

# East Suffolk Shadow Authority

Agenda  
Item  
12

## SHADOW COUNCIL

Monday 28 January 2019

## EAST SUFFOLK CONSTITUTION (REP 29(SH))

### EXECUTIVE SUMMARY

1. Part 2 Section 37 of the Local Government Act 2000 states that all Local Authorities must prepare and keep up to date a constitution. For the creation of East Suffolk Council on 1 April 2019 under the East Suffolk (Local Government Changes) Order 2018, a constitution will need to be adopted in order for the new Council to function and operate appropriately and within law.
2. Shadow Council is asked to adopt the proposed Constitution for East Suffolk Council, prepared over the course of the last year in consultation with Members, Officers and external specialist advice.

Is the report Open or Exempt?	Open
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<b>Wards Affected:</b>	All
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<b>Cabinet Member:</b>	Cllr Ray Herring and Cllr Mark Bee
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<b>Supporting Officer:</b>	Hilary Slater Monitoring Officer 01394 444336 hilary.slater@eastsuffolk.gov.uk
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## **1 INTRODUCTION**

- 1.1 [Part 2 Section 37 of the Local Government Act 2000](#) states that all Local Authorities must prepare and keep up to date a document (referred to as their constitution) which contains:
- a) such information as the Secretary of State may direct,
  - b) a copy of the authority's standing orders for the time being,
  - c) a copy of the authority's code of conduct for the time being under section 51, and
  - d) such other information (if any) as the authority consider appropriate.
- 1.2 A local authority must ensure that copies of their constitution are available at their principal office for inspection by members of the public at all reasonable hours and must supply a copy to any person who requests a copy and who pays to the authority such reasonable fee as the authority may determine.
- 1.3 For the creation of East Suffolk Council on 1 April 2019 under the [East Suffolk \(Local Government Changes\) Order 2018](#), a constitution will need to be adopted in order for the new Council to function and operate appropriately and within law.

## **2 CONSTITUTION AND GOVERNANCE MEMBER WORKING GROUP**

- 2.1 A Programme Structure was created to manage the implementation of the new Council – within this, one of the five Member Working Groups formed was the Constitution and Governance Member Working Group (MWG).
- 2.2 The remit of the Constitution and Governance MWG was to create the new constitution for East Suffolk Council, including its scheme of delegation, committee terms of reference, procedure rules and any other codes and protocols considered appropriate.
- 2.3 The MWG was made up of ten Members, equally split between Suffolk Coastal and Waveney District Councils and politically balanced in membership. The MWG was also open to all Members to attend if they wished, circulation of meeting dates and agendas were made widely available.
- 2.4 The MWG met regularly from January 2018 through to December 2018 and was led by Councillor Ray Herring and Councillor Mark Bee, with officer support from Hilary Slater (Monitoring Officer), Sandra Lewis (Programme Manager) and other officers as necessary.
- 2.5 In addition to the main MWG, several smaller sub-groups and other working arrangements were in place to develop other matters relating to specific parts of the constitution such as the Planning process, Contract Procedure Rules, and joint working with the Finance MWG to develop the Financial Procedure Rules, for example.
- 2.6 The MWG also took advice from an independent external lawyer, Olwen Dutton of [Anthony Collins Solicitors](#), who specialise in legal and strategic advice to Local Authorities, to ensure the new constitution was up to date and fit for purpose.
- 2.7 The MWG took into account the current procedures and other matters of the existing constitutions of Suffolk Coastal and Waveney where appropriate, noting and dealing with differences in approach to create a single new constitution for East Suffolk Council.
- 2.8 The Constitution and Governance MWG met for its last meeting on 17 December 2018 and made recommendations to the Member Programme Board (MPB) that the constitution developed by the MWG be proposed to the Shadow Council for adoption.

2.9 Subsequently, the MPB met on 9 January 2019 and now recommend to the Shadow Authority that the constitution attached at Appendix A is adopted as the East Suffolk Council Constitution at its meeting on 28 January 2019 in preparation for the creation of the East Suffolk Council on 1 April 2019.

### 3 OVERVIEW OF EAST SUFFOLK CONSTITUTION

3.1 The MWG, in considering the development of a new constitution for a new authority, aimed to develop a Constitution that:

- a) Is modern and flexible in its approach;
- b) Allowed for the fact that East Suffolk Council will be a much larger organisation than predecessor authorities;
- c) Is easy to navigate and understand.

3.2 The following table shows the order and content of the new Constitution:

<b>PART</b>	<b>CONTENT</b>
<b>Part 1</b>	<b>Summary and explanation</b>
<b>Part 2</b>	<b>Functions and Responsibilities (including scheme of delegation)</b>
	Section A – General Principles
	Section B – Council <ol style="list-style-type: none"> <li>i. Statutory Functions</li> <li>ii. East Suffolk Council Specific Functions</li> <li>iii. Budget &amp; Policy Framework</li> </ol>
	Section C – Committees / Sub-Committees <ol style="list-style-type: none"> <li>i. Scrutiny Committee</li> <li>ii. Audit &amp; Governance Committee</li> <li>iii. Planning Committee</li> <li>iv. Licensing Committee</li> <li>v. Appointments Committee</li> </ol>
	Section D – Cabinet
	Section E – Officers
	Section F – Councillor roles
<b>Part 3</b>	<b>Procedure Rules</b>
	<ol style="list-style-type: none"> <li>i. Council Procedure Rules</li> <li>ii. Cabinet Procedure Rules</li> <li>iii. Budget &amp; Policy Framework Procedure Rules</li> <li>iv. Access to Information Procedure Rules</li> <li>v. Finance Procedure Rules</li> <li>vi. Contract Procedure Rules</li> <li>vii. Officer Employment Procedure Rules</li> <li>viii. Committee Procedure Rules</li> <li>ix. Scrutiny Procedure Rules</li> </ol>
<b>Part 4</b>	<b>Codes and Protocols</b>
	<ol style="list-style-type: none"> <li>i. Monitoring Officer Protocol</li> <li>ii. Member/Officer Relations Protocol</li> <li>iii. Officer Code of Conduct</li> <li>iv. Suffolk Local Code of Conduct</li> <li>v. Planning &amp; Rights of Way Code of Good Practice</li> <li>vi. Members ICT Protocol</li> </ol>
<b>Part 5</b>	<b>Members Allowances</b>

3.3 The key points of the Constitution for Members to note:

- a) Part 1 is a summary of how the Council operates and replaces the more traditional ‘Articles’ that are the current practice with the existing Constitutions. It seeks to

explain how the organisation is run in plain English, giving an overview of the whole constitution without delving into detail.

- b) Part 2 contains the detail around how functions are carried out and delegated where appropriate. It focusses on those functions which are reserved to Council or Cabinet, including key decision thresholds where a decision:
  - results in expenditure, savings, income, additional funding or virement of over £250,000 being incurred or achieved; or
  - results in an outcome which will have a marked effect on communities living or working in an area comprising two or more wards.
- c) Part 2 also contains the terms of reference for the Committees to the new Council and the scheme of delegation to officers.
- d) Part 3 covers all Procedure Rules, many of which have been formed by bringing together the current Suffolk Coastal or Waveney Procedure Rules and addressing any differences. The Financial Procedure Rules and Contract Procedure Rules are both completely new documents developed for the new Council taking into account the size of the new organisation.
- e) Part 4 covers all codes and protocols, again these have been formed by bringing together the current practices of Suffolk Coastal and Waveney and adapting to fit the new Council where appropriate. The Suffolk Code of Conduct for Members remains unchanged as this is adopted across the whole of Suffolk.
- f) Part 5 – Member Allowances – this will be considered as a separate item at the meeting of Shadow Council on 28 February 2019 and inserted upon agreement.

- 3.4 As this is for the formation of a much larger Council than the current two organisations, it has been accepted by the MWG and MPB that until the Council is in operation we won't be able to fully test how the new Constitution works, and it is accepted that some amendments may be needed as the new Council begins to operate. The Constitution allows for changes (within Part 1, paragraphs 18.1 to 18.3) covering:
- a) Authority for the Monitoring Officer to make minor amendments and corrections.
  - b) The Leader may change Cabinet portfolios and delegations.
  - c) Any substantive changes to the Council's decision-making arrangements and committee structure will be considered by the Audit and Governance Committee who will recommend any future changes to the Council.

#### **4 FINANCIAL AND GOVERNANCE IMPLICATIONS**

- 4.1 The new Council must have a Constitution by which to operate, this also includes the financial governance arrangements.

#### **5 REASON FOR RECOMMENDATION**

- 5.1 The Shadow Council is asked to adopt the East Suffolk Constitution to guide Officers and Members to serve East Suffolk Council legally and appropriately.

<b>RECOMMENDATIONS</b>
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That the Shadow Council adopts the East Suffolk Constitution as attached at Appendix A.
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<b>APPENDICES</b>
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<b>Appendix A</b>	East Suffolk Council Constitution
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**BACKGROUND PAPERS**

Please note that copies of background papers have not been published on the Council's website but copies of the background papers listed below are available for public inspection free of charge by contacting the relevant Council Department.

Date	Type	Available From
July 2000	Parliamentary Order	<a href="#">Local Government Act 2000</a>
May 2018	Parliamentary Order	<a href="#">East Suffolk (Local Government Changes) Order 2018</a>