choudary Clement Chunga Julie Davenport Janice Duffy Gareth Eales Terrie Eales Brandon Eldred Penelope Flavell Matthew Golby Luke Graystone Tim Hadlan Mike Hallam	Richard Auger* Fiona Baker* Jane Birch* Lizzy Bowen Rebecca Breese* Adam Brown* Robin Brown Pinder Chauhan Michael Clarke Julie Davenport* Gareth Eales* Matthew Golby* André Gonzalez de Savage Mike Hallam* Amy Howard* Cécile Irving-Swift* Andrew Kilbride* Stephen Legg Malcolm Longley* Arthur	Ann Addison Robert Atkinson Anthony Bagot-Webb Fiona Baker Dermot Bambridge Sandra Barnes MBE Phil Bignell Caryl Billingham MBE Rebecca Breese John Budden Carole Clarke Roger Clarke Stephen Clarke Karen Cooper Richard Dallyn Hywel Davies Peter Davies Valeri Furniss

Richard Micklewright Chris Millar Colin Morgan Stephen Osborne Kevin Parker Sarah Peck Jason Pritchard Aiden Ramsey Wendy Randall Ken Ritchie Ian Robertson John Shephard David Smith Mike Warren Mark Wesley Lesley Woolnough	Anamul Haque Stephen Hibbert James Hill Paul Joyce Andrew Kilbride Samuel Kilby-Shaw Anna King Phil Larratt Christopher Malpas Brian Markham Mary Markham Les Marriott Arthur McCutcheon Dennis Meredith Jonathan Nunn Brian Oldham Nilesh Ramesh-Parekh Suresh Patel Emma Roberts Catherine Russell Brian Sargeant Zoe Smith Danielle Stone Graham Walker	McCutcheon* Dennis Meredith* Ian Morris Stephen Osborne* Suresh Patel* Anjona Roy Sam Rumens Adil Sadygov* Judy Shephard Danielle Stone* Winston Strachan Allen Walker*	Andrew Grant David Harries BEM Rosie Herring Steven Hollowell Gregor Hopkins Martin Johns Chris Lofts Dennis Loveland Charle Manners Ian McCord Abigail Medina Alice Kim Ord Ken Prichard Peter Rawlinson Jonathan Riley Adil Sadygov Lisa Samiotis Mary-Anne Sergison-Brooke Sandi Smallman Catherine Tarbun John Townsend Allen Walker Elaine Wiltshire Paul Wiltshire
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Date: 24 April 2019

## **Article 3 - Rights and responsibilities of members of the Public**

### **1 Rights**

- 1.1 Members of the public have the following rights in regard to the affairs of the Shadow Council:
- (a) access to information subject to such constraints as may be imposed, by law and as set out in the Access to Information Procedure Rules in Part 4 of this Constitution;
  - (b) to attend meetings of the Shadow Council and its Committees and Sub-Committees except where exempt or confidential information is likely to be disclosed;
  - (c) to attend public meetings of the Shadow Executive Committee except where exempt or confidential information is likely to be disclosed;
  - (d) to film, audio record or report on meetings of the Shadow Council and its Committees and Sub-Committees and the Shadow Executive Committee subject to guidelines published on the Shadow Council's website and available at meetings;
  - (e) to have access to the Shadow Council's Forward Plan of Key Decisions to be taken by the Shadow Executive Committee;
  - (f) in accordance with the statutory framework to inspect reports, background papers and any records of decisions made by: the Shadow Council; the Shadow Executive Committee; a Committee; Sub-Committee; the Leader or a Portfolio Holder subject to the provisions on exempt or confidential information applying;
  - (g) in accordance with the statutory framework to inspect the Shadow Council's Accounts and to make their views known to the external auditors where appropriate;
  - (h) to ask questions or present petitions at designated meetings in accordance with such procedures as the Shadow Council may determine from time to time;
  - (i) to contribute to investigations by the Overview and Scrutiny Committee where invited to do so; and
  - (j) to complain to the Shadow Council where there is an alleged breach of the Shadow Councillors' Code of Conduct.

### **2 Responsibilities of members of the public**

- 2.1 The Shadow Council in turn expects those living within the Shadow Council's area and/or receiving services not to use violent, abusive or threatening

behaviour in any form against any Shadow Councillor, Officer or persons acting for or on behalf of the Shadow Council.

- 2.2 The Shadow Council also asks that the property, assets and other resources of the authority, Shadow Councillors, Officers or persons acting for or on behalf of the Shadow Council are not wilfully harmed or damaged.

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## **Article 4 - The full Shadow Council**

### **1 Functions**

- 1.1 The functions of the Shadow Council are set out in the Northamptonshire (Structural Changes) Order 2019 (“the 2019 Order”) and in relevant consequential orders.
- 1.2 Save to the extent any provision of any Act, the 2019 Order or regulations under sections 9D or 9DA of the Local Government Act 2000 require otherwise then unless the Shadow Executive Committee requests the Shadow Council to discharge any function in accordance with Article [ ] of the 2019 Order, the functions of the Shadow Council conferred on the Shadow Council by or under the 2019 Order are delegated to the Shadow Executive Committee.
- 1.3 The Shadow Council will be responsible for the adoption of the Shadow Council’s budget and policy framework. For these purposes the budget includes the setting of the council tax; and the policy framework means such plans and strategies as must by law be approved by the Shadow Council.
- 1.4 The Shadow Council also has the functions set out in Part 3 of this Constitution.

### **2 Shadow Council Meeting**

- 2.1 The first meeting of the Shadow Council will be held within 14 days after the coming into force of the 2019 Order.
- 2.2 Ordinary Meetings will be held according to a calendar of meetings to be agreed by the Shadow Council and which will be published once agreed.
- 2.3 Extraordinary meetings may be called as and when required as provided in the Shadow Council Procedure Rules.

### **3 Conduct of Shadow Council Meetings**

- 3.1 Shadow Council meetings will be conducted in accordance with the law and the Shadow Council Procedure Rules.

### **4 Responsibility for Functions**

- 4.1 The Shadow Council will maintain a record of those Shadow Council functions which are the responsibility of its subordinate bodies.

## **Article 5 - The role of the Chair of the Shadow Council**

### **1 Civic Role**

- 1.1 The Chair of the Shadow Council, supported by the Vice-Chair, and as appropriate other Shadow Councillors, will perform the civic role on behalf of the Shadow Council.
- 1.2 The Chair will represent the Shadow Council at civic and ceremonial functions of other local authorities or involving other appropriate bodies.

### **2 Shadow Council Role**

- 2.1 The Chair will be elected by the Shadow Councillors at its first meeting. The Vice-Chair is also appointed at the same meeting.
- 2.2 The Chair is responsible for the following:
  - (a) upholding and promoting the purposes of this Constitution and interpreting it with appropriate advice when necessary;
  - (b) presiding over meetings of the full Shadow Council to ensure that business is carried out efficiently and effectively whilst preserving the rights of Shadow Councillors and the interests of members of the public;
  - (c) ensuring that at Shadow Council meetings, matters of concern to local communities can be debated through the appropriate Shadow Councillors;
  - (d) ensuring that Shadow Councillors who are not on the Shadow Executive Committee or who do not hold the Chairship of a main Committee are able to hold those office holders to account;
  - (e) promoting public involvement in the Shadow Council's affairs and acting as a contact between members of the public and organisations and the Shadow Council; and
  - (f) undertaking such other roles as may be placed upon the office from time to time by the Shadow Council.

### **3 Vice-Chair of the Shadow Council**

- 3.1 The Vice-Chair will support the Chair in their civic role and will carry out civic duties as well on behalf of the civic office.
- 3.2 The Vice-Chair will also deputise in the absence of the Chair in carrying out the responsibilities of the office of Chair.

## **Article 6 – Overview and Scrutiny Committee**

### **1 Overview and Scrutiny**

- 1.1 The Shadow Council has established arrangements for the overview and scrutiny of decisions or other action taken by the Shadow Executive Committee and others in accordance with the Local Government Act 2000 as applied by the 2019 Order. This Article sets out those arrangements. It should be read in conjunction with the Overview and Scrutiny Procedure Rules
- 1.2 The Shadow Council will keep under review its overview and scrutiny arrangements and will make changes where it considers these are appropriate and will lead to improvements and an improved overview and scrutiny function.

### **2 Responsibilities of the Overview and Scrutiny Committee**

- 3.1 The Overview and Scrutiny Committee has the functions set out in Part 3 of this Constitution.

### **3 Membership of the Overview and Scrutiny Committee.**

- 3.1 The Overview and Scrutiny Committee shall comprise 18 Shadow Councillors. The Chair of the Committee will be a member of the largest minority political group on the Shadow Council and who will be elected by the members of the Committee.
- 3.2 No member of the Shadow Executive Committee may be a member of the Overview and Scrutiny Committee or any Task and Finish Panels.
- 3.3 Any body established under these Scrutiny arrangements will be a politically proportionate body reflecting the overall political representation on the Shadow Council.

### **4 Conduct of Overview and Scrutiny Committee meetings**

- 4.1 Conduct of the proceedings at Overview and Scrutiny Committee meetings shall be in accordance with the Shadow Council and Overview and Scrutiny Procedure Rules as appropriate.

### **5 Task and Finish Panels**

- 5.1 The Overview and Scrutiny Committee may establish such Task and Finish Panels as it considers necessary after taking into account the availability of resources, the work programme and scope of the review.
- 5.2 The Committee will appoint the Chair (and Vice-Chair, if appropriate) of each Panel and agree the membership.

## **Article 7- The Shadow Executive Committee**

### **1 Role of the Shadow Executive Committee**

- 1.1 The Shadow Executive Committee will carry out all of the Shadow Council's duties and responsibilities which are not the responsibility of any other part of the Shadow Council, whether by law or under this Constitution, and in particular it will carry out the those duties and responsibilities of the Shadow Executive Committee which are contained in the 2019 Order.
- 1.2 The Shadow Executive Committee will also exercise the functions of the Shadow Council that must delegated to it by the full Shadow Council under Article [ ] of the 2019 Order.
- 1.3 The Shadow Executive Committee shall be responsible for making recommendations to the Shadow Council on the setting of a budget for the West Northamptonshire Council and will have the opportunity to express a view to the Shadow Council on the appointment of Senior Officers prior to any such appointment being confirmed.

### **2 Composition of the Shadow Executive Committee**

- 2.1 The 2019 Order provides that the Shadow Executive Committee is to consist of (a) six persons nominated by Northamptonshire County Council, each of whom is for the time being a member of that Council for an electoral division within the part of Northamptonshire that is coterminous with the Councils specified in this paragraph, and (b) four persons nominated by each of Daventry District Council, Northampton Borough Council and South Northamptonshire Council, each of whom is for the time being a member of the nominating Council.
- 2.2 The Chair and Vice-Chair of the Shadow Executive Committee will be elected by the Shadow Executive Committee at its first meeting.
- 2.3 Where a Shadow Executive Committee Member, other than the Leader or Deputy Leader, ceases to hold office, the Leader will reassign the relevant portfolio within the remaining Shadow Executive Committee membership from the date of cessation to the date of the next Shadow Executive Committee meeting. Where the Leader and Deputy Leader hold portfolio responsibilities and either cease to hold their office then the Leader or the Deputy Leader, as the case may be, shall reassign the relevant portfolio.
- 2.4 No deputy or substitution arrangements are allowed in respect of the Shadow Executive Committee. The Chair and Vice Chair of the Shadow Council cannot be appointed to the Shadow Executive Committee.

### **3 The Leader and Deputy Leader**

- 3.1 The Leader and Deputy Leader will hold office until:

- (a) he/she resigns from the office of Leader or Deputy Leader (as the case may be);
- (b) he/she becomes ineligible to be a Shadow Councillor for a specific period or indefinitely;
- (c) he/she ceases to be a Shadow Councillor; or
- (d) he/she is removed from office by a resolution of the Shadow Executive Committee.

3.2 Where there is a vacancy in the office of Leader, the Deputy Leader shall assume the responsibilities of the Leader until the next meeting of the Shadow Executive Committee, whether that be an Ordinary or Extraordinary meeting of the body.

3.3 Where both the Leader and the Deputy Leader cease to hold office at the same time, the Interim/Appointed Head of Paid Service shall call a meeting of the Shadow Executive Committee as soon as possible for the purpose of electing a new Leader and Deputy Leader.

#### **4 Other Shadow Executive Committee Members**

4.1 Other members of the Shadow Executive Committee shall hold office until any of the events listed in paragraph 3.1 above for ending the term of office of the Leader apply to them collectively or individually as Shadow Executive Committee Members.

#### **5 Proceedings of the Shadow Executive Committee**

5.1 All proceedings of the Shadow Executive Committee and its Committees shall be conducted in accordance with the Shadow Executive Committee Procedure Rules set out in this Constitution.

#### **6 Responsibility for Functions**

6.1 The Leader can exercise any executive power. Alternatively, the Leader may arrange for the discharge of any executive functions by: the Shadow Executive Committee; another member of the Shadow Executive Committee; a committee of the Shadow Executive Committee; or an officer of the Shadow Council.

6.2 If the Leader is unavailable, absent or there is a vacancy in the post of the Leader, the Deputy Leader can exercise any executive power.

6.3 Unless the Shadow Executive Committee requests the Shadow Council to discharge any function in accordance with Article [ ] of the 2019 Order, the Shadow Executive Committee can exercise any function of the Shadow Council conferred on the Shadow Council by or under the 2019 Order save to

the extent any provision of any Act, the 2019 Order or regulations under section 9D or 9DA of the Local Government Act 2000 require otherwise.

- 6.4 Any Member of the Shadow Executive who has been allocated a portfolio by the Leader (“Portfolio Holder”) can exercise any executive power that falls within that portfolio, the scope of which the Leader will determine. The Leader may amend or revise those portfolios at any time.
- 6.5 The Leader and Deputy Leader may have a portfolio responsibility
- 6.6 The Leader, Deputy Leader, Shadow Executive Committee and any Portfolio Holder can delegate powers to the extent as provided for in Part 1A of the Local Government Act 2000. The arrangements set out in this Constitution reflect those currently agreed. Further, the Shadow Executive Committee can also delegate its powers to any Officer of the Shadow Council, Northamptonshire County Council and/or a District Council as defined in the 2019 Order.
- 6.7 The Leader will ensure that a record is kept of the Shadow Executive Committee functions which are the responsibility of each Portfolio Holder, any committee or sub-committee of the Shadow Executive Committee, or officers or under any joint arrangements.
- 6.8 Where a delegation arrangement is made under paragraph [6.6] above, it shall not preclude the body or person delegating the function, or part of it, from exercising that function on giving notice in writing to that body or person.

## Article 8 - Other Committees

### 1 Other Committees

- 1.1 The Shadow Council will appoint the following other Committees to take such decisions which are not within the responsibilities of the Shadow Executive Committee:

Committee	Shadow Councillors
Overview and Scrutiny Committee	18
Senior Appointments Committee	8
Standards Committee	8
General Purposes Committee	18

- 1.2 The Shadow Council may appoint other Committees, Sub-Committees and Special Committees with delegated powers to act under specific terms of reference which must be set out in the Minutes.
- 1.3 To the extent that any committees are not exercising executive functions the provisions of sections 15-17 of the Local Government and Housing Act 1989 and the Local Government (Committees and Political Groups) Regulations 1990 will apply to their membership.

### 2 Powers of Committees

- 1.1 The Committees shall have the functions set out in Part 3 of this Constitution.
- 1.2 A Committee may, at any time, decline to exercise a delegated power. The matter must then be considered and determined by the Shadow Council as appropriate.

### 3 Conduct of Committee Meetings

- 3.1 Committee meetings will be conducted in accordance with the law and Parts B and C the Meeting Procedure Rules set out in Part 4 of this Constitution.

## **Article 9 – Joint Arrangements**

9.1 There are currently no joint arrangements.

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## **Article 10 - Arrangements for promoting good standards of Shadow Councillor behaviour**

### **1 Standards Committee**

The Shadow Council will establish a Standards Committee.

**2 Membership** – The Standards Committee will be composed of eight Councillors.

### **3 Adoption of a code of conduct for Shadow Councillors and Arrangements for dealing with alleged breaches**

The Shadow Council has adopted the Members' Code of Conduct and Arrangements for dealing with alleged breaches of the West Northamptonshire Shadow Council's Members' Code of Conduct as set out in Part 5 of this Constitution.

### **4 Independent Persons**

4.1 An Independent Person:

- must be consulted and their views taken account of before the Standards Committee/Hearings Panel takes a decision on any allegation that is to be investigated;
- may be consulted by the Interim/Appointed Monitoring Officer in circumstances where an allegation is not to be investigated; and
- may be consulted by a Member against whom an allegation has been made

4.2 For the purposes of this Article, references to “the Independent Person” are to a person chosen by the Interim/Appointed Monitoring Officer from among all of the Independent Persons appointed by each of the West Northamptonshire Councils under section 28(7) of the Localism Act 2011 as part of their arrangements under which decisions on allegations are made.

### **5 The Hearings Panel**

5.1 The Committee shall establish a Hearings Panel.

5.2 The Hearings Panel shall meet on an ad hoc basis and shall be made up of any three Councillors of the Standards Committee who have not previously had any involvement in the matter concerned and who do not otherwise have any conflict of interest.

5.3 The Hearings Panel shall:

- consider any Investigating Officer's report referred to it by the Interim/Appointed Monitoring Officer and an Independent Person and conduct a hearing to determine if a Member of the Shadow Council has failed to comply with the Members' Code of Conduct; and
- announce their findings upon the conclusion of the hearing and if finding a Member of the Shadow Council has failed to comply with the Members' Code of Conduct, set out such sanctions from the list set out in paragraph 8 of the Shadow Council's "Arrangements for Dealing with Allegations of Breaches of the West Northamptonshire Shadow Council Members' Code of Conduct" as it thinks fit.

## **6. The Review Panel**

- 6.1 The Committee shall establish a Review Panel.
- 6.2 The Review Panel shall meet on an ad hoc basis and be made up of any three Councillors of the Standards Committee who did not sit on the Hearings Panel in relation to the complaint that the Review Panel has been asked to review, have not previously had any involvement in the matter concerned and who do not otherwise have any conflict of interest.
- 6.3 The Review Panel shall conduct reviews of decisions of the Hearings Panel in accordance with the provisions of paragraphs 10 and 12 of the "Arrangements for Dealing with Allegations of Breaches of the West Northamptonshire Shadow Council Members' Code of Conduct".

## **7. Guidance**

- 7.1 Regard must be had to any extant guidance issued by the Monitoring Officer relating to the establishment of a Hearings Panel or a Review Panel.

## **Article 11 - Officers**

### **1 Northamptonshire (Structural Changes) Order 2019**

- 1.1. Article [ ] of the 2019 Order makes provision for the Shadow Council to: designate officers to the posts of Interim Monitoring Officer; Interim Section 151 Officer and to be its Interim Head of Paid Service; and at any time before 1 April 2019 to appoint a person to become West Northamptonshire Council's Monitoring Officer, Section 151 Officer or Head of Paid Service.
- 1.2 The roles and functions of those officers are set out in the 2019 Order.
- 1.3 The Interim/Appointed Monitoring Officer may appoint, in writing, further deputies as he/she considers appropriate.
- 1.4 The Interim/Appointed Section 151 Officer may appoint, in writing, a deputy as appropriate.

### **2 Functions of the Interim/Appointed Head of the Paid Service**

- 2.1 The Head of the Paid Service will report to the full Shadow Council on the manner in which the Shadow Council develops its functions and the co-ordination of those functions. They also have statutory functions in relation to staff.

### **3 Functions of the Interim/Appointed Monitoring Officer**

- 3.1 The Interim/Appointed Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Shadow Councillors, staff and the public.
- 3.2 After consulting with the Interim/Appointed Head of Paid Service, the Interim/Appointed Monitoring Officer will report to the full Shadow Council, (or to the Shadow Executive Committee in relation to a Shadow Executive Committee function), if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission would give rise to a finding of maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- 3.3 The Interim/Appointed Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct.
- 3.4 The Interim/Appointed Monitoring Officer will also provide advice to all Shadow Councillors on issues in relation to the scope of powers and authority to take decisions, maladministration, financial impropriety and probity.

### **4 Functions of the Interim/Appointed Section 151 Officer**

- 4.1 After consulting with the Interim/Appointed Head of Paid Service and the

Interim/Appointed Monitoring Officer, the Interim/Appointed Section 151 Officer will report to the full Shadow Council (or to the Shadow Executive Committee in relation to an Shadow Executive Committee function) and the Shadow Council's external auditor if he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Shadow Council is about to enter an item of account unlawfully.

- 4.2 They in consultation will have overall responsibility for the administration of the financial affairs of the Shadow Council.
- 4.3 They will contribute to the corporate management of the Shadow Council, in particular, through the provision of professional financial advice.
- 4.4 They will provide advice on issues to all Shadow Councillors in relation to the scope of powers and authority to take decisions, maladministration, financial impropriety and probity issues and will support and advise Shadow Councillors and officers in their respective roles.
- 4.5 They will provide financial information to the media, members of the public and the community.

## **5 Duty to provide sufficient resources to the Interim/Appointed Monitoring Officer and Interim/Appointed Section 151 Officer**

- 5.1 The Shadow Council will provide these officers with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed in their statutory roles.

## **6 Conduct**

- 6.1 Officers will comply with any Protocol on Member/Officer Relations and any Officers' Code of Conduct that has been adopted by the Shadow Council.

## **7 Employment**

- 7.1 The recruitment, selection and dismissal of officers will comply with the Staff Employment Procedure Rules as set out in this Constitution.

## **Article 12 - Decision Making**

### **1 General**

- 1.1 The Shadow Council will keep an up-to-date record, which shall be available for public inspection, of who has responsibility for making decisions in relation to Shadow Council functions and services.
- 1.2 All decisions of the Shadow Council will be made in accordance with the law, this Constitution and the principles set out below.

### **2 Types of Decision and the Decision-Takers**

- 2.1 [The Shadow Council will take all decisions which it has reserved to itself or which it is required to take by law.
- 2.2 The Shadow Executive Committee will take all decisions including Key Decisions which it is required to determine as required by law or because the Shadow Council has decided to delegate the matter to the Shadow Executive Committee].
- 2.3 Other Committees, Sub-Committees, Officers of the Central Implementation Team and Officers of the Shadow Council will take such decisions as are delegated to them by the Shadow Council or the Shadow Executive Committee.

### **3 Decision Making Procedures**

- 3.1 In taking decisions the full Shadow Council, the Shadow Executive Committee, Overview and Scrutiny Committee, and other Committees and Sub-Committees will follow the Shadow Council's Procedure Rules and in particular as follows:
- (a) Shadow Council – Meeting Procedure Rules Parts A and C;
  - (b) Shadow Executive Committee - Shadow Executive Committee Procedure Rules and Meeting Procedure Rule Part C ;
  - (c) Overview and Scrutiny Committee - Overview and Scrutiny Procedure Rules, and Meeting Procedure Rules Parts B and C; and
  - (d) Committees and Sub-Committees - Meeting Procedure Rules Parts B and C.

### **4 Definition of Key Decision**

- 4.1 A Key Decision means:-
- “a decision which, is likely –

- (a) to result in the relevant local authority incurring expenditure which is, or the making of savings which are significant. For the purposes of this Article, significant shall be defined as expenditure or savings of £500,000 or more in a single transaction or related series of transactions.
- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority.”

In determining the meaning of “*significant*” for these purposes the Shadow Council will have regard to any guidance for the time being issued by the Secretary of State in accordance with section 9Q of the Local Government Act 2000 Act

## **5 Principles of decision making**

5.1 All decisions of the Shadow Council will be made in accordance with the following principles:

- (a) the need to have regard to all relevant considerations and to ignore all irrelevant considerations;
- (b) proportionality (i.e. the action must be proportionate to the desired outcome);
- (c) due consultation and the taking of professional advice from officers;
- (d) a realistic evaluation of all alternatives;
- (e) acting compatibly with human rights;
- (f) a presumption in favour of openness; and
- (g) the prior need to identify clear aims and outcomes.

## **Article 13 - Legal Matters**

### **1 Legal Proceedings**

- 1.1 The Interim/Appointed Monitoring Officer is authorised to institute, defend or participate in any legal proceedings or to take such other action where such action is necessary to give effect to decisions of the Shadow Council or in any case where they consider that such action is necessary to protect or further the Shadow Council's interests.

### **2 Document Authentication**

- 2.1 Where any document is necessary to any legal procedure or proceedings on behalf of the Shadow Council, it will be signed by the Interim/Appointed Monitoring Officer or other person authorised by them unless any enactment otherwise authorises or requires, or the Shadow Council has given requisite authority to some other person.
- 2.2 In the absence of any authority given to a specific officer, whether by this Constitution or in any other manner, all contracts entered into on behalf of the Shadow Council. may be signed by any one or more of the following:
- (a) the Interim/Appointed Head of Paid Service;
  - (b) the Interim/Appointed Monitoring Officer; and/or
  - (c) the Interim/Appointed Section 151 Officer.

### **3 Address for service of documents**

- 3.1 Documents to be served on the Shadow Council may be addressed to the Interim/Appointed Monitoring Officer at the main office of the Shadow Council. For this purpose and all purposes connected with this Constitution the Shadow Council's main office is at the main office of the Council employing the Interim Head of Paid Service or the Appointed Head of Paid Service once employed by any of the Councils mentioned in Article 2 paragraph 1.1.

## **Article 14 - Review, Revision, Suspension, Interpretation and Publication of the Constitution**

### **1 Review**

- 1.1 The Interim/Appointed Monitoring Officer and Interim/Appointed Section 151 Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

### **2 Changing the Constitution**

- 2.1 The:

- (a) Shadow Council;
- (b) the Leader; and
- (c) the Shadow Executive Committee,

may all authorise changes to the Constitution to the extent that the 2019 Order and the law allows provided only that the Leader may not alter the voting arrangements of the Shadow Executive Committee as set out in this Constitution save with the approval of the Shadow Executive Committee.

- 2.2 The Interim/Appointed Monitoring Officer may make amendments to the Constitution in consultation with the Leader:

- (a) where he/she considers this necessary and/or expedient to reflect legislative change, secure consistency, address any legal ambiguity and/or other legal issue and/or address any uncertainty in interpretation; or
- (b) for any other reason, provided that any such amendment does not seek to remove any reserved power of the Shadow Council and/or the Shadow Executive Committee and confirmation of such amendments are reported to the next available meeting of the Shadow Council.

### **3 Suspension of the Constitution**

- 3.1 The Articles of this Constitution may not be suspended. However the Procedure Rules set out in this Constitution may be suspended by the full Shadow Council to the extent permitted within those Rules and the law.
- 3.2 A motion to suspend any rules cannot be moved without notice, unless at least one half of the whole number of Shadow Councillors is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking into account the purposes of the Constitution set out in Article 1.

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## PART 3

# RESPONSIBILITY FOR FUNCTIONS

## **1 General**

- 1.1 The Shadow Council has the functions set out in Part 6 of the 2019 Order and in particular it will have the following responsibilities:
- (a) to commence and sustain its running as a Shadow Council;
  - (b) to prepare the Shadow Council for the assumption of local government functions and full local authority functions and powers on 1 April 2020;
  - (c) to prepare any budgets or plans required beyond 1 April 2020 when those functions and powers are assumed;
  - (d) to liaise with Daventry District Council, Northampton Borough Council, Northamptonshire County Council, South Northamptonshire Council and the North Northamptonshire Shadow Council for the purposes of ensuring continuity of public service delivery on and after 1 April 2020;
  - (e) to take all such practical steps as are necessary or expedient to liaise with the other local authorities within its area for the purposes of ensuring continuity of public service delivery on and after 1 April 2020; and
  - (f) to exercise any of the Local Government Act 1972 functions referred to in, and in accordance with, Part 6 of the 2019 Order.
- 1.2 The powers and functions of the Shadow Council are therefore limited and, consequently, the powers and functions of its Shadow Executive Committee, committees, sub-committees and other decision-making bodies are similarly limited. The responsibilities for functions described in this Part of the Constitution must therefore be considered in this context. However, upon the assumption of full local authority functions and powers on 1 April 2020, these responsibilities will increase.
- 1.3 Until that date, Northamptonshire County Council and the district/borough councils within the Shadow Council's area will continue to have responsibility for local authority functions within their areas.
- 1.4 The Shadow Council is required in this Constitution to set out the allocation of responsibilities for its functions.
- 1.5 The following paragraphs cover functions which are:
- (a) the responsibility of the Leader and the Shadow Executive Committee;
  - (b) the responsibility of Portfolio Holders;
  - (c) the responsibility of the Shadow Council and/or its Committees/Sub-Committees; and
  - (d) the responsibility of Officers.

- 1.6 Where a function is not specified as being the responsibility of the Shadow Council, a Committee, Sub-Committee, or officer that function shall, unless otherwise proved to the contrary by law, be the responsibility of the Leader.
- 1.7 The exercise of any power or duty is subject to compliance with the law, the provisions of this Constitution and sufficient budgetary provision having been made.
- 1.8 Any reference to a function or matter includes a reference to all statutory powers about that function or matter whether directly or indirectly and authority to exercise all such powers.
- 1.9 Any reference in the scheme of delegation to an Act of Parliament or statutory instrument includes a reference to any amendment, modification or statutory re-enactment (with or without modification).
- 1.10 Where a power or duty of the Council has been delegated the delegation includes any action that may be incidental to the exercise of the power or duty.

## **2 Functions of the Leader and the Shadow Executive Committee**

- 2.1 The functions to be exercised by the Leader or Shadow Executive Committee are set out in Article 7 of this Constitution. Where the Leader or the Shadow Executive Committee is exercising a Shadow Executive Committee function, in whole or in part, the Leader or the Shadow Executive Committee is empowered to take all necessary and appropriate decisions to fulfil the obligations placed upon them subject to any restrictions or constraints imposed by the law or this Constitution

## **3 Responsibilities of Portfolio Holders.**

- 3.1 Where the Leader has allocated a portfolio to an individual member of the Shadow Executive Committee and the Portfolio Holder is exercising a function falling within the scope of the Portfolio, in whole or in part, they are empowered to take all necessary and appropriate decisions to fulfil the obligations placed upon them by the Leader subject to any restrictions or constraints imposed by the law or this Constitution.

## **4 Responsibilities of committees of the Shadow Executive Committee**

- 4.1 Where the Leader has arranged for an executive function to be exercised by a committee of the Shadow Executive Committee the committee is empowered to take all necessary and appropriate decisions to fulfil the obligations placed upon it by the Leader subject to any restrictions or constraints imposed by the law or this Constitution.

## **5 Functions of the Shadow Council**

- 5.1 The functions of the Shadow Council are set out in Article 4 of Part 2 but include:
- (a) approving a budget for the West Northamptonshire Council and the setting of the council tax for its area;
  - (b) adopting the Shadow Council's Constitution in accordance with the requirements of section 9P of the Local Government Act 2000;
  - (c) appointing the:
    - Chair of the Shadow Council;
    - Vice Chair of the Shadow Council;
    - Chairs and Vice-s of Committees, Sub-Committees and Special Committees; and
    - such other offices as may be required by or under the 2019 Order or this Constitution;
  - (d) adopting the Shadow Council's Codes of Conduct for Shadow Councillors and Officers and the Protocol on Member/Officer Relations;
  - (e) where permitted by the law, will make arrangements for appointments to outside bodies;
  - (f) carrying out all duties specified in and compliant with the 2019 Order where the Shadow Executive Committee has given notice under Article 37 of the 2019 Order;
  - (g) approving the Shadow Councillors Allowance Scheme including any pension provision for Members following advice from any Independent Remuneration Panel;
  - (h) appointing/dismissing the Interim/Appointed Head of Paid Service, designating an officer to act as Interim Monitoring Officer and Interim/Section 151 Officer, and the appointment/dismissal of a person to the position of appointed Monitoring Officer and appointed Section 151 Officer in accordance with the 2019 Order; and
  - (i) may determine other matters which may from time to time be submitted to it for determination, either by resolution or through approved procedures, where such matters do not fall within the functions of the Shadow Executive Committee.

## **6 Regulatory Committees**

- 6.1 Until the Shadow Council assumes local government functions and full local authority powers on 1 April 2020, in accordance with the 2019 Order, the Shadow Council will not exercise any regulatory powers and functions. The Shadow Council will, however, take such practical steps as are necessary or expedient to prepare the Shadow Council for the assumption of such regulatory functions and powers.

## **7 Responsibility of the Senior Appointments Committee**

7.1 The Senior Appointments Committee normally has responsibility for:

- (a) Undertaking the selection process for the appointment, and formulating recommendations to the Shadow Council in relation to the appointment and dismissal of the Head of the Paid Service; and before 1 April 2020 the appointment of persons to be the Monitoring Officer and Section 151 Officer of the West Northamptonshire Council in accordance with the with the appropriate procedures set out in the Staff Employment Procedure Rules;
- (b) undertaking the selection, appointment and dismissal processes for any other staff in accordance with the appropriate procedures set out in the Staff Employment Procedure Rules;
- (c) hearing and determining any appeals by staff under the Shadow Council's approved personnel policies and procedures including through any appointed Sub-Committee; and
- (d) hearing and dealing with disputes registered with the Shadow Council by recognised Trade Unions.

## **8. Responsibility of the Overview and Scrutiny Committee**

8.1 The Shadow Council shall have one Overview and Scrutiny Committee, which may commission task and finish groups to undertake scrutiny projects. The Overview and Scrutiny Committee will specifically:

- (a) discharge the Shadow Council's functions under Section 9F of the Local Government Act 2000;
- (b) oversee the Shadow Council's overall overview and scrutiny function including the preparation, implementation, monitoring and review of an annual work programme for overview and scrutiny;
- (c) establish such task and finish groups, appointing the Chair with such membership as it sees fit, to undertake overview and scrutiny on a task and finish basis;
- (d) ensure that officers discharge their responsibilities effectively and efficiently in relation to the overview and scrutiny function;
- (e) scrutinise decisions of the Shadow Executive Committee, and offer advice or make recommendations on the matter under scrutiny once the Overview and Scrutiny Committee have considered the issues;
- (f) refer to the Shadow Council, the Shadow Executive Committee or

appropriate Committee/Sub- Committee any matter which, following scrutiny, the Overview and Scrutiny Committee determines should be brought to the attention of the Shadow Council, Shadow Executive Committee or the Committee or Sub-Committee;

- (g) if requested, offer any views or advice to the Shadow Executive Committee in relation to any matter referred to the Overview and Scrutiny Committee for consideration;
- (h) undertake general policy reviews with a cross-service and multi-organisational approach wherever possible and make recommendations to the Shadow Council or the Shadow Executive Committee to assist in the development of future policies and strategies;
- (i) in performing its role, the Committee may consult and involve the local community and other local public, private and voluntary bodies or organisations;
- (j) review the Shadow Council's response to its obligations in respect of the overall performance management regime and where appropriate advise the Shadow Executive Committee and the Shadow Council of its findings;
- (k) scrutinise decisions after implementation to examine their effect and outcomes;
- (l) develop, maintain and monitor policies and procedures for handling complaints made against the Shadow Council and monitor on a regular basis the level and nature of complaints received and ensure that advice is formulated regarding action to be taken to address areas of concern;
- (m) monitor the level and nature of Local Government and Social Care Ombudsman complaints and advise the Shadow Executive Committee, Committees, Sub-Committees and officers on remedial action as appropriate; and
- (n) ensure that the Shadow Council has in place appropriate mechanisms to protect organisational Integrity including the development of appropriate policies and guidance.

## **9. Responsibility of the Standards Committee**

- 9.1 The Standards Committee is responsible for assessing and determining allegations that Shadow Councillors have breached the Shadow Council's Code of Conduct in accordance with Article 10 of this Constitution and for determining requests for dispensations to Members with Disclosable Pecuniary Interests referred by the Monitoring Officer.

## **10. Responsibility of the General Purposes Committee**

- 10.1 The General Purposes Committee is responsible for:

- (a) considering and determining any matter referred to it by Council or the Shadow Executive Committee; and
- (b) considering and determining any matter that is neither a function of the executive nor a function reserved to Council or any Committee of the Shadow Authority, whether by law or under any provision of this Constitution or because of a specific direction or election by Council to that effect.

## **11. Independent Remuneration Panel**

- 11.1 The 2019 Order requires the Shadow Council to prepare and make a scheme for the payment of allowances to its Shadow Councillors. The Independent Remuneration Panel shall have the functions given by Regulation 21 of the Local Authorities (Members' Allowances) (England) Regulations 2003.

## **12. Powers of Officers**

- 12.1 The Shadow Council and its Shadow Executive Committee may delegate such powers, responsibilities and decisions to any of its own officers, or to any officers of Northamptonshire County Council or the District/Borough Councils as defined in the 2019 Order.
- 12.2 The Interim/Appointed Head of Paid Service shall have the power to take:
  - (a) all necessary action for the effective day-to-day management, operation and/or administration of the Shadow Council and for the efficient discharge of the professional responsibilities of his/her office;
  - (b) any action required to implement a decision of the Shadow Council, the Leader, the Shadow Executive Committee, a Portfolio Holder or any committee or sub-committee;
  - (c) in consultation with the Leader, unless the Leader is unavailable or absent, any urgent action as may be appropriate in connection with any of the executive or non-executive functions of the Shadow Council; and
  - (d) without prejudice to the above, any action for the purposes of agreeing the terms and entering into any secondment agreements under section 113 of the Local Government Act 1972 and/or any arrangements for the purposes of securing the provisions of any goods and/or services whether pursuant to the Local Authorities (Goods and Services) Act 1970 or otherwise.
- 12.3 The Interim/Appointed Monitoring Officer, and the Interim/Appointed Section 151 Officer have the statutory powers which are set out in the 2019 Order together with the power:
  - (a) to take all necessary action within their areas of responsibility for the

effective day-to-day management, operation and/or administration of the Shadow Council and for the efficient discharge of the professional responsibilities of their office;

- (b) to take any action within their areas of responsibility required to implement a decision of the Shadow Council, the Leader, the Shadow Executive Committee, a Portfolio Holder or any committee or sub-committee;
- (c) without prejudice to the above, to take any action for the purposes of agreeing the terms and entering into any secondment agreement under section 113 of the Local Government Act 1972 and/or any arrangements for the purposes of securing the provision of any goods and/or services whether pursuant to the Local Authorities (Goods and Services) Act 1970 or otherwise; and
- (d) to exercise any power of the interim/Appointed Head of Paid Service if unavailable, absent and/or any such post is vacant.

12.4 The Interim/Appointed Monitoring Officer shall have the power to to grant dispensations in accordance with Section 33 of the Localism Act 2011 and under the Members' Code of Conduct, together with the discretion to refer any particular request to the Standards Committee in appropriate circumstances.

12.5 When exercising delegated powers officers:

- (a) must comply with the Shadow Council's Financial and other relevant Procedure Rules and with the law;
- (b) may authorise expenditure only which is in accordance with approved estimates and which does not require an approval which has not been authorised or received;
- (c) save to the extent that the determining officer considers necessary in order to give effect to a matter to which delegation 10.3 (c) above relates shall comply with approved policies, schemes or directions of the Shadow Council, Leader, Shadow Executive Committee or of any Committee and shall not depart from such policies, schemes or directions; and
- (d) shall consult with the appropriate professional or technical officer(s) of the Shadow Council or the Northamptonshire Councils (as defined in the 2019 Order).

12.6 Delegation to officers does not affect the powers of the Shadow Council, Leader, Shadow Executive Committee or any Committee at any time to decide upon any delegated matter.

12.7 Officers may refer issues on which they have delegated power to the body or person by whom the delegation was given.

- 12.8 Authority to take decisions and other action including the signing of documents and the requirement to arrange consultations shall be undertaken on behalf of the Shadow Council in the name of the officer to whom the authority to act is given, but need not necessarily be personally by them.
- 12.9 Any specific delegation to the Interim/Appointed Head of Paid Service, Interim/Appointed Monitoring Officer or the Interim/Appointed Section 151 Officer (including power to act as the Proper Officer), may be exercised by another Officer specifically designated in writing by the Interim/Appointed Head of Paid Service, Interim/Appointed Monitoring Officer or the Interim/Appointed Section 151 Officer to whom the delegation applied initially, in accordance with any general directions issued and included in such written authorisation.
- 12.10 Neither the Interim/Appointed Monitoring Officer's nor the Interim/Appointed Section 151 Officer's statutory responsibilities may be delegated, although they may each appoint a member of their staff to carry out those functions in their absence.

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## **A. Access to Information Procedure Rules**

### **1 General**

- 1.1 These rules apply to all meetings of the Shadow Council, its Committees and Sub-Committees and to public meetings of the Shadow Executive Committee.
- 1.2 In these Rules the word “meeting” means a meeting or meetings of any of these bodies unless specified otherwise.
- 1.3 These rules do not affect any other specific rights to information contained elsewhere in this Constitution or the law.
- 1.4 Members of the public may attend all public meetings subject to the exceptions contained in these Rules.
- 1.5 Members of the press and public are also entitled to film, audio record and report on meetings of the Shadow Council, Committees and Shadow Executive Committee, except in circumstances where the public have been excluded as permitted by law. Any such filming, audio recording or reporting shall be in accordance with any guidelines published by the Shadow Council on its website or made available at the meeting.

### **2 Notice of Meetings**

- 2.1 The Shadow Council will give at least five clear working days’ notice of any such meeting by publicising, including by electronic means, relevant details, unless Paragraph 13 (Special Urgency) has been applied.
- 2.2 A copy of the official notice will also be published on the Shadow Council’s website.

### **3 Agenda and Supporting Papers - Rights of Access**

- 3.1 Copies of the Agenda and supporting papers will be made available on the Shadow Council’s website, for inspection by the public at least five clear working days before the meeting. Where an item is added to an Agenda at a later date, a supplementary agenda will be made available, with any supporting papers, to the public as soon as possible.
- 3.2 The Shadow Council will supply on request copies of any agenda and reports which are open to public inspection, and if the Interim/Appointed Monitoring Officer thinks fit, copies of any further documents supplied to Shadow Councillors relating to that item.
- 3.3 The Shadow Council may require any person to make a payment in advance covering postage and costs connected to the supply of the papers in Rule 3.2 above.

#### **4 Access to Decision Records, Minutes, Agenda and Supporting Papers after a meeting**

- 4.1 The Shadow Council will make electronically available, for a period of six years from the date of the meeting:
- (a) the minutes of the meeting where, under these rules or the Constitution Minutes are required to be made, excluding any part of the minutes relating to the conduct of business when the public were not present or where exempt or confidential information would be disclosed;
  - (b) the records of decisions taken, together with reasons by the Shadow Executive Committee, excluding any part of the record relating to the conduct of business when the public were not present or where exempt or confidential information would be disclosed;
  - (c) where information relating to a decision is considered in private, a summary of the proceedings to provide a reasonably fair and coherent record will be provided excluding any information which is of a confidential or exempt nature; and
  - (d) the agenda and supporting papers covering items which were considered when the public were entitled to be present.

#### **5 Background Documents**

- 5.1 The Officer, in whose name an item is to be submitted for decision, will set out in the agenda a list of the background documents which in his/her opinion:
- (a) relate to the subject matter of the item in question;
  - (b) discloses any facts or matters on which the agenda item or an important part of it has been based; and
  - (c) has been relied upon to a material extent in preparing the agenda item.
- 5.2 The requirements in Rule 5.1 above do not apply to or include any published works or any document in whole or in part which would disclose confidential or exempt information.
- 5.3 Background documents which have been made available for public inspection will continue to be available for a period of four years from the date the decision is made.

#### **6 Definition of Confidential and Exempt Information**

- 6.1 For the purposes of these Rules the definitions of confidential and exempt information are set out below.

- 6.2 Confidential Information means information supplied or given to the Shadow Council by a Government Department on terms which forbid its disclosure to the public or is information which cannot be disclosed to the public by Order of the Courts.
- 6.3 Exempt Information is information falling within any of the categories set out in Appendix 1 subject to the conditions noted in that Appendix.

## **7 Exclusion of the Public from Meetings**

### **Confidential Information – Requirement to Exclude**

- 7.1 The public will be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the proceedings, that confidential information, as described in Rule 6.2 above will be disclosed.

### **Exempt Information – Discretion to Exclude**

- 7.2 In the case of exempt information, the public may be excluded from a meeting where Rule 6.3 and Appendix 1 applies.

## **8 No public right of access to agenda papers**

- 8.1 The Interim/Appointed Monitoring Officer, where he/she considers it necessary, may refuse access by the public to any agenda or supporting papers which in his/her opinion relate to items during which, in accordance with Rule 7 above, the meeting is likely not to be open to the public. Any such papers will be clearly marked “Not for Publication” and will contain the category of information to be disclosed as set out in Appendix 1 to these Rules. Similar provisions apply to the disclosures of documents related to decisions of the Shadow Council, including the Shadow Executive Committee.

## **9 The Shadow Executive Committee: Application of these Rules**

- 9.1 Rules 10 to 20 will apply to the Shadow Executive Committee and any Committees or Sub-Committees which it may establish from time to time.
- 9.2 Where the Shadow Executive Committee, including a Committee or Sub-Committee of the Shadow Executive Committee meet to discuss a Key Decision, with an officer or officers present, within 28 days of the date according to the Forward Plan by which it is to be decided, then the Shadow Executive Committee must comply with Rules 1 to 8 above unless Rule 12 (general exception) or 13 (special urgency) apply. This requirement does not apply where the sole purpose of the meeting is for officers to brief Shadow Councillors.

## **10 Procedure before taking a Key Decision**

- 10.1 Subject to Rules 12 or 13, a Key Decision cannot be taken unless:
- (a) a notice (“the Forward Plan”) has been published in connection with the matter in question and made available to the public at the main office(s) of the Shadow Council;
  - (b) at least 28 clear calendar days have elapsed since publication of the Forward Plan; and
  - (c) where the decision is to be taken at a meeting of the Shadow Executive Committee, including a Committee or Sub-Committee of the Shadow Executive Committee, public notice of the meeting has been given under Rule 2 above.

## **11 The Forward Plan**

- 11.1 The Forward Plan will be prepared on behalf of the Leader on a monthly basis to cover a four-month period beginning with the first day of any month. The Forward Plan will be rolled forward and published each month to cover the four-month period beginning again with the new date of publication. There will be instances where it is impracticable to include an item in the Forward Plan. In this case Rule 12 or 13 below will apply.
- 11.2 The Forward Plan will contain such matters as the Leader has reason to believe will be Key Decisions to be taken by the Leader, the Shadow Executive Committee, a Portfolio Holder, a Committee or Sub-Committee of the Shadow Executive Committee, an Officer in the course of the discharge of Shadow Executive Committee function during the period covered by the Forward Plan.
- 11.3 The Forward Plan will describe in respect of each matter the following particulars:
- (a) the matter relating to the decision to be made;
  - (b) the name and title of the decision taker if an individual, or the name and details of the membership where the decision taker is a body;
  - (c) the date on which, or the period within which, the decision will be taken;
  - (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
  - (e) the means by which any such consultation is proposed to be undertaken;
  - (f) the steps any person might take to make representations to the Shadow Executive Committee or decision taker about the matter before the

decision is made, and the date by which those steps must be taken;

- (g) a list of the documents to be submitted to the decision taker for consideration in relation to the matter;
- (h) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available;
- (i) that other documents relevant to the matter may be submitted to the decision taker; and
- (j) the procedure for requesting details of those documents (if any) as they become available.

11.4 Where in relation to any matter where the public may be excluded from a public meeting under Rule 7, or documents relating to the decision need not be disclosed to the public, the Forward Plan must contain the particulars of the matter, but may not contain any confidential information, exempt information or particulars of the advice of a political adviser or assistant.

## **12 General exception for Key Decisions**

12.1 If a matter which is likely to be a Key Decision has not been included in the Forward Plan then, subject to Rule 13, the decision may still be taken if:

- (a) the decision has to be taken by such a date that it is impracticable to defer the decision until it can be included in the next Forward Plan and until the start of the first month to which the next Forward Plan relates;
- (b) the Interim/Appointed Monitoring Officer has informed the Chair of the Overview and Scrutiny Committee, or if there is no such person, each member of the Committee in writing, by notice, of the matter to which the decision is to be made;
- (c) the Interim/Appointed Monitoring Officer has made copies of that notice available to the public at the main office of the Shadow Council; and
- (d) at least five clear working days have elapsed since the Interim/Appointed Monitoring Officer complied with his/her obligations under this paragraph.

12.2 Where such a decision is taken by the Shadow Executive Committee, it must be taken in public subject to any requirements relating to the disclosure of confidential or exempt information and the exclusion of the public.

## **13 Special urgency for Key Decisions**

13.1 If by virtue of the date by which a key decision must be taken, the requirements of Rule 12 above cannot be followed, then the decision can only be taken if the decision maker (if an individual) or the Chair of the body taking

the decision, obtains the agreement of the Chair of the Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chair of the Overview and Scrutiny Committee or if he/she is unable to act, then the agreement of the Chair of the Shadow Council, or in his/her absence the Vice-Chair will suffice.

- 13.2 In addition to the requirement for the Chair to agree to the matter being dealt with as urgent business, the Chair and Vice-Chair of the Overview and Scrutiny Committee will be consulted, and may comment, on the subject matter of the decision itself.

#### **14 Report to Shadow Council**

- 14.1 If the Overview and Scrutiny Committee is of the opinion that a Key Decision has been taken which was not:

- (a) included in the Forward Plan; or
- (b) the subject of the general exception procedure under Rule 12 above; or
- (c) the subject of an agreement with the Overview and Scrutiny Committee Chair, or the Chair/Vice-Chair of the Shadow Council under Rule 13 above;

the Committee may require the Shadow Executive Committee to submit a report to the Shadow Council within such reasonable time as the Committee specifies.

- 14.2 In response to any requirement under Rule 14.1 above, the Shadow Executive Committee will prepare a report for submission to the next available meeting of the Shadow Council. However, if the next meeting of the Shadow Council is within 7 days of the resolution of the Committee, then the report may be submitted to the subsequent meeting. The report to the Shadow Council will set out particulars of the decision, the individual or body taking the decision, and if the Shadow Executive Committee is of the opinion that it was not a key decision, the reasons for that opinion.

#### **15 Record of decisions of the Shadow Executive Committee**

- 15.1 After any meeting of the Shadow Executive Committee or any of its Committees or Sub-Committees, whether held in public or private, the Interim/Appointed Monitoring Officer or their nominee, or where no officer was present, the person presiding at the meeting, will normally produce as soon as practicable an electronic record of every decision taken at that meeting. The record will include:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;

- (c) details of any alternative options considered and rejected by the decision taker;
- (d) a record of any conflict of interest relating to the matter decided which is declared by any member of the decision taker; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted by the Interim/Appointed Monitoring Officer.

**16 Shadow Executive Committee Meetings relating to matters which are not Key Decisions**

- 16.1 Meetings of the Shadow Executive Committee at which any decisions are to be taken shall be held in public, subject to the requirements of Paragraphs 7 and 8 above.

**17 Meeting of the Shadow Executive Committee in private**

- 17.1 Where a meeting of the Shadow Executive Committee, including a Committee or Sub- Committee of the Shadow Executive Committee, is to be held in private under these Rules, at least 28 clear days before the meeting, the Shadow Executive Committee shall make available at the main office of the Shadow Council a notice of its intention to hold a meeting in private giving reasons as to why the meeting is to be held in private.

- 17.2 At least five clear days before the meeting, the Shadow Executive Committee must make available at the main office of the Shadow Council a further notice of its intention to hold a meeting in private containing: the reasons as to why the meeting is to be held in private; details any representations received by the Shadow Executive Committee about why the meeting should be open to the public; and a statement of the Shadow Executive Committee's response to any such representations.

- 17.3 All Members of the Shadow Executive Committee shall be entitled to be given five clear working days' notice of the meeting, whether or not they are summoned to attend, unless the meeting is convened at shorter notice on urgency grounds.

- 17.4 Copies of the notices required by Rules 17.1 and 17.3 shall be sent to the Chair of the Overview and Scrutiny Committee.

- 17.5 Where the date by which a private meeting must be held makes compliance with Rules 17.1 and 17.2 impracticable, the meeting may only be held in private where the Shadow Executive Committee has obtained agreement from:

- (a) the Chair of the Overview and Scrutiny Committee; or
- (b) if there is no such person, or if the Chair of the Overview and Scrutiny

committee is unable to act, the Chair of the Shadow Council; or

- (c) where there is no Chair of either the Overview and Scrutiny Committee or of the Shadow Council able to act, the Vice-Chair of the Shadow Council;

that the meeting is urgent and cannot reasonably be deferred.

## **18 Attendance at private meetings of the Shadow Executive Committee**

- 18.1 Any Member of the Shadow Executive Committee may attend a private meeting of a Committee or Sub-Committee of the Shadow Executive Committee whether or not they are members of that body unless the body determines otherwise.
- 18.2 Any Shadow Executive Committee member who is not a member of such a Committee or Sub-Committee shall be entitled to speak with the consent of the person presiding but not to vote.

## **19 Officer attendance at Shadow Executive Committee Meetings**

- 19.1 The Interim/Appointed Head of the Paid Service, the Interim/Appointed Section 151 Officer and the Interim/Appointed Monitoring Officer, or their nominees, are entitled to attend any meeting of the Shadow Executive Committee. The Shadow Executive Committee cannot meet unless the Interim/Appointed Monitoring Officer has been given reasonable notice that a meeting is to take place. This provision also applies to Committees and Sub-Committees of the Shadow Executive Committee.
- 19.2 A private meeting of the Shadow Executive Committee, including a Committee or Sub-Committee of the Shadow Executive Committee, may only take place in the presence of the Interim/Appointed Monitoring Officer or his/her nominee, who shall have responsibility for recording and publicising any decisions.

## **20 Key Decisions by Portfolio Holders**

- 20.1 Where an individual member of the Shadow Executive Committee receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least five clear working days after receipt of that report.
- 20.2 On giving of such a report to a Portfolio Holder, the person who prepared the report will give a copy of it to the chair of the Overview and Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.
- 20.3 As soon as reasonably practicable after an executive decision has been taken by a Portfolio Holder, a written record of the decision must be produced which

must include the following:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the member;
- (d) a record of any conflict of interest relating to the matter decided which is declared by any member of the Shadow Executive Committee who is consulted by the member which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted by the Interim/Appointed Monitoring Officer.

20.4 The provisions of Rules 4 and 5 will also apply to the making of decisions by Portfolio Holders. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

## **21 Record of executive and non-executive decisions taken by officers**

21.1 As soon as reasonably practicable after an officer has made a decision which is an executive decision (i.e. the responsibility of the Shadow Executive Committee) a written statement will be prepared including:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the officer when making the decision;
- (d) a record of any conflict of interest declared by any executive member who is consulted by the officer which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Interim/Appointed Monitoring Officer.

21.2 Any record prepared in accordance with Rule 21.1 and any report considered by the officer and relevant to the decision will be available for public inspection at the main office of the Shadow Council and on the Shadow Council's website.

21.3 Rules 21.1 to 21.2 will relate to decisions taken by officers in accordance with their powers and duties set out within the Scheme of Delegation or otherwise under an express delegation from the Shadow Council, its Committees, Sub-Committees or any Joint Committee in which the Shadow Council is involved. Rules 21.1 to 21.2 shall not apply to day-to-day administrative or operational decisions taken by officers in connection with the discharge of functions which are the responsibility of the Shadow Executive Committee.

21.4 As soon as reasonably practicable after an officer has made a decision under an express delegation from the Shadow Council, its Committees, Sub-Committees or any Joint Committee in which the Shadow Council is involved or under a general delegation from one of these bodies where the effect of the decision is to grant a permission or licence, affect the rights of an individual or award a contract or incur expenditure, which in either case materially affects

the Shadow Council's position a written statement will be prepared including:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the officer when making the decision; and
- (d) a record of the name of any Shadow Councillor or local government body who has declared an interest (for decisions taken under an express delegation).

21.5 Any record prepared in accordance with rule 21.4 together with any background papers considered by the officer and relevant to the decision will be available for public inspection at the main office of the Shadow Council and on the Shadow Council's website.

21.6 Rules 21.4 to 21.5 do not apply to:

- (a) routine administrative and organisational decisions;
- (b) decisions on operational matters such as day to day variations in services;
- (c) decisions if the whole or part of the record contains confidential or exempt information; and
- (d) decisions that are already required to be published by other legislation, provided the record published includes the date the decision was taken and the reasons for the decision.

## **22 Access to documents - Overview and Scrutiny Committee**

22.1 Subject to Rule 22.4 below, any member of the Overview and Scrutiny Committee is entitled to copies of any document which is in the possession or control of the Leader and/or the Shadow Executive Committee including its Committees and Sub-Committees and which contains material relating to:

- (a) any business transacted at a public or private meeting of the Shadow Executive Committee including any of its Committees and Sub-Committees;
- (b) any decision taken by an individual member of the Shadow Executive Committee; or
- (c) any executive decision taken by an officer in accordance with Part 3 of this Constitution.

22.2 Where a member of the Overview and Scrutiny Committee (including its sub-committees) requests a document which falls within Rule 22.1 the Leader must provide that document as soon as reasonably practicable and in any case no later than 10 clear working days after the Leader receives the request.

22.3 Subject to Rule 22.4 the Chair of the Overview and Scrutiny Committee is entitled to see papers in relation to private decisions of the Shadow Executive Committee before the decision is made.

- 22.4 Where the Leader so determines, a member of the Overview and Scrutiny Committee will not be entitled to:
- (a) any document that is in draft form;
  - (b) any such document or part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision he/she is reviewing or scrutinising or any review contained in any programme of work of the Committee;

Where the Leader determines that a member of the Overview and Scrutiny Committee is not entitled to a copy of a document, or part of any such document, for the reasons set out above the Leader must provide the Overview and Scrutiny Committee with a written statement setting out their reasons for that decision.

### **23 Additional rights of access for Shadow Councillors**

- 23.1 All Shadow Councillors will be entitled to inspect any document which is in the possession or under the control of the Leader and or the Shadow Executive Committee including its Committees or Sub-Committees and contains material relating to any business to be transacted at a public meeting; any business previously transacted at a private meeting; any decision made by an individual member; or an executive decision by an officer unless in the opinion of the Interim/Appointed Monitoring Officer it contains exempt information falling within the categories of exempt information as set out in the Appendix; or it contains the advice of a political advisor.
- 23.2 All Shadow Councillors will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Leader or the Shadow Executive Committee including its Committees and Sub-Committees which relates to any Key Decision unless Rule 22.1 above applies.
- 23.3 In relation to public meetings, where a document is required to be available for inspection by all Shadow Councillors under Rule 23.1 it must be available for at least 5 clear working days before the meeting except where the meeting is convened at shorter notice or an item is added to an agenda at shorter notice in which case the document must be available for inspection when the meeting is convened or the item is added to the agenda.
- 23.4 In relation to private meetings, decisions made by an individual member or executive decisions made by an officer, where a document is required to be available for inspection by all Shadow Councillors under Rule 23.1 it must be available within 24 hours of the meeting concluding or where an executive decision is made by an individual member or an officer within 24 hours of the decision being made.
- 23.5 These rights of a Shadow Councillor are additional to any other right he/she

may have.

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## **Appendix 1 - Descriptions of Exempt Information**

Exempt information means information falling within the following categories (subject to any qualification):

- 1) Information relating to any individual.
- 2) Information which is likely to reveal the identity of an individual.
- 3) Information relating to the financial or business affairs of any particular person (including the authority holding that information).
- 4) Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
- 5) Information in respect of which a claim of legal professional privilege could be maintained in legal proceedings.
- 6) Information which reveals that the authority proposes
  - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (b) to make an order or direction under any enactment.
- 7) Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

### **Qualifications**

Information falling within the above descriptions is not exempt information if it is required to be registered under:

- (c) the Companies Acts (as defined in section 2 of the Companies Act 2006);
- (d) the Friendly Societies Act 1974;
- (e) the Friendly Societies Act 1992;
- (f) the Co-operative and Community Benefit Societies Act 2014;
- (g) the Building Societies Act 1986; or
- (h) the Charities Act 2011

Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission or permission in principle pursuant to regulation 3 of the Town and Country Planning General

Regulations 1992.

Information which

- (a) falls within any of the descriptions above; and
- (b) is not prevented from being exempt by the previous two qualifications is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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## **Shadow Executive Committee Procedure Rules**

### **1 Meetings of the Shadow Executive Committee**

- 1.1 The Shadow Executive Committee will meet as indicated in the Shadow Council's programme of meetings. The Shadow Executive Committee or the Leader may agree to change the date of any programmed meeting, to cancel a meeting or to arrange additional meetings as it/he/she sees fit. Locations of meetings will be published in the calendar of meetings.
- 1.2 The Shadow Executive Committee may meet in public or in private, subject to legal requirements and the Access to Information Procedure Rules set out in this Constitution.
- 1.3 The Leader will chair meetings of the Shadow Executive Committee or in his/her absence, the Deputy Leader will preside. Where both the Leader and Deputy Leader are absent, the Members present, may appoint one member of the Shadow Executive Committee to chair that meeting.
- 1.4 All Members of the Shadow Executive Committee shall be entitled to attend meetings of the Shadow Executive Committee unless the Shadow Executive Committee determine otherwise.
- 1.5 Attendance by other Members of the Shadow Council or the public shall be in accordance with the Access to Information Procedure Rules, by invitation under Rule 1.6 below, or as set out in Rules 4.1 to 4.2 below.
- 1.6 The Shadow Executive Committee may invite any person it/he/she consider appropriate, to its meetings to discuss matters of mutual interest or concern or to advise. Such persons may only be given access to confidential and/or exempt information on terms to be decided by the Interim/Appointed Monitoring Officer so as to ensure that the Access to Information Procedure Rules are observed

### **2 Quorum at meetings of the Shadow Executive Committee**

- 2.1 No business shall be transacted where at any time during the meeting of the Shadow Executive Committee, or a committee or sub-committee established by the Shadow Executive Committee, there are fewer than one third of members of the Shadow Executive Committee, a committee or sub-committee of the Shadow Executive Committee present or fewer than three of the West Northamptonshire Councils are represented at that meeting.

### **3 Taking of decisions by the Shadow Executive Committee**

- 3.1 Shadow Executive Committee decisions, including those taken under delegated powers, shall not take effect until they have been recorded in writing, as required under the Access to Information Procedure Rules, and shall not be implemented where the right of call-in has been exercised until

the call-in process has been concluded. Records of Shadow Executive Committee decisions must be confirmed at the next meeting.

#### **4 Members attending and speaking at Shadow Executive Committee Meetings**

- 4.1 The Chair of the Overview and Scrutiny Committee shall be entitled to attend any formal public meeting of the Shadow Executive Committee and to speak to any matter on the agenda for that meeting.
- 4.2 Other Members of the Shadow Council may also speak at such meetings, subject to the rights of the the Leader (or person presiding in his/her absence) to ensure that the business of the Shadow Executive Committee is discharged efficiently and effectively. Those members shall not be required to provide prior notice of their wish to attend and speak.

#### **5 Business at Shadow Executive Committee Meetings**

- 5.1 The business to be transacted at meetings of the Shadow Executive Committee will be set out in an Agenda for the meeting in question, subject to any requirements or exemptions under the Access to Information Procedure Rules.
- 5.2 The Agenda may be supported by additional papers prepared by the Officers or by or on behalf of other bodies, subject to requirements about disclosure of confidential or exempt information.
- 5.3 The Shadow Executive Committee is obliged to consider matters referred to it by the Overview and Scrutiny Committee, or by the Full Shadow Council for consideration under the Scrutiny Rules.
- 5.4 The Access to Information Procedure Rules will apply to notice of meetings, agendas, and access to reports and background papers. Where matters are for decision, the Agenda must stipulate those which are Key Decisions and those which are not, in accordance with the Access to Information Procedure Rules.
- 5.5 The Shadow Executive Committee will, at each formal meeting, confirm the record of decisions taken at its previous meeting as a correct record.
- 5.6 The Interim/Appointed Monitoring Officer or his/her nominated Officer shall be responsible for preparing and distributing the Agenda for Shadow Executive Committee meetings, attending meetings for the purpose of advising the Shadow Executive Committee on matters within his/her area of responsibility and recording decisions as required under this Constitution.
- 5.7 In taking decisions, the Shadow Executive Committee must satisfy itself that it has before it adequate and appropriate advice from its service, legal and financial advisers who shall be present at any meeting where a decision is

being taken and that advice is taken into consideration in determining the matter. Where there is any doubt about vires or probity then advice must be obtained from the Interim/Appointed Monitoring Officer and the Interim/Appointed Section 151 Officer.

- 5.8 Any member of the Shadow Executive Committee may require the Interim/Appointed Monitoring Officer to place an item on the Agenda for a stipulated meeting of the Shadow Executive Committee.
- 5.9 The Interim/Appointed Monitoring Officer will ensure that any matters referred to the Shadow Executive Committee by the Shadow Council or the Shadow Council's Overview and Scrutiny Committee are placed on the Agenda for the next appropriate meeting of the Shadow Executive Committee.
- 5.10 Any Shadow Councillor may request the Leader to place an item on the agenda of a meeting of the Shadow Executive Committee. The Leader shall have sole discretion as to whether or not to accede to such a request but shall consult the Interim/Appointed Monitoring Officer prior to making a decision. If such a request is granted, whether the Member in question can speak to the item at the meeting in question.
- 5.11 The Interim/Appointed Head of the Paid Service, the Interim/Appointed Monitoring Officer and/or the Interim/Appointed Section 151 Officer can include an item for consideration on the agenda of a Shadow Executive Committee Meeting. In pursuance of their statutory duties they can require that a special meeting of the Shadow Executive Committee be convened.
- 5.12 Business cannot be conducted at formal meetings of the Shadow Executive Committee unless it is included in the agenda for the meeting. Where it is urgent, the requirements of the Access to Information Procedure Rules must be complied with.
- 5.13 The Shadow Executive Committee will report to the Shadow Council as required under the Access to Information Procedure Rules on any matter which is classified as a Key Decision and is dealt with under special urgency procedures.
- 5.14 Questions can be submitted by members of the public at meetings of the Shadow Executive Committee in accordance with Shadow Council Procedure Rule 35 and Appendix 6 of the Shadow Council Procedure Rules.

## **6 Voting at Shadow Executive Committee Meetings**

- 6.1 Voting at Shadow Executive Committee meetings will be by a show of hands and any Member may require, immediately after the vote is taken, that the Minutes of the meeting record how he/she voted or abstained. Where there are equal votes cast, the Leader or in his/her absence, the person presiding will have a second and casting vote.
- 6.2 Voting for any office or appointment, including any paid appointment, where

more than one person is nominated shall be in accordance with Shadow Council Meeting Procedure Rule 16.

## **7 Shadow Executive Committee – Committees and Sub-Committees**

- 7.1 The Shadow Executive Committee may appoint such Committees or Sub-Committees as it considers necessary and appropriate to assist in the discharge of its functions. In making such appointments, the Shadow Executive Committee must specify the name of the Committee/Sub-Committee, its membership (including its Chair and, if appropriate, Vice-Chair) and the terms of reference of the body.

## **8 Motion under Meeting Procedure Rule 12**

- 8.1 A mover of a motion under Meeting Procedure Rule 12 which has been referred to the Shadow Executive Committee for consideration may attend the meeting of the Shadow Executive Committee when his/her motion is under consideration and explain the motion. The mover of the motion will be advised of the date and time of the meeting when the matter is to be considered and he/she will be sent an electronic copy of the relevant papers.

## **9 Resolving disputes**

- 9.1 In the case of any dispute during the proceedings of the Shadow Executive Committee the relevant parts of this Constitution will apply and after considering the application of the relevant provisions, the person presiding at the meeting will rule on the issue in question and his/her ruling will be final.

## **10 Reserves/substitute members**

- 10.1 There shall be no reserve or substitute members of the Shadow Executive Committee.

## **11 Approval of urgent business**

- 11.1 Where any matter is urgent and cannot await the next meeting, the lead officer of the Central Implementation Team may take the necessary action, provided that he/she has first consulted the Leader (or Deputy Leader if he/she is not available).

## **12 Conflicts of Interest**

- 12.1 Where the Leader or any Shadow Executive Committee Member has a conflict of interest, he/she will follow the requirements of the Shadow Council's Code of Conduct for Members.
- 12.2 If all (or a majority) of the Members of the Shadow Executive Committee present have a conflict of interest then consideration will be given to applying

to the Interim/Appointed Monitoring Officer for a dispensation from the provisions of the Code.

- 12.3 If the discharge of a Shadow Executive Committee function has been delegated to another body or individual and a conflict of interest arises, then it will fall to the body or individual who delegated the matter to take the decision.

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## **C. Overview and Scrutiny Procedure Rules**

### **1 The Overview and Scrutiny Committee**

- 1.1 The Shadow Council will have one Overview and Scrutiny Committee as set out in Article 6 of the Constitution.
- 1.2 The Overview and Scrutiny Committee will consult with other parts of the Shadow Council as appropriate, including the Shadow Executive Committee, on the preparation of any work programme.
- 1.3 The Overview and Scrutiny Committee will take into account any views expressed following consultation under Rule 1.2 above in drawing-up and agreeing any work programme. It should also take into account the resources, both officer and financial, available to support its proposals.
- 1.4 Once any programme has been approved, a copy will be sent to all Members of the Shadow Council and all relevant officers.
- 1.5 The Overview and Scrutiny Committee shall respond, as soon as it may consider it is possible to do so, to requests from the Shadow Council and the Shadow Executive Committee, to review particular areas of Shadow Council activities. Where it does so, it will report its findings and any recommendations back to the Shadow Executive Committee and/or Shadow Council in accordance with Rule 4 below.

### **2 Agenda for meetings of the Overview and Scrutiny Committee**

- 2.1 Matters to be considered will be set out in an Agenda, together with appropriate and relevant supporting papers.
- 2.2 Any member of the Committee shall be entitled to require, in writing, that an item be included on the agenda, and such item shall appear on the agenda for the next meeting of the Committee in question. The Committee will decide how the item should be considered and whether or not it can be included in its work programme.
- 2.3 Similarly, the Leader or a Portfolio Holder may give notice in writing requiring an item to appear on an agenda of the Overview and Scrutiny Committee, relating to their area of responsibilities. The Overview and Scrutiny Committee will decide how the item should be considered and whether or not it can be included in its work programme.
- 2.4 Subject to Shadow Council Procedure Rule 27 and Appendix 5 of the Shadow Council Procedure Rules, any other Shadow Councillor may give notice in writing to the Interim/Appointed Monitoring Officer, requesting an item to appear on an agenda of the Overview and Scrutiny Committee. The item shall be included after consulting the Chair of the Overview and Scrutiny Committee.

- 2.5 Any Shadow Councillor raising an item under Rules 2.2, 2.3 or 2.4 above shall be precluded from raising the matter again for a period of 12 months from the date it is considered by the Committee.

### **3 Policy Review and Development**

- 3.1 The Overview and Scrutiny Committee has a key role in policy and budget development in the approach to the creation of The West Northamptonshire Council.

### **4 Reports from the Overview and Scrutiny Committee**

- 4.1 Once recommendations have been formed, the Overview and Scrutiny Committee may submit a formal report for consideration by the Shadow Executive Committee or where the Leader has delegated decision-making to a Portfolio Holder, the Portfolio Holder (if the proposals relate to an executive function and are consistent with the existing budgetary and policy framework), or to the Shadow Council as appropriate (if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- 4.2 The Shadow Council or the Shadow Executive Committee shall consider the report of the Overview and Scrutiny Committee within two months (or next available meeting in the case of the Shadow Council) of it being submitted.
- 4.3 Where the Overview and Scrutiny Committee submit a report for consideration by a Portfolio Holder, the Portfolio Holder must consider the report and respond in writing to the Overview and Scrutiny Committee within two months of receiving it. The Portfolio Holder will also attend a future meeting of the Overview and Scrutiny Committee to present their response.

### **5 Access to the Forward Plan**

- 5.1 The Overview and Scrutiny Committee will have access to the Shadow Executive Committee's Forward Plan and timetable for decisions and intentions for consultation.

### **6 Rights of Overview and Scrutiny Committee members to documents**

- 6.1 In addition to their rights as Shadow Councillors, members of the Overview and Scrutiny Committee have the additional right of access to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

### **7 Shadow Councillors and Officers giving account**

- 7.1 The Overview and Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Shadow

Council function. As well as reviewing the documentation, in fulfilling its scrutiny role, it may require the Leader or any Portfolio Holder, to attend before it to explain in relation to matters within their remit:

- (a) any particular decision or series of decisions;
- (b) the extent to which the actions taken implement Shadow Council policy; and/or
- (c) their performance,

and it is the duty of those persons to attend if so required.

- 7.2 Where the Overview and Scrutiny Committee requires an officer to attend to answer questions or discuss issues, this will be agreed with the lead officer of the Central Implementation Team.

Where it is agreed that an officer should appear to answer questions, their evidence should, as far as possible, be confined to questions of fact and explanation relating to policies and decisions. Officers may explain:-

- (a) what the policies are;
- (b) the justification and objectives of those policies as the Shadow Executive Committee sees them;
- (c) the extent to which those objectives have been met; and
- (d) how administrative factors may have affected both the choice of policy measures and the manner of their implementation.

- 7.3 Officers may be asked to explain and justify advice they have given to the Shadow Executive Committee prior to decisions being taken. They may also be asked to explain and justify decisions they have taken under delegation powers from the Shadow Executive Committee.

- 7.4 Officers should not be expected and should avoid being drawn into discussions of politically contentious matters and any officer input should be consistent with the requirements for political impartiality.

- 7.5 The requirements of any protocols on Member/Officer relationships and the Code of Conduct must be adhered to where an officer is attending the Overview and Scrutiny Committee.

- 7.6 Where any Shadow Councillor or Officer is required to attend the Overview and Scrutiny Committee under this provision, the Chair of that Committee will inform the Interim/Appointed Monitoring Officer, who will inform the Shadow Councillor or Officer in writing giving at least ten clear working days' notice of the meeting. The notice will state the nature of the item on which he/she is required to attend

to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Overview and Scrutiny Committee will require the production of a report, then the Shadow Councillor or Officer concerned will be given reasonable and sufficient notice to allow for its preparation.

- 7.7 Where, in exceptional circumstances, the Shadow Councillor or Officer is unable to attend on the required date, then the Committee shall, in consultation with the Shadow Councillor or Officer, arrange an alternative date for attendance.

## **8 Attendance by others**

- 8.1 The Overview and Scrutiny Committee may invite individuals other than those referred to in Rules 7.1 and 7.2 to address it, discuss issues of local concern and/or answer questions.

## **9 Call-in**

- 9.1 Call-in is the exercise of the Overview and Scrutiny Committees' statutory power in section 21(3) of the Local Government Act 2000 to review an Executive decision that has been made but not yet implemented. Where a decision is called in and the overview and scrutiny committee decides to refer it back to the Executive for reconsideration, it cannot be implemented until the call-in procedure is complete.

- 9.2 Any decision of the Shadow Executive, an individual member of the Shadow Executive or a committee of the Shadow Executive, or a Key Decision made by an officer under authority delegated by the Shadow Executive, is subject to call-in. A decision may be called in only once. A recommendation by the Shadow Executive by the Shadow Council may not be called in.

- 9.3 The call-in procedure and the powers to refer a decision back for reconsideration may only be exercised by the Overview and Scrutiny Committee, within the remit of their respective terms of reference.

- 9.4 Call-in of decisions which may be contrary to the budget and policy framework shall be governed by the provisions of the Budget and Policy Framework Procedure Rules set out elsewhere within this Constitution.

- 9.5 The Call-In Procedure

9.5.1 Once made, an Executive decision shall be published, in the form of a decision note, within two working days at the Council's main offices and on its public website. The decisions digest will be sent to all members of the Council within the same timescale.

9.5.2 The decisions digest will bear the date on which it is published and will specify that the decision will be effective on the expiry of 5 clear working days after the publication of the decision and may then be implemented,

unless called in under this provision within that 5 clear working day period. The deadline for a call-in request will be specified in the decisions digest.

- 9.5.3 Requests for call-in may be made by the submission of a notice in accordance with paragraph 9.5.4 below. A request shall only be considered to be valid if it is signed by at least 7 members of the Council (5% of the total number of members) who are not members of the Shadow Executive.
- 9.5.4 A call-in request must be in the form of a written notice submitted to the Monitoring Officer and received before the published deadline. Either one notice containing all required signatures or up to 7 separate e-mails (as appropriate) will be acceptable.
- 9.5.5 The notice must set out (a) the resolution or resolutions that the member(s) wish to call in; (b) the reasons why they wish the Overview and Scrutiny committee to consider referring it back to the Executive, with particular reference to the principles of decision making set out within Article 11 (Decision Making); and (c) the alternative course of action or recommendations that they wish to propose.
- 9.5.6 The call-in request will be deemed valid unless either:-
- a) The procedures set out in Procedure Rules 9.5.3 to 9.5.5 above have not been properly followed;
  - b) A similar decision has been called in to the committee previously;
  - c) The Executive decision has been recorded as urgent in accordance with Paragraph 10 below; or
  - d) The Monitoring Officer, in consultation with the Chair of the relevant Overview and Scrutiny Committee, considers the call-in to be frivolous, vexatious or clearly outside the call-in provisions; in which case the Monitoring Officer may reject the call-in request.
- 9.5.7 Before deciding on its validity, the Monitoring Officer may seek clarification of the call-in request from the member(s) concerned.
- 9.5.8 Upon deciding on its validity, the Monitoring Officer shall forthwith notify the member(s) concerned, the Leader of the Shadow Council and Shadow Executive Member, the Chair and Vice-Chair of the Overview and Scrutiny Committee and the Interim/Appointed Head of Paid Service.
- 9.6 Consideration by the Overview and Scrutiny Committee
- 9.6.1 The Monitoring Officer will ensure that any valid call-in is reported to the next available meeting of the Overview and Scrutiny Committee, or will convene a special meeting if so agreed by the Chair of the Overview and Scrutiny Committee and the decision taker.
- 9.6.2 The members submitting the request for call-in will be expected to attend

the meeting of the relevant Overview and Scrutiny committee to explain their reasons for the call-in and the alternative course of action or recommendations they wish to propose.

9.6.3 Having considered the call-in and the reasons given, the Overview and Scrutiny Committee may either:-

- a) Refer it back to the decision making person or body for reconsideration, normally in time for its next scheduled meeting, setting out in writing the nature of its concerns and any alternative recommendations;
- b) If it considers that the decision is outside the Shadow Council's budget and policy framework, refer the matter to full Shadow Council after seeking the advice of the Interim Monitoring Officer and/or Interim Section 151 Officer in accordance with the Budget and Policy Framework Procedure Rules; or
- c) Decide to take no further action, in which case the original Executive decision will be effective immediately.

9.7 Decisions Referred Back to the Decision-Maker

9.7.1 If a decision is referred back to the original decision maker, that person or body shall then reconsider the matter, taking into account any concerns and recommendations of the Overview and Scrutiny Committee, and make a final decision, amending the decision or not, and give reasons for the decision.

9.7.2 If a decision relates to an Executive function only the Shadow Executive can ultimately decide the matter, provided that it is in accordance with the Council's budget and policy framework.

## **10 Call-In and Urgency**

10.1 The call-in procedure set out above shall not apply where the decision being taken is urgent. A decision is urgent if:-

- a) A call-in would prevent the Shadow Council reaching a decision that is required by statute within a specified timescale; or
- b) Any delay likely to be caused by the call-in process would seriously prejudice the Shadow Council's or the public's interests and the reasons for urgency are reported to the decision making body or person before the decision is taken.

10.2 The decision note shall state whether the decision is an urgent one, and therefore not subject to call-in.

10.3 The Chair of the Overview and Scrutiny committee must agree to the decision being treated as a matter of urgency. In the absence of the Chair, the Vice-Chair of the Overview and Scrutiny Committee's consent shall be required. In the absence of that person, the Chair of the Shadow Council's consent shall be required. In the absence of the Chair of the Shadow Council, the Vice-Chair of the Shadow Council's consent shall be required.

- 10.4 Where the Shadow Executive has recorded a decision as urgent, the Overview and Scrutiny Committee may retrospectively review actions arising from that decision but cannot delay its implementation.

## **11 Councillor Call for Action**

- 11.1 Any member of the Shadow Council may submit a Councillor Call for Action using the appropriate form. The Councillor Call for Action is intended to be a process of last resort and therefore a member must demonstrate that reasonable steps have been taken to resolve the matter including a response from the relevant Portfolio Holder and the Interim/Appointed Head of Paid Service or his/her nominee. The Councillor Call for Action will be placed on the agenda of the Overview and Scrutiny Committee. It is for the Overview and Scrutiny Committee to determine how it wishes to respond to the Councillor Call for Action and in the case of refusal to undertake a review then reasons must be provided.

## **12 The Party Whip**

- 12.1 It is generally accepted that the Party Whip should be suspended in respect of Scrutiny matters. However, when considering any matter in respect of which a member of the Overview and Scrutiny Committee is subject to a formal party whip, the Shadow Councillor must declare the existence of the whip, and the nature of it before the commencement of the Committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the Minutes of the meeting.

## **13 Task and Finish Panels**

- 13.1 The Committee may appoint such task and finish panels as it considers appropriate to undertake specific tasks on its behalf, with the same powers as the Committee. Whilst these will be on a task and finish basis in most cases, the Committee is not precluded from establishing such Panels on a more permanent basis subject to regular review. Task and finish panel members do not have to be members of the Overview and Scrutiny Committee, but may not be members of the Shadow Executive Committee.
- 13.2 Where the Committee establish any Panel under Rule 13.1 above, it will set out the name of the Panel, its membership (including the Chair and, if appropriate, the Vice-Chair) and the terms of reference including relevant dates for completion of the task or review.

## **14 Procedure at Overview and Scrutiny Committee Meetings**

- 14.1 The Overview and Scrutiny Committee shall consider the following business:
- (a) record of the last meeting;

- (b) consideration of any matter referred to the Committee by the Shadow Council or by the Shadow Executive Committee;
- (c) consideration of any matter referred to the Committee for advice in relation to call-in or a decision;
- (d) responses of the Shadow Executive Committee on reports of the Overview and Scrutiny Committee; and
- (e) the business otherwise set out on the agenda for the meeting.

14.2 Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at its meetings, which are to be conducted in accordance with the following principles:

- (a) the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
- (b) those assisting the Committee by giving evidence be treated with respect and courtesy; and
- (c) the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

14.3 Following any investigation or review, the Committee shall prepare a report for submission to the Shadow Executive Committee and/or Shadow Council as appropriate and shall, unless there are exceptional reasons, make its report and findings public.

# PART 4

## A. Meeting Procedure Rules

### Part A– Shadow Council meetings

#### 1 Shadow Council meetings

- 1.1 The Shadow Council will decide when its meetings will take place. Details will be contained in a calendar of meetings which will be approved by the Shadow Council.
- 1.2 Meetings will commence at 6.30pm at a place (or places) to be agreed by the Shadow Council. The Chair, or the Shadow Council, can agree to hold a meeting at a different place or time.
- 1.3 A special meeting can be called by resolution or by the Chair, or five Shadow Councillors can ask the Chair, in writing, to call a special meeting. If the Chair does not agree, then those Shadow Councillors can call the meeting by giving written notice to the Interim/Appointed Monitoring Officer. The Interim/Appointed Monitoring Officer, in consultation with the Chair, may also call a special meeting.

#### 2 Chair and Vice-Chair of the Shadow Council

- 2.1 At its first meeting, the Shadow Council will elect its Chair and appoint its Vice-Chair for the Shadow Period.
- 2.2 The Chair of the Shadow Council, or in his/her absence the Vice- Chair (who will have the same powers and duties as the Chair), will preside at meetings of the Shadow Council. Where both the Chair and Vice-Chair are absent, the Shadow Council will appoint another Shadow Councillor, other than a member of the Shadow Executive Committee, to chair the meeting, who will have the same powers and duties as the Chair.
- 2.3 In accordance with Article 5 of this Constitution, the Chair is responsible for, and must conduct themselves in accordance with, the following:
  - (a) upholding and promoting the purposes of this Constitution and interpreting it with appropriate advice when necessary;
  - (b) presiding over meetings of the full Shadow Council to ensure that business is carried out efficiently, effectively and fairly between the different political groups whilst preserving the rights of Shadow Councillors and the interests of members of the public;
  - (c) ensuring that at Shadow Council meetings, matters of concern to local communities can be debated through the appropriate Shadow Councillors;
  - (d) ensuring that Shadow Councillors who are not on the Shadow Executive Committee or who do not hold the Chairpersonship of a main Committee are able to hold those office holders to account;

- (e) promoting public involvement in the Shadow Council's affairs and acting as a contact between members of the public and organisations and the Shadow Council

### **3 Quorum**

- 3.1 No business shall be dealt with at a Shadow Council meeting if there are fewer than one quarter (34) of the whole number of members of the council are present. Where the meeting has started and the number of Shadow Councillors present is fewer than one quarter of the number of Shadow Councillors, the Chair will adjourn the meeting. Where the Chair does not give a date and/or time, all business not completed will be considered at the next meeting.

### **4 What the Shadow Council can decide**

- 4.1 The Shadow Council will decide such matters as required by the law and those matters set out in Part 3 of this Constitution.

### **5 Order of business**

- 5.1 Business shall be dealt with in the order in which it is set out in the agenda unless the Shadow Council decides otherwise.

### **6 Urgent business**

- 6.1 Business cannot be dealt with at a Shadow Council meeting unless it is included in the Summons.

### **7 Confirmation of Minutes**

- 7.1 Minutes of the last Shadow Council meeting must be confirmed at the next ordinary meeting of the Shadow Council.
- 7.2 Only matters relating to the accuracy of the Minutes can be raised, which must be done by way of a motion which is proposed, seconded and voted upon. Where no issues are raised, or after the motion has been dealt with, the Chair shall sign the Minutes.

### **8 Record of Shadow Executive Committee Decisions and Minutes of Committees and Sub-Committees**

- 8.1 The Record of Decisions of the Shadow Executive Committee, as well as the reports prepared by the Shadow Executive Committee for the Shadow Council and the Minutes of any other Committees will be submitted to the next ordinary meeting of the Shadow Council.
- 8.2 These will be noted and the Minutes will be received by a decision of the Shadow Council.

- 8.3 Any question about the accuracy of any matter before the Shadow Council from the Shadow Executive Committee or a Committee must be considered and determined by the Shadow Executive Committee or that Committee at its next meeting. It is not a matter for the Shadow Council.

## **9 Matters for decision by the Shadow Council**

- 9.1 All matters for decision by the Shadow Council shall be included with the agenda.
- 9.2 When the item is reached on the agenda, the Leader, the relevant Portfolio Holder or the Chair of the relevant Committee will, where appropriate, move the recommendation or advice of the Shadow Executive Committee or Committee, or endorsement of a Shadow Executive Committee or a Committee decision. Another Shadow Councillor may second the motion and may reserve the right to speak until later in the debate.
- 9.3 The Chair cannot ask the Shadow Council to agree to withdraw a recommendation of the Shadow Executive Committee or a Committee under, Appendix 3, paragraph 10, unless new and relevant information has become available after the decision of the body concerned. The information must be disclosed to the Shadow Council.

## **10 Motions moved without notice**

- 10.1 Appendix 1 lists those motions and amendments which can be moved at a Shadow Council meeting without notice.

## **11 Public participation at Shadow Council meetings**

- 11.1 A public speaking time of up to a maximum of 30 minutes will apply to Shadow Council meetings, as detailed in Appendix 6.
- 11.2 Members of the public may also submit questions in accordance with the process set out in Paragraph 12 and Appendix 6.

## **12 Questions**

### **12A Questions by Councillors and Members of the Public at Shadow Council meetings**

- 12.1 A Shadow Councillor or a member of the public may ask the Chair, Leader, the Portfolio Holder or the Chair of a Committee any question about a matter which the Shadow Council, the Shadow Executive Committee or the Committee has powers, duties or responsibilities.
- 12.2 Questions must be sent in writing to the Interim Monitoring Officer at least three clear working days before the meeting.

- 12.3 The Chair may agree to take urgent questions where they consider that it has not been possible for a Shadow Councillor to give the required notice, provided that a copy of the question is given to the Interim/Appointed Monitoring Officer before the meeting starts.
- 12.4 A question will be rejected by the Chair in consultation with the Interim/Appointed Monitoring Officer where it:
- (a) does not relate to a matter for which the Shadow Council /committee has a responsibility;
  - (b) is defamatory, frivolous, offensive, vexatious, unlawful or otherwise improper;
  - (c) requires the disclosure of confidential or exempt information;
  - (d) names or identifies individual service users, members of staff or members of staff of partner agencies; or
  - (e) is considered to be inappropriate for the particular meeting.
- 12.5 A Shadow Councillor or a member of the public may ask no more than three questions at any meeting.
- 12.6 Subject to Rule 12.5 questions will be asked in the order of receipt and answered without discussion. In replying, the Shadow Councillor answering the question will use their reasonable endeavours to address the matters raised in the question. The Shadow Councillor to whom the question is addressed may decline to answer any question or may:
- (a) reply directly;
  - (b) reply by reference to a publication;
  - (c) reply by written answer with a copy to such other Shadow Councillors as the Shadow Council agrees; or
  - (d) refer the question to an appropriate committee or to the Shadow Executive Committee.
- 12.7 Following the answer to each question, the questioner may, with the permission of the Chair, ask a supplementary question which relates to the initial answer. A reply may not be given if the question is: not related to the initial answer; is unduly lengthy; or is inappropriate. The Shadow Councillor answering the supplementary question will decide whether or not to reply
- 12.8 The time allowed for Members and the public to ask questions under this Rule will be a maximum of 30 minutes, but is otherwise a matter for the discretion of the Chair who, in exercising his/her discretion, will have regard to the

business to be transacted at the meeting and the objective of ensuring that the meeting is managed efficiently.

## **12B Questions relating to Portfolio Holder Presentations**

- 12.9 A period of up to forty-five minutes will be allowed at Shadow Council meetings during which members of the Shadow Executive Committee will be able to put forward presentations relating to their respective portfolios and upon which Members will be able to ask them questions.
- 12.10 Such presentations may be presented either in writing or verbally or by a combination of the two, but in any event the verbal presentation should not exceed three minutes in duration. If a written presentation is made it should be circulated to all Members before the start of the meeting, and it should be kept concise.
- 12.11 Upon completion of the presentation Members may ask questions relating to it. Subject to Rule 12.12 below there is no limit on the number of questions Members may ask and there is no requirement for prior notice of questions.
- 12.12 In order to keep to the forty-five minute limit and/or maintain fairness between Members, the Chair may limit the number of questions (or further questions) to be asked, either in total or by any one Member, or to any one Portfolio Holder.
- 12.13 This Rule shall not apply to the Annual Council meeting, or to Shadow Council Meetings called to deal with special items of business (including the meeting when the Council Tax is set).

## **13 Notices of Motion**

- 13.1 A notice of motion must relate to matters for which the Shadow Council has direct responsibility.
- 13.2 The arrangements for submitting and dealing with notices of motion are set out in Appendix 2.

## **14 Rules of Debate**

- 14.1 The rules of debate to be followed at Shadow Council meetings are set out in Appendix 3.

## **15 Rescission of earlier resolution**

- 15.1 Subject to Rule 15.2, at a meeting of the Shadow Council, no motion or amendment shall be moved to rescind any resolution of the Shadow Council which was passed within the preceding six months or which is to the same effect as one which has been rejected within that period.
- 15.2 Such a motion may be moved if:

- (a) it is recommended by the Shadow Executive Committee or a Committee;  
or
- (b) notice of such motion has been given under Rule 13 and signed by at least 15% of the total number of Shadow Councillors who include members from more than one political party.

## **16 Voting**

- 16.1 Each Shadow Councillor has one vote except as provided for in Article 26(7) of the 2019 Order when the Shadow Councillors described in the Article shall have two votes on all questions coming or arising before the Shadow Council.
- 16.2 Voting will be by a show of hands or where practical and the means are available to those present, by electronic means.
- 16.3 When a Shadow Councillor asks for a recorded vote to be taken, and 10% of the overall number of Shadow Councillors (14) stand in their places to support the request, the vote will be recorded to show whether each Shadow Councillor voted for or against the motion or abstained. If necessary a Shadow Councillor may raise their hand instead of standing in order to indicate their support for a request for a recorded vote.
- 16.4 A recorded vote will not be taken if the vote has already begun to be taken by a show of hands.
- 16.5 A Shadow Councillor may require, after a vote is completed, that the Minutes of the meeting record how he/she voted or abstained.
- 16.6 A Shadow Councillor may, immediately after the item of business is voted upon, request that a lost motion or amendment be recorded in the minutes.
- 16.7 Where there are equal votes cast for a motion or amendment the Chair or the person presiding will have a second or casting vote.

## **17 Offices and Appointments**

- 17.1 Voting to elect or appoint the Chair and Vice- Chair of the Shadow Council, or Shadow Councillors to any office or position where more than one person is nominated shall be a show of hands or where practical and the means are available to those present, by electronic means.
- 17.2 If on a vote no person receives more than half of the votes cast, the name of the person with the least number of votes will be withdrawn. Further votes will be held until one person receives a clear majority.
- 17.3 The Chair, or person presiding, will have a second or casting vote where the votes are equal.

## **18 Election of Chair of Committees and Sub-Committees**

- 18.1 The Chair of every Committee and Sub-Committee excluding the Shadow Executive Committee will be elected at the first meeting of the Shadow Council where possible. The Vice Chairs will be elected at the first meeting of the Committee or Sub-Committee.
  - 18.2 The Shadow Councillor elected to each office must be a member of the relevant Committee or Sub-Committee.
  - 18.3 Where a vacancy occurs in any office, an election will be held at the next ordinary meeting of the Committee or Sub-Committee concerned.
  - 18.4 Unless the Shadow Council decides otherwise, the election will be conducted by a show of hands and may relate to a number of offices. Rule 17 will apply.
  - 18.5 Where a Chair and Vice-Chair are absent from a meeting of the relevant body, a Chair will be appointed from those members of the body present, provided the meeting is quorate and subject to any restrictions on the eligibility of Shadow Executive Committee members for appointment.
- 19 Urgent Business – Non-Shadow Executive Committee matters**
- 19.1 An item of urgent business which has to be decided before the next meeting of the Shadow Council and which does not fall within the Shadow Executive Committee's functions and responsibility can be determined by the lead officer of the Central Implementation Team, subject to the procedure in Appendix 4.

## **Part B – Committee and Sub-Committee Meetings**

### **20 Programme of Meetings**

- 20.1 Meetings of Committees and Sub-Committees will be set out in the calendar of meetings approved by the Shadow Council under Rule 1.1. There will be a presumption against alterations to the date, time and venue for meetings.
- 20.2 When it is necessary to alter the date, time and/or venue of a meeting, or to arrange a special meeting, the Interim/Appointed Monitoring Officer will consult the Chair of the relevant Committee or Sub-Committee before any action is taken. The Chair of the Committee or Sub-Committee will then determine the matter.

### **21 Quorum at Committees and Sub-Committees**

- 21.1 Subject to paragraph 21.2, no item of business will be transacted at a meeting of a committee or sub-committee unless there are at least one quarter of the members of the body present. However, where the total membership of any committee or sub-Committee comprises 11 or fewer members, the quorum shall be 3.

21.2 No item of business will be transacted at a meeting of the General Purposes Committee unless there are at least twelve members of the Committee present.

## **22 Minutes of Committees and Sub-Committees**

22.1 The Minutes of a Committee or Sub-Committee must be confirmed at its next meeting.

22.2 Only matters relating to the accuracy of the Minutes can be raised. Where accuracy is questioned, this must be by a motion which is proposed, seconded and voted upon.

22.3 Where no issues of accuracy are raised, or after any motion has been dealt with, the Chair shall sign the Minutes.

22.4 The Minutes of any Sub-Committee must be submitted to the next meeting of the parent Committee by the Sub-Committee Chair.

22.5 Members may ask a question or comment on any Minute. The Chair of the Sub-Committee will then reply. There will be no debate on any question or comment raised under this procedure and no further motions can be moved.

22.6 Where a Member has a question or comment on an exempt, private or confidential Minute, the question or comment must be given in writing to the Interim/Appointed Monitoring Officer at least one hour before the start of the meeting.

22.7 Any question about the accuracy of any Minute of a body must be considered and determined by that body at its next meeting.

## **23 Motions moved without Notice at Committees and Sub-Committees**

23.1 Appendix 1 lists those motions and amendments which can be moved without notice.

## **24 Rules of Debate at Committees and Sub-Committees**

24.1 Appendix 3 sets out the rules of debate.

## **25 Voting at Committees and Sub-Committees**

25.1 Voting at Committee and Sub-Committee meetings will be by a show of hands.

25.2 A recorded vote will not be taken if the vote has already begun to be taken by a show of hands.

- 25.3 A Shadow Councillor may require, after a vote is completed, that the Minutes of the meeting record how he/she voted or abstained.
- 25.4 A Shadow Councillor may request that a lost motion or amendment be recorded in the minutes by requesting this immediately after the vote is taken.
- 25.5 Where there are equal votes cast for a motion or amendment, the person presiding at the meeting will have, and must exercise, a second or casting vote.

**26 Mover of a Motion at Shadow Council under Rule 13: Attendance at Committee and Sub-Committee**

- 26.1 Where a motion has been referred under Rule 13 from the Shadow Council to a Committee or Sub-Committee for consideration and report, the mover of the motion has the right to attend the meeting and to explain the motion.
- 26.2 The mover of the motion will be advised of the date and time of the meeting at which the matter is to be considered and he/she will be sent a copy of the relevant papers.

**27 Requests by Members for items of business to be included on agendas of a Committee or Sub-Committee**

- 27.1 Appendix 5 to these Procedure Rules sets out details of the process by which a Shadow Councillor can ask for an item of business to be included on the agenda of a Committee or Sub-Committee meeting.

**28 Committee and Sub-Committee Agenda - Urgent items of business**

- 28.1 Generally, business will only be transacted at meetings of Committees and Sub-Committees which appears in the agenda and which has been available for public inspection at least five clear working days before the meeting or, where the meeting is convened at short notice, from the time the meeting is convened.
- 28.2 The Chair of the Committee or Sub-Committee may agree to deal with an item of business at the meeting if, in his/her opinion, the matter is urgent given the circumstances requiring a decision. The Chair's ruling and the reasons for urgency will be recorded in the Minutes of the meeting.

**29 Attendance of Shadow Councillors at Committees and Sub-Committees of which they are not members**

- 29.1 Notwithstanding their rights as a member of the public, a Shadow Councillor may attend any meeting of a Committee or Sub-Committee to which he/she has not been appointed, for the purposes of performing his/her duties as a Shadow Councillor, including when exempt or private and confidential business is transacted.

- 29.2 A Shadow Councillor will be given, when he/she arrives at the meeting a copy of the agenda and relevant papers, subject to any restrictions imposed under the Access to Information Procedure Rules.
- 29.3 The Shadow Councillor has no right to vote, but may speak with the consent of the Chair of the meeting.

### **30 Overview and Scrutiny Committees/Sub-Committees**

- 30.1 In applying these Rules to Overview and Scrutiny Committees and Sub-Committees, regard shall be had to the Overview and Scrutiny Procedure Rules which are contained in Part 4 of this Constitution.

## **Part C – General Provisions**

### **31 Records of Attendance**

- 31.1 The Interim/Appointed Monitoring Officer will keep a record of Members attending any meeting of the Shadow Council, the Shadow Executive Committee, any Committee or Sub-Committee.

### **32 Disclosure of Confidential/Exempt Matters**

- 32.1 No Shadow Councillor shall disclose to any person the whole or any part of the contents of any agenda, report or other document which is marked “confidential” or “not for publication” unless and until the document has been made available to the public or the press by or on behalf of the Shadow Council, the Shadow Executive Committee, a Committee or Sub-Committee.
- 32.2 No Shadow Councillor shall disclose to any person other than a Shadow Councillor any matter arising during the proceedings of the Shadow Council, the Shadow Executive Committee, any Committee or Sub-Committee and which comes to his/her knowledge by virtue of his/her office as a Member where such disclosure would prejudice the interest of the Shadow Council or would be contrary to law.
- 32.3 No Shadow Councillor shall, without the consent of the Chair of the appropriate body, disclose to any person any decision or proceedings of that body except:
- (a) when a report on the matter has been circulated to the Shadow Council by that body; or
  - (b) when the decision has become public knowledge; or
  - (c) when the matter comes within the powers of that body and a final decision has been made upon it;

provided that this paragraph shall not authorise any disclosure which would contravene Rules 33.1 or 33.2.

### **33 Disorderly conduct by Members**

- 33.1 If at a meeting any Shadow Councillor, in the opinion of the person presiding, misconducts themselves in any way, the person presiding or any other Shadow Councillor may move "That the Shadow Councillor be not further heard". The motion, if seconded, shall be put and determined without discussion.
- 33.2 If the Shadow Councillor continues the misconduct after a motion under Rule 34.1 has been carried, the person presiding may: either move "That the Shadow Councillor do leave the meeting" (in which case the motion shall be put and determined without seconding or discussion); or adjourn the meeting.
- 33.3 In the event of general disturbance by Shadow Councillors at any meeting which, in the opinion of the person presiding, renders the due and orderly dispatch of business impossible, the person presiding will have the power to adjourn the meeting.

### **34 Disturbance by members of the Public**

- 34.1 If a member of the public interrupts the proceedings at any meeting the person presiding shall issue a warning to him/her. If he/she continues, the person presiding shall order his/her removal from the meeting. In cases of general disturbance in any part of the meeting room open to the public, the person presiding shall order that part to be cleared.

### **35 Variation and revocation of Procedure Rules**

- 35.1 Any motion to vary or revoke these Rules shall, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Shadow Council.

### **36 Suspension of Procedure Rules**

- 36.1 Subject to Rule 37.2, any of the preceding Procedure Rules may be suspended in respect of any business at a meeting of the Shadow Council, a Committee or Sub-Committee where its suspension is moved except where this would be in contravention of statute.
- 36.2 A motion to suspend Procedure Rules shall not be moved without notice (that is under Procedure Rule 10) unless there shall be present at least one-third of the Members of the Shadow Council or that Committee or Sub-Committee respectively.

### **37 Interpretation of Procedure Rules**

- 37.1 The ruling of the person presiding as to the construction or application of any

of these Procedure Rules, or as to any proceedings of the Shadow Council, shall not be challenged at any meeting.

- 37.2 The person presiding, prior to enacting Rule 38.1, shall consult on any question of interpretation with the Interim/Appointed Monitoring Officer or their designated nominee.

### **38 Submission of Notices by Members – Electronic Means**

- 38.1 A Shadow Councillor may communicate, by electronic means, any notice under any of the Shadow Council's Procedural Rules to initiate any process or procedure provided it is clear that the notice has been originated by that Member.

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## **Appendix 1 - Procedure Rules relating to the Shadow Council: Meeting Procedure Rules 10 and 29 - Motions which may be moved without Notice**

1. Appointment of a Chair of the meeting at which the motion is made;
2. Motions relating to the accuracy of the minutes of the Shadow Council, a Committee or Sub-Committee;
3. That an item of business specified in the summons should have precedence;
4. Reference to the Shadow Council, a Committee, Sub-Committee or the Shadow Executive Committee;
5. Appointment of or appointment to Committees, Sub-Committees or the Shadow Executive Committee occasioned by an item mentioned in the summons to the meeting;
6. Receipt of Records of Decisions and Minutes of Committees and Sub-Committees;
7. Adoption of recommendations of the Shadow Executive Committee, Committees and Sub-Committees and any consequent resolutions;
8. That leave is given to withdraw a motion;
9. That leave is given to alter a motion by the mover of that motion;
10. Receipt of reports of officers and any consequent resolutions;
11. Extending the time limit for speeches;
12. Amendment to reports of which notification has been included within the summons of the meeting;
13. That the Shadow Council proceed to the next business;
14. That the question be now put;
15. That the debate be now adjourned;
16. That the Shadow Council do now adjourn;
17. Authorising the sealing of documents;
18. Suspending Procedure Rules, in accordance with Procedure Rule 37;
19. Motion under Section 100A(4) of the Local Government Act 1972 (as amended) to exclude the press and public;

20. That a Shadow Councillor named under Procedure Rule 34 should not be heard further or should leave the meeting; and
21. Giving consent of the Shadow Council where consent of the Shadow Council is required by these Procedure Rules.

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## **Appendix 2 - Procedure Rules relating to the Shadow Council: Meeting Procedure Rule 13 - Notices of Motion**

### **1 Procedure**

Notice of every motion (other than a motion which under Procedure Rule 10 may be moved without notice) shall be given in writing, signed by the Member(s) of the Shadow Council giving the notice, and delivered, at least ten clear working days before the next meeting of the Shadow Council, to the office of the Interim/Appointed Monitoring Officer by whom it shall be dated, in the order in which it is received.

### **2 Scope**

Motions must be about matters for which the Shadow Council has direct responsibility. If it appears to the Monitoring Officer that the proposed motion is irrelevant, defamatory, frivolous, offensive, vexatious, unlawful or otherwise improper, it will not be listed on the agenda unless the Chair agrees.

A motion will not be accepted if it is substantially the same as a question which has been put or an address made by some other person at the same meeting of the Council or at another meeting of the Council in the past six months.

### **3 Motions to be set out in Summons**

The summons for every ordinary meeting of the Shadow Council will set out all motions of which notice has been duly given, unless the Member giving the notice has intimated in writing, when giving it, that he/she proposed to move it at some later meeting, or has since withdrawn it. The motions will be listed in the summons according to whether they relate to Shadow Executive Committee or non-Shadow Executive Committee functions but otherwise in the order in which they have been received.

### **4 Withdrawal of Motion which is before the Shadow Council**

Where a notice of motion is before the Shadow Council having been formally moved and seconded and the mover wishes subsequently to withdraw it, he/she with the consent of the seconder may do so in writing and with the consent of the Chair of the Shadow Council again in writing.

### **5 Motions not moved**

If a motion set out in the summons is not moved either by a Shadow Councillor who gave notice of it or by some other Shadow Councillor on his/her behalf it shall, unless postponed by consent of the Shadow Council, be treated as withdrawn and shall not be moved without fresh notice.

### **6 Automatic reference to Shadow Executive Committee,**

## **Committee/Sub-Committee – Non-Shadow Executive Committee Function**

If the subject of any motion (which does not relate solely to any Shadow Executive Committee function or part of a function) comes within the powers, duties and responsibilities of any Committee or Sub-Committee or the Shadow Executive Committee, it shall, when it has been moved and seconded, stand referred without discussion to such of those bodies as the Chair may determine, for consideration and report. However, if the Chair considers it conducive to the despatch of business, the motion may be dealt with at the meeting at which it was brought forward. Unless the Chair has indicated that he/she proposes to deal with the motion at the meeting, the mover may formally move the motion and reserve the right to speak until the report on the motion comes before the Shadow Council.

Advice to the Shadow Council on any referred Notice of Motion under this section will be formulated by the Shadow Executive Committee and by such other bodies (Committees/Sub-Committees) as are deemed appropriate. The report to the Shadow Council will set out the views of all bodies consulted on the Notice of Motion. The Minutes of a Committee or Sub-Committee containing advice to the Shadow Council on any referred Notice of Motion shall be dealt with separately from the other Minutes of those bodies.

### **7 Automatic reference to the Shadow Executive Committee – Shadow Executive Committee Function**

If the subject of any motion of which notice has been duly given comes solely within the powers, duties and responsibilities of the Shadow Executive Committee, it shall, when it has been moved and seconded, stand referred to the Shadow Executive Committee to determine subject to the advice from any other body whose views are sought as determined by Shadow Council. The mover on formally moving the motion has the right to speak to the Motion. The seconder may also speak to the Motion. The Chair will allow a period of fifteen minutes for a debate on any such notices of motion. This period shall include any speeches made by the mover and seconder of the motion in question. At the end of the debate if sooner or upon the expiration of the fifteen minutes, the appropriate Shadow Executive Committee Member shall have an opportunity to respond. No speeches including the response shall exceed three minutes. No amendments to the motion may be moved. The motion will then stand referred to the Shadow Executive Committee.

There are no rights of “call in” or “reference to the Shadow Council” where the Shadow Executive Committee has discharged a motion submitted under this Procedure Rule.

### **8 Deferment of a Notice of Motion**

Where a notice of motion has been moved and seconded, and referred for advice, the consideration of the motion may be deferred where the mover and

seconder signify in writing his/her agreement to the deferral and the Chair of the Shadow Council indicates, in writing, his/her agreement on behalf of the Shadow Council. The matter would then come to a subsequent meeting of the Shadow Council for report and decision.

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## **Appendix 3 - Procedure Rules relating to the Shadow Council, Committees and Sub-Committees - Meeting Procedure Rules 14 and 24 - Rules of Debate**

### **1 Motions and Amendments**

No motion or amendment shall be discussed unless it has been proposed and seconded. Where required by the Chair, motions or amendments shall be put in writing and handed to the Chair before they are further discussed or put to the meeting. At meetings other than those of the full Shadow Council, the Chair of that meeting may, at his/her discretion, allow a motion or amendment to be put which is not in writing, provided that the Chair has concluded that the wording of the motion or amendment is understood by all members of the body concerned. This requirement does not apply to motions submitted under Procedure Rule 13.

### **2 Seconder's Speech**

When seconding a motion or amendment a Shadow Councillor may advise the Chair that he/she will reserve his/her right to speak until a later period in the debate.

### **3 Only one Shadow Councillor to stand at a time**

When speaking at a Shadow Council meeting a Shadow Councillor shall if possible stand and address the Chair. While a Shadow Councillor is speaking the other Shadow Councillors will remain seated, unless rising, if possible, on a point of order or in personal explanation.

### **4 Content and length of speeches**

A Shadow Councillor will confine his/her speech to the question under discussion, a personal explanation or a point of order. Except as indicated below, in the case of speeches made by Shadow Councillors when the Shadow Council is agreeing a budget, or where the Shadow Council, Committee or Sub-Committee otherwise agrees, the speech of the mover of a motion shall not exceed five minutes and all other speeches shall not exceed three minutes.

In advance of the meeting at which the Shadow Council is due to agree a budget, the Shadow Council's Political Groups may agree a protocol which makes provision for a limited number of speeches to be made on behalf of each Political Group, and which exceed the three minute limitation contained in these Rules. The Chair will have discretion as to how such a protocol will be implemented at the meeting and, where no agreement can be reached between the Political Groups, whether and (if so) how any extension of the three minute limitation might be permitted to operate.

## 5 **When a Shadow Councillor may speak again**

At a Shadow Council meeting a Shadow Councillor who has spoken on any motion shall not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another Shadow Councillor;
- (b) if the motion has been amended since he/she last spoke, to move a further amendment;
- (c) if his/her first speech was on an amendment moved by another Shadow Councillor, to speak on the main issue, whether or not the amendment on which he/she spoke was carried;
- (d) in exercise of a right of reply given by paragraph 12A or 14 of this Appendix;
- (e) on a point of order referring to the specific Procedure Rule;
- (f) by way of personal explanation; or
- (g) to move one of the motions specified in 13(b) to (j), below when the procedure in those paragraphs shall be followed.

At Committees or Sub-Committees Shadow Councillors may, at the discretion of the Chair, speak more than once.

## 6 **Amendments**

An amendment must be relevant to the motion and shall be either:

- (a) to leave out words;
- (b) to leave out words and add others;
- (c) to insert and/or add words;

but such amendment shall not have the effect of negating the motion before the Shadow Council.

## 7 **Notice of Amendments**

A Shadow Councillor who wishes to propose an amendment to a motion submitted in accordance with Procedure Rule 13 shall be required to submit that motion to the Interim/Appointed Monitoring Officer no less than 48 hours before the start of the meeting. Amendments to reports of which notification has been included within the summons of the meeting may be moved without notice.

## 8 **Number of Amendments**

Only one amendment may be moved and discussed at a time. No further amendment shall be moved until the amendment under discussion has been disposed of, although the Chair may allow two or more amendments to be discussed (but not voted on) together if this would facilitate the proper conduct of the business before the meeting.

## 9 **Status of Amendments**

If an amendment is lost, another amendment may be moved on the original motion. If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the motion upon which any further amendment may be moved.

## 10 **Alterations to Motions or Amendments**

A Shadow Councillor may alter a motion or amendment of which he/she has given notice and may also, with the consent of the seconder, alter a motion or amendment which he/she has moved. In both cases, the consent of the Shadow Council (the Committee or Sub-Committee) is required. There should be no discussion on whether consent should or should not be given.

## 11 **Withdrawal of Motion**

A motion or amendment may be withdrawn by the mover provided the seconder and the meeting, without discussion, agree. Once the mover has asked for permission to withdraw, there should be no further discussion, unless the meeting refuses to agree to the request.

## 12 **Right of Reply**

The mover of the motion shall have a right to reply at the close of the debate on the motion, immediately before it is put to the vote. If an amendment is moved, the mover of the original motion shall have a right of reply at the close of the debate on the amendment but shall not otherwise speak on it. The mover of the amendment shall have no right of reply to the debate on his/her amendment.

## 13 **Motions which may be moved during debate**

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

- (a) to amend the motion (subject to paragraph 7);
- (b) to adjourn the meeting;
- (c) to adjourn the debate;

- (d) to proceed to the next business;
- (e) to suspend Procedure Rules;
- (f) to refer a matter to the Shadow Council, Shadow Executive Committee, a Committee or Sub- Committee for consideration or reconsideration;
- (g) that the question be now put;
- (h) that a Shadow Councillor be not further heard;
- (i) by the Chair under Procedure Rule that a Shadow Councillor do leave the meeting;
- (j) a motion under Section 100A(4) of the Local Government Act 1972 (as amended) to exclude the public.

#### 14 **Closure Motions**

A Shadow Councillor may move, without comment, at the conclusion of a speech of another Shadow Councillor, "That the Shadow Council proceed to the next business", "That the question be now put", "That the debate be now adjourned", or "That the Shadow Council do now adjourn". When one of these Motions has been seconded the Chair shall proceed as follows:

- (a) on a motion to proceed to next business - unless in his/her opinion the matter before the meeting has been insufficiently discussed, he/she shall first give the mover of the original motion the right of reply, and then put to the vote the motion to proceed to next business;
- (b) on a motion that the question be now put - unless in his/her opinion the matter before the meeting has been insufficiently discussed, he/she shall put to the vote the motion that the question be now put and, if it is passed, give the mover of the original motion the right of reply before putting the motion to the vote;
- (c) on a motion to adjourn the debate or the meeting - if in his/her opinion the matter before the meeting has been insufficiently discussed on that occasion he/she shall put the adjournment motion to the vote without giving the mover of the original motion the right of reply on that occasion.

#### 15 **Points of Order**

A Shadow Councillor may rise (or where necessary, instead raise their hand) on a point of order or in personal explanation and shall be entitled to be heard immediately. A point of order shall relate only to an alleged breach of a Procedure Rule or statutory provision and the Shadow Councillor shall specify the Procedure Rule or statutory provision and the way in which

he/she considers it has been breached. A personal explanation shall be confined to some material part of a former speech by him/her which may appear to have been misunderstood in the current debate.

**16 Ruling of Chair on a Point of Order/Personal Explanation**

The ruling of the Chair of the meeting on a point of order or on the admissibility of a personal explanation shall not be open to discussion and shall be final. The Chair of the meeting shall consult on any question of interpretation with the Interim/Appointed Monitoring Officer or their designated nominee prior to making a ruling.

**17 Respect for the Chair**

At the Shadow Council meeting whenever the Chair rises during a debate a Shadow Councillor then standing shall sit down and the Shadow Council shall be silent. In Committee or Sub-Committee meetings, whenever the Chair rises from his/her seat, the Shadow Councillors should remain in their seats and the Committee or Sub-Committee shall be silent.

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## **Appendix 4 - Procedure Rules Relating to the Shadow Council, Committees and Sub-Committees: Meeting Procedure Rules 18 and 30 - Urgent Business**

### **Non-Shadow Executive Committee Functions**

#### **1 Approval of urgent business**

Where any matter is urgent and cannot await the next meeting, the lead officer of the Central Implementation Team may take the necessary action, provided that he/she has first consulted the relevant Chair (or Vice- Chair if he/she is not available).

#### **2 Consultation**

A copy of the consultation document shall be sent to the appropriate Shadow Executive Committee Member, the Chair of the appropriate Overview and Scrutiny Committee, the group leaders and the Shadow Councillors for the area concerned, if the matter particularly affects one or more electoral areas.

#### **3 Written approval**

Any such approval shall be in writing, consideration being given after consultation with the Interim/Appointed Chief Finance Officer and the Interim/Appointed Monitoring Officer.

#### **4 Obligations of the Interim/Appointed Monitoring Officer**

The Interim/Appointed Monitoring Officer shall forthwith supply a copy of any approval requiring a report to a Committee or Sub-Committee which has been given by him/her to the lead officer of the Central Implementation Team and the Interim/Appointed Chief Finance Officer.

#### **5 Report to Committee**

A report of any action under paragraphs 1 to 4 above of this Procedure Rule shall be made available by electronic means to all Shadow Councillors of the Shadow Council.

### **Shadow Executive Committee functions**

#### **6 Consultation**

The lead officer of the Central Implementation Team shall have sole discretion to decide the matter, having first taken into account any views of Shadow Councillors consulted under this procedure. A copy of the consultation document under this procedure shall also be sent to the Chair and Spokespersons of the appropriate Overview and Scrutiny Committee, the appropriate Shadow Executive Committee Member and the Shadow

Councilors for the area concerned, if the matter particularly affects one or more electoral areas.

**7 Written Approval**

Any such approval shall be in writing, and shall only be given after consultation with the Interim/Appointed Chief Finance Officer and the Interim/Appointed Monitoring Officer.

**8 Obligations of the Interim/Appointed Monitoring Officer**

A copy of any approval which has been obtained under paragraphs 6 to 8 above shall be supplied forthwith to the Interim/Appointed Monitoring Officer and the Interim/Appointed Chief Finance Officer.

**9 Report to Shadow Executive Committee**

A report of any decision under paragraphs 6 to 8 above shall be made available by electronic means to all.

**10 Access to Information**

In processing and deciding any matter under paragraphs 6 to 10 above, the relevant requirements of the Access to Information Procedure Rules will apply, as set out in this Constitution.

## **Appendix 5 - Procedure Rules relating to Committees and Sub-Committees: Meeting Procedure Rule 27 - Agenda items submitted by Shadow Councillors**

- 1 This Rule does not apply to special meetings of Committees and Sub-Committees or to the Shadow Executive Committee.
- 2 A Shadow Councillor may, by notice given to the Interim/Appointed Monitoring Officer no later than ten clear working days before the appropriate meeting, request that an item of business be included on the agenda of a Committee or Sub-Committee.
- 3 A Shadow Councillor may not give notice of more than one item of business for any one meeting. The notice shall state the nature of the business and shall include the signature of that Shadow Councillor.
- 4 This procedure shall not apply where the item of business, if agreed, would have the effect of rescinding or amending any resolution passed by a Committee or Sub-Committee of the Shadow Council within the preceding 12 months.
- 5 Items arising from such notices shall appear on the agenda at the end of the Part 1 or Part 2 business.
- 6 This procedure will apply to Shadow Councillors of the Overview and Scrutiny Committee exercising their rights under Section 9FC of the Local Government Act 2000 and Overview and Scrutiny Committee Procedure Rule 32 to have an item, within the remit of that particular body, included on the Agenda and discussed at the next meeting of that body. The restrictions in paragraph 3 on the number of items shall not apply.

## **Appendix 6 - Procedure Rules relating to Shadow Council Meetings, Committees and Sub-Committees: Meeting Procedure Rules 11 and 12A**

1. Under Procedure Rule 11, members of the public may make statements at meetings of the full Shadow Council, Shadow Executive Committee, and Committees of the Shadow Council. The protocol for statements is as follows:
  - a) Subject to the requirements of this protocol, a member of the public who lives or works in the the area of the Shadow Council may submit a written statement to the Leader of the Shadow Council, a portfolio holder or the Chair of the Shadow Council or of a Committee of the Shadow Council.
  - b) A person wishing to make a statement under this protocol shall submit the statement in writing which must be received by the Interim/Appointed Monitoring Officer at the main office of the Shadow Council at least 24 hours before the beginning of the meeting of the Shadow Council at which it is to be raised. The person's name and address must be included.
  - c) A statement put under this protocol must relate to an item on the public part of the agenda.
  - d) Statements shall be printed in order of receipt and circulated to Shadow Councillors prior to the commencement of the Shadow Council meeting. No discussion shall be allowed upon statements.
  - e) The person making the statement shall normally attend the meeting to read out their statement.
  - f) If statements are unsuitable in form, frivolous, defamatory, derogatory or relate to a matter which the Shadow Council would be likely to consider in the absence of the press and public, the Chair shall have the right to rule the statement out of order.
2. The time for statements from members of the public shall normally commence immediately after the item 'Chair's Announcements' on the Shadow Council agenda. The time limit for making a statement shall be 3 minutes and the time available for statements shall be restricted to a total of 30 minutes.
3. In accordance with Procedure Rule 12A, members of the public (and Shadow Councillors) may ask questions at meetings of the full Shadow Council. The protocol for questions is as follows:
  - a) Subject to the requirements of this protocol, a member of the public who lives or works in the area of the Shadow Council may submit a written question to the Leader of the Shadow Council, a portfolio holder or the Chair of the Shadow Council or of a Committee of the Shadow Council.

- b) A person wishing to ask a question shall submit the question in writing which must be received by the Interim/Appointed Monitoring Officer at the main office of the Shadow Council by 10.00 am three clear working days before the meeting of the Shadow Council at which it is to be asked. The person's name and address must be included.
  - c) A question shall relate to Shadow Council business and shall be so framed as to elicit information rather than make a statement.
  - d) Questions shall be printed in order of receipt and circulated to Shadow Councillors prior to the commencement of the Shadow Council meeting. No discussion shall be allowed upon questions or answers.
  - e) If questions are unsuitable in form, frivolous, defamatory, derogatory or relate to a matter which the Shadow Council would be likely to consider in the absence of the press and public, the Chair of the Shadow Council shall have the right to rule the question out of order.
  - f) Following the answer to each question, the questioner may ask a supplementary question which relates to the initial answer. A reply may not be given if the question is: not related to the initial answer; is unduly lengthy; or is inappropriate.
4. The time allowed for questions under Rule 12A will be a maximum of 30 minutes, but is otherwise a matter for the discretion of the Chair who, in exercising his/her discretion, will have regard to the business to be transacted at the meeting and the objective of ensuring that the meeting is managed efficiently.

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## E. Financial Procedure Rules

### 1. Introduction

- 1.1. The Local Government Act 1972 Section 151 requires the Shadow West Northamptonshire Council to make arrangements for the proper administration of its financial affairs. The Shadow Council has allocated this responsibility to the Section 151 Officer (Chief Financial Officer) for the new West Northamptonshire Council.
- 1.2. References to Section 151 Officer also apply to the Interim appointment until a permanent appointment is made to the post.
- 1.3. These Financial Procedure Rules set out the financial responsibilities of the Shadow Council, the Shadow Executive, Section 151 Officer and the Head of Paid Service (Designate or the appointed Chief Executive) and their nominated representatives as appropriate, in relation to the Shadow West Northamptonshire Council prior to the creation of West Northamptonshire Council on the 1 April 2021.
- 1.4. Should any uncertainty or dispute arise about these Procedure Rules, the matter must be referred to the Section 151 Officer for interpretation and arbitration.
- 1.5. The Section 151 Officer has the authority to delegate matters under these Financial Procedure Rules, where appropriate, and records will be maintained of any such delegations.

### 2. Financial Transactions

- 2.1. The Shadow Council will not incur any payments or receive any income.
- 2.2. Any expenditure incurred or income received on behalf of the Shadow Council will be undertaken and accounted for by the existing councils, namely Northamptonshire County Council, Daventry District Council, Northampton Borough Council and South Northamptonshire Council, herein and after referred to as the "Existing Councils".

### 3. Employees

- 3.1. Interim appointments to the three statutory posts made by the Shadow West Northamptonshire Council will be made on a **secondment** basis and the appointed employees will remain employed by their existing councils on their existing terms and conditions.
- 3.2. The appointment to permanent posts by the Shadow Council on behalf of the West Northamptonshire Council will be employed by xxxxxxxx Council under terms and conditions to be agreed by the Shadow Executive.

### 4. Responsibilities of the Section 151 Officer

**Comment [AS1]:** Comments received from James Smith (NCC) Need to make reference to expenditure being incurred inline with each existing councils finance regs (the shadow authority will not have any budget)

**Comment [AS2]:** JS Comment  
This presumes a willing volunteer, it should say in the first instance.

- 4.1. Under Section 151 of the Local Government Act 1972, to undertake the duties of the Responsible Financial Officer to the Shadow Council in preparing for a legally compliant West Northamptonshire Council on the 1 April 2020.
- 4.2. As Responsible Financial Officer, under Section 114 of the Local Government Finance Act 1988, making a report to the Shadow Council, the Shadow Executive and external auditor if the Shadow Council or one of its appointed officers:
  - a. has made, or is about to make, a decision which involves committing one of the Existing Councils to unlawful expenditure on behalf of the Shadow Council; or
  - b. has taken, or is about to take, an unlawful action on behalf of the Shadow Council, which has resulted or would result in a loss or deficiency to the Existing Councils or the future West Northamptonshire Council.
- 4.3. As Responsible Financial Officer, under the Accounts and Audit Regulations 2015, to comply with internal control requirements as far as they are applicable to the creation of West Northamptonshire Council.
- 4.4. Reporting to the Shadow Executive any significant decisions of the Existing Councils that would be to the detriment of the Shadow or West Northamptonshire Council.
- 4.5. Working with the Budget Task and Finish Group and the Shadow Executive to provide advice and financial information on the emerging financial position of West Northamptonshire Council and on the key financial controls necessary to secure sound financial management in the new organisation.
- 4.6. Maintaining and updating a medium term financial strategy.
- 4.7. Preparing the revenue budget and capital programme; advising on the level of council tax; and preparing treasury management, banking and exchequer functions.

## **5. Policies, Strategies and Plans**

- 5.1. The Section 151 Officer is responsible for preparing the following documents for consideration by the Shadow Executive and approval by the Shadow Council at the same time as the 2020/21 budget is approved and council tax set:
  - a) Capital Programme;
  - b) Treasury Management Strategy including:
    - i) Capital Prudential Indicators and Limits for 2020/21 to 2024/25;
    - ii) Minimum Revenue Provision Statement;
    - iii) Treasury Prudential Indicators;
    - iv) Authorised Limit Prudential Indicator; and
    - v) Debt and Investment Strategy 2020/21 and associated criteria.
  - c) Treasury Management Policy Statement;
  - d) Capital Strategy 2020-2025; and

e) Medium Term Financial Strategy 2020–2025.

5.2. The Head of Paid Service is responsible for preparing West Northamptonshire Council's Pay Policy Statement for 2020/21, for consideration by the Shadow Executive and approval by the Shadow Council at the same time as the budget is set.

## 6. Budget Setting for 2020/21

6.1. The revenue budget should reflect the corporate aims and priorities of the Shadow Council and is set in the context of the proposed Medium Term Financial Strategy.

6.2. The Section 151 Officer is responsible for preparing a balanced 2020/21 budget in accordance with the Local Government Act 1992, as amended, in particular by the Localism Act 2011. To achieve this the Section 151 Officer is responsible for:

- a) preparing a 2020/21 budget strategy and timetable for engagement with: the Shadow Executive; Shadow Council; and the public, for consideration by the Shadow Executive;
- b) setting a timetable for receipt of local precept information from town and parish councils in the West Northamptonshire Council area;
- c) determining the detailed form of revenue estimates;
- d) consolidating the first draft 2020/21 budget from the budget information prepared by the Existing Councils;
- e) developing the draft budget, taking into account the revenue implications of the proposed capital programme and the council tax harmonisation policy, to identify the budget gap and recommend ways to close this gap, in liaison with the Budget Task and Finish Group, having regard for achieving best use of resources and value for money;
- f) undertaking consultation on the budget proposals and reporting the outcome of the consultation to the Budget Task and Finish Group for consideration;
- g) reporting the final draft budget, along with proposals to balance the budget and the outcome of the consultation, to the Shadow Executive for consideration.

6.3. The Shadow Executive must consider the draft budget and agree budget proposals which will be submitted to the Shadow Overview and Scrutiny Committee for review, before the end of January 2020.

6.4. The Shadow Executive must make recommendations on the final, scrutinised, budget and council tax proposals to the Shadow Council for approval by the third week of February 2020.

## 7. Capital Programme

7.1. The Section 151 Officer is responsible for undertaking financial appraisals of schemes, if required, and collating the capital estimates to form the capital programme, identifying the required financing and taking into account the full year revenue effect of each scheme and report this to the Shadow Executive.

**Comment [AS3]:** JS comments: I'm not sure preparing is the right word. Normally it is providing assurance that the budget estimates are robust (s25 report)

**Comment [AS4]:** The statutory deadline for agreeing a CTRS scheme is 31<sup>st</sup> January. Given that you have to have statutory consultation on any scheme proposals this would have to be started in October at the latest.

7.2. The Shadow Executive will make recommendations on the capital programme and on any associated financing requirements to the Shadow Council as part of the budget setting process.

## 8. **Council Tax Base**

8.1. Each of the existing billing authorities comprising the three district/borough councils (Daventry District Council, Northampton Borough Council, South Northamptonshire Council) is responsible for calculating the council tax base for each of the towns and parishes within its administrative area and aggregating these figures to provide a council tax base for the district/borough in accordance with the Local Authorities (Calculation of Council Tax Base) (England) Regulations 2012.

8.2. The Section 151 Officer is responsible for:

- a) aggregating the council tax base information provided by each of the districts and boroughs to create a council tax base for the administrative area of West Northamptonshire Council (the billing authority), in early December;
- b) promptly notifying the major preceptors and local preceptors of the relevant tax base for their purposes.

## 9. **Setting the Council Tax**

9.1. In order to raise sufficient council tax to meet the needs of West Northamptonshire Council, the major preceptors and local preceptors, the Section 151 Officer is responsible for:

- a) using the tax base to calculate the average band D council tax and all of the council tax bands for West Northamptonshire Council and each of the major and local preceptors in the billing authority's area in accordance with the Local Government Act 1992, as amended, in particular by the Localism Act 2011;
- b) agreeing the council tax leaflet for inclusion with the bills, with the Leader of the Shadow Council;
- c) promptly publishing the list of council tax bands, once approved by the Shadow Council; and
- d) applying any alternative notional amounts to the council tax comparators for 2019/20, when undertaking the comparison with the 2020/21 council tax, for the purposes of identifying if the council tax referendum limit has been breached. A statement as to the outcome of this calculation to be approved by the Shadow Council.

9.2. The Shadow Council is responsible for approving the council tax bands in respect of West Northamptonshire Council and the aggregation of the bands to arrive at the actual council tax chargeable in each town and parish area and the average council tax bands for the billing authority area.

## 10. **Collection Fund**

10.1. The Section 151 Officer is responsible for:

- a) creating a Collection Fund for the West Northamptonshire Council area one day after the Shadow Authority sets the 2020/21 budget and council tax; and
- b) undertaking council tax and national non-domestic rates billing, as soon as the Shadow Council has approved the council tax.

## 11. **Reserves and Balances**

11.1. Financial reserves and balances are maintained as a matter of prudence against unforeseen events and future contingencies. They will enable West Northamptonshire Council to provide for unexpected events and thereby protect it from future extraordinary expenditure and overspends. Reserves for specific known purposes are also maintained and it is reasonable to build reserves in anticipation of a known call on resources in future years.

11.2. The Section 151 Officer is responsible for advising the Shadow Executive and Shadow Council on the prudent level of reserves and balances for West Northamptonshire Council as part of the annual budget setting process based on an assessment of risk.

11.3. The purpose, usage and basis of transactions must be clearly set out in respect of each of the reserves and balances held by West Northamptonshire Council.

## 12. **Returns and Grant Claims**

The Section 151 Officer is responsible for submission of all returns and grant claims in respect of West Northamptonshire Council prior to the 1 April 2020. These returns include:

- a) CTB1 – Calculation of Council Tax Bases
- b) NNDR1 – National Non-Domestic Rates Return
- c) CTR1 – Council Tax Requirement Return
- d) RA – Revenue Account Form
- e) Benefit Subsidy Claim

## 13. **Financial Control**

Under the Accounts and Audit Regulations 2015, the Section 151 Officer is responsible for ensuring that appropriate systems and financial controls are in place on the 1 April 2020 to provide effective management information, financial stewardship and control for West Northamptonshire Council.

## 14. **Banking Arrangements**

14.1. The Section 151 Officer is responsible for:

- a) Identifying the bank accounts required and opening these accounts in the name of West Northamptonshire Council by the 1 April 2020;
- b) authorising bank signatories and setting up authorised accesses and roles;

- c) putting in place the arrangements required for the transmission of funds and collection of cash;
- d) agreeing procedures for managing the transition from the existing bank accounts and banking arrangements to those of West Northamptonshire Council.

15. **Treasury Management**

The Section 151 Officer is responsible for putting in place all necessary arrangements to enable West Northamptonshire Council to invest or borrow monies on the 1 April 2020.

16. **Insurances**

The Section 151 Officer is responsible for putting in place adequate insurance arrangements for West Northamptonshire Council in readiness for the 1 April 2020.

17. **Taxation**

The Section 151 Officer is responsible for liaising with HM Revenues and Customs to obtain appropriate taxation and VAT reference numbers, including a separate PAYE reference for West Northamptonshire Council's Returning Officer.

18. **Audit**

The Section 151 Officer is responsible for liaising with West Northamptonshire Council's appointed internal and external auditors prior to the creation of the new West Northamptonshire Council on the 1 April 2020.

## WEST NORTHAMPTONSHIRE SHADOW COUNCIL MEMBERS' CODE OF CONDUCT

The Members' Code of Conduct is intended to promote high standards of behaviour amongst Councillors of the West Northamptonshire Shadow Council.

The Code is underpinned by the following seven Nolan principles of public life, which should be borne in mind when interpreting the meaning of the Code. Councillors should behave with:

- i. **Selflessness** – and act solely in terms of the public interest. They should not act in order to gain financial or other benefits for themselves, their family or their friends.
- ii. **Integrity** – and should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
- iii. **Objectivity** – in carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits; choices should be made on merit.
- iv. **Accountability** – and are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- v. **Openness** – and should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- vi. **Honesty** – and declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- vii. **Leadership** – and should promote and support these principles by leadership and example.

### PART 1 GENERAL PROVISIONS

#### **1. Introduction and Interpretation**

- 1.1. This Code applies to all Councillors of West Northamptonshire Shadow Council.
- 1.2. The term “**the Authority**” used in this Code refers to West Northamptonshire Shadow Council.
- 1.3. “**Councillor**” means any person being a Member of the West Northamptonshire Shadow Council.
- 1.4. It is **your** responsibility to comply with the provisions of this Code.
- 1.5. In this Code:  
  
“**Meeting**” means any meeting of:  
  
(a) the Authority

- (b) the executive of the Authority
- (c) any of the Authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees
- (d) any of the Authority's advisory groups and executive boards, working parties and panels

1.6. **"Relevant Authority"** includes a County Council, a District Council or Parish Council. (It has the meaning given to it by Section 27(6) of the Localism Act 2011.)

## **2. Scope**

2.1. This Code applies to you whenever you are acting in the capacity as a Member of the Authority.

2.2. Although, in accordance with the Localism Act 2011 this Code only applies to Members when they are carrying out their official duties, nevertheless, the Authority expects its Members to uphold high standards of conduct at all times in order to uphold the reputation of the Authority and the office to which they have been elected.

## **3. General Obligations**

3.1. **You must treat others with respect.**

3.2. **You must not:**

- (a) do anything which may cause the Authority to fall foul of UK equalities legislation
- (b) bully any person
- (c) intimidate or attempt to intimidate any person who is or may be:
  - (i) a complainant
  - (ii) a witness; or
  - (iii) involved in the administration of this Code
- (d) in relation to an allegation that a Member (including yourself) has failed to comply with this Code of Conduct, do anything which compromises or may compromise the impartiality of those who work for, or on behalf of, the Authority
- (e) conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute

## **4. You must not:**

4.1. Pass on information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, unless:

- (a) you have the consent of a person authorised to give it

- (b) you are required by law to do so
  - (c) the disclosure is made to a third party for the purpose of obtaining professional advice, provided that they agree not to pass on the information to any other person; or
  - (d) the disclosure is:
    - (i) reasonable and in the public interest; and
    - (ii) made in good faith and in compliance with the reasonable requirements of the Authority; or
- 4.2. Prevent another person from gaining access to information to which that person is entitled by law.

**5. You must not:**

- 5.1. Use or attempt to use your position as a Councillor improperly to confer on, or secure for yourself or any other person, an advantage or disadvantage; and

**6. You must:**

- 6.1. When using, or authorising the use by others of, the resources of the Authority:
- (a) act in accordance with the Authority's reasonable requirements
  - (b) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- 6.2. Have regard to any Local Authority Code of Publicity made under the Local Government Act 1986.

**7.**

- 7.1 When reaching decisions on any matter you must have regard to any relevant advice provided to you by:
- (a) the Authority's Section 151 Officer; or
  - (b) the Authority's Monitoring Officer
- where that officer is acting in that role.
- 7.2 You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Authority.

## PART 2

### INTERESTS

#### 8. Registration of Interests

- 8.1 Within 28 days of this Code being adopted by your authority or your election or appointment to office (where that is later) you must register with the Monitoring Officer the interests which fall within the categories set out in Appendix A (Disclosable Pecuniary Interests) and Appendix B (Other Registerable Interests).
- 8.2 You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest in Appendix A or B, or of any change to a registered interest, notify the Monitoring Officer.

#### 9. Disclosable Pecuniary Interests

Where a matter arises at a meeting which **relates to** an interest in Appendix A, you must declare the interest, not participate in any discussion or vote on the matter and must not remain in the room unless granted a dispensation.

#### 10. Other registerable interests

Where a matter arises at a meeting which **relates to** an interest in Appendix B, you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but must not take part in any vote on the matter unless you have been granted a dispensation.

#### 11. Non-registerable interests

11.1 Where a matter arises at a meeting which **relates to** your own financial interest (and is not a Disclosable Pecuniary Interest) or **relates to** a financial interest of a relative, friend or close associate, you must disclose the interest and not vote on the matter unless granted a dispensation. You may speak on the matter only if members of the public are also allowed to speak at the meeting.

11.2 a) Where a matter arises at a meeting which **affects** your own financial interest or a financial interest of a relative, friend, close associate or body covered by Appendix B you must disclose the interest;

and

b) where the matter referred to in paragraph 11.2a) affects the financial interest to a greater extent than if affects the financial interests of the majority of inhabitants of the [ward] affected by the decision and a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest, you must not vote on the matter unless granted a dispensation. You may speak on the matter only if members of the public are also allowed to speak at the meeting.

#### 12. Sensitive Interests

Where you consider (and the Authority's Monitoring Officer agrees) that the nature of a Disclosable Pecuniary Interest, or other interest is such that disclosure of the details of the interest could lead to you or a person connected with you being subject to intimidation or

violence, it is a “sensitive interest” for the purposes of the Code. The details of the sensitive interest do not need to be disclosed to a meeting, although the fact that you have a sensitive interest must be disclosed.

### 13. **Single Member Action**

If you are empowered to discharge functions of the Authority acting alone (for example, through being a Shadow Executive Committee Member), and:

- a) have and are aware that you have a Disclosable Pecuniary Interest in any matter to be dealt with by you in that role, you must not take any action, or further action, on the matter (except for the purposes of enabling the matter to be dealt with by other means);
- b) have and are aware that you have an interest in any matter dealt with by you in that role, which relates to an interest in Appendix B (‘Other Registerable Interest’), you must not take any action, or further action, on the matter (except for the purposes of enabling the matter to be dealt with by other means);
- c) the matter to be dealt with by you in that role **relates to** your own financial interest (and is not a Disclosable Pecuniary Interest) or **relates to** a financial interest of a relative, friend or close associate, you must not take any action or further action on the matter (except for the purposes of enabling the matter to be dealt with by other means) and you must notify the Monitoring Officer;
- d) the matter to be dealt with by you in that role **affects** your own financial interest or a financial interest of a relative, friend close associate or body covered by Appendix B, you must notify the Monitoring Officer before taking any action or further action, and if the matter affects the financial interest to a greater extent than it affects the financial interests of the majority of inhabitants of the [ward] affected by the decision and a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest, you must not take any action or further action.

## **APPENDIX A – DISCLOSABLE PECUNIARY INTERESTS**

1. Breaches of the rules relating to Disclosable Pecuniary Interests may lead to criminal sanctions being imposed.
2. You have a Disclosable Pecuniary Interest if it is of a description specified in regulations made by the Secretary of State and either:
  - (a) it is an interest of yours, or
  - (b) it is an interest of:
    - (i) your spouse or civil partner
    - (ii) a person with whom you are living as husband and wife, or
    - (iii) a person with whom you are living as if you were civil partners and you are aware that that other person has the interest.
3. Disclosable Pecuniary Interests are:

<b><u>INTEREST</u></b>	<b><u>DESCRIPTION</u></b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on by you for profit or gain.
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the Authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a Member, or towards your election expenses.  This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract which is made between you (or a body in which you have a beneficial interest) and the Authority <ol style="list-style-type: none"> <li>(a) under which goods or services are to be provided or works are to be executed; and</li> <li>(b) which has not been fully discharged.</li> </ol>
<b>Land</b>	Any beneficial interest in land which is within the area of the Authority.
<b>Licences</b>	Any licence (alone or jointly with others) to occupy land in the area of the Authority for a month or longer.
<b>Corporate tenancies</b>	Any tenancy where (to your knowledge) <ol style="list-style-type: none"> <li>(a) the landlord is the Authority; and</li> <li>(b) the tenant is a body in which you have a beneficial</li> </ol>

	interest.
<b>Securities</b>	<p>Any beneficial interest in securities of a body where:</p> <p>(a) that body (to your knowledge) has a place of business or land in the area of the Authority; and</p> <p>(b) either</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) where the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you have a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

*“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;*

*“director” includes a member of the committee of management of a registered society within the meaning given by section 1(1) of the co-operative and community benefit Societies Act 2014, other than a society registered as a credit union.*

*“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;*

*“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.*

## **APPENDIX B**

1. Any body of which you are in a position of general control or management and to which you are appointed or nominated by the Authority;
2. Any body-
  - (a) exercising functions of a public nature;
  - (b) directed to charitable purposes; or
  - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

of which you are a member or in a position of general control or management;

3. Any gifts or hospitality worth more than an estimated value of £10 which you have received by virtue of your office.

### **PART 3**

#### **RELATED DOCUMENTS**

**Arrangements for dealing with alleged breaches of the West Northamptonshire Shadow Council's Members' Code of Conduct.**

## **West Northamptonshire Shadow Council**

### **Arrangements for dealing with allegations of breaches of the West Northamptonshire Shadow Council Members' Code of Conduct**

#### **1. Context**

These “Arrangements” set out how you may make a complaint that a Member of this Shadow Council has failed to comply with the Shadow Council’s Members’ Code of Conduct, and sets out how the authority will deal with it.

These Arrangements include the appointment of at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided warrants investigation, and whose views can be sought by the authority at any other stage, or by a Member against whom an allegation has been made.

#### **2. The Code of Conduct**

The Shadow Council has adopted a Code of Conduct for Members, which is attached as Appendix A to these arrangements and is available for inspection on request and is on the Shadow Council’s website.

#### **3. Making a complaint**

If you wish to make a complaint, please write to:

The Monitoring Officer  
[XXXX]

or e-mail the Monitoring Officer at:

[xxxx@xxxx](mailto:xxxx@xxxx)

The Monitoring Officer is a senior officer of the Shadow Council who has statutory responsibility for maintaining the Register of Members’ Interests and who is responsible for administering the process in respect of complaints of alleged Member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please use the complaint form, which is available on request and can be downloaded from the Shadow Council’s website, next to the Code of Conduct.

You are required to provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the Member against whom you make the complaint, without your prior consent. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of your complaint as soon as possible after receiving it and will keep you informed of the progress of your complaint.

#### **4. Initial Assessment of Complaints Received**

The Monitoring Officer will review all complaints received by the authority and must consult with the Independent Person (see section 13 below) at this stage. If a complaint has been made but does not fall within the scope or intent of these arrangements, the Monitoring Officer may still decide to take informal action in order to resolve the matter. In assessing the complaint the Monitoring Officer will determine whether the complaint is admissible and, if so, decide whether:

- a) it warrants investigation or,
- b) it may be suitable for alternative resolution without investigation or,
- c) it doesn't warrant any further action.

For the complaint to be admissible it must be in a legible format and relate to an existing Member of the Shadow Council.

In determining whether or not the complaint should be referred for investigation or to seek alternative resolution the Monitoring Officer and Independent Person will have regard to a range of factors including the following:-

- i) Whether there is sufficient information upon which to base a decision;
- ii) How serious is the alleged complaint;
- iii) Is the complaint politically motivated, vexatious or tit for tat;
- iv) Did the action complained about occur recently or not;
- v) Do the allegations relate to actions occurring whilst the Member was acting in their official capacity or do they relate to their private life;
- vi) Whether the matter is considered suitable for alternative resolution and whether either the Member concerned or the complainant is not prepared to accept this as a solution.

The initial assessment of the complaint will be held as soon as possible after receipt of your complaint and you will be informed, in writing, of the outcome by the Monitoring Officer. You will be informed on progress throughout the process.

Unless exceptional circumstances exist that indicate otherwise, the Monitoring Officer will inform the Member concerned of the receipt and nature of the complaint and invite their comments.

Where the Monitoring Officer requires additional information in order to come to a decision, they may come back to you for such information, and may request information from the Member against whom your complaint is directed.

#### **Alternative Resolution**

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. The Monitoring Officer must consult with the Independent Person about this course of action. Such informal resolution may involve the Member accepting that their conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the Member or the authority makes a reasonable

offer of informal resolution, but you are not willing to accept that offer, the Monitoring Officer (and Independent Person) will take account of this in deciding whether the complaint warrants a formal investigation.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

#### **5. If the Complaint is referred for Investigation how is the investigation conducted?**

If the Monitoring Officer decides that a complaint merits formal investigation, they will appoint an Investigating Officer, who may be another senior officer of the Shadow Council, an officer of another authority or an external investigator. The Monitoring Officer will agree an investigation plan with the Investigating Officer. The Investigating Officer will decide whether they need to meet or speak to you to understand the nature of your complaint. If so, then you can explain your understanding of events and suggest what documents the Investigating Officer needs to see and who the Investigating Officer needs to interview. The Monitoring Officer will consult with the Independent Person about the need for a formal investigation.

The Investigating Officer would normally write to the Member against whom you have complained and provide them with a copy of your complaint. The Member would be asked to provide their explanation of events. The Investigating Officer will identify what documents they need to see and who they needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential, or disclosure of details of the complaint to the Member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the Member, or delay notifying the Member until the investigation has progressed sufficiently.

At the end of their investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the Member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires further consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send it to the Monitoring Officer.

#### **6. What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**

The Monitoring Officer will, in consultation with the Independent Person, review the Investigating Officer's report and, if they are satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the Member concerned, notifying you that no further action is required.

#### **7. What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?**

The Monitoring Officer will, in consultation with the Independent Person, review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel made up of Councillors from the Council's Standards Committee or seek an alternative resolution.

##### 7.1 Local Resolution

The Monitoring Officer and Independent Person may consider that the matter can be resolved without the need for a hearing. Such resolution may include the Member

accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee for information, but will take no further action.

## 7.2 Local Hearing

If the Monitoring Officer and Independent Person consider that local resolution is not appropriate or it isn't possible to achieve, the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a local hearing to decide whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Member.

In summary, the Monitoring Officer will conduct a "pre-hearing process", requiring the Member to give their response to the Investigating Officer's report. This is in order to identify what is likely to be agreed and what is likely to be contentious at the hearing. The Chair of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present their report, call such witnesses as they consider necessary and make representations to substantiate their conclusion that the Member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Panel.

The Member will then have an opportunity to give their evidence, to call witnesses and to make representations to the Hearings Panel as to why they consider that they did not fail to comply with the Code of Conduct.

The Hearings Panel, with the benefit of any advice from the Independent Person, may conclude that the Member did not fail to comply with the Code of Conduct and so dismiss the complaint. Alternatively, if the Hearings Panel finds that the Member did fail to comply with the Code of Conduct, the Chair will inform the Member of this finding and the Hearings Panel will then consider what action, if any, the Hearings Panel should take as a result of the Member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the Member an opportunity to make representations to the Panel and will consult the Independent Person.

If the Member wishes to make representations to the Panel and/or consult with the Independent Person the Hearing will adjourn, normally for one week, and reconvene to hear any representation or statement from the Member before either confirming or amending their decision. If the Member does not wish to make representations to the Panel, or consult with the Independent Person, the decision of the Panel will stand as announced.

## **8. What action can the Hearings Panel take where a Member has failed to comply with the Code of Conduct?**

The Hearings Panel may:

- 8.1 Publish its findings in respect of the Member's conduct;
- 8.2 Report its findings to the Council for information;
- 8.3 Recommend that Council remove the Member from any or all Committees or Sub-Committees of the Shadow Council for a specified period of time;

- 8.4 Recommend to the [authority that nominated the Member to the Shadow Executive Committee] [Leader of the Council] that the Member be removed from the Shadow Executive Committee, or recommend to the Leader of the Council that the Member be removed from particular portfolio responsibilities for a specified period of time;
- 8.5 Instruct the Monitoring Officer to arrange training for the Member;
- 8.6 Instruct the Monitoring Officer to mediate between the complainant and the Member;
- 8.7 Recommend to Full Council that the Member be removed from any or all outside appointments to which they have been appointed or nominated by the authority where the complaint relates to that appointment and for a specified period of time;
- 8.8 Recommend to Full Council the withdrawal of any facilities provided to the Member by the Council that may have been abused or improperly used; or
- 8.9 Recommend to Full Council the exclusion of the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

There are no powers that allow Council or the Standards Committee to suspend or disqualify the Member or to withdraw Members' basic allowances. (Although, removing a Member from the Shadow Executive Committee or other Committee would lead to a loss of any Special Responsibility Allowance that position was entitled to for the period of the suspension.)

## **9. What happens at the end of the hearing?**

At the end of the hearing, the Chair will state the decision of the Hearings Panel as to whether the Member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel resolves to take.

As soon as reasonably practicable thereafter and subject to any adjournment as set out in 7.2 above, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel and send a copy to you and to the Member. The decision notice will be made available for public inspection after 20 working days have elapsed from the date the decision notice was issued (provided there has not been a request for a review under paragraph 10 of these Arrangements) and the decision reported to the next convenient meetings of the Standards Committee and of the Council.

## **10. Appeals and Reviews**

There is no right of appeal for you as complainant or for the Member against a decision of the Monitoring Officer.

However, a review of the decision of the Hearings Panel may be sought by you or the Member concerned in the following circumstances:

- a) where you or the Member concerned consider that the Local Hearing was not conducted in accordance with the process set out in these Arrangements or the principles of natural justice (see paragraph 15 below); or
- b) where significant new evidence is available which has not been considered by the Hearings Panel.

Any such request for a review should be made to the Monitoring Officer in writing (by letter or e-mail) within 20 working days from the date the decision notice was issued to the parties and:

- if made pursuant to paragraph a) above, must set out specifically how it is considered the Local Hearing was not conducted in accordance with the process set out in these Arrangements or the principles of natural justice; or
- if made pursuant to paragraph b) above, must include copies of the new evidence or explain what the evidence is.

The Monitoring Officer may reject the request for a review if after consultation with the Independent Person they conclude that substantive reasons have not been provided to support the request or the further evidence provided is insufficient to support a request for a review. Simply expressing disagreement with the Hearings Panel's decision or repeating the original complaint will result in the request for review being rejected. If the request for review is rejected you and the Member will be advised in writing of the reasons for rejection.

If a request for a review is received (provided it is not rejected), the Monitoring Officer will notify the complainant and Member concerned and convene a meeting of the Review Panel.

The Review Panel will review the Hearings Panel's decision. The Review Panel will have the documentation considered by the Hearings Panel and the decision notice of the Hearings Panel before it. It will not conduct a re-hearing. It will only consider the request for the review, (including any new evidence presented with the request for review) together with the complainant or subject Member's response to the request for the review and response to any new evidence. The Review Panel will also have the discretion to re-hear any of the original evidence if it considers this necessary.

The Review Panel will either:

- confirm the original decision of the Hearings Panel; or
- disagree with the original decision of the Hearings Panel and substitute its own decision (which may only be a decision that was open to the Hearings Panel).

At the end of the review, the Chair of the Review Panel will explain the Review Panel's reasons for its decision. Within 5 working days of the decision of the Review Panel, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Review Panel and send a copy to you and to the Member. The decision notice will be made available for public inspection and will be reported to the next convenient meeting of the Standards Committee and the Council.

Unless in the opinion of the Monitoring Officer in consultation with the Independent Person exceptional circumstances exist, the Review Panel must make a decision within two calendar months of the receipt of the request for a review.

There is no right of appeal of the decision of the Review Panel which is final.

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman or take your own legal advice as to options that might be open to you.

## **11. Who are the Hearings Panel?**

The Hearings Panel is a panel of the Council's Standards Committee. It will comprise three Members of the Standards Committee.

The Independent Person is invited to attend all meetings of the Hearings Panel and their views are sought and taken into consideration before the Hearings Panel takes any decision on whether the Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

## **12. Who are the Review Panel?**

The Review Panel is a panel of the Council's Standards Committee. It will comprise three Members of the Standards Committee who did not sit on the Hearings Panel, have not previously been involved in the matter concerned and who do not otherwise have any conflict of interest.

The Independent Person is invited to attend all meetings of the Review Panel and their views are sought and taken into consideration before the Review Panel takes any decision on whether the Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

## **13. Who is the Independent Person?**

The Shadow Council has 2 Independent Persons.

A person cannot be "independent" if they:

- 13.1 are, or have been within the past five years, a Member, co-opted Member or officer of the authority or of a parish council within the authority's area; or
- 13.2 are a relative or close friend, of a person within paragraph 13.1. For this purpose, "relative" means:
  - (a) the other person's spouse or civil partner;
  - (b) living with the other person as husband and wife or as if they were civil partners;
  - (c) a grandparent of the other person;
  - (d) a lineal descendant of a grandparent of the other person;
  - (e) a parent, sibling or child of a person within paragraphs (a) or (b);
  - (f) the spouse or civil partner of a person within paragraph (c), (d) or (e); or
  - (g) living with a person within paragraph (c), (d) or (e) as husband and wife or as if they were civil partners.

## **14. Being accompanied at a Local Hearing or Review Panel meeting**

Both you and the Member you complained about may choose to bring another person with you to the Local Hearing and any Review Panel meeting (if one takes place) to support you. It shall be a matter for the Chair of the Hearings Panel and the Chair of the Review

Panel to issue directions as to the manner in which the supporting person may participate in the Local Hearing/Review Panel meeting, to ensure there is a balance between a party's need to be supported and the need for the Hearings Panel and/Review Panel to conduct its business fairly and efficiently.

#### **15. Principles of Natural Justice**

For the avoidance of doubt, it is expressly stated that the procedures in these Arrangements must be conducted in accordance with the principles of natural justice. In summary, in the context of these Arrangements, the principles of natural justice mean that each party has the right to a fair hearing, the right to make their case to an impartial person/group of people, and that the decision makers in this process act without bias or apparent bias, act impartially and do not create any procedural irregularities.

#### **16. Revision of these arrangements**

The Council may by resolution agree to amend these arrangements and has delegated to the Chair of the Hearings Panel (and the Chair of the Review Panel in cases where there is a review), the right to depart from these arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

### **Appendix A**

### **The Shadow Council's Members' Code of Conduct**

## West Northamptonshire Shadow Authority

### Protocol on Shadow Councillor/Officer Relations

#### **1. Introduction**

- 1.1 The purpose of this Protocol is to guide Shadow Councillors and Officers of the Shadow Council in their relations with one another.
- 1.2 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues which most commonly arise. It is hoped however that the approach which it adopts to these issues will serve as a guide to dealing with other issues.
- 1.3 This Protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Shadow Councillors and Officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and they therefore demand very high standards of personal conduct.
- 1.4 It is important that any dealings between Shadow Councillors and Officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position.
- 1.5 In their dealings with one another Members and Officers should bear in mind the seven Nolan principles of public life:
  - Selflessness
  - Integrity
  - Objectivity
  - Accountability
  - Openness
  - Honesty
  - Leadership

#### **2. The Roles of Shadow Councillors and Officers**

- 2.1 Both Shadow Councillors and Officers are servants of the public and they are indispensable to one another. However, their responsibilities are distinct.
- 2.2 Mutual respect between Shadow Councillors and Officers is essential to good local government.
- 2.3 **Shadow Councillors**
  - 2.3.1 Shadow Councillors are responsible to the electorate and serve only so long as their term of office lasts.
  - 2.3.2 Shadow Councillors have some main areas of responsibility as follows:

- (a) Determining the policy of the Shadow Council and giving it political leadership.
- (b) Monitoring and reviewing the performance of the Shadow Authority.
- (c) Representing the Shadow Council externally.
- (d) Acting as advocates on behalf of their constituents. It is not the role of Shadow Councillors to involve themselves in the day to day management of the Shadow Council.

## **2.4 Officers**

- 2.4.1 Officers are responsible to the Shadow Council. Officers are professional staff and together have expertise covering a wide range of areas. Their job is to give advice to Shadow Councillors and the Shadow Council, and to carry out the Shadow Council's work under the direction and control of the Shadow Council, its Committees and Sub-Committees. Officers work to the instructions of Senior Officers and not to individual Shadow Councillors, whatever office the Councillor may hold.
- 2.4.2 The role of Officers is to give advice and information to Shadow Councillors and to implement the policies determined by the Shadow Authority. In giving such advice to Shadow Councillors, and in preparing and presenting reports, it is the responsibility of the Officer to express his/her own professional views and recommendations. Whilst an Officer may report the views of individual Shadow Councillors on an issue, if the Shadow Councillor wishes to express a contrary view he/she should not seek to pressure the Officer to make a recommendation contrary to the Officer's professional view.
- 2.4.3 Certain officers e.g. Head of Paid Service, Monitoring Officer, Chief Finance Officer (Section 151 Officer) have responsibilities in law over and above their obligations to the authority and to individual Shadow Councillors. Shadow Councillors must respect these obligations, must not obstruct Officers in the discharge of these responsibilities and must not victimise Officers for discharging these responsibilities.

## **2.5 Expectations**

### **2.5.1 Shadow Councillors can expect the following from Officers:**

- (a) A commitment to the Shadow Council as a whole, and not to any political group.
- (b) A working partnership.
- (c) An understanding by Officers that all Shadow Councillors have the same rights and obligations in their relationship with Officers and will be treated equally.

- (d) An understanding of and support for respective roles, workloads and pressures.
- (d) Timely response to enquiries and complaints.
- (e) Professional advice, not influenced by political views or preference.
- (f) Regular, up-to-date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold.
- (g) Awareness of and sensitivity to the political environment.
- (h) Respect, dignity and courtesy.
- (i) Training and development in order to carry out their role effectively.
- (j) Integrity, mutual support and appropriate confidentiality.
- (k) That Officers will not use their relationship with Shadow Councillors to advance their personal interests or to influence decisions improperly.
- (l) That Officers will at all times comply with the relevant Code of Conduct.
- (m) Not to be the subject of bullying or to be put under undue pressure.

2.5.2 Officers can expect the following from Shadow Councillors:

- (a) A working partnership.
- (b) An understanding of and support for respective roles, workloads and pressures (and in this regard Shadow Councillors are encouraged to make prior appointments to see Officers).
- (c) Political leadership and direction.
- (d) Respect, dignity and courtesy.
- (e) Respect for their professional advice.
- (f) Integrity, mutual support and appropriate confidentiality.
- (g) Not to be the subject of bullying or to be put under undue pressure.
- (h) That regard will be had by Shadow Councillors to the seniority of Officers in determining the reasonableness of requests and that Shadow Councillors will be mindful of the potential vulnerability of Officers at junior levels.
- (i) That Shadow Councillors will be aware that Officers cannot respond to personal criticism in the same way that Shadow Councillors can and that

Shadow Councillors will make their comments accordingly, and will avoid intimidating Officers.

- (j) That Shadow Councillors will not use their position or relationship with Officers to advance their personal interests or those of others, or to influence decisions improperly.
- (k) That Shadow Councillors will at all times comply with the West Northamptonshire Shadow Councillors' Code of Conduct.

## **2.6 Limitations upon Behaviour**

2.6.1 The distinct roles of Shadow Councillors and Officers necessarily impose limitations upon behaviour. By way of illustration, and not as an exclusive list:

- (a) Close personal familiarity between Shadow Councillors and Officers can confuse these separate roles. It can get in the way of the proper discharge of the Shadow Council's functions, not least in creating the perception in others that a particular Shadow Councillor or Officer may secure advantageous treatment. It can also prove embarrassing to other Shadow Councillors and Officers.
- (b) The need to maintain the separate roles means that there are limits to the matters on which Shadow Councillors may seek the advice of Officers, both in relation to personal matters and party political issues.
- (c) Relationships with a particular individual or party group should not be such as to create public suspicion that an Officer favours that Shadow Councillor or group above others. The issue of Officer advice to party political groups is specifically covered below.

## **3. Executive Arrangements**

3.1 The Shadow Council has established a Shadow Executive Committee which is the Shadow Council's principal decision-making body.

3.2 Certain points must be clearly understood by Officers and Shadow Councillors:

- (a) The Shadow Executive Committee is the decision making body within the policy framework and budget set by the full Shadow Council.
- (b) The Shadow Executive Committee takes most but not all the decisions. Some decisions are still taken by other committees or the Shadow Council itself or by Officers.
- (c) Meetings of the Shadow Executive Committee are open to the public. Minutes of meetings will be available for public inspection.

3.3 The Shadow Council has also established an Overview and Scrutiny Committee to scrutinise the work of the Shadow Executive Committee. Officers and Shadow Councillors must recognise, when giving information and advice to the Overview

and Scrutiny Committee, that Officers are responsible to the Shadow Council as a whole.

#### **4. Officer advice to Party Groups**

- 4.1 There is statutory recognition of party groups. In accordance with common practice, such groups may give preliminary consideration to matters of Shadow Council business in advance of such matters being considered by the relevant Shadow Council decision-making body. Officers may properly be called upon to support such deliberations by party groups.
- 4.2 The support provided by Officers can take many forms, ranging from a briefing meeting with a Chairperson or Spokesperson prior to a Committee meeting, to a presentation to a full party group meeting. Whilst in practice such Officer support is likely to be in most demand from whichever party group is for the time being in control of the Shadow Council, such support is available to all party groups.
- 4.3 Certain points must however be clearly understood by all those participating in this type of process, Shadow Councillors and Officers alike. In particular:
  - (a) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Shadow Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not expected to be present at meetings, or parts of meetings, when matters of party business are to be discussed.
  - (b) Although party group meetings may form part of the preliminaries to Shadow Council decision making, they are not empowered to make decisions on behalf of the Shadow Council. Conclusions reached at such meetings do not thereafter rank as Shadow Council decisions and it is essential that they are not interpreted or acted upon as such.
  - (c) Similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Shadow Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Shadow Council meeting, Committee or Sub-Committee when the matter in question is considered.
- 4.4 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not members of the Shadow Council. Such persons will not be bound by the Code of Conduct for Shadow Councillors (in particular, the provisions concerning the declaration of interests and confidentiality). For this and other reasons Officers may not be able to provide the same level of information and advice as they would to a Shadow Councillors only meeting.
- 4.5 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group or anyone outside that group.

- 4.6 Any particular cases of difficulty or uncertainty concerning Officer support to party groups, should be raised with the Head of Paid Service who will discuss the matter with the relevant group leader(s).

## **5. Support services to Shadow Councillors and party groups**

- 5.1 The only basis on which the Shadow Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport, etc) to Shadow Councillors is to assist them in discharging their role as members of the Shadow Council. Such support services must therefore only be used on Shadow Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

## **6. Shadow Councillors' access to information and to Shadow Council documents**

- 6.1 Shadow Councillors are free to approach any Shadow Council area, to provide them with such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as members of the Shadow Council. This can range from a request for general information about some aspect of the work of the Shadow Council to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the relevant Chief Officer or another senior Officer.

- 6.2 As regards the legal rights of Shadow Councillors to inspect Shadow Council documents, these are covered partly by statute and partly by the common law.

- 6.3 Shadow Councillors have a statutory right to inspect any Shadow Council document which contains material relating to any business which is to be transacted at a Shadow Council, Committee or Sub-committee meeting.

This right applies irrespective of whether the Shadow Councillor is a member of the Committee or Sub-Committee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers.

This right does not however apply to documents relating to certain items which may appear on the private agenda for meetings. The type of information that would be contained within a private meeting agenda would for example be exempt information, such as information relating to employees, contract and industrial relations negotiations, legal advice and criminal investigations.

- 6.4 The common law right of Shadow Councillors is much broader and is based on the principle that any Shadow Councillor has a prima facie right to inspect Shadow Council documents so far as access to the documents is reasonably necessary to enable the Shadow Councillor properly to perform their duties as a member of the Shadow Council. This principle is commonly referred to as the "need to know" principle.

- 6.5 The exercise of this common law right depends therefore upon the Shadow Councillor's ability to demonstrate that he/she has the necessary "need to know". In this respect a Shadow Councillor has no right to "a roving commission" to go

and examine documents of the Shadow Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". This question must initially be determined by the relevant Chief Officer with advice from Monitoring Officer. In the event of dispute, the question falls to be determined by the Head of Paid Service.

- 6.6 In most circumstances (e.g. a Committee member wishing to inspect documents relating to the functions of that Committee) a Shadow Councillor's "need to know" will normally be presumed. In other circumstances (e.g. a member wishing to inspect documents which contain personal information about third parties) a Shadow Councillor will normally be expected to justify the request in specific terms.
- 6.7 Whilst the term "Shadow Council document" is very broad and includes, for example, any document produced with Shadow Council resources, it is accepted by convention that a member of one party group will not have a "need to know", and therefore a right to inspect, a document which forms part of the internal workings of another party group. It does not apply to documents in draft.
- 6.8 Further and more detailed advice regarding Shadow Councillors' rights to inspect Shadow Council documents may be obtained from the Monitoring Officer.
- 6.9 Finally, any Shadow Council information provided to a Shadow Councillor must only be used by the Shadow Councillor for the purpose for which it was provided i.e. in connection with the proper performance of the Shadow Councillor's duties as a member of the Shadow Council.

## **7. Officer/Chairperson/Member of the Shadow Executive Committee Relationships**

- 7.1 It is clearly important that there should be a close working relationship between Members of the Shadow Executive Committee, Chairs of Committees, and relevant senior Officers. However, such Shadow Councillors must still respect the impartiality of Officers and such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers' ability to deal impartially with other Shadow Councillors and other party groups.
- 7.2 Whilst the Leader, Chair of a Committee (or Sub-Committee) or a Shadow Executive Member will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting, it must be recognised that in some situations statutory Chief Officers and other senior Officers will be under a duty to submit a report on a particular matter. An Officer will always be fully responsible for the contents of any report submitted in his/her name. Any issues arising between a Chair or a Cabinet Member and an Officer in this area should be referred to the Head of Paid Service for resolution.
- 7.3 Finally, it must be remembered that Officers are accountable to their Chief Officer and that whilst Officers should always seek to assist a Chair or a Shadow Executive Committee Member (or indeed any Shadow Councillor), they must not, in so doing, go beyond the bounds of whatever authority they have been given

by their Chief Officer or in the case of Officers exercising delegated powers, the Shadow Council.

## **8. Correspondence**

- 8.1 Correspondence between an individual Shadow Councillor and an Officer should not normally be copied (by the Officer) to any other Shadow Councillor. Where exceptionally it is necessary to copy the correspondence to another Shadow Councillor, this should be made clear to the original Shadow Councillor. In other words, a system of "silent copies" should not be employed.
- 8.2 Official letters on behalf of the Shadow Council should normally be sent out in the name of the appropriate Officer, rather than in the name of a Shadow Councillor. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to be sent in the name of a Shadow Councillor, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Shadow Council should never be sent out in the name of a Shadow Councillor.

## **9. Public Relations**

- 9.1 Both Officers and Shadow Councillors should follow the Code of Recommended Practice on Local Authority Publicity particularly when issuing press releases.

## **F. Staff Employment Procedure Rules**

### **1 General**

- 1.1 The Shadow Council has limited powers in connection with the employment and designation of staff. It relies upon staff resources provided by all of the West Northamptonshire local authorities to carry out its work. These Rules must therefore be read in that context.
- 1.2 Staff within the organisation are employed, appointed, designated or engaged on behalf of the whole Shadow Council and not by parts of the organisation or individuals.
- 1.3 The employment, appointment, designation or engagement of all staff will be in compliance with the law and any policies and practices of the Shadow Council.
- 1.4 Generally (except for certain senior staff appointments) the function of the appointment and dismissal of, and taking disciplinary action against a member of staff of the Shadow Council must be discharged on behalf of the authority by the Interim/Appointed Head of Paid Service or by an Officer nominated by him/her.

### **2 Recruitment and Appointment of Staff**

- 2.1 Subject to the provisions of these Procedures, the recruitment, designation and appointment of staff will be conducted in accordance with the law and the Shadow Council's policies and procedures.
- 2.2 Any candidate for any designation or appointment with the Shadow Council who knows that he/she is related to a Shadow Councillor or employee of the Shadow Council shall, when making their application, disclose, in writing, that relationship to the Central Implementation Team Lead Officer for Human Resources. A person who deliberately fails to disclose such a relationship shall be disqualified from designation or appointment and, if designated or appointed, shall be liable to dismissal.
- 2.3 Every Shadow Councillor and employee of the Shadow Council shall disclose to the Central Implementation Team Lead Officer for Human Resources any relationship known to him/her to exist between him/herself and any person he/she knows is a candidate for a designation or appointment by the Shadow Council.
- 2.4 Any candidate for designation or appointment who directly or indirectly seeks the support of a Shadow Councillor or officer of the Shadow Council in any designation or appointment shall be disqualified and, if designated or appointed, shall be liable to dismissal. A Shadow Councillor shall not solicit for any person in respect of any designation or appointment with the Shadow Council, but may give a written testimonial of a candidate's ability, experience or character.

- 2.5 Persons shall be deemed to be related to a candidate or officer if they are a spouse, partner (i.e. member of a couple living together) parent, parent-in-law, grandparent, child, stepchild, adopted child, grandchild, child of partner, brother, sister, uncle, aunt, nephew or niece or the spouse or partner of any of the preceding persons.
- 2.6 In the case of a dispute under paragraph 2.5 above about the status of a relationship in relation to an appointment, the Central Implementation Team Lead Officer for Human Resources will rule and such ruling will be applied.
- 2.7 The Central Implementation Team Lead Officer for Human Resources will ensure that the provisions of these Rules are reflected, as appropriate, in application forms or in any accompanying detailed procedures for each post, following advertisement.

### **3 Responsibility for Human Resources Matters**

- 3.1 Subject to any matters reserved to the Shadow Council, the Shadow Executive Committee is responsible for the development of corporate personnel policies and for determining and monitoring such policies and for the operational implementation of those policies, including the development of practices and procedures to support those policies.

### **4 Responsibility of the Senior Appointments Committee**

- 4.1 The responsibilities of the Senior Appointments Committee are set out in Part 3 of this Constitution.
- 4.2 Subject to the provisions of these Rules, the Committee is also responsible for hearing and determining appeals under the Shadow Council's employment-related policies, the suspension of sick pay and the review and determination of matters relating to any fixed term contracts. In determining these matters the Committee will have regard to the appropriate provisions of this procedure. The Committee may agree to discharge some of these functions through a Sub-Committee.
- 4.3 The Shadow Executive Committee Member with responsibilities for individual Departments and the associated resources is required to ensure that corporate personnel policies and procedures are applied by the Shadow Council, including training, matters relating to discipline, workforce performance management, and grievance (other than determining appeals).

### **5 Appointment of the Head of Paid Service**

- 5.1 The appointment of the Head of Paid service is subject to specific requirements as set out below.
- 5.2 Where the Shadow Council proposes to appoint to the Head of the Paid

Service, the Senior Appointments Committee will oversee the arrangements for filling the vacancy. For this purpose the Committee shall include at least one member of the Shadow Executive Committee in its membership.

- 5.3 The Senior Appointments Committee shall:
- (a) draw up a statement specifying the duties of the officer concerned and any qualifications or guidelines to be sought in the person to be appointed;
  - (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it;
  - (c) make arrangements for a copy of the statement mentioned above to be sent to any person on request;
  - (d) where a post has been advertised as required above, the Committee will select from the applications a short list of qualified candidates and will then interview those included in the short list.
- 5.4 Following the interview of candidates, the Committee will come to a view as to the most suitable person for the position.
- 5.5 The Committee must advise the Central Implementation Team Lead Officer for Human Resources of:
- (a) the name of the person in question; and
  - (b) any other particulars which the Committee consider are relevant to the appointment.
- 5.6 Within two clear working days of receiving the notification in paragraph 5.5 above, the Central Implementation Team Lead Officer for Human Resources will notify each member of the Shadow Executive Committee of:
- (a) the information notified under paragraph 5.5 above; and
  - (b) the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Shadow Executive Committee to the Central Implementation Team Lead Officer for Human Resources; such period shall not exceed five clear working days.
- 5.7 An offer of appointment must wait until:
- (a) the Leader has, within the period of the notice under paragraph 5.6 above, notified the Committee through the Central Implementation Team Lead Officer for Human Resources that neither he/she nor any member of the Shadow Executive Committee has any objection to the making of the offer; or

- (b) the Central Implementation Team Lead Officer for Human Resources has notified the Committee that no objections have been received by him/her within the period of the notice under paragraph 5.6 above; or
- (c) the Committee is satisfied that any objection received from the Leader within the notice period is not material or is not well founded. In this regard, where necessary, the advice of the Interim/Appointed Monitoring Officer should be sought.

5.8 Where following the above procedure there are no objections to the proposed appointment or any objections are not up-held, the Committee will recommend that person for appointment at the next meeting of the full Shadow Council or at a specially convened meeting of the Shadow Council. If the Shadow Council approve the recommendation, then a formal offer of appointment can be made.

5.9 Where following the interviews the Committee are of the view that there is no suitable candidate, it will re-advertise the post.

5.10 Where the Shadow Council do not approve the recommendation of the Committee, it shall indicate how it wishes to proceed.

## **6 Appointment/dismissal of Interim/Appointed Head of Paid Service, Statutory Chief Officers, Non-Statutory Chief Officers and Deputy Chief Officers**

The requirements of the Local Authorities (Standing Orders) (England) Regulations 2001 (“the Regulations”) will be followed in respect of those posts which fall within the definitions of Head of Paid Service, Statutory Chief Officer, Non-Statutory Chief Officer and Deputy Chief Officer.

## **7 Appointments/dismissal of other officers**

Where any appointments are made to positions other than those referred to in paragraph 6 above, or where such persons are dismissed, these shall be the responsibility of the Head of Paid Service, or another Officer to whom he/she has delegated that responsibility.