

East Suffolk Shadow Authority

Agenda
item 12

SHADOW COUNCIL

Monday 3 September 2018

PROPOSED SHADOW EXECUTIVE PROCEDURE RULES (REP 3(SH))

EXECUTIVE SUMMARY

1. The Shadow Authority is required to have in place, and maintain, a Constitution.
2. This report recommends the adoption of Procedure Rules for the Shadow Executive.

Is the report Open or Exempt?	Open
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Wards Affected:	All
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Cabinet Members:	Councillor Mark Bee and Councillor Ray Herring
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Supporting Officer:	Hilary Slater Head of Legal and Democratic Services 01394 444336 Hilary.slater@eastsoffolk.gov.uk
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1 INTRODUCTION

- 1.1 By article 8(7) of the East Suffolk (Local Government Changes) Order 2018 (the ‘Changes Order’), certain provisions of Part 1A of the Local Government Act 2000 – which concerns the arrangements for local authority governance in England – have effect in relation to the Shadow Authority.
- 1.2 Part 1A includes section 9P (local authority constitution) which requires a local authority to maintain a Constitution and ensure that it is available for inspection by members of the public. Under section 9P, the authority must supply a copy to anybody who requests one, upon payment of a reasonable fee. The Constitution is to include the standing orders, a copy of the authority’s code of conduct, such information as the Secretary of State may direct and such other information as the authority considers appropriate.
- 1.3 At the first meeting of the East Suffolk Shadow Authority, on Monday 4 June 2018 (REP1(SH)), the Shadow Authority adopted the Shadow Council Procedure Rules and Suffolk Code of Conduct and it was stated that further documents to form the Shadow Authority’s Constitution would be developed in due course.
- 1.4 Also at that first meeting, the Shadow Authority adopted the Leader and cabinet executive within the meaning of Part1A of the Local Government Act 2000, in accordance with article 8(1) of the Changes Order
- 1.5 It is now necessary to adopt a set of Procedure Rules for the Shadow Executive.

2 MAINTENANCE OF THE SHADOW CONSTITUTION

- 2.1 The proposed Shadow Executive Procedure Rules have been considered at the meeting of the Member Programme Board on 20 August 2018 and the Member Programme Board recommends to the Shadow Authority that these are adopted.
- 2.2 It is proposed, therefore, that the following documents be adopted to enable the Shadow Executive to carry out its functions and conduct its proceedings in relation to the formation of the new Council:
 - a) Appendix A – Shadow Executive Procedure Rules

RECOMMENDATION

1. That the Shadow Authority adopts the Shadow Executive Procedure Rules as set out in Appendix A.

APPENDICES

Appendix A	Shadow Executive Procedure Rules
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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
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25/05/18	East Suffolk (Local Government Changes) Order 2018	https://www.legislation.gov.uk/ukdsi/2018/9780111167564/contents
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EAST SUFFOLK SHADOW AUTHORITY (THE SHADOW AUTHORITY)**SHADOW EXECUTIVE AND SHADOW EXECUTIVE PROCEDURE RULES****1. Role**

- 1.1 The Shadow Executive will carry out all functions which are delegated to it by the Shadow Authority under the Implementation Order

2. Form and Composition

- 2.1 The Shadow Executive will consist of the Leader elected under Section 8(3) of the Implementation Order and the Deputy Leader elected under Article 8(3) of the Implementation Order and eight persons nominated by Suffolk Coastal District Council each of whom is for the time being a member of that Council and eight persons nominated by Waveney District Council each of whom is for the time being a member of that Council

3. Shadow Executive Leader

- 3.1 The Leader of the Shadow Executive will be the elected by the shadow Authority in accordance with Section 8 (3) of the Implementation Order. The Leader will hold office until:
- (a) he/she resigns from the office; or
 - (c) he/she is no longer a councillor; or
 - (d) he/she is removed from office by resolution of the Shadow Authority;

4. Shadow Executive Deputy Leader

- 4.1 The Deputy Leader of the Shadow Executive shall be elected by the Shadow Authority in accordance with Section 8 (3) of the Implementation Order and shall act in place of the Leader, if the Leader is absent or otherwise unable to carry out his/her duties. If the Leader no longer holds office, the Deputy Leader will carry out the role and duties of the Leader until such time as the Shadow Authority elects a Councillor to the position of Leader. The Deputy Leader will hold office until;
- (a) he/she resigns from the office; or
 - (c) he/she is no longer a councillor; or
 - (d) he/she is removed from office by resolution of the Shadow Authority;

5. Other Shadow Executive Members

- 5.1 Other Shadow Executive members shall hold office until:-
- (a) they resign from office; or
 - (b) they are no longer councillors; or
 - (c) their nomination by either Suffolk Coastal District Council or Waveney District Council is withdrawn

6. Portfolios

6.1 The Leader shall have authority to determine the portfolio structure of the Shadow Executive, and to vary that structure from time to time and may allocate portfolios to individual members of the Shadow Executive and may vary that allocation at any time. Any powers delegated by the Leader to individual portfolio holders, together with the limits of those powers, shall be documented and listed on the Shadow Authority's website.

7. Restriction on Membership

7.1 Neither the Chairman nor Vice-Chairman of the Shadow Authority may be appointed to the Shadow Executive. Members of the Shadow Executive (including the Leader) shall not be members of the Shadow Scrutiny Committee. There may be no co-optees and no substitutes for Shadow Executive members.

8. Proceedings of the Shadow Executive

8.1 Proceedings of the Shadow Executive shall take place in accordance with the Executive Procedure Rules set out below.

9. Responsibility for functions

9.1 The Leader will maintain a list setting out which individual members of the Shadow Executive, committees of the Shadow Executive, officers or joint arrangements are responsible for the exercise of particular executive functions. The Leader may vary the scheme of delegation of executive functions at any time subject to compliance with the provisions of paragraph 2. of the Executive Procedure Rules.

SHADOW EXECUTIVE PROCEDURE RULES

SECTION 1: HOW DOES THE EXECUTIVE OPERATE?

1. Who may make executive decisions?

1.1 The arrangements for the discharge of executive functions are set out in these executive arrangements which have been adopted by the Shadow Authority. They may provide for executive functions to be discharged by:

- (a) the executive as a whole;
- (b) a member of the executive;
- (c) a committee of the executive;
- (d) an officer of the one of the existing councils or the Interim Head of Paid Service, Interim Monitoring Officer of Interim s151 Officer appointed by the Shadow Authority; or
- (e) any joint committee or other local authority.

2. Delegation of Functions

2.1 The Leader will present to the Shadow Authority a written record of delegations made by him/her for inclusion in the Shadow Authority's scheme of delegation. The document presented by the Leader will contain the following information about executive functions during the shadow period:

- (a) the extent of any authority delegated to Shadow Executive members individually, including details of the limitation of their authority;
- (b) the terms of reference and Constitution of such Shadow Executive committee as the Leader appoints and the names of Shadow Executive members appointed to them;
- (c) the nature and extent of any delegation of executive functions to any other authority or any joint arrangements and the names of those Shadow Executive members appointed to any joint committee for the coming year; and
- (d) the nature and extent of any delegation to officers with details of any limitation on that delegation and the title of the officer to whom the delegation is made.

3. Sub-delegation of executive functions

- (a) Unless the Leader directs otherwise, 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.
- (b) Unless the Leader directs otherwise, if the Leader delegates functions to the Shadow Executive, then the Shadow Executive may delegate further to a committee of the Shadow Executive or to an officer.
- (c) Unless the Leader directs otherwise, a committee of the Shadow Executive to whom functions have been delegated by the Leader may delegate further to an officer.
- (d) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

4. Delegation of Executive Functions

- (a) The Leader may amend the Scheme of Delegation relating to executive functions at any time during the year. To do so, the Leader must give 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 Interim Monitoring Officer will present a report to the next ordinary meeting of the Shadow Authority setting out the changes made by the Leader.

(b) Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when he/she has served it on its Chairman.

5. Conflicts of Interest

(a) Where any Member of the Shadow Executive has a conflict of interest this should be dealt with in accordance with the Council's Code of Conduct for Members adopted by the Shadow Authority on 4 June 2018

(b) If the exercise of an executive function has been delegated to a committee of the Shadow Executive, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members adopted by the Shadow Authority on 4 June 2018.

6. Executive Meetings – when and where?

6.1 The executive will meet at times and locations to be agreed by the Leader.

7. Quorum

7.1 The quorum for a meeting of the Shadow Executive shall be 9 members of it.

8. How are decisions to be taken by the Shadow Executive?

(a) 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 Procedure Rules.

(b) Where executive decisions are delegated to a committee of the Shadow Executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Shadow Executive as a whole.

SECTION 2: HOW ARE SHADOW EXECUTIVE MEETINGS CONDUCTED?

1. Who presides?

1.1 If the Leader is present he/she will preside. In his/her absence, the Deputy Leader of the Shadow Executive will preside or in his/her absence another member appointed to do so by those present shall preside.

2. Who may attend?

2.1 Other members of the Shadow Authority may attend, and members of public may attend all meetings subject only to the exceptions in the Access to Information Procedure Rules.

3. What business?

3.1 At each meeting of the Shadow Executive the following business will be conducted:

- (a) Consideration of the minutes of the last meeting;
- (b) Declarations of interest, if any;
- (c) Matters referred to the Shadow Executive (whether by the Shadow Scrutiny Committee or by the Shadow Authority) for reconsideration by the Shadow Executive in accordance with the provisions contained in the Shadow Scrutiny Procedure Rules adopted by the Shadow Authority at its meeting of 3 September 2018
- (d) Consideration of reports from the Shadow Scrutiny Committee; and
- (e) Matters set out in the agenda for the meeting, and which are key decisions

4. Consultation

- 4.1 All reports to the Shadow Executive from any member of the Shadow Executive or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of any consultation with stakeholders or the Shadow Scrutiny Committee, and the outcome of that consultation. Reports about other matters will set out the details and outcome of any consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

5. Who can put items on the Shadow Executive agenda?

- (a) The Leader will decide upon the schedule for the meetings of the Shadow Executive. He/she may put on the agenda of any Shadow Executive meeting any matter which he/she wishes, whether or not authority has been delegated to the Shadow Executive, a committee of it or any member or officer in respect of that matter. The proper officer will comply with the Leader's requests in this respect.
- (b) There will be an item on the agenda of the Shadow Executive where any matter is referred by the Shadow Scrutiny Committee. However the Shadow Executive may provide for a limit on the number of such items per Shadow Executive meeting.
- (c) The Interim Head of Paid Service, Interim Monitoring Officer and/or the Interim s151 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 Monitoring Officer and Interim s151 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.