

# Public Document Pack

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## **WEST SUFFOLK SHADOW COUNCIL**

# **CONSTITUTION**

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**Date: 30 May 2018**

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## **West Suffolk Shadow Council**

### **Summary and Explanation**

#### **Interpretation**

Throughout this Constitution references to "Shadow Council" mean the Shadow Council which will become West Suffolk Council on 1 April 2019 and references to "Shadow Executive" mean the Shadow Executive established by the Shadow Council to perform executive arrangements.

#### **Introduction**

On 24 May 2018, the Secretary of State made regulations which will mean that on 1 April 2019, Forest Heath District Council and St Edmundsbury Councils will be abolished, and their powers, functions and responsibilities will be performed by West Suffolk Council. The regulations created a Shadow Council, which is responsible for preparing for the effective transition of functions to the new West Suffolk Council.

The Shadow Council is composed of 72 councillors appointed in accordance with Section 7 of The West Suffolk (Local Government Changes) Order 2018, hereinafter referred to as "The Implementation Order". Councillors are democratically accountable to residents of their electoral division. The 72 Councillors are those currently elected to Forest Heath District Council and St Edmundsbury Borough Council.

All Councillors meet together as the Shadow Council. Meetings of the Shadow Council are normally open to the public. Here Councillors will decide overall policies and set the budget for the West Suffolk Council. The Council will appoint members of the Shadow Executive, and from the members of the Shadow Executive, the Council will appoint a Leader. It may also appoint committees and delegate its functions to those committees.

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

The Shadow Council has agreed a Constitution which sets out how it operates, how decisions are made and the procedures which are to be followed. The Constitution is made up of:

- Articles – which explain the different parts of the decision-making structure and how the Council will operate;
- Responsibility for Functions – which shows which councillors and officers are responsible for which decisions;
- Rules of Procedure – which set out the way meetings will be run and the procedure for various Council functions; and
- Codes and Protocols – including codes of conduct for councillors and council staff.

The Shadow Council has to exercise its duties and powers in accordance with the law and this Constitution. Set out below is a brief summary of how the Shadow Council works.

### **Shadow Executive (Cabinet)**

The Shadow Executive is the part of the Shadow Council which is responsible for most day-to-day decisions. The Shadow Executive is made up of a Chairman, a Vice-Chairman (known as the Leader and Deputy Leader) and a Cabinet of Councillors. The Shadow Executive will publish a Decisions Plan which shows what decisions the Executive is going to take. The decisions have to be in line with the Implementation Order.

### **Shadow Council**

Some decisions, such as the Council's overall budget and its policy framework, have to be taken by all the councillors meeting together as the Shadow Council.

### **Scrutiny**

There is one Scrutiny Committee which will support and facilitate the work of the Shadow Council in discharging its duty to prepare for the assumption by the West Suffolk Council of full local authority functions and powers on 1 April 2019, as provided in the Implementation Order. Further details are set out in Article 7 and Part 4: Shadow Scrutiny Committee Procedure Rules.

### **Standards**

There is a Joint Standards Committee for West Suffolk comprising members of Forest Heath and St Edmundsbury councils. It is responsible for upholding high ethical standards, including monitoring compliance with the Code of Conduct by all district, borough, town and parish councillors in the area. Further details can be found in Part 2: Article 9 and Part 3: Responsibility for Functions.

### **Staff**

The Shadow Council will have a small number of members of staff, referred to as its officers, who are appointed to ensure that necessary legal duties of the Shadow Council are fulfilled and the Shadow Council has access to appropriate advice. These staff will be employees of the existing Forest Heath District Council and St Edmundsbury Borough Council and they can only make decisions that they are authorised by the law, or this constitution to make.

### **Duty to Co-operate**

Forest Heath District Council and St Edmundsbury Council have worked in partnership to provide a more efficient service for the people of West

Suffolk. The Implementation Order creates a formal duty to co-operate to ensure the efficient, effective and timely transfer of functions, properties, rights and liabilities to West Suffolk. This constitution is based on this duty to co-operate, and confirms how the Councils will work together to ensure the transfer.

### **The public's rights**

Residents of the Shadow Council's area have a number of rights in their dealings with the Council. Some are set out in law, others depend on the Shadow Council's own processes. Article 3 sets them out in more detail, but in brief they include:

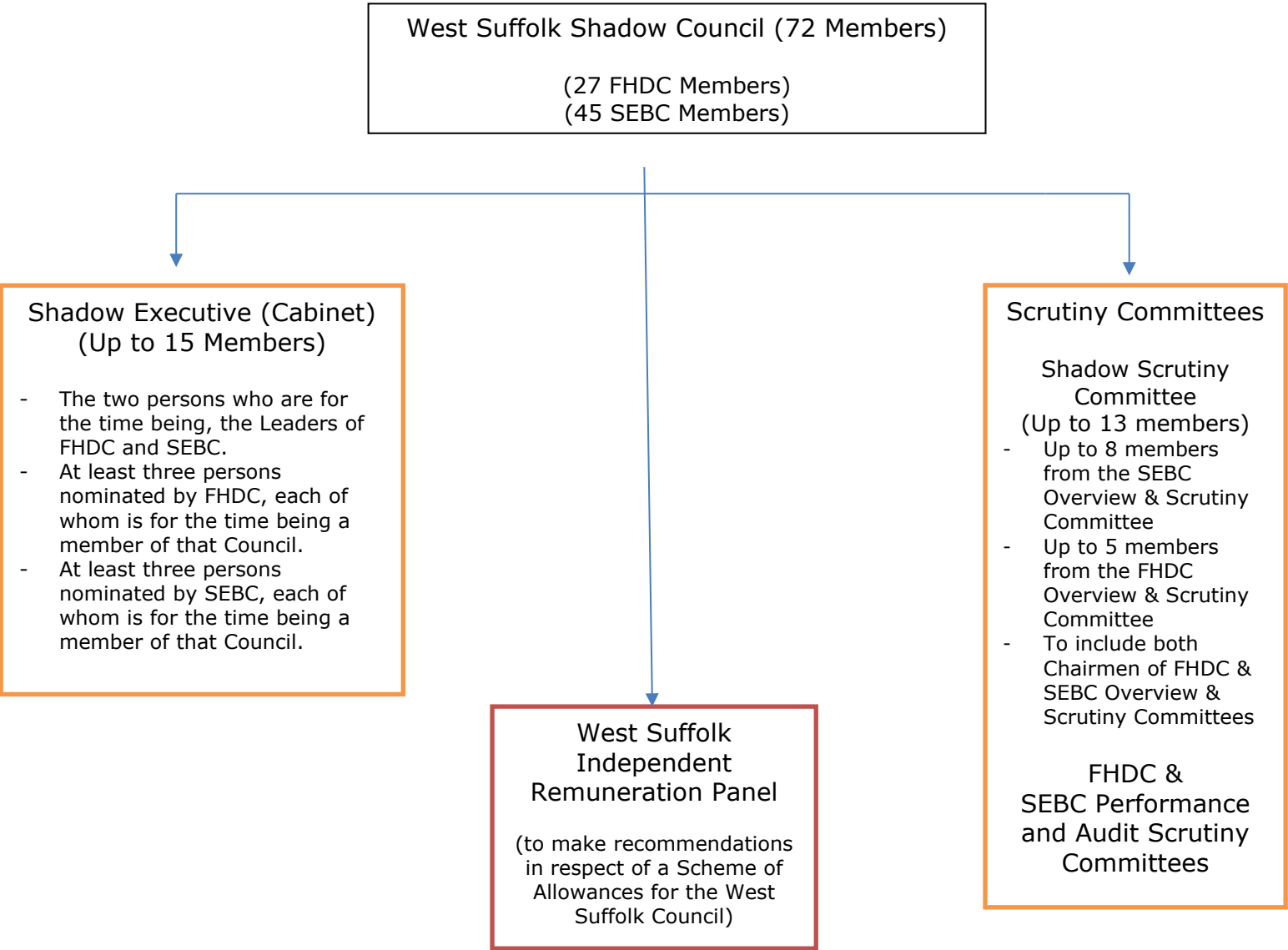
- to contact any member of the Shadow Council about matters that concern them;
- access to Shadow Council documents such as this Constitution, policies, the Shadow Executive Decisions Plan, reports, minutes and records of decisions made (subject to limited exceptions for things that the law permits the Shadow Council to treat as confidential);
- the right to attend open meetings of the Shadow Council, Shadow Executive and to speak at those where the Shadow Council's procedures allow public participation; and
- making their views known to the Shadow Council, whether as a comment, complaint or compliment..

The Shadow Council welcomes participation by the public in its work and aims to make its processes as transparent as possible. For further information on your rights, please contact the Shadow Council's Interim Monitoring Officer on e-mail: [democratic.services@westsuffolk.gov.uk](mailto:democratic.services@westsuffolk.gov.uk) or telephone: 01284 757162.

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# West Suffolk Shadow Council Decision Making Process



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## **West Suffolk Shadow Council**

### **Article 1 – The Constitution**

#### **1.1 Powers of the Shadow Council**

The Shadow Council will exercise all its powers and duties in accordance with the law, the provisions of the Implementation Order and this Constitution.

#### **1.2 The Constitution**

This Constitution, and all its appendices, is the Constitution of the Shadow Council.

#### **1.3 Purpose of the Constitution**

The purpose of the Constitution is to:

- a) Provide clarity on how decisions will be made to prepare for West Suffolk Council to take the functions, powers and responsibilities of Forest Heath District Council and St Edmundsbury Borough Council on 1 April 2019
- b) Demonstrate how Forest Heath District Council and St Edmundsbury Borough Council will perform their duty to co-operate;
- c) support the active involvement of local people in the Shadow Council's decision-making process;
- d) enable decisions to be taken efficiently and effectively;
- e) create a powerful and effective means of holding decision-makers to public account;
- f) ensure that no-one will review or scrutinise a decision in which they were directly involved;
- g) ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions; and
- h) provide a means of improving the delivery of services.

#### **1.4 Interpretation and review of the Constitution**

1.4.1 The Rules of Procedure which form Part 4 of the Constitution provide mechanisms for interpreting and operating the Constitution, including in cases of dispute.

1.4.2 In the Constitution, the term 'Cabinet' should be taken to mean 'Executive' (and vice versa).

1.4.3 Where the Constitution permits the Shadow Council to choose between different courses of action, the Shadow Council will choose the option which it thinks will be most likely to achieve the purposes set out in 1.3 above.

1.4.4 The Shadow Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

## **West Suffolk Shadow Council**

### **Article 2 – Members of the Shadow Council**

#### **2.1 Composition and eligibility**

The Shadow Council will comprise Councillors of Forest Heath District Council and St Edmundsbury Borough Council, at the time of the Implementation Order coming into force (referred to as "councillors").

#### **2.2 Elections and term of office**

The term of office of councillors will finish on the fourth day after the date of the election required to be held in 2019. Councillors shall remain as members of West Suffolk Council until this date even though Forest Heath District Council and St Edmundsbury Borough Council are abolished on 1 April 2019.

Should a Councillor cease to be a member of Forest Heath District Council or St Edmundsbury Borough Council on or before 30 September 2018, then they shall also cease to be a member of the Shadow Council a by-election will be held at the earliest appropriate opportunity to elect a new Councillor for Forest Heath District Council or St Edmundsbury Borough Council, who will also become a member of the Shadow West Suffolk Council.

If a Councillor ceases to be a member of Forest Heath District Council or St Edmundsbury Borough Council after 30 September 2018, then a by-election shall not be held and the seat on the Shadow West Suffolk Council will remain vacant.

#### **2.3 Roles and functions of councillors**

The councillors will be expected to continue to undertake the roles and functions as set out in the ward councillor job description which forms the Appendix to Article 2 of the Forest Heath District Council/St Edmundsbury Borough Council Constitution(s).

It is recognised that Councillors, when serving on West Suffolk Shadow Council, will be obliged to operate in the best interests of the whole of West Suffolk, but will still have duties in relation to either Forest Heath District Council or St Edmundsbury Borough Council. Their duties to each individual Council should not, by default, create a conflict of interest as all parties have a duty to co-operate to ensure the most effective and efficient transfer of functions to West Suffolk Council.

## **2.4 Rights and duties**

2.4.1 Councillors have rights of access to Shadow Council documents, information, land and buildings as are necessary for them to be able to carry out their role properly and in accordance with the law.

2.4.2 Councillors will not make any information public if it is confidential or exempt without the consent of the Shadow Council, or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.

2.4.3 For these purposes, 'confidential' and 'exempt' information are defined in the Access to Information Rules contained in Part 4 of the Constitution.

## **2.5 Conduct**

Councillors will at all times observe the Members' Code of Conduct and the Protocol on Member/Officer relations set out in Part 5 of the Constitution.

## **2.6 Allowances**

Councillors will not receive allowances from the Shadow Council in relation to the undertaking of its roles and functions, but will receive allowances in accordance with the Members' Allowances Scheme as set out in Part 6 of the Forest Heath District Council/St Edmundsbury Borough Council Constitutions.

## West Suffolk Shadow Council

### Article 3 – The Public and the Shadow Council

#### 3.1 The public's rights

The public has the following rights. Their rights to information and to attend meetings are explained in more detail in the Access to Information Procedure Rules in Part 4 of the Constitution.

- a) **Information** – the public has the right to:
  - (i) obtain a copy of the Shadow Council's Constitution;
  - (ii) attend meetings of the Shadow Council, Shadow Executive and its committees except where confidential or exempt information is likely to be discussed and the meeting is, for that reason, held in private;
  - (iii) see the Shadow Executive's Decisions Plan to find out what key decisions will be taken by the Shadow Executive, its committees, or officers, and when;
  - (iv) find out from the Shadow Executive's Decisions Plan when the Shadow Executive, its committees or officers will consider any matters in private;
  - (v) see reports and background papers, and any records of decisions made by the Shadow Council, Shadow Executive or officers subject to the usual rules regarding confidential or exempt information;
  - (vi) inspect the Shadow Council's accounts and make their views on them known to the external auditor.
  
- b) **Participation** – People who live or work in the Shadow Council's area have the right to participate in public question time at meetings in accordance with the Protocol set out in the Shadow Council and Shadow Committee Procedure Rules in Part 4 of the Constitution.
  
- c) **Complaints** – the public has the right to complain to:
  - (i) the Shadow Council itself under the complaints scheme for Forest Heath District Council/St Edmundsbury Borough Council  
[\[Comments, Compliments and Complaints\]](#)
  - (ii) the Local Government Ombudsman, if the complaint has not been resolved by the Shadow Council's own complaints scheme;
  - (iii) the Interim Monitoring Officer about a breach of the Members' Code of Conduct set out in Part 5 of the constitution.

- d) **Whistleblowing** – the public has the right to bring to the Shadow Council’s attention any concerns about corruption or bad practice. Details are available in the Whistleblowing Policy for forest Heath District Council/St Edmundsbury Borough Council [[Whistleblowing Policy](#)]

### **3.2 The public’s responsibilities**

The public must not be violent, abusive or threatening to councillors or to the Shadow Council’s employees and must not wilfully harm things owned by the Shadow Council, councillors or Shadow council employees.



## **West Suffolk Shadow Council**

### **Article 4 – The Shadow Council**

#### **4.1 Meaning**

The Shadow Council means every councillor of Forest Heath District Council and St Edmundsbury Borough Council meeting together. By law, there are some things that only the Shadow Council has the power to do and other matters are allocated to the Shadow Council by this Constitution.

#### **4.2 Functions of the Shadow Council**

Only the Shadow Council will exercise the following functions:

- a) Adopting and amending the Shadow Council Constitution.
- b) Approving and adopting the Shadow Council policy framework (see below).
- c) Approving and adopting the West Suffolk Council budget (see below).
- d) Subject to the urgency procedure set out in the Budget and Policy Framework Procedure Rules in Part 4 of the Constitution making decisions about any matter in the discharge of a Shadow Executive function which is covered by the policy framework or budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to or not wholly in accordance with the budget.
- e) Electing the Leader, removing him/her by resolution and electing a replacement in accordance with Article 6.
- f) Appointing the Shadow Executive.
- g) Agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them.
- h) Recommending a scheme of Members' Allowances for West Suffolk Council to adopt
- i) Appointing councillors to outside bodies unless this is a function of the Shadow Executive or has been delegated by the Shadow Council.
- j) Confirming the appointment of the Head of Paid Service, the Monitoring Officer and the s.151 Officer of the Shadow Council, and appoint the same posts to West Suffolk Council if it wishes
- k) Changing the name of the area
- l) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills.

- m) All local choice functions set out in Part 3 of this Constitution which the Shadow Council decides should be taken by itself rather than the Shadow Executive.
- n) All other matters which, by law, must be reserved to the Shadow Council.

### **4.3 Council Meetings**

There are three types of Council meeting:

- a) ordinary meetings;
- b) extraordinary meetings; and
- c) special meetings

and these will be conducted in accordance with the law and with the Shadow Council procedure rules set out in Part 4 of this Constitution.

### **4.4 The policy framework**

The policy framework means such statutory plans and strategies as are required by legislation, orders or regulations to be prepared by the Shadow Council, together with such recommended or discretionary plans and strategies as the Shadow Council may decide to adopt in preparation for West Suffolk Council assuming the full range of local authority functions on 1 April 2019. This would include:

- a) The West Suffolk Local Plan;
- b) The Licensing Act Statement of Policy;
- c) The Pay Policy Statement;
- d) The Gambling Act Statement of Principle

### **4.5 The budget**

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax base, setting the Council Tax and decisions relating to the control of the council's borrowing requirements, its investments and the control of its capital expenditure and the setting of virement limits. The Shadow Council will be responsible for the adoption of the budget of West Suffolk Council.

### **4.7 The Implementation Plan**

The Shadow Council shall be responsible for the preparation and review of an implementation plan to ensure the smooth transition of functions from Forest Heath District Council and St Edmundsbury Borough Council. In practice, the plan will be monitored by the Shadow Executive, who shall be responsible for the appointment of an implementation team.

## **West Suffolk Shadow Council**

### **Article 5 – Chairing the Shadow Council**

#### **5.1 Role and function of the Chairman**

The Chairman and Vice-Chairman will be appointed at the first meeting of the Shadow Council and will hold office until immediately after the election of a Chairman and Vice Chairman at the Annual Meeting of the West Suffolk Council in 2019

Neither the Chairman nor the Vice-Chairman may be a member of the Shadow Executive.

The Chairman and in their absence the Vice-Chairman have the following roles.

#### **5.2 Procedural role**

The Chairman will:

- a) chair meetings of the Shadow Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- b) uphold and promote the purposes of the Constitution and interpret the rules of procedure at Shadow Council meetings;

#### **5.3 Civic and ceremonial role**

The Chairman of the Shadow Council will not undertake a civic and ceremonial role. This role will be discharged by the Chairman of Forest Heath District Council and the Mayor of St Edmundsbury Borough Council across the West Suffolk area.

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## **West Suffolk Shadow Council**

### **Article 6 – The Shadow Executive (Cabinet)**

#### **6.1 Role**

6.1.1 The Shadow Executive will carry out all functions which are delegated to it or fall within its own scope of responsibility, including the monitoring of the Implementation Plan and the appointment of the Implementation Team.

#### **6.2 Form and Composition**

6.2.1 The Shadow Executive will consist of no more than 15 persons and shall include:

- The two persons who are for the time being the Leaders of Forest Heath District Council and St Edmundsbury Borough Council
- At least three persons nominated by Forest Heath District Council, each of whom is for the time being a member of that Council.
- At least three persons nominated by St Edmundsbury Borough Council, each of whom is for the time being a member of that Council.

6.2.2 Only councillors will be appointed to the Shadow Executive. There will be no co-optees, no deputies and no substitutes for Shadow Executive members. The Leader and Portfolio Holders may not be members of the Shadow Scrutiny Committee. The Chairman and Vice-Chairman of the Shadow Council may not be members of the Shadow Executive.

#### **6.3 The Leader**

6.3.1 The Leader of the Shadow Council shall be elected by the Shadow Council from the members of the Shadow Executive. The Leader of the Shadow Council will be the Chairman of the Shadow Executive and will hold office until:

- a) They resign from the office of Leader; or
- b) They are removed from office by ordinary resolution on notice of the Shadow Council; or
- c) They are no longer a councillor.
- d) The first Annual Meeting of the new West Suffolk Council in 2019.

6.3.2 When a vacancy arises in the office of the Leader, the Shadow Council shall fill the vacancy at the next ordinary meeting of the Shadow Council, or at a special or extraordinary meeting summoned for the purpose; or, if the

vacancy occurs as a result of the removal of the Leader by resolution of the Shadow Council, at the meeting at which that resolution was passed or a subsequent meeting. The councillor appointed to fill the vacancy shall hold office for the remainder of the original term, subject to the rules on earlier termination in 6.3.1 above.

6.3.3 The Leader shall appoint another member of the Shadow Executive as Deputy Leader to act when the Leader is unable to act or the office of Leader is vacant. The Leader may, if he or she thinks fit, remove the Deputy Leader from office. Where there is a vacancy in the office of Deputy Leader, the Leader must appoint another person to be Deputy Leader. Unless he or she is removed by the Leader, resigns as Deputy Leader or ceases to be a member of the council, the Deputy Leader shall hold office until the end of the Leader's term of office.

#### **6.4 Other Shadow Executive Members (the Portfolio Holders)**

6.4.1 The Shadow Executive will be appointed at the first meeting of the Shadow Council. Once appointed, the Leader may, if they wish, appoint Portfolio Holders from amongst members of the Shadow Executive to take responsibility with regards to specific areas of activity of the Shadow Council. If an announcement is not made at a meeting of the Shadow Council, the Leader may give written notice to the Interim Monitoring Officer of Portfolio Holder appointments or changes. Such changes will come into effect two days after receipt of the notice by the Interim Monitoring Officer and be notified to the next meeting of the Shadow Council.

Only the Shadow Council has the authority to appoint members of the Shadow Executive, and any portfolio appointments must be made from members of the Shadow Executive.

6.4.3 Portfolio Holders shall retain responsibility for their areas until:

- a) they resign from office; or
- b) they are no longer councillors; or
- c) they are no longer members of the Shadow Executive; or
- d) their responsibilities are amended by the Leader giving written notice of the removal to the Interim Monitoring Officer. The removal will take effect two working days after receipt of the notice by the Monitoring Officer.

6.4.4 If for any reason the Leader is unable to act or the office of Leader is vacant, and the Deputy Leader is unable to act of

the office of Deputy Leader is vacant, the Shadow Executive must act in the Leader's place

## **6.5 Functions of the Shadow Executive**

6.5.1 The Shadow Executive has the following functions:-

- a) to make 'key decisions' as defined in Article 12 and published in the Decisions Plan;
- b) to formulate the budget and policy framework for submission to the Shadow Council in accordance with the budget and policy framework procedure rules in Part 4 of the Constitution;
- c) to implement the approved budget and policy framework;
- d) to determine recommendations and other matters referred to it by its committees, sub-committees or Shadow council;
- e) to carry out all of the functions which by law the executive must carry out or has chosen to carry out and which have not been delegated elsewhere;
- f) to ensure the publication of, and to consider, the plan of items likely to come before it for decision at least 28 days before the decision is due to be made.
- g) to monitor delivery of the implementation plan.
- h) to appoint an Implementation Team, consisting of Officers of Forest Heath District Council and St Edmundsbury Borough Council, who shall be responsible for delivering the Implementation Plan and assisting the Shadow Council and its Executive.

6.5.2 The Shadow Executive may carry out its functions:-

- a) itself;
- b) by delegating power to an individual member of the Shadow Executive, to be exercised in accordance with the rules in Appendix A to this Article 6;
- c) by delegating power to an officer, who shall exercise that power in accordance with the Scheme of Delegation to Officers contained in Part 3 of the Constitution;
- d) by delegating power to a joint committee, area committee or another local authority.

6.5.3 The list of portfolio responsibilities will be maintained by the Leader and will set out which individual members of the Shadow Executive, officers and joint arrangements are responsible for the exercise of particular Cabinet functions. The Leader is empowered to amend the portfolios at any time, subject to compliance with the provisions of the Shadow Executive Procedure Rules.

## **6.6 Meetings of the Shadow Executive**

- 6.6.1 The Shadow Executive will hold public meetings as frequently as is required for the effective discharge of its functions on dates and at times agreed by the Leader. Meetings will be conducted in accordance with the Shadow Executive Procedure rules set out in Part 4 of the Constitution.
- 6.6.2 To ensure it is briefed and/or consulted upon its functions, the Shadow Executive may hold other informal (not public) meetings as are necessary for it to carry out its work effectively. However, to ensure transparency and facilitate good scrutiny, matters discussed at these meetings that are intended to be put to Shadow Executive or Shadow Council for decision will, unless a decision is required urgently, be included in the Decisions Plan which is referred to the appropriate committee (normally a scrutiny committee) before a recommendation is made to Shadow Executive/Shadow Council.



## **Appendix A**

### **Procedure for decision-making by individual Portfolio Holders**

*(This element of the Constitution is exercised at the discretion of the Leader of the Shadow Council and will be determined by them)*

1. Individual Shadow Executive members are empowered (subject to the exceptions listed below) to make executive decisions within the Policy and Budget Framework in respect of their own portfolio area of responsibility, where such responsibility has been given.

The exceptions are as follows:

- 1.1 A decision that is a departure from the agreed Strategic Plan for West Suffolk Councils except where this falls within current agreed policy.
  - 1.2 Decisions solely in relation to the Executive Member's own ward including, for example, making a grant, unless this is agreed by the Leader.
  - 1.3 Where the Leader has indicated before a decision is either taken by the Portfolio Holder or implemented that he requires the decision to be taken collectively by the Cabinet. Notification of this by the Leader must be made to the Interim Monitoring Officer.
  - 1.4 A decision in which the Executive member has either a disclosable pecuniary interest or some other conflict of interest.
  - 1.5 Those decisions delegated to an officer unless the officer refers the decision to the Executive member.
  - 1.6 A decision which in the view of the Chief Executive is one which should properly be treated as a key decision.
2. The Shadow Executive may delegate any decision to an individual executive member who must then follow the procedure in this document in making that decision.
  3. The decisions must be made in consultation with officers deemed appropriate by the Chief Executive and the Executive member must take into account the professional, legal and financial implications and any advice given by those officers.
  4. Where there are significant cross-cutting implications the decision should be made in consultation with other appropriate portfolio holder(s).

5. Where a decision has significant impact on an individual ward the Executive member should consult the appropriate ward member.
6. Where it is not clear in which portfolio an issue sits, the Leader shall decide. If the appropriate portfolio holder is unavailable and a decision needs to be taken urgently, then the Leader may take the decision in consultation with the Chief Executive.

### **Notification and Publication**

Wherever possible, 5 clear working days' notice of the intention to make a decision under these delegated powers will be given to all Members of the Shadow Council, by notice sent electronically and published on the Shadow Council website together with any supporting report.

Where 5 clear working days' notice is not practicable for exceptional reasons relating to the urgent need to action the decision the Shadow Cabinet Member should give notification of the intent to make the decision as soon as possible explaining the reasons for the short notice.

The decision must be recorded on the appropriate form prepared and published by Democratic Services. The decision will be published and may not be implemented until after either:

- the call-in period (5 working days after the date of publication) has expired; or
- a call-in process has been completed.

Call-in, using the procedure in the Shadow Council Procedure Rules, may be made within 5 days of the decision being published and the usual process shall be followed.

## **West Suffolk Shadow Council**

### **Article 7 – Shadow Scrutiny Committee**

#### **7.1 Introduction**

7.1.1 It is important that the Shadow Council has appropriate scrutiny mechanisms to enhance the accountability and transparency of its decision making. Accordingly, this Article establishes the scrutiny functions of the Shadow Council.

#### **7.2 Performing the Shadow Scrutiny Functions:**

7.2.1 The Shadow Council will appoint a Shadow Scrutiny Committee of up to 13 members, consisting of up to 8 members drawn from the membership of the St Edmundsbury Borough Council Overview and Scrutiny Committee and up to 5 members drawn from the membership of the Forest Heath District Council Overview and Scrutiny Committee, including both Chairmen of the Overview and Scrutiny Committees of Forest Heath District Council and St Edmundsbury Borough Council. No member of the Shadow Executive may be a member of the Shadow Scrutiny Committee.

7.2.2. The primary functions of the Shadow Scrutiny Committee is:

- (a) To support and facilitate the work of the Shadow Council in discharging its duty to prepare for the assumption by West Suffolk Council of full local authority functions and powers on 1 April 2019, as provided in the Implementation Order.
- (b) To receive and comment on reports by the Shadow Executive on the progress of preparations for the implementation of West Suffolk Council on 1 April 2019.
- (c) To review those preparations and related decisions.
- (d) To comment and/or make recommendations to the Shadow Executive and/or Shadow Council, as appropriate to their respective powers and duties under the Implementation Order and the Shadow Council's Constitution.
- (e) To scrutinise decisions which the Shadow Executive is planning to take, as set out in the Decisions Plan or of which proper notice is given (including decisions referred to it in accordance with paragraph 6.6.2 of Article 6);

- (f) To scrutinise decisions of the Shadow Executive and individual portfolio holders before they are implemented and if necessary using the “call-in” mechanism to require the decision taker to reconsider the earlier decision;

7.2.2 In discharging the functions described in 7.2.1 above, the Committee shall have the powers conferred by Section 21 of the Local Government Act 2000 and shall conduct its proceedings in accordance with the Shadow Scrutiny Committee Procedure Rules, set out in Part 4 of this Constitution.

### **7.3 Performance and Audit Scrutiny Committee**

7.3.1 Scrutiny of the performance of the West Suffolk Shadow Council may be undertaken jointly by the Performance and Audit Scrutiny Committees of Forest Heath District Council and St Edmundsbury Borough Council.

7.3.2 The Committee will assist the Shadow Council and the Shadow Executive in the development of the budget framework.

### **7.4 Proceedings of the Scrutiny Committees**

7.4.1 Where meeting to perform scrutiny of the Shadow Council, the Shadow Scrutiny Committee will conduct their proceedings in accordance with the Shadow Scrutiny Committee Procedure Rules set out in Part 4 of this Constitution.

### **7.5 Work Programme**

7.5.1 The Shadow Scrutiny Committee Rules of Procedure in Part 4 of this Constitution explains that the powers and functions of the Shadow Council under the Implementation Order are limited to preparing the Shadow Council for the assumption of full local authority functions and powers on 1 April 2019. Consequently, the powers and functions of its Shadow Executive and Shadow Scrutiny Committee are similarly limited. It is not expected that a formal work programme will be developed for the Shadow Scrutiny functions, but instead:

- a) The members of the Shadow Scrutiny Committee may request to meet to consider items within their remit outlined at paragraph 7.2 above;
- b) The Leader of the Shadow Council or Shadow Executive may request the Scrutiny Committee meet

to consider decisions or policies that the Shadow Council intends to implement.

## **7.6 Working Methods**

7.6.1 The following principles should be adhered to by the Shadow Scrutiny Committee when carrying out their work:-

- (a) a variety of different approaches and formats for meetings may be used;
- (b) the declaration of interest rules shall apply;
- (c) the imposition of the Party Whip is regarded as incompatible with the work of the Council's Shadow Scrutiny Committee;

## **7.7 Support**

7.7.1 In order that the Shadow Scrutiny Committee can perform its roles properly, it shall be given the following support:-

- (a) effective and properly resourced support from officers;
- (b) appropriate financial resources;
- (c) access to the advice of the Council's Interim Monitoring Officer;
- (d) the ability to require Members of the Shadow Executive and officers to attend to answer questions;

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## **West Suffolk Shadow Council**

### **Article 8 – Shadow Regulatory Committees**

The Shadow Council does not have regulatory functions. All regulatory functions are performed by Forest Heath District Council and St Edmundsbury Borough Council.

The Shadow Authority may elect to delegate any advisory functions to the respective regulatory functions of Forest Heath District Council and St Edmundsbury Borough Council as it sees fit.

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## **West Suffolk Shadow Council**

### **Article 9 - The Standards Committee**

The West Suffolk Shadow Council will not establish its own Standards Committee and has chosen to delegate responsibility of this function to the West Suffolk Joint Standards Committee, as set out in Article 9 and Section 2 - Responsibility for Council Functions, of the Forest Heath District Council/St Edmundsbury Borough Council Constitution

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## West Suffolk Shadow Council

### Article 10 - Joint Arrangements

#### 10.1 Arrangements to Promote Wellbeing

10.1.1 The Shadow Council or the Shadow Executive, in order to promote the economic, social or environmental wellbeing of its area or to carry out activities under the general power of competence may:-

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body;

subject in all cases to compliance with statutory requirements.

#### 10.2 Joint Arrangements

10.2.1 The Shadow Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions in any of the participating authorities. Such arrangements may involve the appointment of a joint committee with such other local authorities.

10.2.2 The Shadow Executive may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with such other local authorities.

10.2.3 Except as set out in 10.2.4 below, the Shadow Executive may only appoint Shadow Executive Members to a joint committee and those Members need not reflect the political balance of the Council as a whole.

10.2.4 The Shadow Executive may appoint Members to a joint committee from outside the Shadow Executive in any of the following cases:-

1. Where the joint committee has functions for only part of the area of the Shadow Council, and that area is smaller than two-fifths of the Shadow Council by area or population. In such cases, the Shadow Executive may appoint to the joint committee any Councillor who is a Member for a Ward which is

wholly or partly contained within that part of the area of the Shadow Council.

2. The joint committee is discharging a function in relation to five or more authorities;
3. The function which the joint committee is discharging is one which is required by statute to be discharged by a joint committee.

The political balance requirements do not apply to such appointments.

- 10.2.5 Details of any joint arrangements, including any delegations to joint committees will be found in the Shadow Council's Scheme of Delegations in Part 3 of this Constitution.

#### **10.4 Access to Information**

- 10.4.1 The Access to Information Rules in Part 4 of this Constitution apply to any joint arrangements.
- 10.4.2 If all the members of a joint committee are members of the Shadow Executive in each of the participating authorities then the Access to Information regime of the joint committee will be the same as that applied to executives.
- 10.4.3 If the joint committee contains members who are not on the Shadow Executive in any participating authority, then the Access to Information Rules in Part VA of the Local Government Act 1972 (as amended) will apply.

#### **10.5 Delegation to and from Other Local Authorities**

- 10.5.1 The Shadow Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.
- 10.5.2 The Shadow Executive may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.
- 10.5.3 The decision whether or not to accept similar delegations from another local authority shall be reserved to the Shadow Council.

#### **10.6 Contracting Out**

- 10.6.1 The Shadow Council (in respect of functions which are not the responsibility of the Shadow Executive) and the Shadow Executive (in respect of executive functions) may contract out to another body or organisation any functions which

may be exercised by an officer and which are subject to an Order under Section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Shadow Council's agent under usual contracting principles, provided there is no delegation of the Shadow Council's discretionary decision-making.

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## West Suffolk Shadow Council

### Article 11 - Officers

#### 11.1 Management Structure

11.1.1 Appointment of staff below Chief Officer level must be the responsibility of the Interim Head of Paid Service or his/her nominee.

- (a) **General** - The Shadow Council may appoint such Chief Officers or other staff (referred to as officers) as it considers necessary to carry out its functions prescribed in the Implementation Order. It shall ordinarily be expected that any officers appointed by the Shadow Council shall be employees of Forest Heath District Council and St Edmundsbury Borough Council.
- (b) **Interim Monitoring Officer, Interim Chief Finance Officer and Interim Head of Paid Service.** At its first meeting, the Shadow Council will designate the following posts as shown:

**Post**

Interim Monitoring Officer  
Interim Chief Finance Officer  
Interim Head of Paid Service

Such posts will have the functions described below. below. The duties of the Interim Monitoring Officer and the Interim Chief Finance Officer can be carried out by a deputy, nominated by them, in cases of absence or illness; and

- (c) **Head of Paid Service, Chief Finance Officer and Monitoring Officer** – The Shadow Council may appoint before 1 April 2019 the following posts to West Suffolk Council:

**Post**

Head of Paid Service  
Chief Finance Officer  
Monitoring Officer

#### 11.2 Functions of the Interim Head of Paid Service

11.2.1 **Discharge of functions by the Shadow Council** - The Interim Head of Paid Service will report to the Shadow Council on the manner in which the discharge of the Shadow Council's functions is co-ordinated, the number and

grades of officers required for the discharge of functions and the organisation of these officers.

- 11.2.2 **Restriction on functions** - The Interim Head of Paid Service may not be the Interim Monitoring Officer but may hold the post of Interim Chief Finance Officer if a qualified accountant.

### **11.3 Functions of the Interim Monitoring Officer**

- 11.3.1 **Monitoring the Constitution** - The Interim Monitoring Officer will monitor and evaluate the operation of the Constitution to ensure that its aims and principles are given full effect.
- 11.3.2 **Ensuring lawfulness and fairness of decision-making** - After consulting with the Interim Head of Paid Service and Interim Chief Finance Officer, the Interim Monitoring Officer will report to the Shadow Council, the Shadow Executive (in relation to an executive function) if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- 11.3.3 **Supporting the West Suffolk Joint Standards Committee** - The Interim Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the West Suffolk Joint Standards Committee.

*(Note: The West Suffolk Shadow Council will not establish its own Standards Committee and has chosen to delegate responsibility of this function to the West Suffolk Joint Standards Committee, as set out in Article 9 and Section 2 - Responsibility for Council Functions, of the Forest Heath District Council/St Edmundsbury Borough Council Constitution)*

- 11.3.4 **Access to Information** - The Interim Monitoring Officer will ensure that there are procedures in place for Shadow Executive decisions, together with the reasons for those decisions and relevant officer reports and background papers, to be made publicly available as soon as possible.
- 11.3.5 **Advising whether Shadow Executive decisions are within the budget and the policy framework** - The Interim Monitoring Officer will advise whether decisions of the Shadow Executive are in accordance with the budget and policy framework.



- 11.3.6 **Providing advice** - The Interim Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.
- 11.3.7 **Restriction on posts** - The Interim Monitoring Officer cannot be the Interim Chief Finance Officer or the Interim Head of Paid Service.
- 11.3.8 **Proper Officer** – the interim Monitoring Officer shall act as the general proper officer of the Shadow Council unless otherwise stated.

#### **11.4 Functions of the Interim Chief Finance Officer**

- 11.4.1 **Ensuring lawfulness and financial prudence of decision-making** - After consulting with the Interim Head of Paid Service and the Interim Monitoring Officer, the Interim Chief Finance Officer will report to the Shadow Council, or the Shadow Executive in relation to an executive function, and the Council’s external auditor if he or 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. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- 11.4.2 **Administration of financial affairs** - The Interim Chief Finance Officer will have responsibility for the administration of the financial affairs of the Shadow Council.
- 11.4.3 **Contributing to corporate management** - The Interim Chief Finance Officer will contribute to the corporate management of the Shadow Council, in particular through the provision of professional financial advice.
- 11.4.4 **Providing advice** - The Interim Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.
- 11.4.5 **Give financial information** - The Interim Chief Finance Officer will ensure that financial information about the Shadow Council is provided to the media, members of the public and the community.

## **11.5 Duty to Provide Sufficient Resources to the Interim Monitoring Officer and Interim Chief Finance Officer**

11.5.1 The Shadow Council will provide the Interim Monitoring Officer and Interim Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

## **11.6 Conduct and Employment**

11.6.1 Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member relations of their respective employing Council's Constitution. Similarly, the officer employment rules of the officer's respective employing Council shall apply.

## West Suffolk Shadow Council

### Article 12 - Decision-Making

#### 12.1 Responsibility for Decision-Making

12.1.1 The Shadow Council will issue, and keep up-to-date, a record of what part of the Shadow Council or individual has responsibility for particular types of decisions and decisions relating to particular areas of functions. This record is set out in Part 3 of this Constitution.

#### 12.2 The Principles of Decision-Making

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

- (a) the decision must be reasonable within the common meaning of the word, i.e. it must be a rational decision based on sound judgement;
- (b) the decision must also be reasonable within the legal meaning of "reasonableness" i.e. all relevant considerations must be fully taken into account in reaching the decision and all irrelevant ones disregarded;
- (c) the decision must be proportionate (i.e. the action should be proportionate to the desired outcome);
- (d) decisions should be taken on the basis of due consultation and professional advice from officers;
- (e) human rights must be respected and consideration must be given as to whether the decision will give rise to any implications under the Human Rights Act 1998 and the European Convention on Human Rights;
- (f) decisions must be taken in compliance with Shadow Council's schemes of delegation, financial rules and instructions relating to contracts;
- (g) when making decisions a presumption in favour of openness must be applied and a clarity of aims and desired outcomes must be displayed;
- (h) careful consideration should always be given as to whether there is an interest that should be declared; and
- (i) in the case of executive decisions taken by the Shadow Executive, or an individual Member of the Shadow Executive, or an Officer (where the decision is closely connected with the Shadow Executive), a proper record of the decision must be made together with a record of the reasons for the decision, details of any alternative options considered and rejected and any conflicts of interest.

## **12.3 Types of Decision**

12.3.1 **Decisions reserved to Shadow Council** - Decisions relating to the functions listed in Article 4.2 will be made by the whole Shadow Council and not delegated.

### **12.3.2 Key Decisions**

- (a) A "key decision" means an executive decision which, pending any further guidance from the Secretary of State, is likely to:-
- (i) be significant in terms of its effects on communities living or working in an area in the Shadow Council; or
  - (ii) result in any new expenditure, income or savings of more than £100,000 in relation to the Shadow Council's revenue budget or capital programme; or
  - (iii) comprise or include the making, approval or publication of a draft or final scheme which may require, either directly or in the event of objections, the approval of a Minister of the Crown.
- (b) A decision taker may only make a key decision in accordance with the requirements of the Shadow Executive procedure rules set out in Part 4 of this Constitution.

## **12.4 Urgent key decisions**

12.4.1 Provisions for taking key decisions in cases of urgency where they have not been included in the decisions plan are set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

## **12.4 Decision-Making by the Council**

12.4.1 Subject to Article 12.8, the Shadow Council meeting will follow the Shadow Council procedure rules set out in Part 4 of this Constitution when considering any matter.

## **12.5 Decision-Making by the Shadow Executive**

12.5.1 Subject to Article 12.8, the Shadow Executive will follow the Shadow Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.

## **12.6 Decision-Making by the Shadow Scrutiny Committee**

12.6.1 The Shadow Scrutiny Committee will follow the Shadow Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

## **12.7 Decision-Making by Other Committees and Sub-Committees Established by the Shadow Council**

12.7.1 Subject to Article 12.8, where and when established, other Shadow Council Committees and Sub-Committees will follow those parts of the Shadow Council Committee Procedure Rules set out in Part 4 of this Constitution as apply to them.

## **12.8 Decision-Making by Council Bodies Acting as Tribunals**

12.8.1 The Shadow Council, a Councillor or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention of Human Rights.

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## **West Suffolk Shadow Council**

### **Article 13 - Finance, Contracts and Legal Matters**

#### **13.1 Financial Management**

- 13.1.1 The management of the Shadow Council's financial affairs will be conducted in accordance with the financial rules set out in Part 4 of this Constitution.

#### **13.2 Contracts**

- 13.2.1 Every contract made by the Shadow Council will comply with the Contract Procedure Rules set out in Part 5 of this Constitution.

#### **13.3 Legal proceedings**

- 13.3.1 The Service Manager (Shared Legal) of St Edmundsbury Borough Council and Forest Heath District Council is authorised by the Scheme of Delegation to Officers set out in Part 3 of this Constitution to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Shadow Council or in any case where he or she considers that such action is necessary to protect the Council's interests.

#### **13.4 Authentication of documents**

- 13.4.1 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Paid Service or the Service Manager (Shared Legal) of Forest Heath District Council and St Edmundsbury Borough Council or in their absence by other persons authorised by the Service Manager (Shared Legal), unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

#### **13.5 Common Seal of the Council**

- 13.5.1 A decision of the Shadow Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Council's Interim Monitoring Officer should be sealed. Sealed documents will be signed by any one of the following officers of Forest Heath District Council or St Edmundsbury Borough Council:

- The Chief Executive Officer
- The Monitoring Officer
- A Director
- An Assistant Director
- A Lawyer.

13.5.2 An entry of every sealing of documents will be made and consecutively numbered in a register and be initialled by the person who attested the seal.



## **West Suffolk Shadow Council**

### **Article 14 - Review and Revision of the Constitution**

#### **14.1 Duty to Monitor and Evaluate the Constitution**

- 14.1.1 The Interim Monitoring Officer will monitor and evaluate the operation of this Constitution to ensure that its aims and principles are given full effect.

#### **14.3 Changes to the Constitution**

##### **Approval**

- 14.3.1 Except as provided in 14.3.3 below, changes to this constitution will be approved by the Shadow Council after consideration of the proposal by the Interim Monitoring Officer.
- 14.3.2 A vote at the Shadow Council to change this Constitution should be passed by a simple majority of those present and voting.
- 14.3.3 The Interim Monitoring Officer, in consultation with the Interim Head of Paid Service and relevant Portfolio Holder, has delegated authority to make minor amendments to the constitution arising from changes to legislation, changes to staffing structures or job descriptions or changes in terminology. The Interim Monitoring Officer also has authority to amend the constitution to implement decisions of the Leader in relation to the delegation of executive functions to the Shadow Executive.

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## West Suffolk Shadow Council

### Article 15 - Suspension, Interpretation, Maintenance and Publication of the Constitution

#### 15.1 Suspension of the Constitution

- 15.1.1 **Limit to suspension** - The articles of this Constitution may not be suspended. Any rules of procedure, except those required by law, may be suspended to the extent permitted within those rules and the law.
- 15.1.2 **Procedure to suspend** - A motion to suspend any rules will not be moved without notice unless at least one half of the total number of Councillors entitled to be present is present. The extent and duration of suspension will be proportionate to the results to be achieved, taking into account the purposes of this Constitution set out in Article 1.

#### 15.2 Interpretation of the Constitution

- 15.2.1 The ruling of the Chairman (or in their absence the Vice Chairman) on the interpretation of this Constitution in relation to any proceedings of the Shadow Council, shall not be challenged at any meeting of the Shadow Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

#### 15.3 Maintaining the Constitution

- 15.3.1 The Interim Monitoring Officer will ensure that there are periodic operational reviews of this Constitution.
- 15.3.2 The Interim Monitoring Officer will also ensure that an up-to-date version of this Constitution is maintained and that it is widely available for consultation by Members, staff and the public, as set out in Article 15.4 below.

#### 15.4 Publication of the Constitution

- 15.4.1 The Interim Monitoring Officer will make available an electronic copy of this Constitution to each councillor upon delivery of that individual's declaration of acceptance of office on the councillor first being elected to the Shadow Council.
- 15.4.2 The Interim Monitoring Officer will ensure that the Constitution is published on the Shadow Council's website

in a form that can be downloaded and that copies are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by members of the local press and public on payment of a reasonable fee.

## West Suffolk Shadow Council

### **Schedule 1 - Description of Shadow Executive (Cabinet) Arrangements**

The following parts of this Constitution comprise the Shadow Executive (Cabinet) arrangements.

1. Article 6 (The Shadow Executive (Cabinet)) and the Shadow Executive (Cabinet) Procedure Rules in Part 4 of this Constitution;
2. Article 7 (Shadow Scrutiny Committee) and the Shadow Scrutiny Procedure Rules in Part 4 of this Constitution;
3. Article 10 (Joint Arrangements) - The Shadow Council currently operates joint arrangements with the County Council, neighbouring district councils and town/parish councils in the Borough;
4. Article 12 (Decision-Making) and the Access to Information Procedure Rules in Part 4 of this Constitution; and
5. Part 3 (Responsibility for Functions).

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## West Suffolk Shadow Council

### 1. Responsibility for Local Choice Functions

The table below sets out the Shadow Council's decisions on who will be responsible for Local Choice Functions. Responsibility for the discharge of functions shall only apply to the extent that the function is discharged by Shadow West Suffolk Council, or the decision is to be made on behalf of West Suffolk Council and to apply after 1 April 2019. Onward delegations to Committees and officers are as specified in the Sections 2, 3 and 4 of this Part of the Constitution.

<b>Local Choice Function</b>	<b>Who is Responsible?</b>
<b>1.</b> Any function under a local Act	Shadow Cabinet
<b>2.</b> The determination of an appeal against any decision made by or on behalf of the Authority	Shadow Council
<b>3.</b> Any function relating to contaminated land.	Shadow Council
<b>4.</b> The discharge of any function relating to the control of pollution or the management of air quality.	Shadow Council
<b>5.</b> The service of an abatement notice in respect of a statutory nuisance.	Shadow Council
<b>6.</b> The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Authority's area.	Shadow Council
<b>7.</b> The inspection of the Authority's area to detect any statutory nuisance.	Shadow Council
<b>8.</b> The investigation of any complaint as to the existence of a statutory nuisance.	Shadow Council
<b>9.</b> The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.	Shadow Council
<b>10.</b> The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	Shadow Council

<b>Local Choice Function</b>	<b>Who is Responsible?</b>
<b>11.</b> The making of agreements for the execution of highways works	Shadow Council
<p><b>12.</b> The appointment of any individual:</p> <ul style="list-style-type: none"> <li>(a) to any office other than an office in which he is employed by the Authority;</li> <li>(b) to any body other than – <ul style="list-style-type: none"> <li>(i) the Authority;</li> <li>(ii) a joint committee of two or more authorities; or</li> </ul> </li> <li>(c) to any Committee or Sub-Committee of such a body,</li> </ul> <p>and the revocation of any such appointment.</p>	Shadow Council



## **West Suffolk Shadow Council**

### **2. Responsibility for Shadow Council Functions**

- 2.1 The following table set out how the Shadow Council has chosen to delegate responsibility for certain of its Local Choice and non-executive functions. Other delegations are contained in Section 4 (Delegation to Officers). Where no delegation is indicated in this Scheme, responsibility for Local Choice and non-executive functions remains with the full Council. The Shadow Council may be advised by relevant Committees of Forest Heath District Council or St Edmundsbury Borough Council in discharging its functions.
- 2.2 The Shadow Council has only delegated functions to the extent that it is responsible for them, or to the extent that it is making a decision on behalf of West Suffolk Council, and to come into effect from 1 April 2019.
- 2.3 Any matters related to the employment of officers of the Shadow Authority shall be considered in accordance with the procedures adopted by their employing authority.
- 2.4 Every Committee appointed by the Shadow Council may appoint Sub-Committees for the purposes to be stated by the Committee. The Members of a Sub-Committee will be Members or substitute Members of the appointing Committee.
- 2.5 Any Committee or Sub-Committee may, within its delegated authority, set up working parties or panels for the detailed study of any matter. Any working party/panel given delegated authority will become a Sub-Committee.

### **A. Joint Standards Committee**

This is a Joint Committee formed of members of St Edmundsbury Borough Council and Forest Heath District Council. Membership of the Joint Committee will comprise six Members, three appointed by each authority.

To ensure a wide representation across the authorities, political balance rules do not apply to this Committee.

The Joint Standards Committee will have the following roles and functions in respect of the Shadow West Suffolk Council, St Edmundsbury Borough Council and Forest Heath District Council:-

- (a) promoting and maintaining high standards of conduct by Councillors and co-opted Members;
- (b) assisting Councillors and co-opted Members to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption and revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising, training or arranging to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct;

	<p>(f) granting dispensations to Councillors and co-opted Members from requirements relating to interests set out in Section 34 of the Localism Act 2011;</p> <p>(g) considering a report from the Monitoring Officer in respect of an allegation of a breach of the Members' Code of Conduct; and</p> <p>(h) dealing with a report from the Monitoring Officer in respect of an allegation of a breach of the Members' Code of Conduct of a Town or Parish Council within the District of Forest Heath and the Borough of St Edmundsbury.</p> <p>The Standards Committee will not cover the conduct of officers, for which separate provisions apply.</p>	
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## **West Suffolk Shadow Council**

### **3. Responsibility for Shadow Executive (Cabinet) Functions**

- 3.1 Executive functions will be performed by the Shadow Executive. The Leader may elect to group these together in the form of portfolios, or they may elect to discharge the function themselves. The Leader may elect to allocate portfolio functions or amend these in accordance with the procedure outlined in Article 6.
- 3.2 At the time of adoption of this Constitution, there is no onward delegation of executive functions other than to officers.
- 3.3 The delegation of executive functions from the Shadow Executive to Chief Officers, and the onward delegation from Chief Officers to other officers, is as set out in Section 4 of the Scheme of Delegation to Officers.

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## West Suffolk Shadow Council

### Section 4 - Scheme of Delegation to Officers

#### A. General

1. This section of the Scheme for the Responsibility for Functions delegates powers and duties of the West Suffolk Shadow Council to Officers under Section 101 of the Local Government Act 1972 and s.9E of Part 1A of the Local Government Act 2000, and all other powers enabling delegations, but is not intended to be by way of limitation of the powers provided in that Section.
2. It is also adopted with the intent that it shall lead to a streamlining and simplification of the processes of the Shadow Council and, accordingly, it should be interpreted widely rather than narrowly.
3. Where broad functional descriptions are used, the delegations in this scheme should be taken to include powers and duties within all present and future legislation, and all powers incidental to that legislation, including the incidental powers and duties under Section 111 of the Local Government Act 1972.
4. Prior to each update of this document, it may be superseded by revised or new delegations, properly agreed in accordance with the Shadow Council's Constitution but not yet incorporated.
5. In this scheme of delegations any reference to a specific Statute, Statutory Instrument, Regulation, Byelaw, Order, or any section, article, paragraph or part thereof, shall be deemed to incorporate reference to any enactment amending, re-enacting, or replacing the same.
6. Any reference to the masculine includes the feminine and vice versa.

#### Overall Limitations

7. This scheme does not delegate to Officers:-
  - (a) any matter reserved by law to the Shadow Council, the Shadow Executive, a Committee or Sub-Committee of the Shadow Council; and
  - (b) any matter which is specifically excluded from delegation by the scheme or by resolution of the Shadow Council or Shadow Executive.
8. Officers may only exercise delegated powers in accordance with:-
  - (a) the Shadow Council's Rules of Procedure contained in Part 4 of this Constitution including the Financial Procedure Rules and Contract Procedure Rules;

- (b) all plans, policies, schemes or strategies approved by or on behalf of the Shadow Council;
- (c) any statutory restrictions, guidance or statutory code of practice;
- (d) the statutory and local requirements in respect of the taking and recording of Key Decisions;
- (e) the principles of the business plan for the formation of the Shadow Council agreed by St Edmundsbury Borough Council and Forest Heath District Council in September 2017;
- (f) the Shadow Council's policies, procedures and standards.

### **Sub-Delegation**

9. Any Officer with delegated powers in this scheme is also authorised to further delegate in writing all or any of the delegated functions to other officers (described by name or post) either fully or under the general supervision and control of the delegating officers. Sub-delegations shall be recorded in a register kept by the Monitoring Officer. Administrative functions ancillary to the exercise of delegated powers are deemed to be carried out in the name of the officer exercising the function.

### **Further Provisions**

10. It shall always be open to an Officer not to exercise his or her delegated powers but to refer the matter to the Shadow Council, Shadow Executive, or relevant Committee (as appropriate) for decision.
11. In exercising delegated powers, Officers shall consult other Officers as appropriate and have regard to any advice given. In particular, Officers must have regard to any report by the Interim Head of Paid Service or the Interim Monitoring Officer under Sections 4 and 5 of the Local Government and Housing Act 1989 or of the interim Chief Finance Officer under Section 114 of the Local Government and Housing Act 1988.
12. In exercising delegated powers, Officers shall consider whether the matter is controversial or significant and if so shall as appropriate consult or inform the relevant Portfolio Holders and/or Ward Member(s) for Forest Heath and St Edmundsbury Councils.

### **Delegation in the case of absence or inability to act**

13. If any of the Officers of the council having delegated authority under the Scheme are absent or otherwise unable to exercise their delegation, and there is no other officer to whom the authority has been sub-delegated, then the powers shall be exercisable by one of the other Officers of the Council. If they are also unable to act then the powers shall be exercised by a Director of Forest Heath or St Edmundsbury Council.



# **West Suffolk Shadow Council**

## **Section 4 - Scheme of Delegation to Officers**

### **B. Budget Setting and Medium-Term Planning**

#### **1. Budget Setting and Medium-Term Planning**

##### **1.1 Overarching Principles**

1.1.1 The Shadow Council is required to prepare for West Suffolk Council to become ready to deliver a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with priorities and statutory obligations. The budget is the financial expression of the authority's plans and policies.

1.1.2 The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans, statutory services and priorities of the future West Suffolk Council. Budgets (spending plans) are needed so that the authority can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for an authority to budget for a deficit.

1.1.3 Medium-term financial planning involves a planning cycle in which managers develop their plans. This ensures that the authority is always preparing for events in advance. The Medium Term Financial Strategy (MTFS) reflects this forward planning financially.

##### **1.2 Role of Budget Managers**

1.2.1 Budget managers are consulted and involved in the preparation of the budgets for which they will be held responsible and accept accountability within delegations set out in the Constitution for their budgets and the level of service to be delivered; and

##### **1.3 Responsibilities**

###### **1.3.1 Interim Chief Finance Officer**

- (a) Prepare and submit reports on budget prospects as part of the financial planning cycle, including resource constraints set by the Government and other external factors. Reports should take account of medium-term prospects, where appropriate.
- (b) Prepare and submit the annual budget to full Council, on the basis of information provided by the Leadership Team and budget holders.
- (c) Advise on the medium-term implications of spending decisions.

- (d) Encourage the best use of resources and value for money by working with the Chief Officers and their staff in St Edmundsbury and Forest Heath to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.
- (e) To advise the Shadow Council in accordance with his or her responsibilities under Section 151 of the Local Government Act 1972.

### 1.3.2 Assistant Directors

- (a) Prepare budgets on the basis of service priorities and statutory obligations, within the overall context of the Cabinet's agreed priorities.
- (b) Prepare budgets that are consistent with any relevant limits, as part of the authority's budget cycle and within guidelines issued by the Shadow Executive (for example relating to the setting of council tax).
- (c) Integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.
- (d) When drawing up draft budget requirements, have regard to:-
  - (i) spending patterns and pressures revealed through the budget monitoring and budget setting processes;
  - (ii) legal requirements;
  - (iii) policy requirements as defined by the Shadow Council in the approved policy framework; and
  - (iv) initiatives already under way.

## 2. Resource Allocation

### 2.1 Overarching Principles

2.1.1 A mismatch often exists between available resources and required resources. A common scenario is that available resources are not adequate to fulfil need/desire. It is therefore imperative that needs/desires are carefully prioritised and that resources are fairly allocated, in order to fulfil all legal responsibilities. Resources may include staff, money, equipment, goods and materials.

### 2.2 Key controls

2.2.1 The key controls for resource allocation are:-

- (a) resources are acquired in accordance with the law and using an approved authorisation process;
- (b) resources are used only for the purpose intended, to achieve the approved policies and objectives, and are properly accounted for;
- (c) resources are securely held for use when required; and
- (d) resources are used with the minimum level of waste, inefficiency or loss for other reasons.

## **2.3 Responsibilities**

### **2.3.1 Interim Chief Finance Officer**

- (a) Advise on methods available for the funding of resources, such as grants from central government and borrowing requirements.
- (b) Assist in the allocation of resources to budget managers.

### **2.3.2 All Assistant Directors**

- (a) Work within budget limits and to utilise resources allocated, and further allocate resources, in the most efficient, effective and economic way.
- (b) Ensure that delegated budgets are appropriately managed in line with the West Suffolk Financial Procedure Rules and other policy requirements.

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# West Suffolk Shadow Council

## Section 4 – Scheme of Delegation to Officers

### C. Chief Officers

*For the purposes of this section, "Chief Officer" shall be taken to mean the following officers:-*

*Interim Head of Paid Service*

*Interim S.151 Officer*

*Interim Monitoring Officer*

1. Where the Shadow Council Shadow Executive (Cabinet) or a Committee has settled a proposal, plan, a policy and/or budget for a matter or class of matters, each Chief Officer shall be empowered to deal with such matters within the limits of the proposal, plan, policy or budget, and to take all necessary steps to bring it into effect, including the award and supervision of contracts and works and responding on behalf of the authority to consultation exercises.
2. To take all action they consider necessary to bring the agreed implementation plan into effect, respecting the principles of the business case agreed by Forest Heath District Council and St Edmundsbury Borough Council.
3. To determine all such matters on behalf of the Shadow Constitution and / or Shadow Executive except where:
  - a. It constitutes a key decision as defined in Article 12 of the Constitution;
  - b. It involves the setting of a new policy or strategy
  - c. It involves taking action contrary to any policy or strategy adopted by the Shadow Council, or where a policy or strategy has not yet been adopted by the Shadow Council, contrary to a policy or strategy adopted by Forest Heath District Council or St Edmundsbury Borough Council
  - d. It would involve the Shadow Council employing a member of staff
  - e. It is a matter that law requires must be made by the Shadow Council or Shadow Executive
  - f. It is a matter that elsewhere within this constitution must be made by the Shadow Council or the Shadow Executive.
4. Where there is any doubt as to the exercise of a function or the making of a decision by an officer, they should consult with relevant members of the Shadow Executive who may elect to refer the matter to the Shadow Executive to determine. An officer has the right not to exercise their delegation and refer the matter to a relevant committee to determine.

5. The Chief Officers may delegate their responsibilities within this scheme of delegation to any other appropriate officer of Forest Heath District Council or St Edmundsbury Borough Council.

#### **Specific Delegation to the Interim Head of Paid Service**

6. In addition to the above, the Interim Head of Paid Service is also delegated to make urgent decisions on any matter where it is required, in their opinion by virtue of time or urgency (or as is required by the Council's Budget and Policy Framework Procedure Rules in Part 4 of this Constitution). Any such decision shall be reported to the next meeting of the Shadow Executive, appropriate Committee or Shadow Council unless there is a need for confidentiality, in which case the reporting of the decision may be deferred until the need for confidentiality expires.
7. The Interim Head of Paid Service may also appoint any officers of Forest Heath District Council or St Edmundsbury Borough Council to any other statutory posts as required by the Shadow Council due to any law, enactment or requirement, to include the Senior Information Risk Owner and the Data Protection Officer

#### **Specific Delegation to the Interim s.151 Officer**

8. To have oversight of the development of the budget for West Suffolk Council in accordance with the budgetary framework in the Constitutions of Forest Heath District Council and St Edmundsbury Borough Council
9. To have oversight of the expenditure incurred by Forest Heath District Council and St Edmundsbury Borough Council in the implementation of West Suffolk Council, ensuring appropriate budget monitoring processes are undertaken and appropriate insurance is in place.
10. To implement an appropriate system of internal control for the Shadow Council, ensuring that an appropriate and effective internal audit service and risk management system is available to the Shadow Council

#### **Specific Delegation to the Interim Monitoring Officer**

11. To make, authorise or attest any documents as required for the Shadow Council in the absence of any other contrary delegation

## West Suffolk Shadow Council

### Section 5 - Member Job Descriptions

#### Leader of the Shadow Council

##### 1. General

The Leader of the Shadow Council will represent the Shadow Council and provide political leadership for the Shadow Executive (Cabinet) and the Shadow Council.

##### 2. Specific Responsibilities will be to:-

- (a) Assign portfolio responsibilities to members of the Shadow Executive where they consider it appropriate to do so;
- (b) Chair the meetings of the Shadow Executive;
- (c) Agree the schedule and venue for Shadow Executive meetings and make arrangements for special meetings;
- (d) Enable preparation of the Decisions Plan;
- (e) Have an overview of, and advise on, the policy making of the Shadow Council
- (f) Act as lead Member on overall strategy;
- (g) Monitor the overall performance of the Shadow Council in securing an effective transition to West Suffolk Council;
- (h) Co-ordinate and manage members of the Shadow Executive;
- (i) Represent Shadow Council policy to other members, the community and partners;
- (j) Work closely with the Interim Head of Paid Service on strategic matters to ensure the co-ordination, consistency and delivery of Council services;
- (j) Consult with the Interim Head of Paid Service on strategic or policy matters where an urgent decision or action must be taken;
- (k) To proactively work alongside with the Leaders of Forest Heath District Council and St Edmundsbury Borough Council (unless also leader of either Council) to secure an effective transfer of functions and responsibilities;
- (l) Where necessary consult with Group Leaders of other political groups to expedite the efficient and effective delivery of shadow council business;

#### Deputy Leader of the Shadow Council

##### 1. General

- 1.1 The Deputy Leader of the Shadow Council is responsible for supporting the Leader in providing political leadership for the Shadow Council and Shadow Executive.

- 1.2 In the absence of the Leader, the Deputy Leader is authorised to act on his/her behalf in accordance with the Shadow Council's Constitution, in particular:-
- (a) Chairing Shadow Executive meetings;
  - (b) Enabling the preparation of the Decisions Plan;
  - (c) Consulting with the Interim Head of Paid Service on strategic or policy matters where an urgent decision or action must be taken; and
  - (d) Where necessary, consulting with Group Leaders of other political groups and take such other action as is necessary to expedite the efficient and effective delivery of Council business.

**2. Specific duties include:**

- 2.1 In the absence of the Leader, to chair Shadow Executive meetings, conduct the Shadow Executive's business and present reports to the Shadow Council.
- 2.2 In the absence of the Leader, to perform any other duties of the Leader, as set out in the Constitution and the Job Description for the Leader.
- 2.4 On behalf of the Leader, to represent Shadow Council policy to the community, partners and the media.
- 2.5 To carry out the duties identified in the job descriptions for Shadow Executive Members

**General Roles and Responsibilities of all Shadow Executive Members**

**1. Accountability and Leadership**

- 1.1 Shadow Executive members shall support the Leader and Deputy Leader in providing political leadership for the work of the Shadow Executive, and, where provided specific areas of responsibility, to take leadership in these areas.

Shadow Executive members will be expected to demonstrate leadership in those areas of work that relate to their Cabinet Portfolio for Forest Heath District Council and St Edmundsbury Council, and shall be considered the "relevant member" for the purpose of liaison with Officers where the matter is pertinent to their Cabinet Portfolio.

In that regard, Shadow Executive members shall lead on the development of policies, budgetary proposals and procedures for Shadow Executive approval where relevant to their Cabinet Portfolios, and members of Forest Heath District Council and St



Edmundsbury Borough Council shall work collaboratively to secure an effective and consistent approach for West Suffolk.

Shadow Executive members shall also lead on liaison and presentation of matters relevant to their Cabinet Portfolios with the Shadow Council, and attend and liaise with Scrutiny bodies as appropriate.

### **Members of the Shadow Council**

All members of the Shadow Council will be expected to support the Council in ensuring the efficient and effective transfer of functions from Forest Heath District Council and St Edmundsbury Borough Council.

In addition to their roles on Forest Heath District Council and St Edmundsbury Borough Council, members are expected to gain reasonable insight and knowledge in to the challenges and opportunities within communities across the West Suffolk area to enable them to effectively represent the community, and make decisions relevant to it.

Members can play a key role in helping the public understand the Shadow Council arrangements, and how services will be provided by West Suffolk Council in the future. Members are expected to actively engage, supporting their communities through the transition and highlighting any gaps in understanding and knowledge.

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## West Suffolk Shadow Council

### Shadow Council Procedure Rules

#### 1. First Meeting of the Shadow Council

1.1 The first meeting will:

- (i) Elect the Chairman of the Shadow Council.
- (ii) Receive any announcements from the Chairman.
- (iii) Elect the Vice Chairman of the Shadow Council.
- (iv) Receive any announcements from the officer advising the Chairman, including apologies for absence.
- (v) Appoint members of the Shadow Executive.
- (vi) Appoint the Leader and Deputy Leader of the Shadow Council from the members of the Shadow Executive.
- (vii) Designate the interim Statutory Officers (Head of Paid Service, Monitoring Officer, Chief Finance Officer).
- (viii) Agree the Constitution, to include the Members' Code of Conduct, Rules of Procedure and Scheme of Delegation.
- (ix) Appoint the Council's Independent Persons.
- (x) Consider any other business set out in the notice convening the meeting.

1.2 Ordinary meetings of the Shadow Council will take place in accordance with the approved Calendar of Meetings, commencing at 6.30 pm or at any other time in accordance with the approved Calendar of Meetings.

1.3 Meetings will usually take place at the Shadow Council's Offices in Bury St Edmunds, but may take place at other venues with the agreement of the Chairman.

1.4 There are three types of Shadow Council Meetings, Ordinary meetings, Extraordinary Meetings and Special meetings. These are dealt with in more detail below.

1.5 Notice of all meetings of the Shadow Council will be given to the public by the Interim Monitoring Officer in accordance with the Access to Information Rules five clear working days before the date of the meeting. Notice by summons will also be given by the Interim Monitoring Officer to each member of the Council in the manner prescribed in the Access to Information Procedure rules. The summons shall contain the date, time and place of each meeting, specify the business to be transacted and be accompanied by such reports that may be available.

1.6 The Interim Monitoring Officer is authorised to cancel a meeting where the agenda has already been issued if it considered expedient. Before exercising this authority, the Interim Monitoring Officer will consult with the Chairman and the Leader of the Shadow Council. Any outstanding

business will be held over to the next ordinary meeting or an extraordinary meeting on a date to be arranged.

- 1.7 The Shadow Council may make audio and/or visual recordings of meetings and broadcast or otherwise make them available to the public on its website or by other means.

## **2. Ordinary meetings of the Shadow Council**

- 2.1 Ordinary meetings of the Shadow Council will usually take place at 6.30 pm but may take place at any other time in accordance with the programme previously approved. The starting time of an ordinary meeting may be changed before the publication of the agenda by agreement of the Leader and Chairman.

- 2.2 Unless changed in accordance with Rule 2.3 below, the order of business at every ordinary meeting of the Shadow Council, will be:-

- (a) to elect a person to preside if the Chairman and Vice Chairman are not present;
- (b) to deal with any business required by law to be dealt with first;
- (c) to confirm as a correct record and sign the minutes of the last meeting of the Shadow Council, except that minutes of a special meeting or an extraordinary meeting of the Shadow Council will be submitted for confirmation to the next ordinary meeting of the Shadow Council;
- (d) the Chairman's announcements;
- (e) to receive any announcements from the officer advising the Chairman (including apologies for absence);
- (f) declarations of interests;
- (g) the Leader's report and questions thereon in accordance with Rules 8.1 – 8.3 below;
- (h) to receive and answer questions from members of the public in accordance with Rule 6 below;
- (i) to receive, and when appropriate debate, any petitions in accordance with the Petition Scheme attached as Appendix A to these rules;
- (j) to deal with any business remaining from the last Council meeting in accordance with Rules 5.2 and 11.11(c);
- (k) receive reports and any recommendations from the Shadow Executive and the Forest Heath District Council or St Edmundsbury Borough Council Scrutiny committees;
- (l) to consider any other business specified in the summons to the meeting
- (m) to consider any motions under Rule 9 in the order in which they are received;
- (n) to answer any questions received under the terms of Rules 8.4 – 8.8.

- 2.3 The order of business (except for items (a), (b) and (c) of Rule 2.2 of these Rules) may be changed:-

- (a) before or at a meeting, as the Chairman sees fit; or
- (b) by a resolution of the meeting passed on a motion under Rule 9 or Rule 10.1(c).

### **3. Special and extraordinary meetings of the Council**

#### **Calling Special or Extraordinary Meetings**

- 3.1 An extraordinary meeting is one that is additional to the scheduled ordinary meetings and is called to deal with matters that cannot conveniently be dealt with at one of those meetings. A special meeting is one called for a specific and unusual purpose.

Those listed below may request the Interim Monitoring Officer to call Shadow Council meetings in addition to ordinary meetings:-

- (a) the Shadow Council by resolution;
- (b) the Chairman;
- (c) the Interim Head of Paid Service
- (d) in accordance with paragraph 3 of Schedule 12 of the Local Government Act 1972 (as amended), any 7 Members of the Shadow Council if they have signed a requisition presented to the Chairman and they have refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

#### **Business**

- 3.2 Special or extraordinary meetings will:-

- (a) elect a person to preside if the Chairman and Vice Chairman are not present;
- (b) receive any declarations of interest;
- (c) (at extraordinary meetings only) receive and answer questions from members of the public in accordance with Rule 6 and limited to the subject matter of the business to be transacted at the meeting; and
- (d) deal with the business for which the special or extraordinary meeting was called.

- 3.3 No other business will be dealt with at a special meeting or an extraordinary meeting of the Shadow Council.

### **4. Appointment of members of shadow committees and substitutes**

- 4.1 Where the Shadow Council has formed committees to discharge its functions, then it shall appoint members to those committees in accordance with the requirements of the Local Government and Housing Act 1989 regarding political balance.

As well as allocating seats on committees, the Shadow Council may allocate seats in the same manner for substitute members. Substitute members must be from the same political group as the absent member. If a substitute member cannot be found from the list of prescribed

substitutes, a temporary substitute may be appointed by the Interim Monitoring Officer on receipt of the prescribed form authorised by the relevant group leader. In the case of the full member not being in a group, the full member seeking a substitute will authorise the form. Substitutes cannot be appointed for the Shadow Executive.

4.2 When the Shadow Council (or a Shadow Committee) wishes to appoint substitutes to a Shadow Committee it will adhere to the rules of political proportionality, subject to the total number of substitutes being no more than half of the total number of Members of the Committee.

4.3 The powers and duties of substitutes are set out in the Committee Procedure Rules.

## **5. Quorum**

5.1 If at the start of a meeting or during a meeting of the Shadow Council there are not at least 24 members present, the Chairman will adjourn the meeting.

5.2 Consideration of any business not dealt with will be adjourned to a date and time fixed by the Chairman or to the next ordinary meeting of the Shadow Council if a meeting is not fixed to consider the adjourned business.

## **6. Public question time**

### **General**

6.1 At each ordinary meeting of the Shadow Council, members of the public who live or work in the West Suffolk area may put questions about the work of the Shadow Council to members of the Shadow Executive. 30 minutes will be set aside for this. 30 minutes will also be set aside for questions at extraordinary meetings of the Shadow Council, which may be extended at the Chairman's discretion, but must be limited to the business to be transacted at that meeting.

6.2 A person who wishes to speak must register at least fifteen minutes before the time the meeting is scheduled to start. This can be done online by sending the request to [democratic.services@westsuffolk.gov.uk](mailto:democratic.services@westsuffolk.gov.uk) or telephoning 01284 757176/01638 719363 or in person by telling the committee administrator present at the meeting.

6.3 Written questions, detailing the full question to be asked, may be submitted by members of the public to the Interim Monitoring Officer no later than 10.00 am on the previous working day to the meeting of the Shadow Council.

### **Order of questions**

6.4 Questions will be asked in the order in which notice of them was received, except that the Chairman may group together similar questions.

## **Time limits**

- 6.5 Each person may ask one question only. A total of five minutes will be allowed for the question to be put and answered, which may be extended at the Chairman's discretion. One supplementary question will be allowed provided that it arises directly from the reply and the overall time limit of five minutes is not exceeded. The member to whom the question is directed may refer it to another member or may choose to give a written response. A written response will be provided if the member to whom the question was directed is not present at the meeting and it cannot be answered by another member.
- 6.6 If no questions are received or all the questions are dealt with in less than 30 minutes, the Shadow Council will move immediately to the next business.

## **Scope of Questions**

- 6.7 The Interim Monitoring Officer, in respect of any question notified before the meeting, or the Chairman, in respect of any question notified at the meeting, may reject a question if it:-
- (a) is not about a matter for which the Shadow Council has a responsibility or which affects the District;
  - (b) is defamatory, frivolous or offensive;
  - (c) is substantially the same as a question which has been put at a meeting of the Shadow Council in the past six months; or
  - (d) requires the disclosure of confidential or exempt information.

## **Record of Questions and answers**

- 6.8 All questions and answers under Public Question Time will be summarised in the minutes of the meeting. The summary for rejected questions will include the reasons for rejection.

## **Written Answers**

- 6.9 As well as being sent to the person asking the question, written answers will be distributed to all councillors and published on the Shadow Council's website.

## **7. Recording of Shadow Council meetings**

- 7.1 The Shadow Council usually makes its own recording of Shadow Council meetings. All recordings should be retained for 12 months after the day of the meeting.
- 7.2 Arrangements for the public to film/record and for the use of social media at meetings are set out in the Access to Information Rules.

## **8. Questions by Members**

### **On the Leader's Statement**

- 8.1 At each ordinary meeting of the Shadow Council the Leader of the Shadow Council may submit a report (the Leader's Statement) summarising important developments and activities since the preceding meeting of the Shadow Council where these have arisen. These developments and activities will solely relate to the development of the Shadow Council, and matters related to the future West Suffolk Council.
- 8.2 The Leader will introduce the statement and members may ask the Leader questions on the content of both his introductory remarks and the written statement itself. All questions will be answered immediately by the Leader or by the relevant Shadow Executive Member if the Leader refers any question to him or her, unless sufficient information to give an answer is not available. In these circumstances the member asking the question will receive a response in writing within five working days of the Shadow Council meeting at which the question was asked. The response will be distributed to all members and published on the Council's website.
- 8.3 A total of 30 minutes will be allowed for questions and responses. There will be a limit of five minutes for each question to be asked and answered. The member asking the original question may put a supplementary question arising from the reply so long as the five minute limit is not exceeded.

### **Questions on notice at Shadow Council**

- 8.4 Subject to Rule 8.5 below, a member may submit in writing to the Interim Monitoring Officer a question on notice for:-
- (a) the Chairman; or
  - (b) the Leader or any member of the Shadow Executive; or on any matter in relation to which the Shadow Council has powers or duties or which affects the administrative area of the Council, or part of it, or the inhabitants of that area. Ordinarily, members should seek not to ask questions on notice about matters that are properly the responsibility of Forest Heath District Council or St Edmundsbury Borough Council.
- 8.5 A Member may ask only one question on notice under Rule 8.4 at each Shadow Council meeting and:-
- (a) must submit it in writing to the Interim Monitoring Officer no later than noon seven working days before the meeting, not counting the day of the meeting; or
  - (b) if the question is urgent and the member has the consent of the member to whom the question is to be put, must submit it in writing to the Interim Monitoring Officer) by 11am on the day of the meeting.



- 8.6 Every question on notice will be answered without discussion. The member who is asked the question on notice may ask another member to answer. An answer may take the form of:-
- (a) a direct oral answer summarised in the minutes;
  - (b) where the desired information is in a publication of the Shadow Council or other published work, a reference to that publication; or
  - (c) where the reply cannot conveniently be given orally at the meeting, a written answer sent by the appropriate officer and/or relevant member to all members within five working days of the Shadow Council meeting.
- 8.7 A member asking a question on notice under Rule 8.4 may ask one supplementary question, without notice, of a member to whom the first question was asked. The supplementary question must arise directly from the original question or the reply. The total time allowed for each question, including any supplementary question, to be put and answered will be ten minutes.
- 8.8 If the member who gave notice of the question is not present at the meeting, any other member may ask that question but if that does not occur the Chairman shall proceed to the next item of business. The question shall be deemed to have been withdrawn and may not be asked unless notice is given again in accordance with Rule 8.4 above.

## **9. Motions which need written notice**

- 9.1 Except for motions which can be moved without notice under Section 10 of these Rules, written notice of every motion must be delivered to the Interim Monitoring Officer no later than noon seven working days before the meeting, not counting the day of the meeting. Motions must be about matters for which the Shadow Council has a responsibility or which affect the administrative area of the Shadow Council or part of it or the inhabitants of that area.
- 9.2 Each member may put one motion on notice at each Shadow Council meeting.
- 9.3 All motions on notice received under Rule 9.1 will be set out in the agenda in the order in which they have been received.
- 9.4 A Member may withdraw a motion on notice at any time.
- 9.5 A motion on notice under Rule 9.1 can be moved at the meeting by any member. If the motion on notice is not moved, it will be treated as withdrawn and may not be moved without another notice in accordance with Rule 9.1 above.
- 9.6 Any motion on notice under Rule 9.1 on being moved and seconded, will usually, without discussion, be referred to the appropriate forum for consideration. The Chairman may, if they consider it appropriate, allow the motion to be dealt with at the meeting at which it is moved and

seconded provided that the motion, if carried, would not involve the Shadow Council in expenditure not included in the Shadow Council's approved revenue or capital budget.

## **10. Motions and amendments which may be moved without notice**

10.1 The following motions and amendments may be moved without notice:-

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business on the agenda;
- (d) to receive the reports or adopt the recommendations of the Shadow Executive or reports and recommendations of officers, and any consequent resolutions;
- (e) to refer something to an appropriate body or individual;
- (f) to appoint a Committee or Member arising from an item on the summons for the meeting;
- (g) to withdraw a motion;
- (h) to extend the time limit for speeches;
- (i) to amend a motion;
- (j) to proceed to the next business;
- (k) to vote on a motion;
- (l) to vote on an amendment;
- (m) to adjourn a debate;
- (n) to adjourn a meeting;
- (o) to suspend a particular Shadow Council procedure rule;
- (p) to exclude or re-admit the public and press in accordance with the Access to Information Rules;
- (q) to direct that a Member named under Rule 17.3 be not further heard or to exclude them from the meeting under Rule 17.4; and
- (r) to give the consent of the Shadow Council where its consent is required by this Constitution.

10.2 A motion by the Chairman under Rule 10.1(p) of these Rules, to exclude the public for an item of business, will be dealt with before any other motion on that item and will be voted on without discussion.

## **11. Rules of debate**

### **11.1 No discussion until motion or amendment seconded**

A motion or amendment will not be discussed or recorded in the minutes unless it has been proposed and seconded.

### **11.2 Motion may need to be in writing**

If the Chairman requires, the motion will be put in writing before it is further discussed.

### **11.3 Secunder's speech**

When seconding a motion or an amendment, a Member may reserve the right to speak at a later point in the debate.

#### 11.4 **Content and length of speeches**

- 11.4.1 Speeches must be directed to the question under discussion or to a personal explanation or point of order.
- 11.4.2 No speech will be longer than five minutes, except as allowed by the Shadow Council following a motion moved and carried under Rule 10.1(h) and will be about the matter under discussion.
- 11.4.3 The five minutes time limit will not apply to a member proposing a motion, or an amendment to a motion, who will be allowed to speak for no longer than ten minutes.

#### 11.5 **When a member may speak again**

A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:-

- (a) to speak once on an amendment moved by another member;
- (b) to move an amendment;
- (c) to move a further amendment (if the motion has been amended since they last spoke);
- (d) if their first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which they spoke was carried);
- (e) in exercise of a right of reply in accordance with Rule 11.9 of those Rules;
- (f) on a point of order in accordance with Rule 11.12 below; and
- (g) by way of personal explanation in accordance with Rule 11.13 below.

#### 11.6 **Amendments to motions**

- (a) An amendment to a motion must be relevant to the motion and will either be:-
  - (i) to refer the matter to an appropriate body, forum, or individual for consideration or reconsideration;
  - (ii) to leave out words;
  - (iii) to leave out words and insert or add others; or
  - (iv) to insert or add words;as long as the effect of (ii) to (iv) is not to cancel the effect of the motion.
- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under consideration has been dealt with.
- (c) If an amendment is lost, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion, as amended, will take the place of the original motion and will become the actual motion upon which any further amendment may be moved.

- (e) after an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, before putting it to the vote.

#### **11.7 Alteration of motion**

A Member may, with the agreement of the Chairman and without discussion:-

- (a) change a motion of which they have given notice under Rule 9; or
- (b) with the agreement of their seconder, change a motion which they have moved;
- (c) but only alterations which could be made as an amendment in accordance with Rule 11.6(a) may be made.

#### **11.8 Withdrawal of motion**

- (a) A motion or an amendment may be withdrawn by the mover, but only with the consent of the seconder and the Chairman, which will be given without discussion.
- (b) No member may speak on the motion after the mover has asked for consent to withdraw it, unless consent is not given.

#### **11.9 Right to reply**

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion also has the right of reply at the end of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.
- (d) A reply under this paragraph will be confined to matters raised in the debate on the motion or amendment.
- (e) After every reply to which this rule refers, a vote will be taken without further discussion.

#### **11.10 Motions which may be moved during a debate**

11.10.1 When a motion is being discussed, no other motion may be moved except the following (non-closure) motions:-

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) that the subject of debate:-
  - (i) be referred to the appropriate forum for consideration; or
  - (ii) be referred back to the appropriate forum for further consideration.
- (d) to exclude the public and press in accordance with the Access to Information Rules; and
- (e) that a Member be not further heard in accordance with Rule 17.3.1 of these Rules; and
- (f) by the Chairman, in accordance with Rule 17.4.1 of these Rules, that a named Member leave the meeting.

11.10.2 Any of the motions under Rule 11.10.1 of these Rules will not take away from the mover of the original motion the right to reply.

#### **11.11 Closure motions which may be moved during a debate**

- (a) A Member may move, without comment, any of the following closure motions at the end of a speech of another member:-
- (i) to move to the next business;
  - (ii) that the question be put;
  - (iii) to adjourn the debate; or
  - (iv) to adjourn the meeting.
- (b) If a motion "*to move the next business*" or "*that the question be put*" is seconded and the Chairman thinks the item has been sufficiently discussed, they will put the closure motion to the vote. If it is passed, the Chairman will give the mover of the original motion a right of reply before putting that original motion to the vote.
- (c) If a motion "*to adjourn the debate*" or "*to adjourn the meeting*" is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will put the closure motion to the vote without giving the mover of the original motion the right of reply.

#### **11.12 Point of order**

- 11.12.1 A member may ask to make a point of order at any time and will have the right to be heard at once, but will stay silent until asked by the Chairman to speak.
- 11.12.2 A point of order will only be about a claimed breach of a provision of these Shadow Council Procedure Rules or of law; and the member will indicate the paragraph(s) or law and the way in which they consider it has been broken.
- 11.12.3 The ruling of the Chairman on the matter will be final and will not be open to discussion.

#### **11.13 Personal explanation**

- 11.13.1 A member may ask to give a personal explanation at any time and will have the right to be heard at once, but will stay silent until asked by the Chairman to speak.
- 11.13.2 A personal explanation will be confined to some material part of an earlier speech by the member which may appear to have been misunderstood in a later stage of the debate.
- 11.13.3 The ruling of the Chairman on the admissibility of a personal explanation will be final.

### **12. Previous decisions and motions**

#### **12.1 Motion to rescind a previous decision**

A motion to overturn a decision made at a meeting of the Shadow Council within the past six months cannot be moved unless the notice of motion is

signed by at least ten members. Once the motion is dealt with, no member can propose a similar motion for six months.

- 12.2 The restrictions contained in Rule 12.1 do not apply to:-
- (a) A recommendation contained in a referral from Shadow Executive to the Council;
  - (b) A recommendation contained in a report presented individually or collectively by Chief Officers.

12.3 **Motion similar to one previously rejected**

A motion or amendment which means the same or largely the same as one that has been rejected at a meeting of Shadow Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 18 members. Once the motion or amendment is dealt with, no member can propose a similar motion or amendment for six months.

**13. Voting**

13.1 **Simple majority**

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present at the time the question was put.

13.2 **Chairman's casting vote**

- 13.2.1 If there are equal numbers of votes for and against, the Chairman may exercise a second or casting vote. There will be no restriction on how the Chairman chooses to exercise a casting vote.
- 13.2.2 In the case of the Chairman refraining from exercising a second vote the motion or amendment being voted on will not be carried.

13.3 **Show of hands**

Unless a recorded vote is demanded under Rule 13.4.1 or required under Rule 13.4.2, the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

13.4 **Recorded vote**

13.4.1 If, before a vote is taken, a member asks that the voting be recorded and the request is supported by 10 other members (who will show their support by a show of hands):-

- (a) the officer advising the Chairman at the meeting will call the name of each member present at the meeting;
- (b) the member will say whether he or she is for or against the motion or is abstaining; and
- (c) each member's response will be recorded in the minutes.

13.4.2 There will also be a recorded vote when required by law. This includes that a recorded vote will be required at a meeting of the Shadow Council on motions, amendments or substantive motions relating to the approval of the budget or setting of council tax, whereby there shall be recorded in the minutes the names of the

Members who cast a vote for the motion/amendment or against the motion/amendment or who abstained from voting. As this is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 2001, it cannot be suspended under the Shadow Council Procedure Rule 19.1.

### **13.5 Right to require individual vote to be recorded**

Where any member so requires, immediately after a vote has been taken on any matter, the minutes must record whether that member voted for or against or abstained.

### **13.6 Voting on appointments**

- 13.6.1 If there are more than two people nominated for any position to be filled and there is not an overall majority of votes in favour of one person, then the name of the person (or persons) with the fewest votes will be taken off the list and a new vote taken;
- 13.6.2 In the event that the removal of persons jointly having fewest of votes would result in only one candidate remaining, the above provision will not apply and the Interim Monitoring Officer (or their representative) will draw lots to determine which of the candidates with fewest votes will proceed to the next round;
- 13.6.3 Where more than one position is contested (for example, there are to be two Vice-Chairmen of a committee) each position will be voted on separately; and
- 13.6.4 In the event of there being an equality of votes for the final two candidates, lots will be drawn by the Interim Monitoring Officer (or their representative) to decide which person is elected.

## **14. Minutes**

### **14.1 Approval and signing**

- (a) The Chairman will sign the minutes of the proceedings, once they are confirmed as a correct record, at the next suitable meeting.
- (b) In this regard, the Chairman will seek a mover and seconder for the motion "*that the minutes of the meeting of the Council held on ..... be confirmed and signed as a correct record*".
- (c) There will be no discussion on the minutes, except by way of a motion upon their accuracy.

### **14.2 No requirement to sign minutes of previous meeting at extraordinary or special meeting**

The minutes of the preceding meeting of the Shadow Council will not be submitted to an extraordinary or special meeting of the Shadow Council for approval but will be submitted to the next ordinary meeting.

## **15. Record of attendance**

- 15.1 All Members present during the whole or part of a meeting will, before the conclusion of such meeting, sign their names on the Attendance Register provided.

## **16. Exclusion of public**

- 16.1 If a matter may fall within the list of exempt or confidential information set out in Section 100(A)(4) of the Local Government Act 1972, the matter will not be discussed until the Shadow Council has decided whether the public should be excluded from the meeting.
- 16.2 Members of the public may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 18 (Disturbance by Public) of these Rules.

## **17. Members' conduct**

### **17.1 One member to speak at a time**

- (a) When speaking, a member will stand at their place and address the Chairman. If two or more members indicate to speak at the same time, the Chairman will call on one to speak; and
- (b) While a member is speaking, all other members will remain silent unless asking to make a point of order or of personal explanation.

### **17.2 Respect for the chair**

Whenever the Chairman rises during a debate the member then speaking will stop speaking and the Shadow Council will be silent.

### **17.3 Member not to be heard further**

17.3.1 If, at a meeting, any member, in the opinion of the Chairman, repeatedly ignores the Chairman's ruling or behaves irregularly, improperly or offensively, or wilfully obstructs the business of the Shadow Council, the Chairman or any other member may move "*That the member named be not further heard*" and the motion, if seconded, will be voted on without discussion.

### **17.4 Continuing misconduct of a named member**

17.4.1 If the member named continues to behave improperly after a motion in accordance with Rule 17.3 is carried, the Chairman will move a motion that either:-

- (a) the meeting be adjourned for however long the Chairman states; or
- (b) the member named leave the meeting.

If seconded, the motion will be voted on without discussion.

17.4.2 If, after a motion under Rule 17.4.1 has been carried, the member named does not leave the meeting, the Chairman may order the removal of the member and may adjourn the meeting without debate or resolution to enable removal to take place.

### **17.5 General disturbance**

In the event of general disturbance among the members which, in the opinion of the Chairman, makes it impossible to carry on the meeting, the



Chairman may move a motion which will be voted on without seconding or discussion, to adjourn the meeting for however long the Chairman states.

**17.6 Interpretation of rules - ruling of Chairman not to be challenged**

The decision of the Chairman about the meaning or use of any of these Rules, or about any proceedings of the Shadow Council, is final and may not be challenged.

**17.7 Interests of members in matters under discussion**

Members must observe the rules in the Members' Code of Conduct in Part 5 of this Constitution. Any member declaring a disclosable pecuniary interest must leave the room where the meeting is being held for as long as the matter is being considered.

**18. Disturbance by public**

**18.1 Removal of member of the public**

If a member of the public interrupts the proceedings of any meeting, the Chairman will warn the person concerned not to interrupt. If the interruption is repeated, the Chairman will order the removal of that person from the meeting room. The Chairman may without debate or resolution adjourn the meeting to allow removal to take place.

**18.2 Clearance of part of meeting room**

In the case of general disturbance in any part of the meeting room open to the public the Chairman will give a warning and if the disturbance continues will order that part to be cleared, but may identify persons who may remain. The Chairman may without debate or resolution adjourn the meeting to allow clearance to take place.

**18.3 No re-admittance for those removed**

In the case of Rules 18.1 and 18.2 above, any member of the public removed from a meeting following a disturbance will not be re-admitted during the remainder of that meeting.

**19. Suspension and amendment of Shadow Council procedure rules**

**19.1 Suspension**

All of these Shadow Council Rules of Procedure except Rules 13.4 and 14.1 may be suspended by motion on notice (in accordance with Rule 9.1 of these rules) or without notice under if at least one half of the whole number of members of the Shadow Council are present. Suspension can only be for the whole or part of the meeting at which they are suspended.

**19.2 Amendment**

Any motion to add to, vary or revoke these Shadow Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Shadow Council with a report and recommendation from the appropriate forum/officer.

## **20. Custody of seal**

- 20.1 The Common Seal of the Shadow Council will be kept by the Service Manager (Shared Legal) of Forest Heath District Council and St Edmundsbury Borough Council.

## Appendix A

### West Suffolk Shadow Council Petition Scheme

#### 1. Introduction

- 1.1 This Scheme sets out the details of how the West Suffolk Shadow Council will deal with and respond to petitions.

#### 2. Petitions

- 2.1 The Shadow Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns.

- 2.2 Petitions that meet the requirements about the number of signatories set out below can be presented at a meeting of the Shadow Council or the Shadow Executive or can trigger a Shadow Council Debate, or require specified officers of the Council to give evidence to a meeting of the Scrutiny Committees of Forest Heath and St Edmundsbury.

- 2.3 Petitions can be received by the Shadow Council in a number of ways:-

- (a) Petitions can be sent in writing to:

Interim Monitoring Officer  
West Suffolk Shadow Council  
West Suffolk House  
Western Way  
Bury St Edmunds  
Suffolk  
IP33 3YU

- (b) Electronic petitions can be created, signed and submitted by using free software that is available online. A number of websites provide this service which can be easily found by using an internet search engine.

- (c) Petitions can also be presented to a meeting of the Shadow Council, Shadow Executive. Details of the meetings timetable can be found here [Calendar of Meetings](#)

- 2.4 If you would like to present your petition at a meeting of the Shadow Council or the Shadow Executive or would like your councillor to present it on your behalf, please contact:-

Interim Monitoring Officer  
Telephone: (01284) 757162 or  
e mail: [democratic.services@westsuffolk.gov.uk](mailto:democratic.services@westsuffolk.gov.uk)

at least 7 working days before the meeting and help you to arrange this.

### **3. What are the guidelines for submitting a petition?**

- 3.1 Petitions submitted to the Shadow Council must be about:
- (a) a service that the Shadow Council provides and include a clear and concise statement covering the subject of the petition; or
- 3.2 It should state:-
- (a) the contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the petitioner will not be placed on the Shadow Council's website;
  - (b) what action the petitioners wish the Shadow Council to take;
  - (c) the name and address and signature of any person supporting the petition. The contact details of the petition organiser will not be placed on the website;
  - (d) the petition must contain the signatures of people who live, work or study in the Shadow Council's area.
- 3.3 If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser. We will not consider petitions which are considered by the Interim Monitoring Officer to be vexatious, abusive or otherwise inappropriate and these will not be accepted. In that case, we will write to you to explain the reasons.
- 3.4 In the period leading up to an election or referendum we may need to deal differently with your petition. If this applies we will explain the way that we will deal with the petition.
- 3.5 We will inform the petition organiser at the earliest opportunity of the grounds for rejecting a petition and will advise on how the petition could be validly submitted.

### **4. What will the Shadow Council do when it receives my petition?**

- 4.1 An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website.
- 4.2 If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. Depending on the number of signatures, whether it can be presented to the Shadow Council or the Shadow Executive then the acknowledgment will confirm this and tell you when and where the next meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

- 4.3 We will not take action on any petition which the Interim Monitoring Officer considers to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition.
- 4.4 To ensure that people know what we are doing in response to the petitions we receive, the details of all the petitions submitted to us will be published on our website, except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed).

## **5. How will the Shadow Council respond to petitions?**

- 5.1 Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:-
- (a) taking the action requested in the petition;
  - (b) considering the petition at a Shadow council meeting;
  - (c) holding an inquiry into the matter;
  - (d) undertaking research into the matter;
  - (e) holding a public meeting;
  - (f) holding a consultation;
  - (g) holding a meeting with petitioners;
  - (h) referring the petition for consideration by the Shadow Council's Scrutiny Committee;
  - (i) calling a referendum; or
  - (j) writing to the petition organiser setting out our views about the request in the petition.
- 5.2 In addition to these steps, the Shadow Council will consider all the specific actions it can legally take on the issues highlighted in a petition.

## **6. Petition requiring Shadow Council debate**

- 6.1 If a petition contains more than 2500 signatures it will be debated by the Shadow Council unless it is a petition asking for a senior council officer to give evidence at a public meeting.
- 6.2 The issue raised in the petition will be discussed at a Shadow Council meeting which all councillors can attend. The petition organiser will be given not more than five minutes to present the petition at the meeting and the petition will then be discussed by Councillors for a maximum of 20 minutes. The Shadow Council will decide how to respond to the petition at this meeting, it may decide to:-
- (a) take the action the petition requests;
  - (b) not to take the action requested for reasons put forward in the debate; or
  - (c) to commission further investigation into the matter, .
- 6.3 The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

## **7. Petition requiring an officer to give evidence**

7.1 If it contains at least 1250 signatures your petition may ask for a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. A list of the officers that can be called to give evidence is as follows:-

- Chief Executive
- Directors
- Assistant Directors

7.2 For example, your petition may ask a senior council officer:-

- to explain progress on an issue; or
- to explain the advice given to elected members to enable them to make a particular decision.

7.3 The evidence will be given at a meeting of the Council's Shadow Scrutiny Committee and you will be given due notice to enable you to attend. These meetings are normally held in public but the Shadow Scrutiny Committee has the option to exclude the Press and Public from any part of the meeting that discusses confidential information. You should be aware that the Shadow Scrutiny Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition, for instance if the named officer has changed jobs. Shadow Scrutiny Committee members will ask the questions at this meeting, but you will be able to suggest questions to the Chairman of the Shadow Scrutiny Committee by contacting the Interim Monitoring Officer on (01284) 757162 or email: [democratic.services@westsuffolk.gov.uk](mailto:democratic.services@westsuffolk.gov.uk) up to three working days before the meeting.

7.4 Petitions containing not less than 100 signatories can be presented at a meeting of the Shadow Council during public question time, provided seven working days notice has been given to the Proper Officer before the meeting. The Shadow Council will, without debate, refer any petition to the appropriate forum for consideration.

7.5 If petitioners so wish, a petition containing not less than 20 signatures may, instead, be presented to the Leader of the Council or the relevant Chief Officer, for consideration by the Shadow Executive provided seven working days' notice in writing has been given to the Proper Officer before the relevant meeting. When a petition is considered by the Shadow Executive, a representative of the petitioners may speak at the meeting for not more than three minutes.

## **8. E-petitions**

8.1 The Shadow Council welcomes petitions in electronic format. A number of websites are available that allow electronic petitions to be created and for the final petitions to be emailed to the Shadow Council. These should be sent to: [democratic.services@westsuffolk.gov.uk](mailto:democratic.services@westsuffolk.gov.uk)

- 8.2 Please note that the Shadow Council is not responsible for the content of any external websites used to create e-petitions. The Shadow Council shall not be liable for how your personal data may be used by the website providers or the petition host.
- 8.3 The e-petition organiser will need to:-
- (a) provide us with their name, postal address and email address; and
  - (b) state how long you would like your petition to be open for signatures (most petitions run for three months, but you can choose a shorter period).
- 8.4 When an e-petition has closed for signature, the petition organiser should submit it to [democratic.services@westsuffolk.gov.uk](mailto:democratic.services@westsuffolk.gov.uk) for further consideration as appropriate. In the same way as a paper petition, you will receive an acknowledgement within 10 working days. If you would like to present your petition to the Shadow Council, or would like your councillor to present it on your behalf, please contact:

Interim Monitoring Officer  
Telephone: (01284) 757162 or  
Email: [democratic.services@westsuffolk.gov.uk](mailto:democratic.services@westsuffolk.gov.uk)

within five days of the petition closing.

- 8.5 The acknowledgment and response to the e-petition will also be published on the Shadow Council's website.

## **9. How do I 'sign' an e-petition?**

- 9.1 The free online software used will enable people wishing to 'sign' the petition free of charge by submitting their name and email address. The signer will usually receive an automatic email from the provider, asking them to confirm that they want to sign the petition.

## **10. What if my petition has not been dealt with properly?**

- 10.1 If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the Scrutiny Committees of Forest Heath and St Edmundsbury review the steps that the Shadow Council has taken in response to your petition.
- 10.2 The Scrutiny Committees will consider your request at the next available meeting receiving it. Should the Scrutiny Committees determine that the Shadow Council has not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Shadow Council and arranging for the matter to be considered at a meeting of the Shadow Council.

- 10.3 Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on our website.



## West Suffolk Shadow Council

### Shadow Executive (Cabinet) Procedure Rules

#### 1. How does the Shadow Executive operate?

##### 1.1 Shadow Executive functions

The Shadow Executive is the Shadow Council's executive body and is responsible for carrying out those functions which by law or under this constitution are designated as "executive functions".

The arrangements for the discharge of shadow executive functions are set out in Article 6. The arrangements may provide for shadow executive functions to be discharged by:-

- (a) the Shadow Executive as a whole;
- (b) a committee of the Shadow Executive;
- (c) an individual member of the Shadow Executive;
- (d) an officer;
- (e) an area committee;
- (f) joint arrangements; or
- (g) another local authority.

##### 1.2 Sub-delegation of shadow executive functions

- (a) Where the Shadow Executive, a committee of the Shadow Executive or an individual member of the Shadow Executive is responsible for an executive function, they may delegate further to an officer or by joint arrangements.
- (b) Even where shadow executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

##### 1.3 Delegation of shadow executive functions

- (a) Subject to (b) below, the delegation of shadow executive functions will be as adopted by the Shadow Council and set out in Part 3 of this Constitution.
- (b) The Leader may provide for delegations to individual Shadow Executive members relating to shadow executive functions at any time during the year by giving written notice to the Interim Monitoring Officer and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation and whether it entails the withdrawal of delegation from any person, body, committee or the Shadow Executive as a whole. The

appropriate amendments to the constitution will be made by the Interim Monitoring Officer.

- (c) Where the Shadow Executive seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when the Leader has served it on its chairman.

## **1.5 Shadow Executive Meetings**

The Shadow Executive will meet at times to be agreed by the Leader at the Shadow Council's offices in Bury St Edmunds or Mildenhall or at another location to be agreed by the Leader and will be held in public except in accordance with the Access to Information Procedure Rules. Notice of the dates and times of meetings, and their agendas, will be published in accordance with the Access to Information Procedure Rules.

## **1.6 Quorum**

The quorum for a meeting of the Shadow Executive, or a committee of it, shall be one third of the total number of members of the Shadow Executive (including the Leader) or five, whichever is the larger.

## **1.7 How are decisions to be taken by the Shadow Executive?**

- (a) Shadow Executive decisions which have been delegated to the Shadow Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules.
- (b) Where shadow executive decisions are delegated to a committee of the Shadow Executive, the rules applying to shadow executive decisions taken by them shall be the same as those applying to those taken by the Shadow Executive as a whole.

## **2. How are shadow executive meetings conducted?**

### **2.1 Who presides?**

The Leader, or in his/her absence any Deputy Leader, will preside at any meeting of the Shadow Executive or its Committees at which he or she is present. In the absence of the Leader and Deputy Leader the members of the Shadow Executive who are present shall choose a member to preside.

### **2.2 Who may attend?**

- 2.2.1 The public may attend in accordance with the Access to Information Rules in Part 4 of this Constitution. Members of

the public who live or work in the District may speak or ask one question in accordance with the provisions for public speaking set out in Rule 2.5 below.

2.1.2 Any member of the Shadow Council who is not a member of the Shadow Executive may attend a meeting of the Shadow Executive. He or she can speak only:-

- (a) to ask a question in accordance with Rule 2.4.1 below;  
or
- (b) if invited to by the person presiding.

### 2.3 **What business?**

At each meeting of the Shadow Executive or a Committee of the Shadow Executive the following business will be conducted:-

- (a) Apologies for absence;
- (b) Confirm as a correct record and sign the minutes of the last meeting;
- (c) "Open Forum" in accordance with Rule 2.4 below;
- (d) Public speaking/questions in accordance with Rule 2.5 below;
- (e) The receipt of any petitions (submitted and presented in accordance with the Shadow Council's Petition Scheme);
- (f) Matters referred to the Shadow Executive, whether by the Shadow Scrutiny Committee, or by the Shadow Council for reconsideration in accordance with the provisions of contained in the Shadow Scrutiny Committee Procedure Rules or the Budget and Policy Framework Procedure Rules;
- (g) Consideration of reports from the Shadow Scrutiny Committee and
- (h) Matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

### 2.4 **Open Forum**

2.4.1 At each Shadow Executive meeting up to fifteen minutes shall be allocated for questions from and discussion with non-Shadow Executive members. Members wishing to speak during this session may, but do not have to, give notice in advance. Who speaks and for how long will be at the complete discretion of the person presiding.

### 2.5 **Public speaking**

2.5.1 Members of the public who live or work in the area of the Shadow Council are welcome to speak at any open meeting of the Shadow Executive. They may ask a question or make a statement on any item on the agenda for that meeting.

- 2.5.2 A person who wishes to speak must register at least fifteen minutes before the time the meeting is scheduled to start. This can be done online by sending the request to [democratic.services@westsuffolk.gov.uk](mailto:democratic.services@westsuffolk.gov.uk) or telephoning 01284 757176/01638 719237 or in person by telling the committee administrator present at the meeting.
- 2.5.3 The Interim Monitoring Officer in respect of any question notified before the meeting, or the Chairman, in respect of any question notified at the meeting, may reject a question if it:-
- (a) is not about a matter for which the Shadow Council has a responsibility or which affects the District;
  - (b) is defamatory, frivolous or offensive;
  - (c) is substantially the same as a question which has been put at a meeting of the Shadow Council, Forest Heath District Council or St Edmundsbury Borough in the past six months; or
  - (d) requires the disclosure of confidential or exempt information.
- 2.5.4 There will be an overall time limit of 15 minutes for public speaking, which may be extended at the Chairman's discretion. Speakers will be called in the order in which they gave notice. Each person may ask one question or make one statement and will be allowed up to three minutes. If the question can be answered orally at the meeting it will be, and the question and answer will be summarised in the minutes. Questions that cannot be answered immediately will be answered in writing to the questioner, distributed to all members of the Shadow Executive and published on the Shadow Council's website. If a question is asked and answered within three minutes, the person who asked the question may ask a supplementary question that arises from the reply which may be answered orally or in writing as above.

## **2.5 Who can put items on the Shadow Executive agenda?**

- 2.5.1 Normally, the Leader will decide upon the schedule for the meetings of the Shadow Executive.
- 2.5.2 An item will be placed on the agenda of the next available meeting of the Shadow Executive where the Shadow Scrutiny Committee or the Shadow Council have resolved that an item be considered by the Shadow Executive. There will be a standing item on the agenda of each meeting of the Shadow Executive for matters referred by the Shadow Scrutiny Committee.
- 2.5.3 The Interim Monitoring Officer and/or the Interim Chief Finance Officer may include an item for consideration on the

agenda of a Shadow Executive meeting and may require the proper officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Interim Head of Paid Service, Interim Chief Finance Officer and Interim Monitoring Officer are of the opinion that a meeting of the Shadow Executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Shadow Executive meeting. If there is no meeting of the Shadow Executive soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

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## West Suffolk Shadow Council

### Shadow Committee Procedure Rules

#### 1. Terms of reference

- 1.1 The terms of reference of Shadow committees will be approved by the Shadow Executive or Shadow Council as appropriate as and when they decide to form such committees. Should committees be formed, the following terms of reference will apply
- 1.2 Every Shadow committee will be able to propose changes to its own terms of reference for consideration by the Shadow Executive or Shadow Council.
- 1.3 The Committee procedure rules only apply to those committees of the Shadow Executive or Shadow Council that are appointed to make decisions on their behalf. They do not apply to working groups or advisory bodies which have no decision making powers unless expressly stated at the time they are formed.

#### 2. Time and place of meetings

- 2.1 Shadow Committee meetings shall take place on the dates and at the times set out in the approved calendar of meetings or by the Shadow Council at its first meeting, except that:-
  - a) the members of any Shadow Committee may resolve to hold the meetings at a time that is different from that in the calendar but is the same for every meeting;
  - b) the chairman, after appropriate consultation and before the publication of the agenda for any given meeting, may alter the date, time or place of any meeting if in his or her opinion it would assist the efficient conduct of the Shadow committee's business;but in all cases regard will be had to the compatibility of the date, time or place proposed with the right of the public to attend.
- 2.2 An extraordinary meeting of a Shadow Committee may be called by:-
  - a) the chairman; or
  - b) by any three members of the Shadow Committee giving written notice to the Interim Monitoring Officer specifying the business to be transacted.
- 2.3 A chairman may cancel a Shadow Committee meeting if he or she considers that there is insufficient business to transact or that it would assist the efficient conduct of the Shadow committee's business.

### **3. Publication and distribution of agendas**

- 3.1 Notice of the time and place of any meeting will be published in accordance with the Access to Information Procedure Rules.
- 3.2 At least five clear days before a meeting, the agenda will be published electronically and made available to the public and members.
- 3.3 The agenda will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.
- 3.4 The validity of a meeting will not be affected by a member being unable to access the agenda and reports.
- 3.4 Informal meetings or panels will not be covered by the rules in this section.

### **4. Quorum**

- 4.1 The quorum of Shadow committees shall not be less than three members, or one third of the total membership, whichever is the greater, and will be as determined by the Interim Monitoring Officer, having regard to that principle.
- 4.2 No business will be dealt with unless the Shadow Committee is quorate. Any items of business that cannot be dealt with because the meeting is or becomes inquorate shall stand adjourned for consideration at the next ordinary meeting of the Shadow Committee unless:-
  - a) the chairman and Leader agree a date and time for the meeting to continue; or
  - b) an extraordinary meeting is called in accordance with Rule 2.2 above; or
  - c) the remaining items of business are for information only and do not require a formal decision.

### **5. Attendance register**

- 5.1 All Members present during the whole or part of a meeting will, before the conclusion of such meeting, sign their names on the Attendance Register provided.

### **6. Election of chairmen and vice-chairmen of Shadow committees**

- 6.1 Every Shadow Committee will, as its first business as a newly appointed Shadow Committee, elect a Chairman and Vice-Chairman.



6.3 The Chairman and Vice-Chairman of every Shadow Committee will be elected members of the Shadow Council.

## **7. Order of business**

7.1 Unless changed in accordance with Rule 7.2 below the order of business at Shadow Committee meetings will be:-

- (a) to elect a chairman or to choose a member to preside if the chairman and vice-chairman are not present;
- (b) to deal with any business required by law to be dealt with first;
- (c) declaration of substitutions;
- (d) apologies for absence;
- (e) to confirm as a correct record and sign available minutes from previous meetings;
- (f) public speaking in accordance with Rule 11 below;
- (g) to receive any petitions in accordance with the Shadow Council's Petition Scheme;
- (h) to deal with any business remaining from the last meeting in accordance with Rules 4.2 and 16.11(c);
- (i) other business as set out on the agenda;
- (j) agenda items requested by members in accordance with Rules 13 and 14 below (questions on notice and motions on notice);
- (k) to consider the date and time of the next meeting and any proposals for future agenda items under Rule 12 below.

7.2 The order of business except for items (a) – (e) above may be changed:-

- (a) before or at a meeting, as the chairman sees fit; or
- (b) by a resolution of the meeting passed on a motion under Rule 14 or Rule 15.1(c).

## **8. Chairing a meeting**

8.1 Subject to paragraph 8.3, where the Chairman is not present the Vice-Chairman will, if present, chair the meeting.

8.2 If the Chairman and Vice-Chairman are not present at a meeting, the members present will choose one of their number to chair the meeting.

8.3 If, after the start of a meeting:-

- (a) the Chairman arrives, or
- (b) a Vice-chairman arrives when the chairman is not present, he or she will take the chair of the meeting after any item which is being discussed when he or she arrives has been dealt with.

## **9. Substitutes Powers and Duties**

- 9.1 Once a substitute has been declared, he or she will have the ordinary status of a member present in his or her own right and will not be the delegate of the original member. He or she will not be able to exercise any special powers or duties exercisable by the person for whom he or she is substituting. Any disqualification of the original member to speak or vote, however, is not transferred to the substitute. Conversely, if a substitute member is disqualified to speak or vote on a particular item, he or she must declare it as if he or she were an original member.
- 9.2 If an original member arrives at a meeting at which a substitute has already been declared, the substitute will remain the member entitled to speak and vote. Once a substitution has been declared, the original member will not be entitled to attend the meeting, either as a member of the Shadow Committee or 'by invitation' (*this is because if a substitution is declared it is on the pre-supposition that the original member has declared him or herself unable to attend the meeting*).
- 9.3 The procedure for the appointment of temporary substitutes will be in accordance with paragraph 4.1 of the Shadow Council Procedure Rules in Part 4 of this Constitution.

## **Substitution Rules**

- 9.4 At the commencement of each meeting of a Shadow Committee (or upon arrival, if arriving late) each member substituting for another member will declare the said substitution.
- 9.5 Once a substitute has been declared as present in place of a member for a meeting of that Shadow Committee that substitute will take the place of the member and will be able to speak and vote (subject to the declaration of any interests, as is usual practice).
- 9.6 Once a substitute has declared that he or she is substituting for another member, the original member will not be able to replace the substitute member during the course of the meeting. If the substitute member leaves the meeting during the course of the meeting, the original member will not be allowed to attend and vote in place of the substitute.
- 9.7 If, at the commencement of the meeting, the original member is present, then a substitution cannot take place.
- 9.8 Any original member of a Shadow Committee may seek a substitute from any of those on the appointed list of substitutes for that Shadow Committee, provided that they are from the same political group to maintain political balance.

- 9.9 No substitute member has the automatic right to substitute for another member who is not present; it is for the original member to select a substitute in accordance with Rule 9.8 above.
- 9.10 Substitute members cannot be appointed to attend meetings for a member who ceases to no longer be a member of the Council (ie by way of resignation, disqualification or death in service).

## **10. Attending and speaking at Shadow Committee meetings**

- 10.1 Except as provided in Rules 10.2 – 10.5 below, a member of the Shadow Council shall not be entitled to speak or vote at a meeting of any Shadow Committee unless he or she is a member of that Shadow committee.
- 10.2 Where a motion stands referred to a Shadow Committee the mover and/or the seconder of the motion may attend the meeting which is to consider the motion and take part in any discussion about it, but cannot vote unless a member of the Shadow Committee or sub-committee.
- 10.3 A member may be invited by the chairman to attend the meeting specifically to comment on an item of business or because the item of business affects his or her ward.
- 10.4 A member who is not a member of a Shadow Committee but who wishes to speak at a meeting of that body will be permitted to do so if he or she has indicated in advance to the chairman that he or she wishes to speak on a particular agenda item.
- 10.5 The chairman may at his or her discretion allow non-members of the Shadow Committee or sub-committee to speak in situations not falling within Rules 10.2 – 10.4 above.

## **11. Public speaking**

- 11.1 Members of the public who live or work in the West Suffolk area are welcome to speak at any open meeting of a Shadow Committee. They may ask a question or make a statement on any item on the agenda for that meeting.
- 11.2 A person who wishes to speak must register at least fifteen minutes before the time the meeting is scheduled to start. This can be done online by sending the request to [democratic.services@westsuffolk.gov.uk](mailto:democratic.services@westsuffolk.gov.uk) or telephoning 01284 757176/01638 719363 or in person by telling the committee administrator present at the meeting.
- 11.3 The Interim Monitoring Officer in respect of any question notified before the meeting, or the chairman, in respect of any question notified at the meeting, may reject a question if it:-

- (a) is not about a matter for which the Shadow Council has a responsibility or which affects the West Suffolk area;
- (b) is defamatory, frivolous or offensive;
- (c) is substantially the same as a question which has been put at a meeting of the Shadow Council in the past six months; or
- (d) requires the disclosure of confidential or exempt information.

11.4 There will be an overall time limit of 15 minutes for public speaking, which may be extended at the Chairman's discretion. Speakers will be called in the order in which they gave notice. Each person may ask one question or make one statement and will be allowed up to three minutes. If the question can be answered orally at the meeting it will be, and the question and answer will be summarised in the minutes. Questions that cannot be answered immediately will be answered in writing to the questioner, distributed to all members of the Shadow committee and published on the Shadow Council's website. If a question is asked and answered within three minutes, the person who asked the question may ask a supplementary question that arises from the reply which may be answered orally or in writing as above.

## **12. Agenda items requested by members**

12.1 Any member of a Shadow Committee may propose under Rule 7.1(k) above an item to be considered at a future meeting of that Shadow committee. The member shall give notice of such items to the Chairman and to the Interim Monitoring Officer no later than noon seven working days before the date of the meeting (not including the day of the meeting) together with a brief explanation of the item and its purpose, which will then be published on the agenda.

12.2 To be eligible for consideration, the item proposed must fall within the terms of reference or the delegated powers of the Shadow committee.

12.3 The member shall present his or her proposal to the Shadow Committee and may be questioned on it before the Shadow committee resolves whether or not to refer the matter to a future meeting for report and consideration in the usual way.

## **Questions on notice**

13.1 Subject to Rule 13.5 below, a member may submit in writing to the Interim Monitoring Officer a question on notice for the Chairman.

13.2 A Member may ask only one question on notice under Rule 13.1 at each meeting and:-

- a) must submit it in writing to the Interim Monitoring Officer no later than noon seven working days before the meeting, not counting the day of the meeting; or

- b) if the question is urgent and the member has the consent of the member to whom the question is to be put, must submit it in writing to the Interim Monitoring Officer by noon on the working day before the meeting.
- 13.3 Every question on notice will be answered without discussion. The member who is asked the question on notice may ask another member to answer. An answer may take the form of:-
- (a) a direct oral answer summarised in the minutes;
  - (b) where the desired information is in a publication of the Shadow Council or other published work, a reference to that publication; or
  - (c) where the reply cannot conveniently be given orally at the meeting, a written answer sent by the appropriate officer and/or relevant member to all members within five working days of the meeting.
- 13.4 A member asking a question on notice under Rule 13.1 may ask one supplementary question, without notice, of a member to whom the first question was asked. The supplementary question must arise directly from the original question or the reply. The total time allowed for each question, including any supplementary question, to be put and answered will be ten minutes.
- 13.5 If the member who gave notice of the question is not present at the meeting, any other member may ask that question but if that does not occur the Chairman shall proceed to the next item of business. The question shall be deemed to have been withdrawn and may not be asked unless notice is given again in accordance with Rule 13.1 above.

#### **14. Motions which need written notice**

- 14.1 Except for motions which can be moved without notice under Rule 15, written notice of every motion must be delivered to the Interim Monitoring Officer no later than noon seven working days before the meeting, not counting the day of the meeting. Motions must be about matters for which the Shadow Committee has a responsibility.
- 14.2 Each member may put one motion on notice at each meeting.
- 14.3 All motions on notice received under Rule 14.1 will be set out in the agenda in the order in which they have been received.
- 14.4 A member may withdraw a motion on notice at any time.
- 14.5 A motion on notice under Rule 14.1 can be moved at the meeting by any member. If the motion on notice is not moved, it will be treated as withdrawn and may not be moved without another notice in accordance with Rule 14.1 above.

14.6 Any motion on notice under Rule 14.1, on being moved and seconded, will usually, without discussion, be referred to a future meeting for report and consideration. The Chairman may, if he or she considers it appropriate, allow the motion to be dealt with at the meeting at which it is moved and seconded provided that the motion, if carried, would not involve the council in expenditure not included in the Shadow Council's approved revenue or capital budget.

## **15. Motions and amendments which may be moved without notice**

15.1 The following motions and amendments may be moved without notice:-

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business on the agenda;
- (d) to receive the reports and recommendations of officers, and any consequent resolutions;
- (e) to refer something to an appropriate body or individual;
- (f) to withdraw a motion;
- (g) to extend the time limit for speeches;
- (h) to suspend any of these rules for the whole or part of the meeting;
- (i) to amend a motion;
- (j) to proceed to the next business;
- (k) to vote on a motion;
- (l) to vote on an amendment;
- (m) to adjourn a debate;
- (n) to adjourn a meeting;
- (o) to exclude or readmit the public and press in accordance with the Access to Information Rules;
- (p) to direct that a member named under Rule 20.3 be not further heard or to exclude them from the meeting under Rule 20.4.

15.2 A motion by the Chairman under Rule 15.1(o) of these Rules, to exclude the public for an item of business, will be dealt with before any other motion on that item and will be voted on without discussion.

## **16. Rules of debate**

### **16.1 No discussion until motion or amendment seconded**

A motion or amendment will not be discussed or recorded in the minutes unless it has been proposed and seconded.

### **16.2 Motion may need to be in writing**

If the Chairman requires, the motion will be put in writing before it is further discussed.

### 16.3 **Secunder's speech**

When seconding a motion or an amendment, a member may reserve the right to speak at a later point in the debate.

### 16.4 **Content and length of speeches**

16.4.1 Speeches must be directed to the question under discussion or to a personal explanation or point of order.

16.4.2 No speech will be longer than five minutes, except as allowed by the Shadow Committee following a motion moved and carried under Rule 15.1(g), and will be about the matter under discussion.

16.4.3 The five minutes time limit will not apply to a member proposing a motion, or an amendment to a motion, who will be allowed to speak for no longer than ten minutes.

### 16.5 **When a member may speak again**

A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:-

- (a) to speak once on an amendment moved by another member;
- (b) to move an amendment;
- (c) to move a further amendment (if the motion has been amended since he/she last spoke);
- (d) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (e) in exercise of a right of reply in accordance with Rule 16.9;
- (f) on a point of order in accordance with Rule 16.12 below; and
- (g) by way of personal explanation in accordance with Rule 16.13 below.

### 16.6 **Amendments to motions**

(a) An amendment to a motion must be relevant to the motion and will either be:-

- (i) to refer the matter to an appropriate body, forum, or individual for consideration or reconsideration;
- (ii) to leave out words;
- (iii) to leave out words and insert or add others; or
- (iv) to insert or add words;

as long as the effect of (ii) to (iv) is not to cancel the effect of the motion.

- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under consideration has been dealt with.
- (c) If an amendment is lost, other amendments to the original motion may be moved.

- (d) If an amendment is carried, the motion, as amended, will take the place of the original motion and will become the actual motion upon which any further amendment may be moved.
- (e) After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, before putting it to the vote.

**16.7 Alteration of motion**

A Member may, with the agreement of the Chairman, and without discussion:-

- (a) change a motion of which he/she has given notice under Rule 13; or
- (b) with the agreement of his/her seconder, change a motion which he/she has moved;
- (c) but only alterations which could be made as an amendment in accordance with Rule 16.6(a) may be made.

**16.8 Withdrawal of motion**

- (a) A motion or an amendment may be withdrawn by the mover, but only with the consent of the seconder and the Chairman, which will be given without discussion.
- (b) No member may speak on the motion after the mover has asked for consent to withdraw it, unless consent is not given.

**16.9 Right to reply**

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion also has the right of reply at the end of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.
- (d) A reply under this paragraph will be confined to matters raised in the debate on the motion or amendment.
- (e) After every reply to which this rule refers, a vote will be taken without further discussion.

**16.10 Motions which may be moved during a debate**

16.10.1 When a motion is being discussed, no other motion may be moved except the following (non-closure) motions:-

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) that the subject of debate:-
  - (i) be referred to the appropriate forum for consideration; or



- (ii) be referred back to the appropriate forum for further consideration.
- (d) to exclude the public and press in accordance with the Access to Information Rules; and
- (e) that a member be not further heard in accordance with Rule 20.3.1; and
- (f) by the Chairman, in accordance with Rule 20.4.1, that a named member leave the meeting.

16.10.2 Any of the motions under Rule 16.10.1 will not take away from the mover of the original motion the right to reply.

#### 16.11 **Closure motions which may be moved during a debate**

(a) A member may move, without comment, any of the following closure motions at the end of a speech of another member:-

- (i) to move to the next business;
- (ii) that the question be put;
- (iii) to adjourn the debate; or
- (iv) to adjourn the meeting.

(b) If a motion "*to move to the next business*" or "*that the question be put*" is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will put the closure motion to the vote. If it is passed, the Chairman will give the mover of the original motion a right of reply before putting that original motion to the vote.

(c) If a motion "*to adjourn the debate*" or "*to adjourn the meeting*" is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the closure motion to the vote without giving the mover of the original motion the right of reply.

#### 16.12 **Point of order**

16.12.1 A member may ask to make a point of order at any time and will have the right to be heard at once, but will stay silent until asked by the Chairman to speak.

16.12.2 A point of order will only be about a claimed breach of a provision of the committee procedure rules or of law; and the member will indicate the paragraph(s) or law and the way in which he/she considers it has been broken.

16.12.3 The ruling of the Chairman on the matter will be final and will not be open to discussion.

#### 16.13 **Personal explanation**

16.13.1 A member may ask to give a personal explanation at any time and will have the right to be heard at once, but will stay silent until asked by the Chairman to speak.

16.13.2 A personal explanation will be confined to some material part of an earlier speech by the member which may appear to have been misunderstood in a later stage of the debate.

16.13.3 The ruling of the Chairman on the admissibility of a personal explanation will be final.

## **17. Approval and signing of minutes**

17.1.1 The Chairman will sign the minutes of the proceedings, once they are confirmed as a correct record, at the next suitable meeting.

17.1.2 In this regard, the Chairman will seek a mover and seconder for the motion "*that the minutes of the meeting of the meeting held on ..... be confirmed and signed as a correct record*".

17.1.3 There will be no discussion on the minutes, except by way of a motion upon their accuracy.

## **17.2 No requirement to sign minutes of previous meeting at extraordinary or special meeting**

The minutes of the preceding meeting of the Shadow Committee may be submitted to an extraordinary or special meeting of that body for approval if convenient and practicable to do so but otherwise will be submitted to the next ordinary meeting.

## **17.3 Content of minutes**

### *Recommendations*

17.3.1 Every decision of a Shadow Committee which is not within its delegated authority will be indicated by the word "RECOMMENDED", and will require Shadow Council approval.

### *Decisions*

17.3.2 Every decision of a Shadow Committee which is within its delegated authority will be indicated by the word "RESOLVED".

## **18. Voting**

### **18.1 Simple majority**

Unless this constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present at the time the question was put.

### **18.2 Chairman's casting vote**

18.2.1 If there are equal numbers of votes for and against, the Chairman may exercise a second or casting vote. There will be no restriction on how the Chairman chooses to exercise a casting vote.

18.2.2 In the case of the Chairman refraining from exercising a second vote the motion or amendment being voted on will not be carried.

**18.3 Show of hands**

Unless a recorded vote is demanded under Rule 18.4 , the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

**18.4 Recorded vote**

18.4.1 If, before a vote is taken, a member asks that the voting be recorded and the request is supported by five other members (who will show their support by standing up):-

- (a) the officer advising the Chairman at the meeting will call the name of each member present at the meeting;
- (b) the member will say whether he or she is for or against the motion or is abstaining; and
- (c) each member's response will be recorded in the minutes.

18.4.2 There will also be a recorded vote when required by law.

**18.5 Right to require individual vote to be recorded**

Where any member so requires, immediately after a vote has been taken on any matter, the minutes must record whether that member voted for or against or abstained.

**18.6 Voting on appointments**

18.6.1 If there are more than two people nominated for any position to be filled and there is not an overall majority of votes in favour of one person, then the name of the person (or persons) with the fewest votes will be taken off the list and a new vote taken;

18.6.2 In the event that the removal of persons jointly having fewest of votes would result in only one candidate remaining, the above provision will not apply and the officer advising the chairman at the meeting will draw lots to determine which of the candidates with fewest votes will proceed to the next round;

18.6.3 Where more than one position is contested (for example, there are to be two vice-chairmen of a Shadow committee) each position will be voted on separately; and

18.6.4 In the event of there being an equality of votes for the final two candidates, lots will be drawn by the officer advising the Chairman at the meeting to decide which person is elected.

## **19. Exclusion of public**

- 19.1 If a matter may fall within the list of exempt or confidential information set out in Section 100(A)(4) of the Local Government Act 1972, the matter will not be discussed until the meeting has decided whether the public should be excluded from the meeting.
- 19.2 Members of the public may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 21 (Disturbance by Public).

## **20. Members' conduct**

### **20.1 One member to speak at a time**

- (a) When speaking, a member will sit at his/her place and address the Chairman. If two or more members indicate to speak at the same time, the Chairman will call on one to speak; and
- (b) While a member is speaking, all other members will remain silent unless asking to make a point of order or of personal explanation.

### **20.2 Respect for the chair**

Whenever the Chairman rises during a debate the member then speaking will stop speaking and the meeting will be silent.

### **20.3 Member not to be heard further**

20.3.1 If, at a meeting, any member, in the opinion of the Chairman, repeatedly ignores the Chairman's ruling or behaves irregularly, improperly or offensively, or wilfully obstructs the business of the meeting, the Chairman or any other member may move "*That the member named be not further heard*" and the motion, if seconded, will be voted on without discussion.

### **20.4 Continuing misconduct of a named member**

20.4.1 If the member named continues to behave improperly after a motion in accordance with Rule 20.3 is carried, the Chairman will move a motion that either:-

- (a) the meeting be adjourned for however long the Chairman states; or
- (b) the member named leave the meeting.

If seconded, the motion will be voted on without discussion.

20.4.2 If, after a motion under Rule 20.4.1 has been carried, the member named does not leave the meeting, the Chairman may order the removal of the member and may adjourn the meeting without debate or resolution to enable removal to take place.

## 20.5 **General disturbance**

In the event of general disturbance among the members which, in the opinion of the Chairman, makes it impossible to carry on the meeting, the Chairman may move a motion which will be voted on without seconding or discussion, to adjourn the meeting for however long the Chairman states.

## 20.6 **Interpretation of rules - ruling of Chairman not to be challenged**

The decision of the Chairman about the meaning or use of any of these rules, or about any proceedings of the Shadow Committee is final and may not be challenged.

## 20.7 **Interests of members in matters under discussion**

Members must observe the rules in the Members' Code of Conduct in Part 5 of this Constitution. Any member declaring a disclosable pecuniary interest must leave the room where the meeting is being held for as long as the matter is being considered.

## 21. **Disturbance by public**

### 21.1 **Removal of member of the public**

If a member of the public interrupts the proceedings of any meeting, the Chairman will warn the person concerned not to interrupt. If the interruption is repeated, the Chairman will order the removal of that person from the meeting room. The Chairman may without debate or resolution adjourn the meeting to allow removal to take place.

### 21.2 **Clearance of part of meeting room**

In the case of general disturbance in any part of the meeting room open to the public the Chairman will give a warning and if the disturbance continues will order that part to be cleared, but may identify persons who may remain. The Chairman may without debate or resolution adjourn the meeting to allow clearance to take place.

### 21.3 **No re-admittance for those removed**

In the case of Rules 21.1 and 21.2 above, any member of the public removed from a meeting following a disturbance will not be re-admitted during the remainder of that meeting.

## 22. **Suspension and amendment of Shadow committee procedure rules**

### 22.1 **Suspension**

All of these Shadow Committee Procedure Rules except paragraph 18.4 (recorded vote) may be suspended by motion on notice (in accordance with Rule 14.1) or without notice under if at least one half of the whole number of members of the Shadow Committee are present. Suspension can only be for the whole or part of the meeting at which they are suspended.

22.2 **Amendment**

Any motion to add to, vary or revoke these Rules will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Shadow committee with a report and recommendation from the appropriate forum/officer.

## West Suffolk Shadow Council

### Shadow Scrutiny Committee Procedure Rules

#### **A. SHADOW SCRUTINY COMMITTEE**

##### **1. What will be the number of and arrangements for the Shadow Scrutiny Committee?**

- 1.1 Scrutiny of the Shadow Council shall be undertaken by the Shadow Scrutiny Committee and by the Performance and Audit Scrutiny Committees of Forest Heath District Council and St Edmundsbury Borough Council. Scrutiny will be undertaken as is relevant to their remit, so that finance scrutiny would be undertaken by the Performance and Audit Scrutiny Committees of Forest Heath District Council and St Edmundsbury Borough Council, whilst questions relating to the general role and remit would be undertaken by the Shadow Scrutiny Committee.
- 1.2 It would normally be expected that the Shadow Scrutiny Committee would meet to scrutinise the relevant matters, and operate in line with Article 7 of the Constitution. The article further sets out how matters may be referred for scrutiny, and the type of matters on which scrutiny may be undertaken.

##### **2. Who may sit on the Shadow Scrutiny Committee?**

- 2.1 Councillors appointed to the Shadow Scrutiny Committee may take part in scrutiny of the Shadow Council. No member may be involved in scrutinising a decision in which they have been directly involved.

##### **4. Meetings of the Shadow Scrutiny Committee**

- 4.1 The Shadow Scrutiny Committee may meet to scrutinise Shadow Authority functions as they consider appropriate and as is relevant for the matters subject to scrutiny.
- 4.2 Meetings will be conducted in accordance with the Shadow Committee Procedure Rules unless there are specific exceptions in these Scrutiny Procedure rules.

##### **5. Who chairs Shadow Scrutiny Committee meetings?**

- 5.1 The Chairman and Vice Chairman of the Shadow Scrutiny Committee shall be appointed from the Chairmen of the Overview and Scrutiny Committees of both Forest Heath District Council and St Edmundsbury Borough Council. The chairing of these meetings,

will be at the discretion of the Chairman and Vice Chairman of the Shadow Scrutiny Committee.

- 5.2 If the Chairman who would ordinarily chair the meeting is not present, then it shall be chaired by the Vice Chairman or vice versa. If both the Chairman and Vice Chairman are not present, then a vote shall be held of the committee members for the Chairmanship of the meeting.

## **6. Work programme**

- 6.1 The powers and functions of the Shadow Council under the Implementation Order are limited to preparing the Shadow Council for the assumption of full local authority functions and powers on 1 April 2019. Consequently, the powers and functions of its Shadow Executive and the Shadow Scrutiny Committee are similarly limited. Therefore, the work programme of the Shadow Scrutiny Committee must be considered in this context.

## **7. Agenda items**

- 7.1 Any Member of the Shadow Council shall be entitled to give notice to the Scrutiny Officer that they wish an item relevant to the role of the Shadow Council to be considered by the Scrutiny Committee. They shall be requested to complete a "suggestion for shadow scrutiny work programme" form and provide this to the Scrutiny Officer. The Scrutiny Officer will seek the views of the Chairman and Vice Chairman of the Shadow Scrutiny Committee as to consideration. If the Chairman and Vice Chairman agree, then the matter will be referred to a meeting of the Scrutiny Committee to be scheduled.
- 7.2 The Shadow Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Shadow Council and the Shadow Executive to review particular areas of Shadow Council activity. Where it does so, the Shadow Scrutiny Committee shall report its findings and any recommendations back to the Shadow Executive and/or Shadow Council. The Shadow Council and/or the Shadow Executive shall consider the report of the Shadow Scrutiny Committee at its next meeting.

## **8. Policy review and development**

- 8.1 The Shadow Scrutiny Committee may, within the scope of Article 7, advise the Shadow Executive or the Shadow Council on the development of the budget and policy framework which is to be adopted by West Suffolk Council in respect of the period from 1 April 2019 onwards.



## **9. Reports from Shadow Scrutiny Committee**

- 9.1 Once it has formed recommendations on proposals for development, the Shadow Scrutiny Committee will prepare a formal report and submit it for consideration by the Shadow Executive as appropriate (if the proposals are consistent with the existing budgetary and policy framework), or to the Shadow Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- 9.2 The Chairman of the Shadow Scrutiny Committee will normally be responsible for presenting the report to the Shadow Executive or the Shadow Council as appropriate.
- 9.3 If the Shadow Scrutiny Committee cannot agree on one single final report to the Shadow Council or Shadow Executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the Shadow Council or Shadow Executive with the majority report.
- 9.4 The Shadow Council or Shadow Executive shall consider the report of the Shadow Scrutiny Committee at the next available meeting.

## **10. Making sure that scrutiny reports are considered by the Shadow Executive**

- 10.1 Once the Shadow Scrutiny Committee has completed its deliberations on any matter, the Shadow Scrutiny Committee will forward a copy of the final report or recommendations to either or both the Shadow Executive and the Shadow Council for consideration, according to whether the contents of the report would have implications for the Shadow Council's budget and policy framework. If the Scrutiny Officer refers the matter to the Shadow Council, they will also serve a copy on the Leader with notice that the matter is to be referred to the Shadow Council. The Shadow Executive must be given the opportunity to respond to the Scrutiny report before the Shadow Council meets to consider it. When the Shadow Council does meet to consider any referral from the Shadow Scrutiny Committee on a matter which would impact on the budget and policy framework, it shall also consider the response of the Shadow Executive to the scrutiny proposals.
- 10.2 The agenda for Shadow Executive meetings shall include an item entitled 'Issues arising from Scrutiny'. Any reports of the Shadow Scrutiny Committee referred to the Shadow Executive shall be included at this point in the agenda (unless they have been considered in the context of the Shadow Executive's deliberations on a substantive item on the agenda).
- 10.3 The Shadow Scrutiny Committee will in any event have access to the Shadow Executive's Decision Plan and timetable for decisions. Even where an item is not the subject of detailed proposals from

the Shadow Scrutiny Committee following a consideration of possible policy/service developments, the Shadow Scrutiny Committee will at least be able to respond in the course of the Shadow Executive's consultation process in relation to any key decision.

## **11. Rights of Scrutiny Committee members to documents**

- 11.1 In addition to their rights as Councillors, members of the Shadow Scrutiny Committee have the additional right to documents, and to notice of meetings, as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- 11.2 Nothing in this paragraph prevents more detailed liaison between the Shadow Executive and the Shadow Scrutiny Committee as appropriate depending on the particular matter under consideration.

## **12. Members and officers giving account**

- 12.1 The Shadow Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of the Shadow Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet, the Interim Head of Paid Service and/or any chief officer to attend before it to explain in relation to matters within its remit:-
- (a) any particular decision or series of decisions;
  - (b) the extent to which the actions taken implement Council policy; and/or
  - (c) their performance

and it is the duty of those persons to attend, or send an appropriate substitute, if so required.

- 12.2 In pursuance of the Shadow Scrutiny Committee's primary function of supporting and facilitating the process of transition to West Suffolk Council and in view of the specific circumstances pertaining during the period leading up to 1 April 2019, such requests will only be responded if the Interim Head of Paid Service agrees that the attendance or work requested would support and facilitate the work of the Shadow Council and would not adversely affect the achievement of its statutory functions in preparing for the implementation of West Suffolk Council on 1 April 2019 as provided in the Implementation Order.
- 12.3 Where any member or officer is required to attend the Shadow Scrutiny Committee under this provision, the Chairman of the Shadow Scrutiny Committee will inform the Scrutiny Officer. The Scrutiny Officer shall inform the member or officer in writing, giving at least 5 working days notice of the meeting at which they are required to attend. The notice will state the nature of the item on

which they are required to attend to give account and whether any papers are required to be produced for the Shadow Scrutiny Committee. Where the account to be given to the Shadow Scrutiny Committee will require the production of a report, then the Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

- 13.3 Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Shadow Scrutiny Committee shall, in consultation with the member or officer, arrange an alternative date for attendance to take place within a maximum of 10 working days from the date of the original request.

### **13. Attendance by others**

- 13.1 The Shadow Scrutiny Committee may invite people other than those people referred to in Rule 12.1 above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend. Attendance is of course entirely optional.

### **14. Call-in**

- 14.1 A key element of the scrutiny role of the Shadow Scrutiny Committee concerns the arrangements for the "call-in" of a decision taken by or on behalf of the Shadow Executive. A decision by the Shadow Executive, or a key decision made by an officer with delegated authority from the Shadow Executive, may be "called in" by members of the Shadow Council submitting a request in writing on the call in request form to the Interim Monitoring Officer within 5 working days of the publication of that decision. No action can be taken on an item called in for scrutiny.
- 14.2 Call-in should only be used in exceptional circumstances. These are where Members have evidence which suggests that the Shadow Executive decision was not taken in accordance with the principles set out in Article 12 (Decision Making). In order to ensure that call-in is not abused; nor causes unreasonable delay, certain limitations are to be placed on its use. These are:-
- (a) a decision must be called-in by at least ten Members of the Shadow Council; and
  - (b) a decision on the same item may only be "called in" for scrutiny by the Shadow Scrutiny Committee on one occasion within a six month period. In that regard, a decision of the Shadow Executive may not be called in where it has already been considered by the Overview and Scrutiny Committees of Forest Heath District Council and St Edmundsbury Borough Council. The six month period is to commence from the date

the "call-in" request is received by the Interim Monitoring Officer.

- (c) members who have called in a decision may withdraw their call-in at any time prior to the meeting taking place to hear the call-in, by giving notice in writing to the Scrutiny Officer.

14.3 The following arrangements for the call-in of decisions made by the Shadow Executive will apply:-

- (a) when a decision is made by the Shadow Executive (or by any Members of the Shadow Executive with a delegated authority contained in Part 3 of this Constitution) or a key decision is made by an officer with delegated authority from the Shadow Executive, the decision shall be published electronically. Normally, such publication will be on the Thursday of the week in which the decision was taken. Notification of all such decisions will also be issued to all members within the same timescale by the person responsible for publishing the decision;
- (b) the relevant notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless it is called in;
- (c) during that period, the Scrutiny Officer shall call-in a decision for scrutiny by the Shadow Scrutiny committee if so requested by members (in accordance with Rule 14.1 above), and shall notify the decision-taker of the call-in. An item called in for scrutiny will normally be considered by the Shadow Scrutiny Committee at their next scheduled meeting. However, in consultation with the Chairman and Vice Chairman of the Shadow Scrutiny Committee, they may call an extraordinary meeting of the Shadow Scrutiny Committee on such date as they may determine (in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution);
- (d) any Member considering calling in a Shadow Executive decision, or a Key Decision taken by an officer under delegated authority, first be required to make every effort to discuss the issue with the relevant Executive Member(s) or Leader of the Shadow Council;
- (e) members using the call-in arrangements have the right to address the Shadow Scrutiny Committee when it deals with the issue;
- (f) normally, the Shadow Scrutiny Committee will complete its scrutiny of the issue at that meeting and report the outcome to the next meeting of the Shadow Executive. However, the

Shadow Scrutiny Committee may consider that further time is required to consider the issue and would therefore need to recommend to the Shadow Executive that further work be carried out and that the Shadow Scrutiny Committee makes recommendations at a later date. In these circumstances, the Shadow Executive will decide whether or not the decision should be implemented, having regard to the urgency, if any, of the matter and the provisions of the Budget and Policy Framework Rules (see (i) below);

- (g) if the Shadow Scrutiny Committee agrees with a called-in decision, the decision may be implemented immediately following the Shadow Scrutiny Committee meeting;
- (h) if the Shadow Scrutiny Committee makes an alternative recommendation this will be considered by the Shadow Executive at its next meeting and no action should be taken until a final decision has been made by the Shadow Executive (or the Shadow Council – see (i) below); and
- (i) as set out in the Budget and Policy Framework Procedure Rules, called-in decisions which are deemed to be contrary to the policy framework, or contrary to or not wholly consistent with the budget, may have to be referred to the Shadow Council for a final decision.

#### 14.4 **Call-in and urgency**

14.4 The call-in procedure set out above shall not apply where the decision being taken by the Shadow Executive is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would ***seriously prejudice the Shadow Council's or the public's interest***. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chairman and Vice Chairman of the Shadow Scrutiny Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of either the Chairman or the Vice Chairman of the Shadow Scrutiny Committee consent shall only be required from one. In the absence of both, the Interim Head of Paid Service or their nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Shadow Council, together with the reasons for urgency.

### 16. **The party whip**

16.1 For the purpose of this Section reference to "the party whip" shall mean:-

*"Any instruction given by or on behalf of a political Group to any Councillor who is a Member of that Group as to how that Councillor shall speak or vote on any matter before the Shadow Council or any Shadow Committee, or the application or threat to apply any sanction by the Group in respect of that Councillor should they speak or vote in any particular manner."*

- 16.2 The imposition of the party whip is regarded by the Shadow Council as incompatible with scrutiny. The party whip should not therefore be imposed on any member of the Shadow Scrutiny Committee while engaged in the work of Shadow Scrutiny.

## **17. Business at Shadow Scrutiny Committee meetings**

- 17.1 The Shadow Scrutiny Committee shall consider the following business at its meetings:-

- (a) minutes of the last meeting;
- (b) public speaking in accordance with the Shadow Committee Procedure Rules contained within this Shadow Constitution;
- (c) consideration of any matter referred to the Shadow Scrutiny Committee for a decision in relation to call-in of a decision;
- (d) responses of the Shadow Executive to reports of the Shadow Scrutiny Committee;
- (e) consideration of the Shadow Executive's Decisions Plan; and
- (f) the business otherwise set out on the agenda for the meeting.

- 17.2 Where the Shadow Scrutiny Committee conducts investigations, the Shadow Scrutiny Committee may also ask people to attend to give evidence at Shadow Scrutiny Committee meetings which are to be conducted in accordance with the following principles:-

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

- 17.4 Following any investigation or review, the Shadow Scrutiny Committee shall prepare a report, for submission to the Shadow Executive Cabinet and/or Shadow Council as appropriate, and shall make its report and findings public.

## **West Suffolk Shadow Council**

### **Access to Information Procedure Rules**

#### **1. Scope**

- 1.1 These rules apply to all meetings of the Shadow Council, the Shadow Scrutiny Committee and public meetings of the Shadow Executive (together called Meetings).

#### **2. Additional rights to information**

- 2.1 These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

#### **3. Rights to attend meetings**

##### **Public**

- 3.1 Members of the public may attend all meetings unless excluded in accordance with Rules 11.1 and 11.2(a) below.

##### **Members**

- 3.2 A member of the Shadow Council may attend a meeting of a Shadow Committee meeting of which he or she is not a member. A member may speak at that meeting if allowed to do so by the Shadow Committee Procedure Rules but shall not be entitled to vote.

#### **4. Notices of meeting**

- 4.1 The Shadow Council will give at least five clear days' notice of any meeting by putting details on its website and on lists displayed at its main offices.

#### **5. Access to agenda and reports before the meeting**

- 5.1 The Shadow Council will make copies of the agenda and reports open to the public available for inspection by publishing them on its website at least five clear days before the meeting, or as soon as they are ready in accordance with 5.2 below.
- 5.2 If an item is added to the agenda later, the revised agenda will be available on its website from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Shadow Council shall make each such report available to the public on its website as soon as the report is completed and sent to Councillors.

## **6. Supply of copies**

6.1 The Shadow Council will supply copies of the following documents to any person on request and may make a charge for postage and any other costs:-

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the proper officer thinks fit, copies of any other documents supplied to Councillors in connection with an item.

## **7. Access to minutes etc. after the meeting**

7.1 The Shadow Council will as soon as practicable after a meeting make the following available on its website for six years:-

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Shadow Executive, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

## **8. Recording of Shadow council meetings and use of social media**

8.1 People may photograph, film, record and/or broadcast those attending Shadow Council, Shadow Executive or Shadow Committee meetings (other than any part of such a meeting from which the public are excluded), subject to:-

- (a) the committee administrator at the meeting being told so that everyone attending can be notified; and
- (b) no flash or lighting being used, or noise created, without the prior agreement of the chairman; and
- (c) fixed points or areas for cameras or recording equipment being agreed in advance so they do not distract those involved in the democratic process or impinge on the decision-making or block viewing from the public seating area; and
- (d) members of the public speaking at, or attending, the meeting must not be filmed if they have indicated they do not wish to be included.

8.2 Notice of the photographing, filming, recording and/or broadcasting of meetings is to be displayed in and outside the place of meeting



and included on any literature handed to persons attending a meeting as follows:-

*"The Shadow Council may record this meeting and permits members of the public and media to record or broadcast it as well (when the media and public are not lawfully excluded)".*

Any member of the public who attends a meeting and objects to being filmed should advise the Committee Administrator who will instruct that they are not included in the filming."

8.3 People may use social media at Shadow Council, Shadow Executive or Shadow Committee meetings (other than any part of such a meeting from which the public are excluded), subject to:-

- (a) equipment used being silent during operation; and
- (b) the use of equipment not distracting those involved in the democratic process or impinging on decision making or blocking the view from the public seating area.

## **9. Background papers**

### **9.1 List of background papers**

The report's author will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:-

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report;

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and, in respect of Shadow Executive reports, any advice of a political advisor.

### **9.2 Public inspection of background papers**

The Shadow Council will make available for public inspection for four years after the date of the meeting each of the documents on the list of background papers.

## **10. Summary of public's rights**

10.1 These rules will constitute the written summary of the public's rights to attend meetings and to inspect and copy documents and will be available to the public on the Shadow Council's website.

## **11. Exclusion of the public from meetings**

### **11.1 Confidential information – Requirement to exclude public**

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

### **11.2 Exempt information – Discretion to exclude public**

- (a) The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.
- (b) Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

### **11.3 Meaning of confidential information**

Confidential information means information given to the Shadow Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

### **11.4 Meaning of exempt information**

Exempt information means information falling within the following 7 categories (subject to any condition):-

- (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 to 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.

11.5.1 Information falling within Rule 11.4.3 above is not exempt information by virtue of that paragraph if it is required to be registered under:-

- (a) the Companies Act 1985;
- (b) the Friendly Societies Act 1974;
- (c) the Friendly Societies Act 1992;
- (d) the Industrial and Provident Societies Acts 1965 to 1978;
- (e) the Building Societies Act 1986; or
- (f) the Charities Act 1993.

11.5.2 Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

11.5.3 Information which:-

- (a) falls within any of Rules 1 to 7 above; and
- (b) is not prevented from being exempt by virtue of Rules 11.5.1 or 11.5.2 above,

is exempt information if and so long as, in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## **12. Exclusion of access by the public to reports**

12.1 If the Interim Monitoring Officer thinks fit, the Shadow Council may exclude access by the public to reports which in the Interim Monitoring Officer's opinion relate to items during which, in accordance with Rule 11, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

## **13. Application of rules to the Cabinet**

13.1 Rules 14-23 apply to the Shadow Executive and its committees. If the Shadow Executive meet to take a key decision then it must also comply with Rules 1-13 unless Rule 15 (General Exception) or Rule 16 (Special Urgency) apply. A key decision is as defined in Article 12 of this Constitution.

13.2 If the Shadow Executive meet to discuss a key decision to be taken collectively, with an officer present, within 28 days of the date according to the Decisions Plan by which it is to be decided, then it must also comply with Rules 1-12 unless Rule 15 (General exception) or Rule 16 (Special urgency) apply. A key decision is as defined in Article 12 of this Constitution. This requirement does not

include meetings whose sole purpose is for officers to brief members.

## **14. Procedure before taking key decisions or holding executive meetings in private**

### **14.1 Key decisions**

14.1.1 Subject to Rule 16 (General exception) and Rule 17 (Special urgency), a key decision may not be taken unless:-

- (a) a notice (called here a Decisions Plan) has been published in connection with the matter in question, at least 28 clear days before the decision is to be taken; and
- (b) where the decision is to be taken at a meeting of the Shadow Executive, notice of the meeting has been given in accordance with Rule 4 (Notice of Meetings).

### **14.2 Matters to be considered in private**

14.2.1 At least 28 clear days before a private meeting of the Shadow Executive the decision-making body must make available and publish on its website a notice including a statement of the reasons for the meeting, or part of the meeting, to be held in private.

14.2.2 At least five clear days before a private meeting, the decision-making body must make available and publish on its website an additional notice of its intention to hold a meeting or part of a meeting in private, including a statement of the reasons for the meeting to be held in private, details of any representations received by the decision-making body about why the meeting should be open to the public, and a statement of its response to any such representations. For ease of reference this notice will be incorporated into the agenda for the meeting in question.

## **15. The decisions plan**

### **15.1 Publication of decisions plan**

15.1.1 Decisions Plans will be prepared by the Leader to ensure that 28 clear days' notice of the taking of any key decision, or the holding of any meeting, or part of a meeting, in private, is given. This document will be made available for inspection at the Shadow Council's offices and on its website.

## 15.2 Contents of decisions plan

15.2.1 The Decisions Plan will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Shadow Executive individual members of the Shadow Executive , officers or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:-

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, their name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) a list of the documents submitted to the decision taker for consideration in relation to the matter;
- (e) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (f) that other documents relevant to those matters may be submitted to the decision maker; and
- (g) the procedure for requesting details of those documents (if any) as they become available.

15.2.2 The Decisions Plan will also detail any matters which it is intended will be considered in private, and the reason for the matter being considered in private.

15.2.3 Exempt information need not be included in a Decisions Plan and confidential information cannot be included.

## 16. General exception

16.1 If a matter which is likely to be a key decision has not been publicised with 28 clear days' notice then subject to Rule 17 (Special urgency), the decision may still be taken if:-

- (a) the decision must be taken by such a date that it is impracticable to defer the decision; and
- (b) the proper officer has informed the Chairmen of the Overview and Scrutiny Committees of Forest Heath District Council and St Edmundsbury Borough Council ("Chairmen of the Overview and Scrutiny Committees") , or if there is no such person, each member of that Shadow committee in writing, by notice, of the matter to which the decision is to be made; and
- (c) the proper officer has made copies of that notice available to the public at the Council's offices and on its website; and

(d) at least five clear days have elapsed following the day on which the proper officer made the notice available.

16.2 Where such a decision is taken collectively, it must be taken in public, unless it relates to exempt information as determined under Section 100 of the Local Government Act 1972, when the public will be excluded.

## **17. Special urgency**

### **17.1 Key decisions**

17.1.1 If by virtue of the date by which a decision must be taken Rule 16 (General exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairmen of the Forest Heath District Council and St Edmundsbury Borough Council Overview and Scrutiny Committees that the taking of the decision cannot be reasonably deferred. If there is no Chairmen of the Overview and Scrutiny Committees, or if the Chairmen of the Overview and Scrutiny Committees is unable to act, then the agreement of the Vice-Chairmen will suffice.

### **17.2 Matters to be considered in private**

17.2.1 Where the date by which a meeting must be held makes publication within 28 clear days, and repeated within 5 days, impracticable, the meeting may only be held in private where agreement has been obtained from the Chairmen of the Forest Heath District Council and the St Edmundsbury Borough Council Overview and Scrutiny Committees that the meeting is urgent and cannot reasonably be deferred. If there is no Chairman, or if the Chairmen are unable to act, then the agreement of the Vice-Chairmen will suffice.

17.3 In the case of both key decisions and matters to be considered in private, as soon as practicable after the decision-maker has obtained such agreement, the decision-maker will make available at the Shadow Council's offices, and on its website, a notice setting out the reasons why the decision or matter is urgent and cannot reasonably be deferred.

## **18. Report to Shadow Council**

### **18.1 When a Shadow Scrutiny Committee can require a report**

18.1.1 If the relevant Shadow Scrutiny Committee thinks that a key decision has been taken which was not:-

- (a) treated as being a key decision; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with the Chairmen of the Forest Heath District Council or the St Edmundsbury Borough Council Overview and Scrutiny Committees, or the Vice-Chairman, under Rule 17;

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

18.1.2 The report will include:-

- (a) the decision and the reasons for the decision;
- (b) the decision making body by which, or the individual by whom, the decision was made; and
- (c) the reasons as to why the decision was considered not to be a key decision.

18.1.3 The power to require a report rests with the Shadow Scrutiny Committee but is also delegated to the Interim Monitoring Officer, who shall require such a report on behalf of the Shadow Scrutiny Committees when so requested by the Chairman or any ten Members. Alternatively the requirement may be raised by resolution passed at a meeting of the Shadow Scrutiny Committee.

## 18.2 **Shadow Executive's report to Shadow Council**

18.2.1 The Shadow Executive 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 seven days of receipt of the written notice, or the resolution of the Scrutiny Committees, then the report may be submitted to the meeting after that.

18.2.2 The report to Shadow Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

## 18.3 **Quarterly reports on special urgency decisions**

18.3.1 The Leader will submit quarterly reports to the Shadow Council on the Shadow Executive decisions taken (if any) in the circumstances set out in Rule 17 (Special urgency) in the preceding three months.

18.3.2 The report will include the number of decisions so taken and a summary of the matters in respect of which those

decisions were taken together with the reasons for the decision and why the matter was considered to be urgent.

## **19. Record of decisions**

19.1 After any meeting of the Shadow Executive, whether held in public or private, the proper officer or his/her nominee will produce a record of every decision taken at that meeting as soon as practicable.

19.2 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 making body at the meeting at which the decision was made;
- (d) a record of any conflict of interest in relation to the matter decided which is declared by any member of the decision making body which made the decision; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted by the Shadow Council's Interim Head of Paid Service.

## **20. Executive Shadow meetings relating to matters which are not key decisions**

20.1 The Shadow Executive will meet in public to consider matters which are not key decisions, unless confidential or exempt information is being discussed.

## **21. Officers**

21.1 The Interim Head of the Paid Service, the Interim Chief Finance Officer and the Interim Monitoring Officer, and their nominees are entitled to attend any meeting of the Shadow Executive. The Shadow Executive may not meet unless the Interim Monitoring Officer has been given reasonable notice that a meeting is to take place.

21.2 A Shadow Executive meeting may only take place in the presence of the Interim Monitoring Officer or his/her nominee with responsibility for recording and publicising the decisions and the provisions of Rule 19 will apply.

## **22. Decisions by individuals**

### **22.1 Reports intended to be taken into account**

- (a) Where a Shadow Executive member or officer receives a report, which will be taken into consideration when a key decision is made, he or she shall not make that decision until



the report has been available for public inspection for at least five clear days.

- (b) The Shadow Executive member or officer making the decision shall ensure that Democratic Services make the report available for inspection by the public as soon as is reasonably practicable after that officer or member receives it.
- (c) The officer who prepares the report shall, in any report to be available for inspection by the public, include a list of background papers for the report or part of the report, and shall ensure that the background papers are available on the Shadow Council's website.

## **22.2 Provision of reports to Shadow Scrutiny Committee**

- 22.2.1 Where a report has been submitted to a Shadow Executive Member or Officer with a view to it being considered when a key decision is made, the person who submitted the report shall, as soon as is reasonably practicable, ensure that it is available electronically to the Chairman and Vice Chairman of the Shadow Scrutiny Committee or, where there is no Chairman and Vice Chairman, to every member of the Shadow Scrutiny Committee.

## **22.3 Record of individual decision**

- 22.3.1 As soon as reasonably practicable after an shadow executive decision has been taken by an individual member of the Shadow Executive, or after an officer has taken a decision closely associated with the discharge of an executive function, he or she will prepare, or instruct the proper officer to prepare, a record of the decision which must 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 at the time when the decision was made;
- (d) a record of any conflict of interest declared by any Shadow Executive Member who is consulted in relation to the decision; and
- (e) in respect of any declared conflict of interest a note of any dispensation granted by the Shadow Council's Interim Head of Paid Service.

- 22.3.2 The provisions of Rules 7 and 9 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Shadow Executive. This does not require the disclosure of exempt or confidential information.

## **23. Shadow Scrutiny Committee Members access to documents**

### **23.1 Rights to copies**

Subject to Rule 23.2 below, a Member of a Shadow Scrutiny Committee will be entitled, no later than 10 clear days after the Shadow Executive receives the request, to copies of any document which is in the possession or control of the Shadow Executive and which contains material relating to:-

- (a) any business transacted at a public or private meeting of the Shadow Executive; or
- (b) any decision taken by an individual Member of the Shadow Executive; or
- (c) any decision that has been made by an officer of the authority which is closely associated with the discharge of an executive function.

### **23.2 Limit on rights**

A Member of the Shadow Scrutiny Committee will not be entitled to:-

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or any review contained in any programme of work of such a Shadow committee ; or
- (c) any document or part of a document containing the advice of a political adviser or assistant.

23.3 Where the Shadow Executive determines that a Member of the Shadow Scrutiny Committee is not entitled to a copy of a document or part of any such document for a reason set out in Rules 23.1 or 23.2 it must provide the Shadow Scrutiny Committee with a written statement setting out its reasons for that decision.

## **24. Additional rights of access for members**

### **24.1 Material relating to previous business**

All Members will be entitled to inspect any document which is in the possession or under the control of the Shadow Executive, and contains material relating to any business previously transacted at a private meeting unless the Interim Monitoring Officer has determined that it contains:-

- (a) exempt information falling within paragraphs 1, 2, 3 (to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract), 4, 5 and 7 of the categories of exempt information; or

(b) the advice of a political adviser.

#### **24.2 Material relating to key decisions**

All Members of the Shadow Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Shadow Executive which relates to any key decision unless paragraph (a) and/or (b) in 24.1 above applies.

#### **24.3 Nature of rights**

These rights of a Member are additional to any other rights he or she may have.

### **25. Confidentiality**

25.1 No member of the Shadow Council, nor any co-opted member of any Shadow committee, shall without the permission of the Shadow Council or (in respect of Shadow Executive functions) the Shadow Executive, disclose any exempt or confidential matter unless and to the extent only that that matter shall have been placed in the public domain by the Shadow Council or the Shadow Executive (as the case may be).

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## West Suffolk Shadow Council

### Budget and Policy Framework Procedure Rules

#### **1. The framework for Shadow Executive (Cabinet) decisions**

- 1.1 The Shadow Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once the budget and policy framework is in place, it will be the responsibility of the Shadow Executive to implement it.

#### **2. Process for developing the policy framework**

- 2.1 Normally, in the development of the policy framework, the Shadow Executive will liaise with the relevant Shadow Scrutiny Committee and Forest Heath District Council and St Edmundsbury Borough Council Cabinets to ensure that matters can be given proper consideration as part of the work programmes of these Committees.
- 2.2 However, the formal process by which the policy framework shall be developed is as follows.
- 2.3 **Prior to Shadow Executive consideration**
- (a) The Shadow Executive will publicise, by including in a Decisions Plan and/or by other methods, a timetable for making proposals to the Council for the adoption of any new or significantly revised policy or strategy that forms part of the policy framework. Where consultation on a draft policy is due to take place, the Decisions Plan will also set out the timetable for Shadow Executive consideration of the draft for consultation.

#### **Consultation on draft policies**

- (b) Where a policy is to be consulted on in draft form, the relevant Scrutiny Committees may wish to investigate, research or report in detail with policy recommendations before the end of the consultation period.

#### **2.4 Preparation of final proposals by Shadow Executive**

- (a) At the end of any consultation period, the Shadow Executive will approve its own final proposals for submission to the Shadow Council. These proposals will have regard to the responses to any consultation and will take into account any response or proposals from the Shadow Scrutiny Committee. Its report to the Shadow Council will reflect the comments made by consultees and/or the Committees and the Shadow Executive's response.

- (b) The Shadow Council will consider the proposals of the Shadow Executive and may:-
- (i) adopt them;
  - (ii) amend them;
  - (iii) refer them back to the Shadow Executive for further consideration; or
  - (iv) substitute its own proposals in their place.

In considering the matter, the Shadow Council shall have before it the Shadow Executive's proposals and any report from the Scrutiny Committee.

- (c)
- (i) the Shadow Council's decision will be published on the West Suffolk Council's website and drawn to the attention of the Leader.
  - (ii) the notice of decision shall be dated and shall state either that the decision shall be effective immediately (if the Shadow Council accepts the Shadow Executive's proposals without amendment); or
  - (iii) if the Shadow Executive's proposals are not accepted without amendment, the decision must inform the Leader of any objections which the Shadow Council has and require the Shadow Executive to reconsider, in the light of those objections, the proposals submitted to it.
  - (iv) the Shadow Council's decision will become effective on the expiry of 5 clear days after the publication of the notice of decision, unless the Leader objects to it in that period.
- (d) If the Leader objects to the decision of the Shadow Council, he shall give written notice to the Chief Executive of Forest Heath District Council and St Edmundsbury Borough Council to that effect prior to the date upon which the decision is to be effective. The written notification must either:-
- (i) submit a revision of the proposals as amended by the Shadow Executive (the "revised proposals"), with the Shadow Executive's reasons for any amendments made to the proposals, to the Shadow Council for the Shadow Council's consideration; or
  - (ii) inform the Shadow Council of any disagreement that the Shadow Executive has with any of the Shadow Council's objections and the Shadow Executive's reasons for any such disagreement.
- (e) Where such notification is received, the Chief Executive of Forest Heath District Council and St Edmundsbury Borough Council shall refer the matter to the next ordinary meeting of the Shadow Council to reconsider its decision and the decision shall not be effective pending that meeting. The Chief Executive may call an extraordinary meeting of Shadow

Council if the matter is too urgent to await the next ordinary meeting.

- (f) At that Shadow Council meeting, the decision of the Shadow Council shall be reconsidered in the light of the revised proposals or the objections, which shall be available in writing for the Shadow Council.
- (g) The Shadow Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public in accordance with Article 4 and shall be implemented immediately.
- (h) In approving the policy framework, the Shadow Council will also specify the degree of in-year changes to the policy framework which may be undertaken by the Shadow Executive. Any other changes to the budget and policy framework are reserved to the Council.

### **3. Process for developing the budget framework**

3.1 There will be a process for financial planning:-

- (a) The Shadow Executive shall prepare and adopt a timetable to accomplish these objectives that should incorporate consideration of:-
  - (i) An early assessment of assumptions that will be used in the drafting of the forthcoming budget, taking account of financial issues that may have a significant impact on the medium term financial situation of West Suffolk Council.
  - (ii) An overview of the financial position in the coming financial year following publication of the settlement details of the anticipated funding from Central Government.
  - (ii) Detailed consideration of items of growth or potential disinvestments.
- (b) Prior to Shadow Executive consideration:-
  - (i) The Shadow Executive will publicise, by including in the Decisions Plan and/or by other methods, a timetable for making proposals to the Shadow Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation. The Chairman and Vice Chairman of the Shadow Scrutiny Committee will be notified. The consultation period shall in each instance be not less than six weeks.
  - (ii) If the Shadow Scrutiny Committee wishes to respond to the Shadow Executive in that consultation process then it may do so. As the Shadow Scrutiny Committee has responsibility for fixing its own work programme, it

is open to this Committee to investigate, research or report in detail with policy recommendations before the end of the consultation period.

- (c) Preparation for the formal budget meeting:-
- (i) The Shadow Council will hold its formal budget meeting in February 2019 or March 2019 when the Shadow Executive will present proposals to the Shadow Council.
  - (ii) The budget proposals presented by the Shadow Executive having taken consideration of the views of the public, staff, members of the Shadow Scrutiny Committee and other consultees.
  - (iii) All potential amendments to the budget must be assessed for their financial implications prior to the Shadow Council meeting to comply with Financial Procedures. To avoid any problems arising from this requirement, all proposed amendments to the budget will therefore be notified in advance to the Chief Executive and S151 Officer.
  - (iv) At the budget meeting, the Shadow Council will decide on the budget for the forthcoming year and formally adopt this, satisfying any statutory requirements so that all income due to the Shadow Council and its preceptors can be collected.

#### **4. Decisions outside the budget and policy framework**

- (a) Subject to the provisions of Rule 6 the Shadow Executive, committees of the Shadow Executive, individual members of the Shadow Executive and any officers, or joint arrangements discharging Executive functions may only take decisions which are in line with the budget and policy framework.

If any of these bodies or persons wishes to make a decision which is contrary to policy, or contrary to or not wholly in accordance with the budget approved by the Shadow Council, then that decision may only be taken by the Shadow Council, subject to Rules 5 and 7 below.

- (b) If the Shadow Executive, committees of the Shadow Executive, individual members of the Shadow Executive and any officers, or joint arrangements discharging Shadow Executive functions want to make such a decision, they shall take advice from the Interim Monitoring Officer and the Interim S151 Officer as to whether the decision they want to make would be contrary to policy, or contrary to or not wholly in accordance with the budget.
- (c) If the advice of either of those officers is that the decision would not be in line with the existing budget and policy framework, then the decision must be referred to the



Shadow Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 5 (Urgent decisions outside the budget and policy framework) shall apply.

## **5. Call-in of decisions outside the policy framework**

- (a) Where the Shadow Scrutiny Committee is of the opinion that an executive decision is, or if made would be, contrary to policy, then it shall seek advice the Interim Monitoring Officer and/or Interim S151 Officer.
- (b) The Interim Monitoring Officer's report and/or Interim S151 Officer's report shall be to the Shadow Executive with a copy to every member of the Shadow Council. Regardless of whether the decision is delegated or not, the Shadow Executive must meet to decide what action to take in respect of the Interim Monitoring Officer's report. The Shadow Executive must prepare a report to:-
  - (i) the Shadow Council if the Interim Monitoring Officer or the Interim S151 Officer conclude that the decision was a departure; and
  - (ii) the Shadow Scrutiny Committee if the Interim Monitoring Officer or the Interim S151 Officer conclude that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Interim Monitoring Officer and/or the Interim S151 Officer is that the decision is or would be contrary to policy or contrary to or not wholly in accordance with the budget, the Shadow Scrutiny Committee may refer the matter to the Shadow Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Shadow Council has met and considered the matter. The matter will be referred to the next ordinary meeting of the Shadow Council except in cases of urgency when an extraordinary meeting will be called. At the meeting it will receive a report of the decision or proposals and the advice of the Interim Monitoring Officer and/or the Interim S151 Officer. The Shadow Council may either:-
  - (i) endorse a decision or proposal of the Shadow Executive decision maker as falling within the existing policy framework. In this case no further action is required; *or*
  - (ii) amend the Shadow Council's Financial Procedure Rules or policy concerned and agree to the decision with immediate effect; *or*
  - (iii) here the Shadow Council accepts the decision or proposal is contrary to policy and does not amend the existing framework to accommodate it, require the Shadow Executive to reconsider the matter in

accordance with the advice of either the Interim Monitoring Officer/Interim S151 Officer.

## West Suffolk Shadow Council

### Other Constitutional Matters

*(The following arrangements will be in place for the Constitutional Matters listed below, unless the West Suffolk Shadow Council chooses to adopt otherwise)*

#### 1. Rules of Procedure

The West Suffolk Shadow Council will not establish its own Procedure Rules for the following areas and has chosen to adopt the Rules of Procedure as set out in the Forest Heath District Council/St Edmundsbury Borough Council Constitutions, as listed below:

<b>Rules of Procedure</b>	<b>Forest Heath District Council Constitution (see links below)</b>	<b>St Edmundsbury Borough Council Constitution (see links below)</b>
West Suffolk Contract Procedure Rules	<a href="#"><u>Part 4(h) (Rules of Procedure)</u></a>	<a href="#"><u>Part 4(i) (Rules of Procedure)</u></a>
West Suffolk Financial Procedures Rules	<a href="#"><u>Part 4(i) (Rules of Procedure)</u></a>	<a href="#"><u>Part 4(h) (Rules of Procedure)</u></a>

#### 2. Codes of Conduct

The West Suffolk Shadow Council will not establish its own Code of Conduct for Members and Officers and has chosen to adopt the Codes of Conduct as set out in the Forest Heath District Council/St Edmundsbury Borough Council Constitutions, as listed below:

<b>Code of Conduct</b>	<b>Forest Heath District Council Constitution (see links below)</b>	<b>St Edmundsbury Borough Council Constitution (see links below)</b>
Suffolk Local Code of Conduct for Members	<a href="#"><u>Part 5 (Codes of Conduct)</u></a> (page 3)	<a href="#"><u>Part 5(a) (Codes and Protocols)</u></a>
Code of Conduct for Employees ( <i>Officers to follow the Code of Conduct relevant to their employing Council</i> )	<a href="#"><u>Part 5 (Codes of Conduct)</u></a> (page 37)	<a href="#"><u>Part 5(b) (Codes and Protocols)</u></a>

### 3. Members' Allowances Scheme

Councillors will not receive allowances from the Shadow Council in relation to the undertaking of its roles and functions, but will continue to receive allowances in accordance with the Members' Allowances Scheme as set out in the Forest Heath District Council/St Edmundsbury Borough Council Constitutions, as listed below:

<b>Members' Allowances Scheme</b>	<b>Forest Heath District Council Constitution (see links below)</b>	<b>St Edmundsbury Borough Council Constitution (see links below)</b>
Members Allowances Scheme	<a href="#"><i>Part 6 (Members' Allowances Scheme)</i></a>	<a href="#"><i>Part 6 (Members' Allowances Scheme)</i></a>

### 4. Protocols

The West Suffolk Shadow Council will not establish its own Member and Officer Protocol and has chosen to adopt the Protocols as set out in the Forest Heath District Council/St Edmundsbury Borough Council Constitutions, as listed below:

<b>Protocols</b>	<b>Forest Heath District Council Constitution (see links below)</b>	<b>St Edmundsbury Borough Council Constitution (see links below)</b>
Member and Officer Protocol	<a href="#"><i>Part 5 (Codes of Conduct)</i></a> (page 31)	<a href="#"><i>Part 5(c) (Codes and Protocols)</i></a>

**SHADOW SCRUTINY COMMITTEE**  
**CALL-IN REQUEST FORM**

**To: Interim Monitoring Officer**

**I would like to call-in the decision as detailed below:**

**Decision making body (Shadow Executive or Portfolio Holder)      Date decision made:**

**What was the Decision made by Shadow Executive or Portfolio Holder:**

**If the reason for the call-in is that the decision was outside the Budget and Policy Framework Procedure Rules, please give an explanation**

**What action would you like to see the Shadow Executive / Portfolio Holder take to address the concerns outlined in the call-in, or what needs to be done to strengthen their decision?**

**At what stage did you inform the Portfolio Holder or the Leader of the Shadow Council that you had concerns over this planned decision? If not a planned decision (that is if the decision did not appear on the Decisions Plan), what attempts did you make to speak to the Portfolio Holder before calling in the decision?**

**Please state which of the principles for decision making set out in Article 12 of the Constitution has/have been breached (please tick)**

		<b>TICK</b>
1	The decision was not reasonable within the common meaning of the word, ie it was not a rational decision based on sound judgement.	
2	The decision was not reasonable within the legal meaning of "reasonableness", ie all relevant considerations were not fully taken into account in reaching the decision and all irrelevant ones disregarded.	
3	The decision was not proportionate (ie the action was not proportionate to the desired outcome).	
4	The decision was not taken on the basis of due consultation and professional advice from officers.	
5	Human rights were not respected and consideration was not given as to whether the decision would give rise to any implications under the Human Rights Act 1998 and the European Convention on Human Rights.	
6	The decision was not taken in compliance with Council's schemes of delegation, financial rules and instructions relating to contracts.	
7	When making the decision, a presumption in favour of openness was not applied and a clarity of aims and desired outcomes was not displayed.	
8	Careful consideration was not given as to whether there was an interest that should have been declared;	
9	In the case of an executive decision taken by the Shadow Executive, or an individual Member of the Shadow Executive, or an Officer (where the decision is closely connected with the Shadow Executive), a proper record of the decision	

	was not made together with a record of the reasons for the decision, details of any alternative options considered and rejected and any conflicts of interest.	
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**Referring to the box(es) ticked above, please explain how the principles set out in Article 12 of the Shadow Constitution have not been met, and provide documentation or evidence, where appropriate to support the call-in:**

**Suggested Witnesses (Internal/External) to be invited and their relevance to the call-in**

**Members calling in the decision** (Call-in to be requested by any ten Members of the Shadow Council)

	<b>Name of Councillor</b>	<b>Signed</b>	<b>Will you be attending the call-in meeting?</b>
1	(Lead on Call-in)		
2			
3			
4			
5			
6			
7			
8			
9			
10			

Once completed, either by hand or electronically, please send to the Interim Monitoring Officer **BY 5PM ON THE DEADLINE DATE PUBLISHED ON THE SHADOW EXECUTIVE DECISION NOTICE**, otherwise the call-in will not be valid.