

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.