

## 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.