

# **Shadow Dorset Council**

## **CONSTITUTION**

### **PART 1 - SUMMARY AND EXPLANATION**

## Part 1 - Constitution - summary and explanation

### General

- 1 Shadow Dorset Council (“the Shadow Council”) is one of two authorities that have been created by the Bournemouth, Dorset and Poole (Structural Changes) Order 2018 (“the 2018 Order”) and will operate as the Shadow Council for a new local authority that will come into being on 1 April 2019 to be known as Dorset Council. The Shadow Council will exist for the period beginning with the day on which the 2018 Order comes into force and ending on the fourth day after the 2019 Election Day (“the Shadow Period”). As required under the Local Government Act 2000, the Shadow Council has approved this Constitution which sets out:
  - how the Shadow Council operates;
  - how its decisions are made; and
  - the procedures which will be followed.
- 2 Some of the processes in the Constitution are required by law while others are considered by the Shadow Council to be necessary to ensure that it operates effectively and efficiently; and in the interests of the people it serves.

### The Constitution and its Content

- 3 The Constitution is divided into five parts.

Part 1 sets out an explanation of what the Shadow Council is and how it works.

Part 2 sets out the formal articles of the Constitution:

Article 1 - The Constitution;  
 Article 2 - The Shadow Council;  
 Article 3 - Rights and Responsibilities of Members of the public;  
 Article 4 - The Full Shadow Council;  
 Article 5 - The Role of the Chairman;  
 Article 6 - Scrutiny;  
 Article 7 - The Shadow Executive Committee;  
 Article 8 - Other Committees  
 Article 9 - Joint Arrangements  
 Article 10 - Arrangements for promoting good standards of behaviour by Members;  
 Article 11 - Officers;  
 Article 12 - Decision Making;  
 Article 13 - Legal Matters; and  
 Article 14 - Review, Revision, Suspension, Interpretation and Publication of the Constitution.

Part 3 sets out the responsibility of bodies and individuals for various functions carried out by the Shadow Council in relation to the exercise of its powers.

Part 4 contains the Rules of Procedure which are designed to regulate the conduct of the Shadow Council's business to ensure decisions are made in accordance with the law and the wishes of the Shadow Council.

Part 5 includes the Code of Conduct for Shadow Councillors which is designed to ensure that Councillors carry out their duties to the highest ethical standards. It also includes a protocol on Member/Officer Relations.

Part 6 covers the Scheme of Shadow Councillors' Allowances. Article 27 of the 2018 Order provides that the Shadow Council has to prepare and adopt a scheme for the payment of allowances to its members.

## **The Shadow Council and how it operates in making decisions**

There are 206 Shadow Councillors who sit on the Shadow Council. They are the councillors who were elected to East Dorset District Council; North Dorset District Council; Purbeck District Council; West Dorset District Council; Weymouth and Portland Borough Council; and those councillors who were elected to Dorset County Council for the County Divisions within the area of Dorset covered by the five districts and boroughs. The Councillors will continue in office after 1 April 2019 when a new local authority to be known as Dorset Council will come into existence before retiring from office on the expiry of the Shadow Period.

The role of the Shadow Council is to:

- prepare for the assumption of local government functions and full local authority powers on 1 April 2019;
- prepare budgets and plans required to be put in place on 1 April 2019; and
- liaise with other local authorities in its area to ensure continuity of public service delivery on or after 1 April 2019 and thereafter.

The Shadow Councillors are directly accountable to their constituents for the running of the Shadow Council. Whilst Shadow Councillors have this very broad role they have a duty to represent the interests of all their constituents. They also work closely with officers in developing policies and strategies to give direction to the Shadow Council's vision and to ensure that services are delivered in accordance with the Shadow Council's wishes.

The Shadow Council will meet on a number of occasions during the Shadow Period. Meetings are open to the public, but the public may be excluded where an item of a confidential or exempt nature is being discussed.

At its first meeting, the Shadow Council will appoint its Chairman and Vice-Chairman; and the Chairmen and Vice-Chairmen of any Committees, Sub-Committees and Special Committees. It will also agree the range of responsibilities to be exercised by Shadow Councillors individually or collectively. All these individuals and bodies are directly accountable to the Shadow Council.

There are two main areas in the Shadow Council's political structure covering the Shadow Executive Committee; and Overview and Scrutiny. These are covered in more detail within the Constitution.

The Shadow Executive Committee is that part of the Shadow Council which is responsible for most of the day-to-day decisions. The Shadow Executive Committee comprises 20 Shadow Councillors nominated in accordance with Article 27 of the 2018 Order.

At the first meeting of the Shadow Executive Committee it will elect a Councillor from among those who have been nominated to the Shadow Executive Committee to chair the Shadow Executive Committee. The Councillor who is elected will also be the Shadow Council Leader. A second Councillor will be elected to be the vice-chair and deputy Shadow Council Leader.

Any Key Decisions to be made by the Shadow Executive Committee are published on a monthly basis in the Shadow Executive Committee's Forward Plan which looks at the forthcoming four- month period. It is not always possible to anticipate all the items to be included in the Plan. However, in cases where this is not possible items will be added to the Plan at the next date of publication. Special arrangements apply where a matter is urgent or cannot be included in the Plan.

The Shadow Council's Overview and Scrutiny arrangements ensure that Shadow Councillors who are not on the Shadow Executive Committee can be involved in Shadow Executive Committee decisions by questioning and making recommendations.

The Overview and Scrutiny arrangements will reflect as far as practicable the overall political proportionality of the Shadow Council. Members of the Shadow Executive Committee cannot sit on the Overview and Scrutiny Committee.

In performing their various roles, Shadow Councillors are supported by the Officers who give advice, implement decisions and manage the delivery of services. Officers ensure the Shadow Council acts within the law and uses resources efficiently and effectively.

As the Shadow Council is a public body, members of the public have a number of rights in their dealings with it. Whilst some are legal rights such as the right to film, audio record or to report on meetings, others will depend on the Shadow Council's own processes. These rights are set out in Parts 2 and 4 of this Constitution.

The Constitution will be updated to reflect changes within the Shadow Council, its procedures and processes.

## PART 2 – ARTICLES OF THE CONSTITUTION

- Article 1 - The Constitution
- Article 2 - The Shadow Council
- Article 3 - Rights and Responsibilities of Members of the public
- Article 4 - The Full Shadow Council
- Article 5 - The Role of the Chairman of the Shadow Council
- Article 6 - Overview and Scrutiny Committee
- Article 7 - The Shadow Executive Committee
- Article 8 - Other Committees
- Article 9 - Arrangements for promoting good standards of behaviour by Shadow Councillors
- Article 10 - Officers
- Article 11 - Decision Making
- Article 12 - Legal Matters
- Article 13 - Review, Revision, Suspension, Interpretation and Publication of the Constitution

## **Article 1 - The Constitution**

### **1 Powers and Duties of the Shadow Council**

- 1.1 The powers and duties of the Shadow Council are set down in Acts of Parliament and secondary legislation. The Shadow Council will exercise those powers and duties in accordance with the law and its Constitution.

### **2 The Constitution**

- 2.1 The Shadow Council's Constitution includes all those parts listed in Part 1 – Summary and Explanation.

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

- 3.1 The objectives of this Constitution are:
- (a) to support the Shadow Council's preparations;
  - (b) to provide a framework for clear leadership to the community in partnership with its people, businesses and other organisations;
  - (c) to enable decisions to be taken efficiency and effectively;
  - (d) to provide a robust and effective overview and scrutiny function;
  - (e) to ensure that a decision will not be reviewed or scrutinised by anyone who was directly involved in making the decision; and
  - (f) to ensure that those responsible for decision making can be clearly identified by local people and that they can explain the reasons for their decisions.
- 3.3 The Shadow Council will ensure that the articles, procedural rules and protocols in this Constitution reflect and deliver the objectives set out above.

## **Article 2 - The Shadow Council**

### **1 Composition**

- 1.1 The Shadow Council comprises the 206 Shadow Councillors who are the councillors who were elected to East Dorset District Council; North Dorset District Council; Purbeck District Council; West Dorset District Council; Weymouth and Portland Borough Council; and those councillors who were elected to Dorset County Council for the County Divisions within the area of Dorset covered by the five districts and boroughs. Appendix 1 to this Article lists details of the Shadow Councillors and the area each represents. Further information on the Shadow Councillors can be found on the Shadow Council's website.

### **2 Term of Office**

- 2.1 Shadow Councillors' term of office will commence on the day after the day on which the 2018 Order is made and continue for the Shadow Period.
- 2.2 Where a casual vacancy occurs in the office of a Shadow Councillor on or before 30 September 2018, a by-election will be held and the person elected will serve until the fourth day after the date of the 2019 election.

### **3 Role of Shadow Councillors**

- 3.1 Shadow Councillors will undertake the following roles:
- (a) as a body, they will: set the Shadow Council's major plans, policies and strategies as required by law; perform those functions identified in the 2018 Order; and will take decisions on such matters as must be reserved to the full Shadow Council by law or as provided for in this Constitution;
  - (b) oversee the Shadow Council's strategic and corporate management;
  - (c) represent their communities and the views of their electorate in the decision-making process;
  - (d) support, as appropriate, individuals in their dealings with the Shadow Council and represent them in seeking to resolve particular concerns or grievances;
  - (e) balance the different interests of people within their constituency with a view to representing their constituency as a whole;
  - (f) participate, as appropriate, in the decision-making, and overview and scrutiny processes; and
  - (g) maintain the highest standards of conduct and ethics and will observe the Shadow Council's Code of Conduct for Elected Shadow Councillors.

#### **4 Shadow Councillors' Representational Roles**

- 4.1 All Shadow Councillors represent their constituents and the Shadow Council sees this as an important role and responsibility under this Constitution.
- 4.2 Shadow Councillors have an important job in consulting their communities on the development of policies, plans and strategies and other local initiatives.
- 4.3 The Shadow Council will ensure in its processes that appropriate procedures are in place so that Shadow Councillors can contribute to the Shadow Council's business on behalf of their local community both in terms of policy development and decision making.

#### **5 Shadow Councillors' Rights**

- 5.1 Shadow Councillors will have rights of access to any document, information, land or buildings of the Shadow Council where this is necessary for the proper discharge of their functions as a Shadow Councillor and in accordance with the law and this Constitution.
- 5.2 A Shadow Councillor is not permitted to make available to the press or to a member of the public any information which he/she has been sent or given in whatever form and which is exempt or confidential information as defined in the Access to Information Procedure Rules which are set out in Part 4 of this Constitution.
- 5.3 A Shadow Councillor shall not divulge information given in confidence to anyone other than a Shadow Councillor or officer or other person legally entitled to know it.

#### **6 Chairman and Vice-Chairman of the Shadow Council**

- 6.1 The Shadow Council will elect, from amongst its number, at its first meeting, a Shadow Councillor to serve as Chairman of the Shadow Council for the Shadow Period.
- 6.2 Similarly, the Shadow Council will appoint the Vice-Chairman of the Shadow Council for the Shadow Period.
- 6.3 Where a vacancy occurs in respect of either office the Shadow Council will elect/appoint as appropriate a successor at its next meeting.
- 6.4 A member of the Shadow Executive Committee cannot be elected or appointed as Chairman or Vice-Chairman of the Shadow Council while serving on the Shadow Executive Committee. Otherwise any Shadow Councillor is eligible for election as Chairman or Vice Chairman of the Shadow Council.

- 6.5 Where the Chairman and Vice-Chairman of the Shadow Council are both absent from a meeting of the Shadow Council, or a part of it, the Shadow Council will appoint one of their members, other than a member of the Shadow Executive Committee, to preside.

## **7 Leader and Deputy Leader of the Shadow Council**

- 7.1 The Shadow Executive Committee will elect, from amongst its number, at the first meeting of the Shadow Executive Committee, a chairman and deputy chairman, who upon election will be the Leader and Deputy Leader of the Shadow Council and will hold office in accordance with paragraph 3(1) of Article 7.

## **8 Other Offices**

- 8.1 The Shadow Council will elect other Members to fill such other offices as it may determine from time to time in accordance with any requirements set out in law or this Constitution.

## **9 Conduct of Shadow Councillors**

- 9.1 All Shadow Councillors are required, at all times, to observe the Shadow Councillors' Code of Conduct and to have appropriate regard to such other protocols, policies, guidance and advice as may be issued from time to time through the Shadow Council's formal processes.

## **10 Shadow Councillors' Scheme of Allowances**

- 10.1 All Shadow Councillors shall be entitled to receive such allowances as are laid down from time to time in the Shadow Councillors' Scheme of Allowances.

## **11 Shadow Councillor Support**

- 11.1 The Shadow Council will also provide support to Shadow Councillors as appropriate to enable them to fulfil their roles and responsibilities.

## Article 2 - Appendix 1

## COUNCILLORS OF THE SHADOW COUNCIL

For the Dorset Area Council, the Shadow Dorset Council comprises of all councillors that currently serve on Dorset County Council and the five district / borough councils of East Dorset, North Dorset, Purbeck, West Dorset and Weymouth & Portland.

The Shadow Dorset Council consists of 206 councillors. (32 councillors are dual-hatted.)

Contact details and further information about councillors are available at:

[East Dorset District Council](#)

[Dorset County Council](#)

[North Dorset District Council](#)

[Purbeck District Council](#)

[West Dorset District Council](#)

[Weymouth & Portland Borough Council](#)

East Dorset District Council	Dorset County Council	North Dorset District Council	Purbeck District Council	West Dorset District Council	Weymouth & Portland Borough Council
Number of Wards: 16	Number of Divisions: 35	Number of Wards: 19	Number of Wards: 13	Number of Wards: 24	Number of Wards: 15
Number of Councillors: 29	Number of Councillors: 41	Number of Councillors: 33	Number of Councillors: 25	Number of Councillors: 42	Number of Councillors: 36
Shane Bartlett Ray Bryan Sarah Burns Derek Burt Steve Butler Alex Clarke Robin Cook Toni Coombs Janet Dover Mike Dyer	Jon Andrews Shane Bartlett Pauline Batstone Derek Beer Richard Biggs Kevin Brookes Cherry Brooks Ray Bryan Steve Butler Andy Canning	Pauline Batstone Bill Batty-Smith Derek Beer Piers Brown Audrey Burch Graham Carr-Jones Andrew Cattaway Alexander Chase Barrie Cooper Deborah Croney	Malcolm Barnes Cherry Brooks Graham Brown David Budd Nigel Dragon Fred Drane Beryl Ezzard Caroline Finch Hilary Goodinge Mike Lovell	Anthony Alford Peter Barrowcliff Thomas Bartlett Sandra Brown Nigel Bundy Derek Bussell Andrew Canning Simon Christopher Ronald Coatsworth Patrick Cooke	Kerry Baker Andy Blackwood Kevin Brookes Hazel Bruce Ian Bruce Mike Byatt Jeff Cant Francis Drake John Ellis James Farquharson

Spencer Flower Simon Gibson Barry Goringe Paul Harrison K D Johnson Gina Logan Cathy Lugg Steven Lugg Barbara Manuel David Morgan Peter Oggelsby David Packer Andrew Parry Julie Robinson George Russell David Shortell Andy Skeats Simon Tong  x1 Vacancy	Graham Carr-Jones Andrew Cattaway Toni Coombs Hilary Cox Deborah Croney Keith Day Janet Dover Jean Dunseith Beryl Ezzard Tony Ferrari Spencer Flower Katharine Garcia David Harris Jill Haynes Nick Ireland Susan Jefferies Rebecca Knox Steven Lugg Jon Orrell Andrew Parry Mary Penfold Bill Pipe Byron Quayle Mark Roberts David Shortell Clare Sutton William Trite Daryl Turner David Walsh Peter Wharf Kate Wheller	Charles Dowden Victor Fox Jo Francis Mike Gould Traci Handford Gary Jefferson Sherry Jespersen Andrew Kerby Noc Lacey-Clarke Catherine Langham Emma Parker Val Potheary Simon Pritchard Belinda Ridout Michael Roake Deirdre Skipwith Jane Somper Jackie Stayt John Stayt John Tanner David Walsh Jane Westbrook Peter Williams	Gloria Marsh Wendy Meaden Laura Miller Tim Morris Bill Pipe Claire Pipe Barry Quinn Gary Suttle Carol Tilling Bill Trite Mark Unsworth Peter Webb Peter Wharf Mike Whitwam Mike Wiggins	Keith Day Gerald Duke Jean Dunseith Dominic Elliott Terry Farmer Robert Freeman Ian Gardner Robert Gould Matthew Hall Tim Harries Brian Haynes Jill Haynes Fred Horsington Susie Hosford Stella Jones Trevor Jones Margaret Lawrence Robin Legg Frances McKenzie Mary Penfold Robin Potter Molly Rennie Cheryl Reynolds Dave Rickard Mark Roberts John Russell Jacqui Sewell Peter Shorland David Taylor Alan Thacker Daryl Turner Timothy Yarker	Tony Ferrari Katharine Garcia Lucy Hamilton Ryan Hope Colin Huckle Christine James Oz Kanji Paul Kimber Richard Kosior Margaret Leicester Penny McCartney Richard Nickinson Pamela Nixon Ray Nowak Jon Orrell Jason Osborne Cathy Page-Nash Alison Reed Gareth Rockingham Ian Roebuck Tia Roos Gill Taylor Mark Tewkesbury Ann Weaving Sandy West Kate Wheller
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Date: 15 May 2018

## **Article 3 - Rights and responsibilities of Members of the Public**

### **1 Rights**

- 1.1 Members of the public have the following rights in regard to the affairs of the Shadow Council:
- (a) access to information subject to such constraints as may be imposed, by law and as set out in the Access to Information Procedure Rules in Part 4 of this Constitution;
  - (b) to attend meetings of the Shadow Council and its Committees and Sub-Committees except where exempt or confidential information is likely to be disclosed;
  - (c) to attend public meetings of the Shadow Executive Committee except where exempt or confidential information is likely to be disclosed;
  - (d) to film, audio record or report on meetings of the Shadow Council and its Committees and Sub-Committees and the Shadow Executive Committee subject to guidelines published on the Shadow Council's website and available at meetings;
  - (e) to have access to the Shadow Council's Forward Plan of Key Decisions to be taken by the Shadow Executive Committee;
  - (f) in accordance with the statutory framework to inspect reports, background papers and any records of decisions made by: the Shadow Council; the Shadow Executive Committee; a Committee; Sub-Committee; the Leader or a Portfolio Holder subject to the provisions on exempt or confidential information applying;
  - (g) in accordance with the statutory framework to inspect the Shadow Council's Accounts and to make their views known to the external auditors where appropriate;
  - (h) to ask questions or present petitions at designated meetings in accordance with such procedures as the Shadow Council may determine from time to time;
  - (i) to contribute to investigations by the Overview and Scrutiny Committee where invited to do so; and
  - (j) to complain to the Shadow Council where there is an alleged breach of the Shadow Councillors' Code of Conduct.

### **2 Responsibilities of members of the public**

- 2.1 The Shadow Council in turn expects those living within the Shadow Council's area and/or receiving services not to use violent, abusive or threatening

behaviour in any form against any Shadow Councillor, Officer or persons acting for or on behalf of the Shadow Council.

- 2.2 The Shadow Council also asks that the property, assets and other resources of the authority, Shadow Councillors, Officers or persons acting for or on behalf of the Shadow Council are not wilfully harmed or damaged.

## **Article 4 - The full Shadow Council**

### **1 Functions**

- 1.1 The functions of the Shadow Council are set out in the Bournemouth, Dorset and Poole (Structural Changes) Order 2018 (“the 2018 Order”) and in relevant consequential orders.
- 1.2 Save to the extent any provision of any Act, the 2018 Order or regulations under sections 9D or 9DA of the Local Government Act 2000 require otherwise then unless the Shadow Executive Committee requests the Shadow Council to discharge any function in accordance with Article 37 of the 2018 Order, the functions of the Shadow Council conferred on the Shadow Council by or under the 2018 Order are delegated to the Shadow Executive Committee.
- 1.3 The Shadow Council will be responsible for the adoption of the Shadow Council’s budget and policy framework. For these purposes the budget includes the setting of the council tax; and the policy framework means such plans and strategies as must by law be approved by the Shadow Council.
- 1.4 The Shadow Council also has the functions set out in Part 3 of this Constitution.

### **2 Shadow Council Meeting**

- 2.1 The first meeting of the Shadow Council will be held within 14 days after the coming into force of the 2018 Order.
- 2.2 Ordinary Meetings will be held according to a calendar of meetings to be agreed by the Shadow Council and which will be published once agreed.
- 2.3 Extraordinary meetings may be called as and when required as provided in the Shadow Council Procedure Rules.

### **3 Conduct of Shadow Council Meetings**

- 3.1 Shadow Council meetings will be conducted in accordance with the law and the Shadow Council Procedures Rules.

### **4 Responsibility for Functions**

- 4.1 The Shadow Council will maintain a record of those Shadow Council functions which are the responsibility of its subordinate bodies.

## **Article 5 - The role of the Chairman of the Shadow Council**

### **1 Civic Role**

- 1.1 The Chairman of the Shadow Council, supported by the Vice-Chairman, and as appropriate other Shadow Councillors, will perform the civic role on behalf of the Shadow Council.
- 1.2 The civic role entails raising and maintaining the profile of the Shadow Council's area, the Shadow Council and its members of the public. The office will promote the aims and values of the Shadow Council in an apolitical manner.
- 1.3 The Chairman will promote such civic and ceremonial functions as the Shadow Council or he/she may determine following consultations, where appropriate.
- 1.4 The Chairman will represent the Shadow Council at civic and ceremonial functions of other local authorities or involving other appropriate bodies.

### **2 Shadow Council Role**

- 2.1 The Chairman will be elected by the Shadow Councillors at its first meeting. The Vice-Chairman is also appointed at the same meeting.
- 2.2 The Chairman is responsible for the following:
  - (a) upholding and promoting the purposes of this Constitution and interpreting it with appropriate advice when necessary;
  - (b) presiding over meetings of the full Shadow Council to ensure that business is carried out efficiently and effectively whilst preserving the rights of Shadow Councillors and the interests of members of the public;
  - (c) ensuring that at Shadow Council meetings matters of concern to local communities can be debated through the appropriate Shadow Councillors;
  - (d) ensuring that Shadow Councillors who are not on the Shadow Executive Committee or who do not hold the Chairmanship of a main Committee are able to hold those office holders to account;
  - (e) promoting public involvement in the Shadow Council's affairs and acting as a contact between members of the public and organisations and the Shadow Council; and
  - (f) undertaking such other roles as may be placed upon the office from time to time by the Shadow Council.

### **3 Vice-Chairman of the Shadow Council**

- 3.1 The Vice-Chairman will support the Chairman in his/her civic role and will carry out civic duties as well on behalf of the civic office.
- 3.2 The Vice-Chairman will also deputise in the absence of the Chairman in carrying out the responsibilities of the office of Chairman.

## **Article 6 – Overview and Scrutiny Committee**

### **1 Overview and scrutiny**

- 1.1 The Shadow Council has established arrangements for the overview and scrutiny of decisions or other action taken by the Shadow Executive Committee and others in accordance with the Local Government Act 2000 as applied by the 2018 Order. This Article sets out those arrangements. It should be read in conjunction with the Overview and Scrutiny Procedure Rules
- 1.2 The Shadow Council will keep under review its overview and scrutiny arrangements and will make changes where it considers these are appropriate and will lead to improvements and an improved overview and scrutiny function.

### **2 Responsibilities of the Overview and Scrutiny Committee**

- 2.1 The Overview and Scrutiny Committee has the functions set out in Part 3 of this Constitution.

### **3 Membership of the Overview and Scrutiny Committee.**

- 3.1 The Overview and Scrutiny Committee shall comprise 16 Shadow Councillors. The Chairman of the Committee will be a member of the largest minority political group on the Shadow Council and who will be elected by the members of the Committee.
- 3.2 No member of the Shadow Executive Committee may be a member of the Overview and Scrutiny Committee or any task and finish panels.
- 3.3 Any body established under these Scrutiny arrangements will be a politically proportionate body reflecting the overall political representation on the Shadow Council.

### **4 Conduct of Overview and Scrutiny Committee meetings**

- 4.1 Conduct of the proceedings at Overview and Scrutiny Committee meetings shall be in accordance with the Shadow Council and Overview and Scrutiny Procedure Rules as appropriate.

### **5 Task and Finish Panels**

- 5.1 The Overview and Scrutiny Committee may establish such task and finish panels as it considers necessary after taking into account the availability of resources, the work programme and scope of the review.
- 5.2 The Committee will appoint the Chairman (and Vice Chairman, if appropriate) of each panel and agree the membership.

## **Article 7- The Shadow Executive Committee**

### **1 Role of the Shadow Executive Committee**

- 1.1 The Shadow Executive Committee will carry out all of the Shadow Council's duties and responsibilities which are not the responsibility of any other part of the Shadow Council, whether by law or under this Constitution, and in particular it will carry out those duties and responsibilities of the Shadow Executive Committee which are contained in the 2018 Order.
- 1.2 The Shadow Executive Committee will also exercise the functions of the Shadow Council that must be delegated to it by the full Shadow Council under Article 37 of the 2018 Order.
- 1.3 The Shadow Executive Committee shall be responsible for making recommendations to the Shadow Council on the setting of a budget for the Dorset Council and will have the opportunity to express a view to the Shadow Council on the appointment of Senior Officers prior to any such appointment being confirmed.

### **2 Composition of the Shadow Executive Committee**

- 2.1 The 2018 Order provides that the Shadow Executive Committee is to consist of (a) ten persons nominated by Dorset County Council, each of whom is for the time being a member of that Council for an electoral division other than a Christchurch electoral division, and (b) two persons nominated by each of the District/Borough Councils, each of whom is for the time being a member of the nominating Council.
- 2.2 The Chairman and Vice-Chairman of the Shadow Executive Committee will be elected by the Shadow Executive Committee at its first meeting. The Chairman will be the Leader of the Shadow Council and the Vice-Chairman will be the Deputy Leader of the Shadow Council.
- 2.3 Where a Shadow Executive Committee Member, other than the Leader or Deputy Leader, ceases to hold office, the Leader will reassign the relevant portfolio within the remaining Shadow Executive Committee membership from the date of cessation to the date of the next Shadow Executive Committee meeting. Where the Leader and Deputy Leader hold portfolio responsibilities and either cease to hold their office then the Leader or the Deputy Leader, as the case may be, shall reassign the relevant portfolio.
- 2.4 No deputy or substitution arrangements are allowed in respect of the Shadow Executive Committee. The Chairman and Vice Chairman of the Shadow Council cannot be appointed to the Shadow Executive Committee.

### **3 The Leader and Deputy Leader**

- 3.1 The Leader and Deputy Leader will hold office until:

- (a) he/she resigns from the office of Leader or Deputy Leader (as the case may be);
- (b) he/she becomes ineligible to be a Shadow Councillor for a specific period or indefinitely;
- (c) he/she ceases to be a Shadow Councillor; or
- (d) he/she is removed from office by a resolution of the Shadow Executive Committee.

3.2 Where there is a vacancy in the office of Leader, the Deputy Leader shall assume the responsibilities of the Leader until the next meeting of the Shadow Executive Committee, whether that be an Ordinary or Extraordinary meeting of the body.

3.3 Where both the Leader and the Deputy Leader cease to hold office at the same time, the Interim/Appointed Head of Paid Service shall call a meeting of the Shadow Executive Committee as soon as possible for the purpose of electing a new Leader and Deputy Leader.

#### **4 Other Shadow Executive Committee Members**

4.1 Other members of the Shadow Executive Committee shall hold office until any of the events listed in paragraph 3.1 above for ending the term of office of the Leader apply to them collectively or individually as Shadow Executive Committee Members.

#### **5 Proceedings of the Shadow Executive Committee**

5.1 All proceedings of the Shadow Executive Committee and its Committees shall be conducted in accordance with the Shadow Executive Committee Procedure Rules set out in this Constitution.

#### **6 Responsibility for Functions**

6.1 The Leader can exercise any executive power. Alternatively, the Leader may arrange for the discharge of any executive functions by: the Shadow Executive Committee; another member of the Shadow Executive Committee; a committee of the Shadow Executive Committee; or an officer of the Shadow Council.

6.2 If the Leader is unavailable, absent or there is a vacancy in the post of the Leader, the Deputy Leader can exercise any executive power.

6.3 Unless the Shadow Executive Committee requests the Shadow Council to discharge any function in accordance with Article 37 of the 2018 Order, the Shadow Executive Committee can exercise any function of the Shadow Council conferred on the Shadow Council by or under the 2018 Order save to the extent any provision of any Act, the 2018 Order or regulations under

section 9D or 9DA of the Local Government Act 2000 require otherwise.

- 6.4 Any Member of the Shadow Executive who has been allocated a portfolio by the Leader (“Portfolio Holder”) can exercise any executive power that falls within that portfolio, the scope of which the Leader will determine. The Leader may amend or revise those portfolios at any time.
- 6.5 The Leader and Deputy Leader may have a portfolio responsibility
- 6.6 The Leader, Deputy Leader, Shadow Executive Committee and any Portfolio Holder can delegate powers to the extent as provided for in Part 1A of the Local Government Act 2000. The arrangements set out in this Constitution reflect those currently agreed. Further, the Shadow Executive Committee can also delegate its powers to any Officer of the Shadow Council, Dorset County Council and/or a District Council as defined in the 2018 Order.
- 6.7 The Leader will ensure that a record is kept of the Shadow Executive Committee functions which are the responsibility of each Portfolio Holder, any committee or sub-committee of the Shadow Executive Committee, or officers or under any joint arrangements.
- 6.8 Where a delegation arrangement is made under paragraph 6.7 above, it shall not preclude the body or person delegating the function, or part of it, from exercising that function on giving notice in writing to that body or person.

## Article 8 - Other Committees

### 1 Other Committees

- 1.1 The Shadow Council will appoint the following other Committees to take such decisions which are not within the responsibilities of the Shadow Executive Committee:

Committee	Shadow Councillors
Overview and Scrutiny Committee	16
Senior Appointments Committee	8
Standards Committee	8

Independent Remuneratoion Panel will comprise the members of the Dorset Councils' existing remuneration panels

- 1.2 The Shadow Council may appoint other Committees, Sub-Committees and Special Committees with delegated powers to act under specific terms of reference which must be set out in the Minutes.
- 1.3 To the extent that any committees are not exercising executive functions the provisions of sections 15-17 of the Local Government and Housing Act 1989 and the Local Government (Committees and Political Groups) Regulations 1990 will apply to their membership.

### 2 Powers of Committees

- 1.1 The Committees shall have the functions set out in Part 3 of this Constitution.
- 1.2 A Committee may, at any time, decline to exercise a delegated power. The matter must then be considered and determined by the Shadow Council as appropriate.

### 3 Conduct of Committee Meetings

- 3.1 Committee meetings will be conducted in accordance with the law and Parts B and C the Meeting Procedures Rules set out in Part 4 of this Constitution.

## **Article 9 – Joint Arrangements**

9.1 There are no joint arrangements.

## **Article 10 - Arrangements for promoting good standards of behaviour**

### **1 Adoption of a code of conduct for Shadow Councillors**

- 1.1 The Shadow Council has adopted the Code of Conduct for Shadow Councillors set out in Part 5.

### **2 Application of the Code of Conduct**

- 2.1 The Code of Conduct will apply to all Shadow Councillors when they are acting as a member of the Shadow Council or hold themselves out as doing so.

### **3 Alleged breaches of the Code of Conduct**

- 3.1 Any allegations that a Shadow Councillor has breached the Code of Conduct are to be reported to the Interim/Appointed Monitoring Officer who, after consulting the Independent Person, will refer the allegation to the Standards Committee for assessment and determination if he/she is satisfied that:

- (a) the allegation is about a Shadow Councillor;
- (b) the Shadow Councillor was a member of the Shadow Council at the time when the matters that led to the allegation occurred;
- (c) the Shadow Councillor was a member of the Shadow Council at the time of the allegation;
- (d) the Shadow Councillor is still a member of the Shadow Council; and
- (e) the matters that led to the allegation would, if proven, be capable of breaching the Shadow Council's Code of Conduct.

- 3.2 If the allegation fails to meet any of the criteria in paragraph 3.1 above, the Interim/Appointed Monitoring Officer will not take any further action other than to advise the person who made the allegation.

- 3.3 Before referring the allegation to the Standards Committee, the Interim/Appointed Monitoring Officer will notify the member against who the allegation has been made of the allegation and invite the Shadow Councillor to provide a response.

- 3.4 In making its assessment and determination the Standards Committee will consider the information provided by the person making the allegation and any representations received from the Shadow Councillor. If further information is required the Standards Committee may request it. There is a presumption that allegations will be dealt with "on the papers" and without the need for a formal investigation.

- 3.5 The Standards Committee may:
- (a) reject the allegation;
  - (b) take no further action;
  - (c) require the Shadow Councillor to make a public apology; or
  - (d) censure the Shadow Councillor.
- 3.6 The Standards Committee will give reasons for its decision.
- 3.7 For the purposes of this Article, references to “the Independent Person” are to a person chosen by the Interim/Appointed Monitoring Officer from among all of the Independent Persons appointed by each of the Dorset Councils under section 28(7) of the Localism Act 2011 as part of their arrangements under which decisions on allegations are made.

## **Article 11 - Officers**

### **1 Bournemouth, Dorset and Poole (Structural Changes) Order 2018**

- 1.1. Article 28 of the 2018 Order makes provision for the Shadow Council to: designate officers to the posts of Interim Monitoring Officer; Interim Chief Finance Officer and to be its Interim Head of Paid Service; and at any time before 1 April 2019 to appoint a person to become Dorset Council's Monitoring Officer, Chief Finance Officer or Head of Paid Service.
- 1.2 The roles and functions of those officers are set out in the 2018 Order.
- 1.3 The Interim/Appointed Monitoring Officer may appoint, in writing, further deputies as he/she considers appropriate.
- 1.4 The Interim/Appointed Chief Finance Officer may appoint, in writing, a deputy as appropriate.

### **2 Functions of the Interim/Appointed Head of the Paid Service**

- 2.1 The Head of the Paid Service will report to the full Shadow Council on the manner in which the Shadow Council develops its functions and the co-ordination of those functions. He/she also has statutory functions in relation to staff.

### **3 Functions of the Interim/Appointed Monitoring Officer**

- 3.1 The Interim/Appointed Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Shadow Councillors, staff and the public.
- 3.2 After consulting with the Interim/Appointed Head of Paid Service, the Interim/Appointed Monitoring Officer will report to the full Shadow Council, (or to the Shadow Executive Committee in relation to an Shadow Executive Committee function), if he/she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission would give rise to a finding of maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- 3.3 He/she will contribute to the promotion and maintenance of high standards of conduct.
- 3.4 He/she will provide advice to all Shadow Councillors on issues in relation to the scope of powers and authority to take decisions, maladministration, financial impropriety and probity.

### **4 Functions of the Interim/Appointed Chief Finance Officer**

- 4.1 After consulting with the Interim/Appointed Head of Paid Service and the

Interim/Appointed Monitoring Officer, the Interim/Appointed Chief Finance Officer will report to the full Shadow Council (or to the Shadow Executive Committee in relation to an Shadow Executive Committee function) and the Shadow Council's external auditor if he/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.

- 4.2 He/she in consultation will have overall responsibility for the administration of the financial affairs of the Shadow Council.
- 4.3 He/she will contribute to the corporate management of the Shadow Council, in particular, through the provision of professional financial advice.
- 4.4 He/she will provide advice on issues to all Shadow Councillors in relation to the scope of powers and authority to take decisions, maladministration, financial impropriety and probity issues and will support and advise Shadow Councillors and officers in their respective roles.
- 4.5 He/she will provide financial information to the media, members of the public and the community.

## **5 Duty to provide sufficient resources to the Interim/Appointed Monitoring Officer and Interim/Appointed Chief Finance Officer**

- 5.1 The Shadow Council will provide these officers with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed in their statutory roles.

## **6 Conduct**

- 6.1 Officers will comply with any Protocol on Member/Officer Relations that has been adopted by the Shadow Council.

## **7 Employment**

- 7.1 The recruitment, selection and dismissal of officers will comply with the Staff Employment Procedure Rules as set out in this Constitution.

## **Article 12 - Decision Making**

### **1 General**

- 1.1 The Shadow Council will keep an up-to-date record, which shall be available for public inspection, of who has responsibility for making decisions in relation to Shadow Council functions and services.
- 1.2 All decisions of the Shadow Council will be made in accordance with the law, this Constitution and the principles set out below.

### **2 Types of Decision and the Decision-Takers**

- 2.1 The Shadow Council will take all decisions which it has reserved to itself or which it is required to take by law.
- 2.2 The Shadow Executive Committee will take all decisions including Key Decisions which it is required to determine as required by law or because the Shadow Council has decided to delegate the matter to the Shadow Executive Committee.
- 2.3 Other Committees, Sub-Committees, Officers of the Central Implementation Team and Officers of the Shadow Council will take such decisions as are delegated to them by the Shadow Council or the Shadow Executive Committee.

### **3 Decision Making Procedures**

- 3.1 In taking decisions the full Shadow Council, the Shadow Executive Committee, Overview and Scrutiny Committee, and other Committees and Sub-Committees will follow the Shadow Council's Procedure Rules and in particular as follows:
  - (a) Shadow Council – Meeting Procedure Rules Parts A and C;
  - (b) Shadow Executive Committee - Shadow Executive Committee Procedure Rules and Meeting Procedure Rule Part C;
  - (c) Overview and Scrutiny Committee - Overview and Scrutiny Procedure Rules, and Meeting Procedure Rules Parts B and C; and
  - (d) Committees and Sub-Committees - Meeting Procedure Rules Parts B and C.

### **4 Definition of Key Decision**

- 4.1 A Key Decision means:
  - “a decision which, is likely –

- (a) to result in the relevant local authority incurring expenditure which is, or the making of savings which are, significant having regard to the relevant local authority's budget for the service or function to which the decision relates; or
- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority."

In determining the meaning of "*significant*" for these purposes the Shadow Council will have regard to any guidance for the time being issued by the Secretary of State in accordance with section 9Q of the Local Government Act 2000 Act .

## **Article 13 - Legal Matters**

### **1 Legal Proceedings**

- 1.1 The Interim/Appointed Monitoring Officer is authorised to institute, defend or participate in any legal proceedings or to take such other action where such action is necessary to give effect to decisions of the Shadow Council or in any case where he/she considers that such action is necessary to protect or further the Shadow Council's interests.

### **2 Document Authentication**

- 2.1 Where any document is necessary to any legal procedure or proceedings on behalf of the Shadow Council, it will be signed by the Interim/Appointed Monitoring Officer or other person authorised by him/her unless any enactment otherwise authorises or requires, or the Shadow Council has given requisite authority to some other person.
- 2.2 In the absence of any authority given to a specific officer, whether by this Constitution or in any other manner, all contracts entered into on behalf of the Shadow Council. may be signed by any one or more of the following:
- (a) the Interim/Appointed Head of Paid Service;
  - (b) the Interim/Appointed Monitoring Officer; and/or
  - (c) the Interim/Appointed Section 151 Officer.

### **3 Address for service of documents**

- 3.1 Documents to be served on the Shadow Council may be addressed to the Interim/Appointed Monitoring Officer at the main office of the Shadow Council. For this purpose and all purposes connected with this Constitution the Shadow Council's main office is at the main office of the Council employing the Interim Head of Paid Service or the Appointed Head of Paid Service once employed by any of the Councils mentioned in Article 2 paragraph 1.1.

## **Article 14 - Review, Revision, Suspension, Interpretation and Publication of the Constitution**

### **1 Review**

- 1.1 The Interim/Appointed/ Monitoring Officer and Interim/Appointed Chief Finance Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

### **2 Changing the Constitution**

- 2.1 The:

- (a) Shadow Council;
- (b) the Leader; and
- (c) the Shadow Executive Committee,

may all authorise changes to the Constitution to the extent that the 2018 Order and the law allows provided only that the Leader may not alter the voting arrangements of the Shadow Executive Committee as set out in this Constitution save with the approval of the Shadow Executive Committee.

- 2.2 The Interim/Appointed Monitoring Officer may make amendments to the Constitution in consultation with the Leader:

- (a) where he/she considers this necessary and/or expedient to reflect legislative change, secure consistency, address any legal ambiguity and/or other legal issue and/or address any uncertainty in interpretation; or
- (b) for any other reason, provided that any such amendment does not seek to remove any reserved power of the Shadow Council and/or the Shadow Executive Committee and confirmation of such amendments are reported to the next available meeting of the Shadow Council.

### **3 Suspension of the Constitution**

- 3.1 The Articles of this Constitution may not be suspended. However, the Procedure Rules set out in this Constitution may be suspended by the full Shadow Council to the extent permitted within those Rules and the law.

- 3.2 A motion to suspend any rules cannot be moved without notice, unless at least one half of the whole number of Shadow Councillors is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking into account the purposes of the Constitution set out in Article 1.

## **4 Interpretation**

- 4.1 The ruling of the Chairman of the Shadow Council as to the construction or application of this Constitution or as 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.

## **5 Publication**

- 5.1 The Interim/Appointed Monitoring Officer:
- (a) will give each Shadow Councillor access to an electronic copy of this Constitution;
  - (b) will ensure that a copy of this Constitution is made available on the Shadow Council's website;
  - (c) will ensure that copies are available for inspection at Shadow Council Main Office, and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee;
  - (d) will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary; and
  - (e) will provide to any Shadow Councillor, upon request, a copy of the Constitution.

# PART 3 - RESPONSIBILITY FOR FUNCTIONS

## Responsibility for Functions

### 1 General

1.1 The Shadow Council has the functions set out in Part 6 of the 2018 Order and in particular it will have the following responsibilities:

- (a) to commence and sustain its running as a Shadow Council;
- (b) to prepare the Shadow Council for the assumption of local government functions and full local authority functions and powers on 1 April 2019;
- (c) to prepare any budgets or plans required beyond 1 April 2019 when those functions and powers are assumed;
- (d) to liaise with East Dorset District Council; North Dorset District Council; Purbeck District Council; West Dorset District Council; Weymouth and Portland Borough Council and Dorset County Council; and the Bournemouth, Christchurch and Poole Council Shadow Council for the purposes of ensuring continuity of public service delivery on and after 1 April 2019;
- (e) to take all such practical steps as are necessary or expedient to liaise with the other local authorities within its area for the purposes of ensuring continuity of public service delivery on and after 1 April 2019; and
- (f) to exercise any of the Local Government Act 1972 functions referred to in, and in accordance with, Part 6 of the Order.

1.2 The powers and functions of the Shadow Council are therefore limited and, consequently, the powers and functions of its Shadow Executive Committee, committees, sub-committees and other decision-making bodies are similarly limited. The responsibilities for functions described in this Part of the Constitution must therefore be considered in this context. However, upon the assumption of full local authority functions and powers on 1 April 2019, these responsibilities will increase.

Until that date, Dorset County Council and the district/borough councils within the Shadow Council's area will continue to have responsibility for local authority functions within their areas.

1.3 The Shadow Council is required in this Constitution to set out the allocation of responsibilities for its functions.

1.4 The following paragraphs cover functions which are:

- (a) the responsibility of the Leader and the Shadow Executive Committee;
- (b) the responsibility of Portfolio Holders; and

(c) the responsibility of the Shadow Council and/or its Committees/Sub-Committees; and

(d) the responsibility of Officers.

1.5 Where a function is not specified as being the responsibility of the Shadow Council, a Committee, Sub-Committee, or officer that function shall, unless otherwise proved to the contrary by law, be the responsibility of the Leader.

1.6 The exercise of any power or duty is subject to compliance with the law, the provisions of this Constitution, sufficient budgetary provision having been made.

1.7 Any reference to a function or matter includes a reference to all statutory powers about that function or matter whether directly or indirectly and authority to exercise all such powers.

1.8 Any reference in the scheme of delegation to an Act of Parliament or statutory instrument includes a reference to any amendment, modification or statutory re-enactment (with or without modification).

1.9 Where a power or duty of the Council has been delegated the delegation includes any action that may be incidental to the exercise of the power or duty.

## **2 Functions of the Leader and the Shadow Executive Committee**

2.1 The functions to be exercised by the Leader or Shadow Executive Committee are set out in Article 7 of this Constitution. Where the Leader or the Shadow Executive Committee is exercising a Shadow Executive Committee function, in whole or in part, the Leader or the Shadow Executive Committee is empowered to take all necessary and appropriate decisions to fulfil the obligations placed upon them subject to any restrictions or constraints imposed by the law or this Constitution

## **3 Responsibilities of Portfolio Holders.**

3.1 Where the Leader has allocated a portfolio to an individual member of the Shadow Executive Committee and the Portfolio Holder is exercising a function falling within the scope of the Portfolio, in whole or in part, they are empowered to take all necessary and appropriate decisions to fulfil the obligations placed upon them by the Leader subject to any restrictions or constraints imposed by the law or this Constitution.

## **4 Responsibilities of committees of the Shadow Executive Committee**

4.1 Where the Leader has arranged for an executive function to be exercised by a committee of the Shadow Executive Committee the committee is empowered to take all necessary and appropriate decisions to fulfil the obligations placed

upon it by the Leader subject to any restrictions or constraints imposed by the law or this Constitution.

## **5 Functions of the Shadow Council**

- 5.1 The functions of the Shadow Council are set out in Article 4 of Part 2 but include:
- (a) approving a budget for the Dorset Council and the setting of the council tax for its area;
  - (b) adopting the Shadow Council's Constitution in accordance with the requirements of section 9P of the Local Government Act 2000;
  - (c) appointing the:
    - Chairman of the Shadow Council;
    - Vice Chairman of the Shadow Council;
    - Chairmen and Vice-Chairmen of Committees, Sub-Committees and Special Committees; and
    - such other offices as may be required by or under the 2018 Order or this Constitution;
  - (d) adopting the Shadow Council's Codes of Conduct for Shadow Councillors and Officers and the Protocol on Member/Officer Relations;
  - (e) where permitted by the law, will make arrangements for appointments to outside bodies;
  - (f) carrying out all duties specified in and comply with the 2018 Order where the Shadow Executive Committee has given notice under Article 37 of the 2018 Order;
  - (g) approving the Shadow Councillors Allowance Scheme including any pension provision for Members following advice from any Independent Remuneration Panel;
  - (h) appointing/dismissing the Interim/Appointed Head of Paid Service, designating an officer to act as Interim Monitoring Officer and Interim/Chief Finance Officer, and the appointment/dismissal of a person to the position of appointed Monitoring Officer and appointed Chief Finance Officer in accordance with the 2018 Order; and
  - (i) may determine other matters which may from time to time be submitted to it for determination, either by resolution or through approved procedures, where such matters do not fall within the functions of the Shadow Executive Committee.

## **6 Regulatory Committees**

- 6.1 Until the Shadow Council assumes local government functions and full local authority powers on 1 April 2019, in accordance with the 2018 Order, the Shadow Council will not exercise any regulatory powers and functions. The Shadow Council will, however, take such practical steps as are necessary or expedient to prepare the Shadow Council for the assumption of such regulatory functions and powers.

## **7 Responsibility of the Senior Appointments Committee**

- 7.1 The Senior Appointments Committee normally has responsibility for:
- (a) Undertaking the selection process for the appointment, and formulating recommendations to the Shadow Council in relation to the appointment and dismissal of the Head of the Paid Service; and before 1 April 2019 the appointment of persons to be the Monitoring Officer and Chief Finance Officer of the Dorset Council in accordance with the with the appropriate procedures set out in the Staff Employment Procedure Rules;
  - (b) undertaking the selection, appointment and dismissal processes for any other staff in accordance with the appropriate procedures set out in the Staff Employment Procedure Rules;
  - (c) hearing and determining any appeals by staff under the Shadow Council's approved personnel policies and procedures including through any appointed Sub-Committee;
  - (d) hearing and dealing with disputes registered with the Shadow Council by recognised Trade Unions.

## **7. Responsibility of the Overview and Scrutiny Committee**

- 7.1 The Shadow Council shall have one Overview and Scrutiny Committee, which may commission task and finish groups to undertake scrutiny projects. The Overview and Scrutiny Committee will specifically:
- (a) discharge the Shadow Council's functions under Section 9F of the Local Government Act 2000;
  - (b) oversee the Shadow Council's overall overview and scrutiny function including the preparation, implementation, monitoring and review of an annual work programme for overview and scrutiny;
  - (c) establish such task and finish groups, appointing the Chairman with such membership as it sees fit, to undertake overview and scrutiny on a task and finish basis;
  - (d) ensure that officers discharge their responsibilities effectively and

efficiently in relation to the overview and scrutiny function;

- (e) scrutinise decisions of the Shadow Executive Committee, and offer advice or make recommendations on the matter under scrutiny once the Overview and Scrutiny Committee have considered the issues;
- (f) refer to the Shadow Council, the Shadow Executive Committee or appropriate Committee/Sub-Committee any matter which, following scrutiny, the Overview and Scrutiny Committee determines should be brought to the attention of the Shadow Council, Shadow Executive Committee or the Committee or Sub-Committee;
- (g) if requested, offer any views or advice to the Shadow Executive Committee in relation to any matter referred to the Overview and Scrutiny Committee for consideration;
- (h) undertake general policy reviews with a cross-service and multi-organisational approach wherever possible and make recommendations to the Shadow Council or the Shadow Executive Committee to assist in the development of future policies and strategies;
- (i) in performing its role, the Committee may consult and involve the local community and other local public, private and voluntary bodies or organisations;
- (j) review the Shadow Council's response to its obligations in respect of the overall performance management regime and where appropriate advise the Shadow Executive Committee and the Shadow Council of its findings;
- (k) scrutinise decisions after implementation to examine their effect and outcomes;
- (l) develop, maintain and monitor policies and procedures for handling complaints made against the Shadow Council and monitor on a regular basis the level and nature of complaints received and ensure that advice is formulated regarding action to be taken to address areas of concern;
- (m) monitor the level and nature of Local Government and Social Care Ombudsman complaints and advise the Shadow Executive Committee, Committees, Sub-Committees and officers on remedial action as appropriate; and
- (n) ensure that the Shadow Council has in place appropriate mechanisms to protect organisational Integrity including the development of appropriate policies and guidance.

## **8. Responsibility of the Standards Committee**

- 8.1 The Standards Committee is responsible for assessing and determining allegations that Shadow Councillors have breached the Shadow Council's

Code of Conduct in accordance with Article 10 of this Constitution.

## **9 Independent Remuneration Panel**

- 9.1 The 2018 Order requires the Shadow Council to prepare and make a scheme for the payment of allowances to its Shadow Councillors. The Independent Remuneration Panel shall have the functions given by Regulation 21 of the Local Authorities (Members' Allowances) (England) Regulations 2003.

## **10 Powers of Officers**

- 10.1 The Shadow Council and its Shadow Executive Committee may delegate such powers, responsibilities and decisions to any of its own officers, or to any officers of the Dorset County Council or the District Councils as defined in the 2018 Order.
- 10.2 The Interim/Appointed Head of Paid Service shall have the power to take:
- (a) all necessary action for the effective day-to-day management, operation and/or administration of the Shadow Council and for the efficient discharge of the professional responsibilities of his/her office;
  - (b) any action required to implement a decision of the Shadow Council, the Leader, the Shadow Executive Committee, a Portfolio Holder or any committee or sub-committee;
  - (c) in consultation with the Leader, unless the Leader is unavailable or absent, any urgent action as may be appropriate in connection with any of the executive or non-executive functions of the Shadow Council; and
  - (d) without prejudice to the above, any action for the purposes of agreeing the terms and entering into any secondment agreements under section 113 of the Local Government Act 1972 and/or any arrangements for the purposes of securing the provisions of any goods and/or services whether pursuant to the Local Authorities (Goods and Services) Act 1970 or otherwise.
- 10.3 The Interim/Appointed Monitoring Officer, and the Interim/Appointed Chief Finance Officer have the statutory powers which are set out in the 2018 Order together with the power:
- (a) to take all necessary action within their areas of responsibility for the effective day-to-day management, operation and/or administration of the Shadow Council and for the efficient discharge of the professional responsibilities of their office;
  - (b) to take any action within their areas of responsibility required to implement a decision of the Shadow Council, the Leader, the Shadow Executive Committee, a Portfolio Holder or any committee or sub-committee;

- (c) without prejudice to the above, to take any action for the purposes of agreeing the terms and entering into any secondment agreement under section 113 of the Local Government Act 1972 and/or any arrangements for the purposes of securing the provision of any goods and/or services whether pursuant to the Local Authorities (Goods and Services) Act 1970 or otherwise; and
  - (d) to exercise any power of the interim/Appointed Head of Paid Service if unavailable, absent and/or any such post is vacant.
- 10.4. When exercising delegated powers officers:
- (a) must comply with the Shadow Council's Financial and other relevant Procedure Rules and with the law;
  - (b) may authorise expenditure only which is in accordance with approved estimates and which does not require an approval which has not been authorised or received;
  - (c) save to the extent that the determining officer considers necessary in order to give effect to a matter to which delegation 10.3 (c) above relates shall comply with approved policies, schemes or directions of the Shadow Council, Leader, Shadow Executive Committee or of any Committee and shall not depart from such policies, schemes or directions; and
  - (d) shall consult with the appropriate professional or technical officer(s) of the Shadow Council or the Dorset Councils (as defined in the 2018 Order).
- 10.5. Delegation to officers does not affect the powers of the Shadow Council, Leader, Shadow Executive Committee or any Committee at any time to decide upon any delegated matter.
- 10.6. Officers may refer issues on which they have delegated power to the body or person by whom the delegation was given.
- 10.7. Authority to take decisions and other action including the signing of documents and the requirement to arrange consultations shall be undertaken on behalf of the Shadow Council in the name of the officer to whom the authority to act is given, but need not necessarily be personally by them.
- 10.8. Any specific delegation to the Interim/Appointed Head of Paid Service, Interim/Appointed Monitoring Officer or the Interim/Appointed Chief Finance Officer (including power to act as the Proper Officer), may be exercised by another Officer specifically designated in writing by the Interim/Appointed Head of Paid Service, Interim/Appointed Monitoring Officer or the Interim/Appointed Chief Finance Officer to whom the delegation applied initially, in accordance with any general directions issued and included in such written authorisation.

- 10.9. Neither the Interim/Appointed Monitoring Officer's nor the Interim/Appointed Chief Finance Officer's statutory responsibilities may be delegated, although they may each appoint a member of their staff to carry out those functions in their absence.

# PART 4- PROCEDURE RULES

## **A. Access to Information Procedure Rules**

### **1 General**

- 1.1 These rules apply to all meetings of the Shadow Council, its Committees and Sub-Committees and to public meetings of the Shadow Executive Committee.
- 1.2 In these Rules the word “meeting” means a meeting or meetings of any of those bodies unless specifies otherwise.
- 1.3 These rules do not affect any other specific rights to information contained elsewhere in this Constitution or the law.
- 1.4 Members of the public may attend all public meetings subject to the exceptions contained in these Rules.
- 1.5 Members of the press and public are also entitled to film, audio record and report on meetings of the Shadow Council, Committees and Shadow Executive Committee, except in circumstances where the public have been excluded as permitted by law. Any such filming, audio recording or reporting shall be in accordance with any guidelines published by the Shadow Council on its website or made available at the meeting.

### **2 Notice of Meetings**

- 2.1 The Shadow Council will give, wherever possible, at least five clear working days’ notice of any such meeting by publicising, including by electronic means, relevant details.
- 2.2 A copy of the official notice will also be published on the Shadow Council’s website.

### **3 Agenda and Supporting Papers - Rights of Access**

- 3.1 Copies of the Agenda and supporting papers will be made available on the Shadow Council’s website, for inspection by the public at least five clear working days before the meeting. Where an item is added to an Agenda at a later date, a supplementary agenda will be made available, with any supporting papers, to the public as soon as possible.
- 3.2 The Shadow Council will supply on request copies of any agenda and reports which are open to public inspection, and if the Interim/Appointed Monitoring Officer thinks fit, copies of any further documents supplied to Shadow Councillors relating to that item.
- 3.3 The Shadow Council may require any person to make a payment in advance covering postage and costs connected to the supply of the papers in Rule 3.2 above.

#### **4 Access to Decision Records, Minutes, Agenda and Supporting Papers after a meeting**

- 4.1 The Shadow Council will make electronically available, for a period of six years from the date of the meeting:
- (a) the minutes of the meeting where, under these rules or the Constitution Minutes are required to be made, excluding any part of the minutes relating to the conduct of business when the public were not present or where exempt or confidential information would be disclosed;
  - (b) the records of decisions taken, together with reasons by the Shadow Executive Committee, excluding any part of the record relating to the conduct of business when the public were not present or where exempt or confidential information would be disclosed.
  - (c) where information relating to a decision is considered in private, a summary of the proceedings to provide a reasonably fair and coherent record will be provided excluding any information which is of a confidential or exempt nature; and
  - (d) the agenda and supporting papers covering items which were considered when the public were entitled to be present.

#### **5 Background Documents**

- 5.1 The Officer, in whose name an item is to be submitted for decision, will set out in the agenda a list of the background documents which in his/her opinion:
- (a) relates to the subject matter of the item in question;
  - (b) discloses any facts or matters on which the agenda item or an important part of it has been based; and
  - (c) has been relied upon to a material extent in preparing the agenda item.
- 5.2 The requirements in Rule 5.1 above do not apply to or include any published works or any document in whole or in part which would disclose confidential or exempt information.
- 5.3 Background documents which have been made available for public inspection will continue to be available for a period of four years from the date the decision is made.

#### **6 Definition of Confidential and Exempt Information**

- 6.1 For the purposes of these Rules the definitions of confidential and exempt information are set out below.

- 6.2 Confidential Information means information supplied or given to the Shadow Council by a Government Department on terms which forbid its disclosure to the public or is information which cannot be disclosed to the public by Order of the Courts.
- 6.3 Exempt Information is information falling within any of the categories set out in Appendix 1 subject to the conditions noted in that Appendix.

## **7 Exclusion of the Public from Meetings**

### **Confidential Information – Requirement to Exclude**

- 7.1 The public will be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the proceedings, that confidential information, as described in Rule 6.2 above will be disclosed.

### **Exempt Information – Discretion to Exclude**

- 7.2 In the case of exempt information, the public may be excluded from a meeting where Rule 6.3 and Appendix 1 applies.

## **8 No public right of access to agenda papers**

- 8.1 The Interim/Appointed Monitoring Officer, where he/she considers it necessary, may refuse access by the public to any agenda or supporting papers which in his/her opinion relate to items during which, in accordance with Rule 7 above, the meeting is likely not to be open to the public. Any such papers will be clearly marked “Not for Publication” and will contain the category of information to be disclosed as set out in Appendix 1 to these Rules. Similar provisions apply to the disclosures of documents related to decisions of the Shadow Council, including the Shadow Executive Committee.

## **9 The Shadow Executive Committee: Application of these Rules**

- 9.1 Rules 10 to 20 will apply to the Shadow Executive Committee and any Committees or Sub-Committees which it may establish from time to time.
- 9.2 Where the Shadow Executive Committee, including a Committee or Sub-Committee of the Shadow Executive Committee meet to discuss a Key Decision, with an officer or officers present, within 28 days of the date according to the Forward Plan by which it is to be decided, then the Shadow Executive Committee must comply with Rules 1 to 8 above unless Rules 12 (general exception) or 13 (special urgency) apply. This requirement does not apply where the sole purpose of the meeting is for officers to brief Shadow Councillors.

## **10 Procedure before taking a Key Decision**

10.1 Subject to Rules 12 or 13, a Key Decision cannot be taken unless:

- (a) a notice (“the Forward Plan”) has been published in connection with the matter in question and made available by the public at the main office of the Shadow Council ;
- (b) at least 28 clear calendar days have elapsed since publication of the Forward Plan, and
- (c) where the decision is to be taken at a meeting of the Shadow Executive Committee, including a Committee or Sub-Committee of the Shadow Executive Committee, public notice of the meeting has been given under Rule 2 above.

## **11 The Forward Plan**

11.1 The Forward Plan will be prepared on behalf of the Leader on a monthly basis to cover a four-month period beginning with the first day of any month. The Forward Plan will be rolled forward and published each month to cover the four-month period beginning again with the new date of publication. There will be instances where it is impracticable to include an item in the Forward Plan. In this case Rule 12 or 13 below will apply

11.2 The Forward Plan will contain such matters as the Leader has reason to believe will be Key Decisions to be taken by the Leader, the Shadow Executive Committee, a Portfolio Holder, a Committee or Sub-Committee of the Shadow Executive Committee, an Officer in the course of the discharge of an Shadow Executive Committee function during the period covered by the Forward Plan.

11.3 The Forward Plan will describe in respect of each matter the following particulars:

- (a) the matter relating to the decision to be made;
- (b) the name and title of the decision taker if an individual, or the name and details of the membership where the decision taker is a body;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take to make representations to the Shadow Executive Committee or decision taker about the matter before the

decision is made, and the date by which those steps must be taken;

- (g) a list of the documents to be submitted to the decision taker for consideration in relation to the matter;
- (h) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available;
- (i) that other documents relevant to the matter may be submitted to the decision taker; and
- (j) the procedure for requesting details of those documents (if any) as they become available.

11.4 Where in relation to any matter where the public may be excluded from a public meeting under Rule 7, or documents relating to the decision need not be disclosed to the public, the Forward Plan must contain the particulars of the matter, but may not contain any confidential information, exempt information or particulars of the advice of a political adviser or assistant.

## **12 General exception for Key Decisions**

12.1 If a matter which is likely to be a Key Decision has not been included in the Forward Plan then, subject to Rule 13, the decision may still be taken if:

- (a) the decision has to be taken by such a date that it is impracticable to defer the decision until it can be included in the next Forward Plan and until the start of the first month to which the next Forward Plan relates;
- (b) the Interim/Appointed Monitoring Officer has informed the Chairman of the Overview and Scrutiny Committee, or if there is no such person, each member of that Committee in writing, by notice, of the matter to which the decision is to be made;
- (c) the Interim/Appointed Monitoring Officer has made copies of that notice available to the public at the main office of the Shadow Council; and
- (d) at least five clear working days have elapsed since the Interim/Appointed Monitoring Officer complied with his/her obligations under this paragraph.

12.2 Where such a decision is taken by the Shadow Executive Committee, it must be taken in public subject to any requirements relating to the disclosure of confidential or exempt information and the exclusion of the public.

## **13 Special urgency for Key Decisions**

13.1 If by virtue of the date by which a key decision must be taken, the requirements of Rule 12 above cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body

taking the decision, obtains the agreement of the Chairman of the Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chairman of the Overview and Scrutiny Committee or if he/she is unable to act, then the agreement of the Chairman of the Shadow Council, or in his/her absence the Vice Chairman will suffice.

- 13.2 In addition to the requirement for the Chairman to agree to the matter being dealt with as urgent business, the Chairman and Spokespersons of the Overview and Scrutiny Committee will be consulted, and may comment, on the subject matter of the decision itself

## **14 Report to Shadow Council**

- 14.1 If the Overview and Scrutiny Committee is of the opinion that a Key Decision has been taken which was not:

- (a) included in the Forward Plan; or
- (b) the subject of the general exception procedure under Rule 12 above; or
- (c) the subject of an agreement with the Overview and Scrutiny Committee Chairman, or the Chairman/Vice Chairman of the Shadow Council under Rule 13 above;

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

- 14.2 In response to any requirement under Rule 14.1 above, the Shadow Executive Committee 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 7 days of the resolution of the Committee, then the report may be submitted to the subsequent meeting. The report to the Shadow Council will set out particulars of the decision, the individual or body taking the decision, and if the Shadow Executive Committee is of the opinion that it was not a key decision, the reasons for that opinion.

## **15 Record of decisions of the Shadow Executive Committee**

- 15.1 After any meeting of the Shadow Executive Committee or any of its Committees or Sub- Committees, whether held in public or private, the Interim/Appointed Monitoring Officer or their nominee, or or, where no officer was present, the person presiding at the meeting, will normally produce as soon as practicable an electronic record of every decision taken at that meeting. 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 taker;
- (d) a record of any conflict of interest relating to the matter decided which is declared by any member of the decision taker; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted by the Interim/Appointed Monitoring Officer.

## **16 Shadow Executive Committee Meetings relating to matters which are not Key Decisions**

- 16.1 The Shadow Executive Committee will decide whether meetings relating to matters which are not key decisions will be held in public or private.

## **17 Meeting of the Shadow Executive Committee in private**

- 17.1 Where a meeting of the Shadow Executive Committee, including a Committee or Sub- Committee of the Shadow Executive Committee, is to be held in private under these Rules, at least 28 clear days before the meeting, the the Shadow Executive Committee shall make available at the main office of the Shadow Council a notice of its intention to hold a meeting in private giving reasons as to why the meeting is to be held in private.

- 17.2 At least five clear days before the meeting, the Shadow Executive Committee must make available at the main office of the Shadow Council a further notice of its intention to hold a meeting in private containing: the reasons as to why the meeting is to be held in private; details any representations received by the Shadow Executive Committee about why the meeting should be open to the public; and a statement of the Shadow Executive Committee's response to any such representations.

- 17.3 All Members of the Shadow Executive Committee shall be entitled to be given five clear working days' notice of the meeting, whether or not they are summoned to attend, unless the meeting is convened at shorter notice on urgency grounds.

- 17.4 Copies of the notices required by Rules 17.1 and 17.3 shall be sent to the Chairman of the Overview and Scrutiny Committee.

- 17.5 Where the date by which a private meeting must be held makes compliance with Rules 17.1 and 17.2 impracticable, the meeting may only be held in private where the Shadow Executive Committee has obtained agreement from:

- (a) the chairman of the Overview and Scrutiny Committee; or
- (b) if there is no such person, or if the chairman of the Overview and Scrutiny committee is unable to act, the chairman of the Shadow Council; or

- (c) where there is no chairman of either the Overview and Scrutiny Committee or of the Shadow Council able to act, the vice-chairman of the Shadow Council,

that the meeting is urgent and cannot reasonably be deferred.

## **18 Attendance at private meetings of the Shadow Executive Committee**

- 18.1 Any Member of the Shadow Executive Committee may attend a private meeting of a Committee or Sub-Committee of the Shadow Executive Committee whether or not they are members of that body unless the body determines otherwise.
- 18.2 Any Shadow Executive Committee member who is not a member of such a Committee or Sub-Committee shall be entitled to speak with the consent of the person presiding but not to vote.

## **19 Officer attendance at Shadow Executive Committee Meetings**

- 19.1 The Head of the Paid Service, the Interim/Appointed Chief Finance Officer and the Interim/Appointed Monitoring Officer, or their nominees, are entitled to attend any meeting of the Shadow Executive Committee. The Shadow Executive Committee cannot meet unless the Interim/Appointed Monitoring Officer has been given reasonable notice that a meeting is to take place. This provision also applies to Committees and Sub-Committees of the Shadow Executive Committee.
- 19.2 A private meeting of the Shadow Executive Committee, including a Committee or Sub-Committee of the Shadow Executive Committee, may only take place in the presence of the Interim/Appointed Monitoring Officer or his/her nominee, who shall have responsibility for recording and publicising any decisions.

## **20 Decisions by Portfolio Holders**

- 20.1 Where an individual member of the Shadow Executive Committee receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least five clear working days after receipt of that report.
- 20.2 On giving of such a report to a Portfolio Holder, the person who prepared the report will give a copy of it to the chair of an Overview and Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.
- 20.3 As soon as reasonably practicable after an executive decision has been taken by a Portfolio Holder, a written record of the decision must be produced which must include the following:

- 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 member;
- d) a record of any conflict of interest relating to the matter decided which is declared by any member of the Shadow Executive Committee who is consulted by the member which relates to the decision; and
- e) in respect of any declared conflict of interest, a note of any dispensation granted by the Interim/Appointed Monitoring Officer.

20.4 The provisions of Rules 4 and 5 will also apply to the making of decisions by Portfolio Holders. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

## **21 Record of executive and non-executive decisions taken by officers**

21.1 As soon as reasonably practicable after an officer has made a decision which is an executive decision (ie the responsibility of the Shadow Executive Committee) a written statement will be prepared including:

- (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 officer when making the decision;
- (d) a record of any conflict of interest declared by any executive member who is consulted by the officer which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Interim/Appointed Monitoring Officer.

21.2 Any record prepared in accordance with Rule 21.1 and any report considered by the officer and relevant to the decision will be available for public inspection at the main office of the Shadow Council and on the Shadow Council's website.

21.3 Rules 21.1 to 21.2 do not apply to day to day administrative or operational decisions taken by officers in connection with the discharge of functions which are the responsibility of the Shadow Executive Committee.

21.4 As soon as reasonably practicable after an officer has made a decision under an express delegation from the Shadow Council, its Committees, Sub Committees or any Joint Committee in which the Shadow Council is involved or under a general delegation from one of these bodies where the effect of the

decision is to grant a permission or licence, affect the rights of an individual or award a contract or incur expenditure, which in either case materially affects the Shadow Council's position a written statement will be prepared including:

- (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 officer when making the decision;
- (d) a record of the name of any Shadow Councillor or local government body who has declared an interest (for decisions taken under an express delegation).

21.5 Any record prepared in accordance with rule 21.4 together with any background papers considered by the officer and relevant to the decision will be available for public inspection at the main office of the Shadow Council and on the Shadow Council's website.

21.6 Rules 21.4 to 21.5 do not apply to:

- (a) routine administrative and organisational decisions;
- (b) decisions on operational matters such as day to day variations in services;
- (c) decisions if the whole or part of the record contains confidential or exempt information; and
- (d) decisions that are already required to be published by other legislation, provided the record published includes the date the decision was taken and the reasons for the decision.

## **22 Access to documents - Overview and Scrutiny Committee**

22.1 Subject to Rule 22.4 below, any member of the Overview and Scrutiny Committee is entitled to copies of any document which is in the possession or control of the Leader, the Shadow Executive Committee including its Committees and Sub-Committees and which contains material relating to:

- (a) any business transacted at a public or private meeting of the Shadow Executive Committee including any of its Committees and Sub-Committees;
- (b) any decision taken by an individual member of the Shadow Executive Committee; or
- (c) any executive decision taken by an officer in accordance with Part 3 of this Constitution.

- 22.2 Where a member of an Overview and Scrutiny Committee (including its sub-committees) requests a document which falls within Rule 22.1 the Leader must provide that document as soon as reasonably practicable and in any case no later than 10 clear working days after the Leader receives the request.
- 22.3 Subject to Rule 22.4 the chairman of the Overview and Scrutiny Committee is entitled to see papers in relation to private decisions of the Shadow Executive Committee before the decision is made.
- 22.4 Where the Leader so determines, a member of the Overview and Scrutiny Committee will not be entitled to:
- (a) any document that is in draft form;
  - (b) any such document or part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision he/she is reviewing or scrutinising or any review contained in any programme of work of the Committee;
  - (c) the advice of a political advisor.

Where the Leader determines that a member of the Overview and Scrutiny Committee is not entitled to a copy of a document, or part of any such document, for the reasons set out above the Leader must provide the Overview and Scrutiny Committee with a written statement setting out their reasons for that decision.

## **23 Additional rights of access for Shadow Councillors**

- 23.1 All Shadow Councillors will be entitled to inspect any document which is in the possession or under the control of the Leader and or the Shadow Executive Committee including its Committees or Sub-Committees and contains material relating to any business to be transacted at a public meeting; any business previously transacted at a private meeting; any decision made by an individual member; or an executive decision by an officer unless in the opinion of the Interim/Appointed Monitoring Officer it contains exempt information falling within the categories of exempt information as set out in the Appendix; or it contains the advice of a political advisor.
- 23.2 All Shadow Councillors will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Leader or the Shadow Executive Committee including its Committees and Sub-Committees which relates to any Key Decision unless Rule 22.1 above applies.
- 23.3 In relation to public meetings, where a document is required to be available for inspection by all Shadow Councillors under Rule 23.1 it must be available for at least 5 clear working days before the meeting except where the meeting is convened at shorter notice or an item is added to an agenda at shorter

notice in which case the document must be available for inspection when the meeting is convened or the item is added to the agenda.

- 23.4 In relation to private meetings, decisions made by an individual member or executive decisions made by an officer, where a document is required to be available for inspection by all Shadow Councillors under Rule 23.1 it must be available within 24 hours of the meeting concluding or where an executive decision is made by an individual member or an officer within 24 hours of the decision being made.
- 23.5 These rights of a Shadow Councillor are additional to any other right he/she may have.

## Appendix 1 - Descriptions of Exempt Information

Exempt information means information falling within the following categories (subject to any qualification):

- (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.

### Qualifications

Information falling within the above descriptions is not exempt information if it is required to be registered under:

- (a) the Companies Acts (as defined in section 2 of the Companies Act 2006);
- (b) the Friendly Societies Act 1974;
- (c) the Friendly Societies Act 1992;
- (d) the Co-operative and Community Benefit Societies Act 2014;
- (e) the Building Societies Act 1986; or
- (f) the Charities Act 2011.

Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission or permission in

principle pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

Information which

- (a) falls within any of the descriptions above; and
- (b) is not prevented from being exempt by the previous two qualifications is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## **B. Shadow Executive Committee Procedure Rules**

### **1 Meetings of the Shadow Executive Committee**

- 1.1 The Shadow Executive Committee will meet as indicated in the Shadow Council's programme of meetings. The Shadow Executive Committee or the Leader may agree to change the date of any programmed meeting, to cancel a meeting or to arrange additional meetings as it/he/she sees fit. Locations of meetings will be published in the calendar of meetings.
- 1.2 The Shadow Executive Committee may meet in public or in private, subject to legal requirements and the Access to Information Procedure Rules set out in this Constitution.
- 1.3 The Leader will chair meetings of the Shadow Executive Committee or in his/her absence, the Deputy Leader will preside. Where both the Leader and Deputy Leader are absent, the Members present, may appoint one member of the Shadow Executive Committee to chair that meeting.
- 1.4 All Members of the Shadow Executive Committee shall be entitled to attend meetings of the Shadow Executive Committee unless the Shadow Executive Committee determine otherwise.
- 1.5 Attendance by other Members of the Shadow Council or the public shall be in accordance with the Access to Information Procedure Rules, by invitation under Rule 1.6 below, or as set out Rules 4.1 to 4.2 below.
- 1.6 The Shadow Executive Committee may invite any person it/he/she consider appropriate, to its meetings to discuss matters of mutual interest or concern or to advise. Such persons may only be given access to confidential and/or exempt information on terms to be decided by the Interim/Appointed Monitoring Officer so as to ensure that the Access to Information Procedure Rules are observed

### **2 Quorum at meetings of the Shadow Executive Committee**

- 2.1 No business shall be transacted where at any time during the meeting of the Shadow Executive Committee, or a committee or sub-committee established by the Shadow Executive Committee, there are fewer than one third of members of the Shadow Executive Committee, a committee or sub-committee of the Shadow Executive Committee present or less than three Dorset Councils are represented at that meeting.

### **3 Taking of decisions by the Shadow Executive Committee**

- 3.1 Shadow Executive Committee decisions, including those taken under delegated powers, shall not take effect until they have been recorded in writing, as required under the Access to Information Procedure Rules, and shall not be implemented where the right of call-in has been exercised until

the call-in process has been concluded. Records of Shadow Executive Committee decisions must be confirmed at the next meeting.

#### **4 Members attending and speaking at Shadow Executive Committee Meetings**

- 4.1 The Chairman of the Overview and Scrutiny Committee shall be entitled to attend any formal public meeting of the Shadow Executive Committee and to speak to any matter on the agenda for that meeting.
- 4.2 Other Members not previously described above may also speak at such meetings with the permission of the Leader or person presiding in his/her absence.

#### **5 Business at Shadow Executive Committee Meetings**

- 5.1 The business to be transacted at meetings of the Shadow Executive Committee will be set out in an Agenda for the meeting in question, subject to any requirements or exemptions under the Access to Information Procedure Rules.
- 5.2 The Agenda may be supported by additional papers prepared by the Officers or by or on behalf of other bodies, subject to requirements about disclosure of confidential or exempt information.
- 5.3 The Shadow Executive Committee is obliged to consider matters referred to it by the Overview and Scrutiny Committee, or by the Full Shadow Council for consideration under the Scrutiny Rules.
- 5.4 The Access to Information Procedure Rules will apply to notice of meetings, agendas, and access to reports and background papers. Where matters are for decision, the Agenda must stipulate those which are Key Decisions and those which are not, in accordance with the Access to Information Procedure Rules.
- 5.5 The Shadow Executive Committee will, at each formal meeting, confirm the record of decisions taken at its previous meeting as a correct record.
- 5.6 The Interim/Appointed Monitoring Officer or his/her nominated Officer shall be responsible for preparing and distributing the Agenda for Shadow Executive Committee meetings, attending meetings for the purpose of advising the Shadow Executive Committee on matters within his/her area of responsibility and recording decisions as required under this Constitution.
- 5.7 In taking decisions, the Shadow Executive Committee must satisfy itself that it has before it adequate and appropriate advice from its service, legal and financial advisers who shall be present at any meeting where a decision is being taken and that that advice is taken into consideration in determining the matter. Where there is any doubt about vires or probity then advice must be

obtained from the Interim/Appointed Monitoring Officer and the Interim/Appointed Chief Finance Officer.

- 5.8 Any member of the Shadow Executive Committee may require the Interim/Appointed Monitoring Officer to place an item on the Agenda for a stipulated meeting of the Shadow Executive Committee.
- 5.9 The Interim/Appointed Monitoring Officer will ensure that any matters referred to the Shadow Executive Committee by the Shadow Council or the Shadow Council's Overview and Scrutiny Committee are placed on the Agenda for the next appropriate meeting of the Shadow Executive Committee.
- 5.10 Any Shadow Councillor may request the Leader to place an item on the agenda of a meeting of the Shadow Executive Committee. The Leader shall have sole discretion as to whether or not to accede to such a request and, if such a request is granted, whether the Member in question can speak to the item at the meeting in question.
- 5.11 The Head of the Paid Service, the Interim/Appointed Monitoring Officer and/or the Interim/Appointed Chief Finance Officer can include an item for consideration on the agenda of a Shadow Executive Committee Meeting. In pursuance of their statutory duties they can require that a special meeting of the Shadow Executive Committee be convened.
- 5.12 Business cannot be conducted at formal meetings of the Shadow Executive Committee unless it is included in the agenda for the meeting. Where it is urgent, the requirements of the Access to Information Procedure Rules must be complied with.
- 5.13 The Shadow Executive Committee will report to the Shadow Council as required under the Access to Information Procedure Rules on any matter which is classified as a Key Decision and is dealt with under special urgency procedures.
- 5.14 Questions can be submitted by members of the public at meetings of the Shadow Executive Committee in accordance with Shadow Council Procedure Rule 35 and Appendix 6 of the Shadow Council Procedure Rules.

## **6 Voting at Shadow Executive Committee Meetings**

- 6.1 Voting at Shadow Executive Committee meetings will be by a show of hands and any Member may require, immediately after the vote is taken, that the Minutes of the meeting record how he/she voted or abstained. Where there are equal votes cast, the Leader or in his/her absence, the person presiding will have a second and casting vote.
- 6.2 Voting for any office or appointment, including any paid appointment, where more than one person is nominated shall be in accordance with Shadow Council Meeting Procedure Rule 16.

## **7 Shadow Executive Committee Committees/Sub-Committees**

- 7.1 The Shadow Executive Committee may appoint such Committees or Sub-Committees as it considers necessary and appropriate to assist in the discharge of its functions. In making such appointments, the Shadow Executive Committee must specify the name of the Committee/Sub-Committee, its membership (including its Chairman and, if appropriate, Vice-Chairman) and the terms of reference of the body.

## **8 Motion under Meeting Procedure Rule 12**

- 8.1 a mover of a motion under Meeting Procedure Rule 12 which has been referred to the Shadow Executive Committee for consideration may attend the meeting of the Shadow Executive Committee when his/her motion is under consideration and explain the motion. The mover of the motion will be advised of the date and time of the meeting when the matter is to be considered and he/she will be sent an electronic copy of the relevant papers.

## **9 Resolving disputes**

- 9.1 In the case of any dispute during the proceedings of the Shadow Executive Committee the relevant parts of this Constitution will apply and after considering the application of the relevant provisions, the person presiding at the meeting will rule on the issue in question and his/her ruling will be final.

## **10 Reserves/substitute members**

- 10.1 There shall be no reserve or substitute members of the Shadow Executive Committee.

## **11 Approval of urgent business**

- 11.1 Where any matter is urgent and cannot await the next meeting, the lead officer of the Central Implementation Team may take the necessary action, provided that he/she has first consulted the Leader (or Deputy Leader if he/she is not available).

## **12 Conflicts of Interest**

- 12.1 Where the Leader or any Shadow Executive Committee Member has a conflict of interest, he will follow the requirements of the Shadow Council's Code of Conduct for Members.
- 12.2 If all (or a majority) of the Members of the Shadow Executive Committee present have a conflict of interest then consideration will be given to applying to the Interim/Appointed Monitoring Officer for a dispensation from the provisions of the Code.

- 12.3 If the discharge of a Shadow Executive Committee function has been delegated to another body or individual and a conflict of interest arises, then it will fall to the body or individual who delegated the matter to take the decision. Where that body or individual also has a conflict of interest then action set out in Rule [3.2] shall be considered.

## **C. Overview and Scrutiny Procedure Rules**

### **1 Work Programme**

- 1.1 The Overview and Scrutiny Committee will consult with other parts of the Shadow Council as appropriate, including the Shadow Executive Committee, on the preparation of any work programme.
- 1.2 The Overview and Scrutiny Committee will take into account any views expressed following consultation under Rule 3.1 above in drawing-up and agreeing any work programme. It should also take into account the resources, both officer and financial, available to support its proposals.
- 1.3 Once any programme has been approved, a copy will be sent to all Members of the Shadow Council and all relevant officers.
- 1.4 The Overview and Scrutiny Committee shall respond, as soon as it may consider it is possible to do so, to requests from the Shadow Council and the Shadow Executive Committee, to review particular areas of Shadow Council activities. Where it does so, it will report its findings and any recommendations back to the Shadow Executive Committee and/or Shadow Council in accordance with Rule 4 below.

### **2 Agenda for meetings of the Overview and Scrutiny Committee**

- 2.1 Matters to be considered will be set out in an Agenda, together with appropriate and relevant supporting papers.
- 2.2 Any member of the Committee shall be entitled to require, in writing, that an item be included on the agenda, and such item shall appear on the agenda for the next meeting of the Committee in question. The Committee will decide how the item should be considered and whether or not it can be included in its work programme.
- 2.3 Similarly, the Leader or a Portfolio Holder may give notice in writing requiring an item to appear on an agenda of the Overview and Scrutiny Committee, relating to their area of responsibilities. The Overview and Scrutiny Committee will decide how the item should be considered and whether or not it can be included in its work programme.
- 2.4 Subject to Shadow Council Procedure Rule 34 and Appendix 5 of the Shadow Council Procedure Rules, any other Shadow Councillor may give notice in writing to the Interim/Appointed Monitoring Officer, requesting an item to appear on an agenda of the Overview and Scrutiny Committee. The item shall be included after consulting the Chairman of the Overview and Scrutiny Committee.
- 2.5 Any Shadow Councillor raising an item under Rules 2.2, 2.3 or 2.4 above shall be precluded from raising the matter again for a period of 12 months from the

date it is considered by the Committee.

### **3 Policy Review and Development**

- 3.1 The Overview and Scrutiny Committee has a key role in policy and budget development in the approach to the creation of the Dorset Council.

### **4 Reports from the Overview and Scrutiny Committee**

- 4.1 Once recommendations have been formed, the overview and scrutiny committee will submit a formal report for consideration by the Shadow Executive Committee or where the Leader has delegated decision-making to a Portfolio Holder, the Portfolio Holder (if the proposals relate to an executive function and are consistent with the existing budgetary and policy framework), or to the Shadow Council as appropriate (if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- 4.2 The Shadow Council or the Shadow Executive Committee shall consider the report of the Overview and Scrutiny Committee within two months (or next available meeting in the case of the Shadow Council) of it being submitted.
- 4.3 Where the Overview and Scrutiny Committee submit a report for consideration by a Portfolio Holder, the Portfolio Holder must consider the report and respond in writing to the Overview and Scrutiny Committee within two months of receiving it. The Portfolio Holder will also attend a future meeting of the Overview and Scrutiny Committee to present their response.

### **5 Access to the Forward Plan**

- 5.1 The Overview and Scrutiny Committee will have access to the Shadow Executive Committee's Forward Plan and timetable for decisions and intentions for consultation.

### **6 Rights of Overview and Scrutiny Committee members to documents**

- 6.1 In addition to their rights as Shadow Councillors, members of the Overview and Scrutiny Committee have the additional right of access to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

### **7 Shadow Councillors and Officers giving account**

- 7.1 The Overview and Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Shadow Council function. As well as reviewing the documentation, in fulfilling its scrutiny role, it may require the Leader or any Portfolio Holder, to attend before it to explain in relation to matters within their remit:

- (a) any particular decision or series of decisions;
- (b) the extent to which the actions taken implement Shadow Council policy; and/or
- (c) their performance,

and it is the duty of those persons to attend if so required.

- 7.2 Where the Overview and Scrutiny Committee requires an officer to attend to answer questions or discuss issues, this will be agreed with the lead officer of the Central Implementation Team.

Where it is agreed that an officer should appear to answer questions, their evidence should, as far as possible, be confined to questions of fact and explanation relating to policies and decisions. Officers may explain:

- (a) what the policies are;
- (b) the justification and objectives of those policies as the Shadow Executive Committee sees them;
- (c) the extent to which those objectives have been met; and
- (d) how administrative factors may have affected both the choice of policy measures and the manner of their implementation.

- 7.3 Officers may be asked to explain and justify advice they have given to the Shadow Executive Committee prior to decisions being taken. They may also be asked to explain and justify decisions they have taken under delegation powers from the Shadow Executive Committee.

- 7.4 Officers should not be expected and should avoid being drawn into discussions of politically contentious matters and any officer input should be consistent with the requirements for political impartiality.

- 7.5 The requirements of any protocols on Member/Officer relationships and the Code of Conduct must be adhered to where an officer is attending the Overview and Scrutiny Committee.

- 7.6 Where any Shadow Councillor or Officer is required to attend the Overview and Scrutiny Committee under this provision, the Chairman of that Committee will inform the Interim/Appointed Monitoring Officer, who will inform the Shadow Councillor or Officer in writing giving at least ten clear working days' notice of the meeting. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Overview and Scrutiny Committee will require the production of a report, then the Shadow Councillor or Officer concerned will be given reasonable and

sufficient notice to allow for its preparation.

- 7.7 Where, in exceptional circumstances, the Shadow Councillor or Officer is unable to attend on the required date, then the Committee shall, in consultation with the Shadow Councillor or Officer, arrange an alternative date for attendance.

## **8 Attendance by others**

- 8.1 The Overview and Scrutiny Committee may invite individuals other than those referred to in Rules 7.1 and 7.2 to address it, discuss issues of local concern and/or answer questions.

## **9 Call-in**

- 9.1 This Rule shall apply to a decision of the Shadow Executive Committee, the Leader, Portfolio Holder or an officer that is a Key Decision and there are reasonable grounds to suggest that it has not been made in accordance with the law.
- 9.2 When a decision is made by the Shadow Executive Committee, or a Committee or Sub-Committee of the Shadow Executive Committee, or a Key Decision is made by an officer with delegated authority from the Shadow Executive Committee, the decision shall be published, by electronic means, and shall be available at the main offices of the Shadow Council normally within 2 clear working days of being made. All members of the Shadow Council will be sent an electronic record of all such decisions within the same timescale.
- 9.2 Subject to Rules 9.3, 9.4 and any urgency provisions a decision taken and to which Rule 9.1 above refers will not come into force, and may not be implemented, until the expiry of 5 clear working days after the decision was made and recorded.
- 9.3 Where a decision referred to in Rule 9.1 has been made, any 20 or more Shadow Councillors, who are not members of the Shadow Executive Committee, provided those Shadow Councillors include members from more than one political party may submit a call-in notice, in writing, within the period specified in Rule 9.2 above, to the Interim/Appointed Monitoring Officer. Where the notice is valid, the decision cannot be implemented until the procedures in this section have been followed. Where a valid notice is received the decision shall stand referred to the Overview and Scrutiny Committee for advice
- 9.4 Where as a result of a corporate electronic system failure or planned shutdown, which prevents the issuing of or access to Shadow Executive Committee decisions or the submission of a call-in notice by electronic means in accordance with the Shadow Council's call-in provisions, the periods for notification or submission shall be extended by the period of delay, provided that period is in excess of four hours. When, in the opinion of the

Interim/Appointed Monitoring Officer, the period of delay is likely to extend beyond two clear working days, he/she shall agree with the Chairman of the Overview and Scrutiny Committee, alternative arrangements to avoid any delay in implementing Shadow Executive Committee decisions not subject to “call-in”.

- 9.5 The decision will be referred to the first available meeting of the Overview and Scrutiny Committee, subject to the Access to Information Procedure Rules.
- 9.6 The Committee, having considered the matter, may decide to offer no advice and in which case the decision may be implemented immediately. Where advice is offered, the Shadow Executive Committee will reconsider the decision as set out in Rule 9.8.
- 9.7 Once the Overview and Scrutiny Committee has decided to offer advice or not to offer advice, no further call-in notices may be served in respect of that matter subject to the decision in question. This does not prevent the matter being scrutinised further by the Committee after the decision has been implemented in accordance with these rules.
- 9.8 Where a matter is considered and advice is offered by the Overview and Scrutiny Committee, its advice will be submitted to the Shadow Executive Committee for a decision to be made on the matter. The Shadow Executive Committee shall consider the advice, but shall not be bound to accept it in whole or in part. It shall have sole discretion to decide on any further action to be taken in relation to the decisions in question, including confirming with or without amendment, of the original decision or deferment pending further consideration, or making a different decision. There are no further rights to enable a Shadow Councillor to submit a call-in notice. The decision may then be implemented.
- 9.9 A submitted call-in notice can only be withdrawn with the written consent of all of its signatories.
- 9.10 The “call-in” facility does not apply to the determination of a Motion under Meeting Procedure Rule 12 (Notices of Motion) – Appendix 2

## **10 Call-in and Urgency**

- 10.1 The call-in procedure set out above shall not apply where the decision being taken by the Shadow Executive Committee the Leader, Portfolio Holder or an officer is urgent. A decision will be urgent if any delay, caused by the call-in process, would be likely to seriously prejudice the Shadow Council’s or the public’s interests. The Chairman of the Overview and Scrutiny Committee or, in his/her absence, the Chairman of the Shadow Council must agree that the decision should be treated as urgent, and that the call-in procedure should not apply. In the absence of the Chairman, the Vice-Chairman’s consent shall be required. In the absence of both, the Interim/Appointed Head of Paid Service or his/her nominee’s consent shall be required.

## **11 Councillor Call for Action**

- 11.1 Any member of the Shadow Council may submit a Councillor Call for Action using the appropriate form. The Councillor Call for Action is intended to be a process of last resort and therefore a member must demonstrate that reasonable steps have been taken to resolve the matter including a response from the relevant Portfolio Holder and the Interim/Appointed Head of Paid Service or his/her nominee. The Councillor Call for Action will be placed on the agenda of the Overview and Scrutiny Committee. It is for the Overview and Scrutiny Committee to determine how it wishes to respond to the Councillor Call for Action and in the case of refusal to undertake a review then reasons must be provided.

## **12 The Party Whip**

- 12.1 It is generally accepted that the Party Whip should be suspended in respect of Scrutiny matters. However, when considering any matter in respect of which a member of the Overview and Scrutiny Committee is subject to a formal party whip, the Shadow Councillor must declare the existence of the whip, and the nature of it before the commencement of the Committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the Minutes of the meeting.

## **13 Task and Finish Panels**

- 13.1 The Committee may appoint such task and finish panels as it considers appropriate to undertake specific tasks on its behalf, with the same powers as the Committee. Whilst these will be on a task and finish basis in most cases, the Committee is not precluded from establishing such Panels on a more permanent basis subject to regular review. Task and finish panel members do not have to be members of the Overview and Scrutiny Committee, but may not be members of the Shadow Executive Committee.
- 13.2 Where the Committee establish any Panel under Rule 13.1 above, it will set out the name of the Panel, its membership (including the Chairman and, if appropriate, the Vice-Chairman) and the terms of reference including relevant dates for completion of the task or review.

## **14 Procedure at Overview and Scrutiny Committee Meetings**

- 14.1 The Overview and Scrutiny Committee shall consider the following business:
- (a) record of the last meeting;
  - (b) consideration of any matter referred to the Committee by the Shadow Council or by the Shadow Executive Committee;
  - (c) consideration of any matter referred to the Committee for advice in relation to call-in or a decision;

- (d) responses of the Shadow Executive Committee on reports of the Overview and Scrutiny Committee; and
  - (e) the business otherwise set out on the agenda for the meeting.
- 14.2 Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at its meetings, which are to be conducted in accordance with the following principles:
- (a) the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (b) those assisting the Committee by giving evidence be treated with respect and courtesy; and
  - (c) the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- 14.3 Following any investigation or review, the Committee shall prepare a report for submission to the Shadow Executive Committee and/or Shadow Council as appropriate and shall, unless there are exceptional reasons, make its report and findings public.

## **D. Meeting Procedure Rules**

### **Part A – Shadow Council meetings**

#### **1 Shadow Council meetings**

- 1.1 The Shadow Council will decide when its meetings will take place. Details will be contained in a calendar of meetings which will be approved by the Shadow Council.
- 1.2 Meetings will be held at a time and a place (or places) to be agreed by the Shadow Council. The Chairman, or the Shadow Council, can agree to hold a meeting at a different place or time.
- 1.3 A special meeting can be called by resolution or by the Chairman, or 20 Shadow Councillors comprising more than one political group can ask the Chairman, in writing, to call a special meeting. If the Chairman does not agree, then those Shadow Councillors can call the meeting by giving written notice to the Interim/Appointed Monitoring Officer. The Interim/Appointed Monitoring Officer, in consultation with the Chairman, may also call a special meeting.

#### **2 Chairman and Vice Chairman of the Shadow Council**

- 2.1 At its first meeting, the Shadow Council will elect its Chairman and appoint its Vice-Chairman for the Shadow Period.
- 2.2 The Chairman of the Shadow Council, or in his/her absence the Vice-Chairman (who will have the same powers and duties as the Chairman), will preside at meetings of the Shadow Council. Where both the Chairman and Vice-Chairman are absent, the Shadow Council will appoint another Shadow Councillor, other than a member of the Shadow Executive Committee, to chair the meeting, who will have the same powers and duties as the Chairman.

#### **3 Quorum**

- 3.1 No business shall be dealt with at a Shadow Council meeting if there are fewer than one fifth of the number of Shadow Councillors present. Where the meeting has started, and the number of Shadow Councillors present is fewer than one fifth of the number of Shadow Councillors, the Chairman will adjourn the meeting. Where the Chairman does not give a date and/or time, all business not completed will be considered at the next meeting.

(Note: The quorum arrangements were updated on 7 December 2018.)

#### **4 What the Shadow Council can decide**

- 4.1 The Shadow Council will decide such matters as required by the law, and those matters set out in Part 3 of this Constitution.

## **5 Order of business**

- 5.1 Business shall be dealt with in the order in which it is set out in the agenda unless the Shadow Council decides otherwise.

## **6 Urgent business**

- 6.1 Business cannot be dealt with at a Shadow Council meeting unless it is included in the Summons or unless the Chairman has agreed that it is urgent and cannot wait until the next meeting. The Chairman must give the reasons for urgency, which must be recorded in the Minutes of the meeting.

## **7 Confirmation of Minutes**

- 7.1 Minutes of the last Shadow Council meeting must be confirmed at the next ordinary meeting of the Shadow Council.
- 7.2 Only matters relating to the accuracy of the Minutes can be raised, which must be done by way of a motion which is proposed, seconded and voted upon. Where no issues are raised, or after the motion has been dealt with, the Chairman shall sign the Minutes.

## **8 Record of Shadow Executive Committee Decisions and Minutes of Committees and Sub-Committees**

- 8.1 The Record of Decisions of the Shadow Executive Committee and the Minutes of any other Committees will be submitted to the next ordinary meeting of the Shadow Council.
- 8.2 The Record of Decisions will be noted and the Minutes will be received by a decision of the Shadow Council.
- 8.6 Any question about the accuracy of any matter before the Shadow Council from the Shadow Executive Committee or a Committee must be considered and determined by the Shadow Executive Committee or that Committee at its next meeting. It is not a matter for the Shadow Council.

## **9 Matters for decision by the Shadow Council**

- 9.1 All matters for decision by the Shadow Council (except any Notices of Motion under Meeting Procedure Rule 12 and any urgent items) shall be included with the agenda.
- 9.2 When the item is reached on the agenda, the Leader, the relevant Portfolio Holder or the Chairman of the relevant Committee will, where appropriate, move the recommendation or advice of the Shadow Executive Committee or Committee, or endorsement of a Shadow Executive Committee or a Committee decision. Another Shadow Councillor may second the motion and may reserve the right to speak until later in the debate.

- 9.3 The Chairman cannot ask the Shadow Council to agree to withdraw a recommendation of the Shadow Executive Committee or a Committee under, Appendix 3, paragraph 10, unless new and relevant information has become available after the decision of the body concerned. The information must be disclosed to the Shadow Council.

## **10 Motions moved without notice**

- 10.1 Appendix 1 lists those motions and amendments which can be moved at a Shadow Council meeting without notice.

## **11 Questions by Members at Shadow Council meetings**

- 11.1 A Shadow Councillor may ask the Chairman, Leader, the Portfolio Holder or the Chairman of a Committee any question about a matter which the Shadow Council, the Shadow Executive Committee or the Committee has powers, duties or responsibilities.
- 11.2 Questions, which are to be limited to 50 words or fewer, must be sent in writing to the Interim/Appointed Monitoring Officer at least three clear working days before the meeting.
- 11.3 The Chairman may agree to take urgent questions where he considers that it has not been possible for a Shadow Councillor to give the required notice, provided that a copy of the question is given to the Interim/Appointed Monitoring Officer before the meeting starts.
- 11.4 A question will be rejected by the Chairman in consultation with the Interim/Appointed Monitoring Officer where it:
- (a) does not relate to a matter for which the Shadow Council /committee has a responsibility or which affects the Shadow Council's administrative area;
  - (b) is defamatory, frivolous, offensive, vexatious, unlawful or otherwise improper;
  - (c) requires the disclosure of confidential or exempt information;
  - (d) names or identifies individual service users, members of staff or members of staff of partner agencies; or
  - (e) is considered to be inappropriate for the particular meeting.
- 11.5 A Shadow Councillor may ask no more than one question at any meeting.
- 11.6 Subject to Rule 11.5 questions will be asked in the order of receipt and answered without discussion. In replying, the Shadow Councillor answering the question will use their reasonable endeavours to address the matters raised in the question. The Shadow Councillor to whom the question is addressed may decline to answer any question or may: reply direct, reply by

reference to a publication, or reply by written answer with a copy to such other Shadow Councillors as the Shadow Council agrees, or refer the question to an appropriate committee or to the Shadow Executive Committee.

- 11.7 Following the answer to each question, the questioner may, with the permission of the Chairman, ask a supplementary question which relates to the initial answer. A reply may not be given if the question is: not related to the initial answer; is unduly lengthy; or is inappropriate. The Shadow Councillor answering the supplementary question will decide whether or not to reply
- 11.8 Where a question submitted under this Rule relates to a matter that appears on the agenda for that meeting, the question shall be put and answered in accordance with this Procedure Rule, at the start of the consideration of that matter.
- 11.9 The time allowed for Members to ask questions under this Rule will be a maximum of 30 minutes, but is otherwise a matter for the discretion of the Chairman who, in exercising his/her discretion, will have regard to the business to be transacted at the meeting and the objective of ensuring that the meeting is managed efficiently.

#### **11A Public participation at Shadow Council meetings**

- 11A.1 A public speaking time and public question facility of up to a maximum of 30 minutes will apply to Shadow Council meetings, as detailed in Appendix 6.

#### **12 Notices of Motion**

- 12.1 A notice of motion must relate to matters for which the Shadow Council has responsibility or which affect its area.
- 12.2 The arrangements for submitting and dealing with notices of motion are set out in Appendix 2.

#### **13 Rules of Debate**

- 13.1 The rules of debate to be followed at Shadow Council meetings are set out in Appendix 3.

#### **14 Rescission of earlier resolution**

- 14.1 Subject to Rule 14.2, at a meeting of the Shadow Council, no motion or amendment shall be moved to rescind any resolution of the Shadow Council which was passed within the preceding six months or which is to the same effect as one which has been rejected within that period.
- 14.2 Such a motion may be moved if:
- (a) it is recommended by the Shadow Executive Committee or a Committee;  
or

- (b) notice of such motion has been given under Rule 12 and signed by at least 20 Shadow Councillors who include members from more than one political party.

## **15 Voting**

- 15.1 Each Shadow Councillor has one vote except as provided for in Article 26(7) of the 2018 Order when the Shadow Councillors described in the Article shall have two votes on all questions coming or arising before the Shadow Council.
- 15.2 Voting will be by a show of hands or where practical and the means are available to those present, by electronic means.
- 15.3 When a Shadow Councillor asks for a recorded vote to be taken, and 20 other Shadow Councillors stand in their places to support the request, the vote will be recorded to show whether each Shadow Councillor voted for or against the motion or abstained.
- 15.4 A recorded vote will not be taken if the vote has already begun to be taken by a show of hands.
- 15.5 A Shadow Councillor may require, after a vote is completed, that the Minutes of the meeting record how he/she voted or abstained.
- 15.6 A Shadow Councillor may, immediately after the item of business is voted upon, request that a lost motion or amendment be recorded in the minutes.
- 15.7 Where there are equal votes cast for a motion or amendment the Chairman or the person presiding will have a second or casting vote

## **16 Offices and Appointments**

- 16.1 Voting to elect or appoint the Chairman and Vice- Chairman of the Shadow Council, or Shadow Councillors to any office or position where more than one person is nominated shall be a show of hands or where practical and the means are available to those present, by electronic means.
- 16.2 If on a vote no person receives more than half of the votes cast, the name of the person with the least number of votes will be withdrawn. Further votes will be held until one person receives a clear majority.
- 16.3 The Chairman, or person presiding, will have a second or casting vote where the votes are equal.

## **17 Election of Chairman of Committees and Sub-Committees**

- 17.1 The Chairman and Vice-Chairman of every Committee and Sub- Committee excluding the Shadow Executive Committee will be elected at the first meeting of the Shadow Council where possible.

- 17.2 The Shadow Councillor elected to each office must be a member of the relevant Committee or Sub-Committee.
- 17.3 Where a vacancy occurs in any office, an election will be held at the next ordinary meeting of the Shadow Council unless the Shadow Council decides otherwise.
- 17.4 Unless the Shadow Council decides otherwise, the election will be conducted by a show of hands and may relate to a number of offices. Rule 16 will apply.
- 17.5 Where a Chairman and Vice-Chairman are absent from a meeting of the relevant body, a Chairman will be appointed from those members of the body present, provided the meeting is quorate and subject to any restrictions on the eligibility of Shadow Executive Committee members for appointment.
- 18 Urgent Business – Non-Shadow Executive Committee matters**
- 18.1 An item of urgent business which has to be decided before the next meeting of the Shadow Council and which does not fall within the Shadow Executive Committee's functions and responsibility can be determined by the lead officer of the Central Implementation Team, subject to the procedure in Appendix 4.

## **Part B – Committee and Sub-Committee Meetings**

### **19 Programme of Meetings**

- 19.1 Meetings of Committees and Sub-Committees will be set out in the calendar of meetings approved by the Shadow Council under Rule 1.1. There will be a presumption against alterations to the date, time and venue for meetings.
- 19.2 When it is necessary to alter the date, time and/or venue of a meeting, or to arrange a special meeting, the Interim/Appointed Monitoring Officer will consult the Chairman and Spokesmen of the relevant Committee or Sub-Committee before any action is taken.
- 19.3 The Chairman of the Committee or Sub-Committee will then determine the matter.

### **20 Quorum at Committees and Sub-Committees**

- 20.1 No item of business will be transacted at a meeting of a committee or sub-committee unless there are at least one third of the members of the body present. However, where the total membership of any committee or sub-Committee comprises 11 or fewer members, the quorum shall be 3.

### **21 Minutes of Committees and Sub-Committees**

- 21.1 The Minutes of a Committee or Sub-Committee must be confirmed at its next meeting.

- 21.2 Only matters relating to the accuracy of the Minutes can be raised. Where accuracy is questioned, this must be by a motion which is proposed, seconded and voted upon.
- 21.3 Where no issues of accuracy are raised, or after any motion has been dealt with, the Chairman shall sign the Minutes.
- 21.4 The Minutes of any Sub-Committee must be submitted to the next meeting of the parent Committee by the Sub-Committee Chairman.
- 21.5 Members may ask a question or comment on any Minute. The Chairman of the Sub-Committee will then reply. There will be no debate on any question or comment raised under this procedure and no further motions can be moved.
- 21.6 Where a Member has a question or comment on an exempt, private or confidential Minute, the question or comment must be given in writing to the Interim/Appointed Monitoring Officer at least one hour before the start of the meeting.
- 21.7 Any question about the accuracy of any minute of a body must be considered and determined by that body at its next meeting.

## **22 Motions moved without Notice at Committees and Sub-Committees**

- 22.1 Appendix 1 lists those motions and amendments which can be moved without notice.

## **23 Rules of Debate at Committees and Sub-Committees**

- 23.1 Appendix 3 sets out the rules of debate.

## **24 Voting**

- 24.1 Voting at Committee and Sub-Committee meetings will be by a show of hands.
- 24.2 A recorded vote will not be taken if the vote has already begun to be taken by a show of hands.
- 24.3 A Shadow Councillor may require, after a vote is completed, that the Minutes of the meeting record how he/she voted or abstained.
- 24.4 A Shadow Councillor may request that a lost motion or amendment be recorded in the minutes by requesting this immediately after the vote is taken.
- 24.5 Where there are equal votes cast for a motion or amendment, the person presiding at the meeting will have, and must exercise, a second or casting

vote.

**25 Not used**

**26 Mover of a Motion at Shadow Council under Rule 12: Attendance at Committee and Sub-Committee**

26.1 Where a motion has been referred under Rule 12 from the Shadow Council to a Committee or Sub-Committee for consideration and report, the mover of the motion has the right to attend the meeting and to explain the motion.

26.2 The mover of the motion will be advised of the date and time of the meeting at which the matter is to be considered and he/she will be sent a copy of the relevant papers.

**27 Requests by Members for items of business to be included on agendas of a Committee or Sub-Committee**

27.1 Appendix 5 to these Procedure Rules sets out details of the process by which a Shadow Councillor can ask for an item of business to be included on the agenda of Committee or Sub-Committee meeting.

**28 Questions Submitted by Members of the Public**

28.1 The Shadow Council has a procedure to enable members of the public to submit questions at ordinary meetings of its Committees and Sub-Committees. This is set out in Appendix 6.

**29 Not used**

**30 Committee and Sub-Committee Agenda - Urgent items of business**

30.1 Generally, business will only be transacted at meetings of Committees and Sub-Committees which appears in the agenda and which has been available for public inspection at least five clear working days before the meeting or, where the meeting is convened at short notice, from the time the meeting is convened.

30.2 The Chairman of the Committee or Sub-Committee may agree to deal with an item of business at the meeting if, in his/her opinion, the matter is urgent given the circumstances requiring a decision. The Chairman's ruling and the reasons for urgency will be recorded in the Minutes of the meeting.

**31 Attendance of Shadow Councillors at Committees and Sub-Committees of which they are not members**

31.1 Notwithstanding their rights as a member of the public, a Shadow Councillor may attend any meeting of a Committee or Sub-Committee to which he/she has not been appointed, for the purposes of performing his/her duties as a Shadow Councillor, including when exempt or private and confidential

business is transacted.

- 31.2 A Shadow Councillor will be given, when he/she arrives at the meeting a copy of the agenda and relevant papers, subject to any restrictions imposed under the Access to Information Procedure Rules.
- 31.3 The Shadow Councillor has no right to vote, but may speak with the consent of the Chairman of the meeting.

## **32 Overview and Scrutiny Committees/Sub-Committees**

- 32.1 In applying these Rules to Overview and Scrutiny Committees and Sub-Committees, regard shall be had to the Overview and Scrutiny Procedure Rules which are contained in Part 4 of this Constitution.

## **Part C – General Provisions**

### **33 Records of Attendance**

- 33.1 The Interim/Appointed Monitoring Officer will keep a record of Members attending any meeting of the Shadow Council, the Shadow Executive Committee, any Committee, or Sub-Committee.

### **34 Disclosure of Confidential/Exempt Matters**

- 34.1 No Shadow Councillor shall disclose to any person the whole or any part of the contents of any agenda, report or other document which is marked “confidential” or “not for publication” unless and until the document has been made available to the public or the press by or on behalf of the Shadow Council, the Shadow Executive Committee, a Committee or Sub-Committee.
- 34.2 No Shadow Councillor shall disclose to any person other than a Shadow Councillor any matter arising during the proceedings of the Shadow Council, the Shadow Executive Committee, any Committee, or Sub-Committee and which comes to his/her knowledge by virtue of his/her office as a Member where such disclosure would prejudice the interest of the Shadow Council or would be contrary to law.
- 34.3 No Shadow Councillor shall, without the consent of the Chairman of the appropriate body, disclose to any person any decision or proceedings of that body except:
- (a) when a report on the matter has been circulated to the Shadow Council by that body; or
  - (b) when the decision has become public knowledge; or
  - (c) when the matter comes within the powers of that body and a final decision has been made upon it;

provided that this paragraph shall not authorise any disclosure which would contravene Rules 34.1 or 34.2.

### **35 Disorderly conduct by Members**

- 35.1 If at a meeting any Shadow Councillor, in the opinion of the person presiding, misconducts themselves in any way, the person presiding or any other Shadow Councillor may move "That the Shadow Councillor be not further heard". The motion, if seconded, shall be put and determined without discussion.
- 35.2 If the Shadow Councillor continues the misconduct after a motion under the Rule 35.1 has been carried, the person presiding may: either move "That the Shadow Councillor do leave the meeting" (in which case the motion shall be put and determined without seconding or discussion); or adjourn the meeting.
- 35.3 In the event of general disturbance by Shadow Councillors at any meeting which, in the opinion of the person presiding, renders the due and orderly dispatch of business impossible, the person presiding, will have the power to adjourn the meeting.

### **36 Disturbance by members of the Public**

- 36.1 If a member of the public interrupts the proceedings at any meeting the person presiding shall warn him/her. If he/she continues, the person presiding shall order his/her removal from the meeting. In cases of general disturbance in any part of the meeting room open to the public, the person presiding shall order that part to be cleared.

### **37 Variation and revocation of Procedure Rules**

- 37.1 Any motion to vary or revoke these Rules shall, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Shadow Council.

### **38 Suspension of Procedure Rules**

- 38.1 Subject to Rule 38.2, any of the preceding Procedure Rules may be suspended in respect of any business at a meeting of the Shadow Council, a Committee or Sub-Committee where its suspension is moved.
- 38.2 A motion to suspend Procedure Rules shall not be moved without notice (that is under Procedure Rule 10) unless there shall be present at least one-third of the Members of the Shadow Council or that Committee or Sub-Committee respectively.

### **39 Interpretation of Procedure Rules**

- 39.1 The ruling of the person presiding as to the construction or application of any of these Procedure Rules, or as to any proceedings of the Shadow Council,

shall not be challenged at any meeting.

#### **40 Submission of Notices by Members – Electronic Means**

- 40.1 A Shadow Councillor may communicate, by electronic means, any notice under any of the Shadow Council's Procedural Rules to initiate any process or procedure provided it is clear that the notice has been originated by that Member.

## **Appendix 1 - Procedure Rules relating to the Shadow Council: Meeting Procedure Rules 10 and 29 - Motions which may be moved without Notice**

1. Appointment of a Chairman of the meeting at which the motion is made.
2. Motions relating to the accuracy of the minutes of the Shadow Council, a Committee or Sub-Committee.
3. That an item of business specified in the summons should have precedence.
4. Reference to the Shadow Council, a Committee, Sub-Committee, or the Shadow Executive Committee.
5. Appointment of or appointment to Committees, Sub-Committees, or the Shadow Executive Committee occasioned by an item mentioned in the summons to the meeting.
6. Receipt of Records of Decisions and Minutes of Committees and Sub-Committees
7. Adoption of recommendations of the Shadow Executive Committee, Committees and Sub-Committees and any consequent resolutions.
8. That leave is given to withdraw a motion.
9. Receipt of reports of officers and any consequent resolutions.
10. Extending the time limit for speeches.
11. Amendment to motions.
12. That the Shadow Council proceed to the next business.
13. That the question be now put.
14. That the debate be now adjourned.
15. That the Shadow Council do now adjourn.
16. Authorising the sealing of documents.
17. Suspending Procedure Rules, in accordance with Procedure Rule 57.
18. Motion under Section 100A(4) of the Local Government Act 1972 to exclude the press and public.

19. That a Shadow Councillor named under Procedure Rule 46 should not be heard further or should leave the meeting.
20. Giving consent of the Shadow Council where consent of the Shadow Council is required by these Procedure Rules.

## **Appendix 2 - Procedure Rules relating to the Shadow Council: Meeting Procedure Rule 12 - Notices of Motion**

### **1 Procedure**

Notice of every motion (other than a motion which under Procedure Rule 10 may be moved without notice) shall be given in writing, signed by the Member(s) of the Shadow Council giving the notice, and delivered, at least seven clear working days before the next meeting of the Shadow Council, to the office of the Interim/Appointed Monitoring Officer by whom it shall be dated, in the order in which it is received.

### **2 Motions to be set out in Summons**

The summons for every ordinary meeting of the Shadow Council will set out all motions of which notice has been duly given, unless the Member giving the notice has intimated in writing, when giving it, that he/she proposed to move it at some later meeting, or has since withdrawn it. The motions will be listed in the summons according to whether they relate to Shadow Executive Committee or non-Shadow Executive Committee functions but otherwise in the order in which they have been received.

### **3 Withdrawal of Motion which is before the Shadow Council**

Where a notice of motion is before the Shadow Council having been formally moved and seconded and the mover wishes subsequently to withdraw it, he/she with the consent of the seconder may do so in writing and with the consent of the Chairman of the Shadow Council again in writing.

### **4 Motions not moved**

If a motion set out in the summons is not moved either by a Shadow Councillor who gave notice of it or by some other Shadow Councillor on his/her behalf it shall, unless postponed by consent of the Shadow Council, be treated as withdrawn and shall not be moved without fresh notice.

### **5 Automatic reference to Shadow Executive Committee, Committee/Sub-Committee – Non Shadow Executive Committee Function**

If the subject of any motion (which does not relate solely to any Shadow Executive Committee function or part of a function) comes within the powers, duties and responsibilities of any Committee or Sub-Committee or the Shadow Executive Committee, it shall, when it has been moved and seconded, stand referred without discussion to such of those bodies as the Chairman may determine, for consideration and report. However, if the Chairman considers it conducive to the despatch of business, the motion may be dealt with at the meeting at which it is brought forward. Unless the Chairman has indicated that he/she proposes to deal with the motion at the

meeting, the mover may formally move the motion and reserve the right to speak until the report on the motion comes before the Shadow Council.

Advice to the Shadow Council on any referred Notice of Motion under this section will be formulated by the Shadow Executive Committee and by such other bodies (Committees, Sub-Committees) as are deemed appropriate. The report to Shadow Council will set out the views of all bodies consulted on the Notice of Motion. The Minutes of a Committee or Sub-Committee containing advice to the Shadow Council on any referred Notice of Motion shall be dealt with separately from the other Minutes of those bodies.

## **6 Automatic reference to the Shadow Executive Committee – Shadow Executive Committee Function**

If the subject of any motion of which notice has been duly given comes solely within the powers, duties and responsibilities of the Shadow Executive Committee, it shall, when it has been moved and seconded, stand referred to the Shadow Executive Committee to determine subject to the advice from any other body whose views are sought as determined by Shadow Council. The mover on formally moving the motion has the right to speak to the Motion. The seconder may also speak to the Motion. The Chairman will allow a period of fifteen minutes for a debate on any such notices of motion. This period shall include any speeches made by the mover and seconder of the motion in question. At the end of the debate if sooner or upon the expiration of the fifteen minutes, the appropriate Shadow Executive Committee Member shall have an opportunity to respond. No speeches including the response shall exceed five minutes. No amendments to the motion may be moved. The motion will then stand referred to the Shadow Executive Committee.

There are no rights of “call in” or “reference to the Shadow Council” where the Shadow Executive Committee has discharged a motion submitted under this Procedure Rule.

## **7 Deferment of a Notice of Motion**

Where a notice of motion has been moved and seconded, and referred for advice, the consideration of the motion may be deferred where the mover and seconder signify in writing his/her agreement to the deferral and the Chairman of the Shadow Council indicates, in writing, his/her agreement on behalf of the Shadow Council. The matter would then come to a subsequent meeting of the Shadow Council for report and decision.

## **Appendix 3 - Procedure Rules relating to the Shadow Council; Committees and Sub-Committees - Meeting Procedure Rules 13 and 23 - Rules of Debate**

### **1 Motions and Amendments**

No motion or amendment shall be discussed unless it has been proposed and seconded. Where required by the Chairman, motions or amendments shall be put in writing and handed to the Chairman before they are further discussed or put to the meeting. At meetings other than those of the full Shadow Council, the Chairman of that meeting may, at his/her discretion, allow a motion or amendment to be put which is not in writing, provided that the Chairman has concluded that the wording of the motion or amendment is understood by all members of the body concerned. This requirement does not apply to motions submitted under Procedure Rule 12.

### **2 Secunder's Speech**

When seconding a motion or amendment a Shadow Councillor may advise the Chairman that he/she will reserve his/her right to speak until a later period in the debate.

### **3 Only one Shadow Councillor to stand at a time**

When speaking at a Shadow Council meeting a Shadow Councillor shall stand and address the Chairman. While a Shadow Councillor is speaking the other Shadow Councillors will remain seated, unless rising on a point of order or in personal explanation.

### **4 Content and length of speeches**

A Shadow Councillor will confine his/her speech to the question under discussion, a personal explanation or a point of order. Except as indicated below, in the case of speeches made by Shadow Councillors when the Shadow Council is agreeing a budget, or where the Shadow Council, Committee or Sub-Committee otherwise agrees, no speech will exceed three minutes.

In advance of the meeting at which the Shadow Council is due to agree a budget, the Shadow Council's Political Groups may agree a protocol which makes provision for a limited number of speeches to be made on behalf of each Political Group, and which exceed the five minute limitation contained in these Rules. The Chairman will have discretion as to how such a protocol will be implemented at the meeting and, where no agreement can be reached between the Political Groups, whether and (if so) how any extension of the five minute limitation might be permitted to operate.

## 5 **When a Shadow Councillor may speak again**

At a Shadow Council meeting a Shadow Councillor who has spoken on any motion shall not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another Shadow Councillor;
- (b) if the motion has been amended since he/she last spoke, to move a further amendment;
- (c) if his/her first speech was on an amendment moved by another Shadow Councillor, to speak on the main issue, whether or not the amendment on which he/she spoke was carried;
- (d) in exercise of a right of reply given by paragraph 11 or 13 of this Appendix;
- (e) on a point of order referring to the specific Procedure Rule;
- (f) by way of personal explanation;
- (g) to move one of the motions specified in 12(b) to (j), below when the procedure in those paragraphs shall be followed.

At Committees or Sub-Committees Shadow Councillors may, at the discretion of the Chairman, speak more than once.

## 6 **Amendments to Motions**

An amendment must be relevant to the motion and shall be either:

- (a) to leave out words;
- (b) to leave out words and add others;
- (c) to insert or add words;

but such amendment shall not have the effect of negating the motion before the Shadow Council.

## 7 **Number of Amendments**

Only one amendment may be moved and discussed at a time. No further amendment shall be moved until the amendment under discussion has been disposed of, although the Chairman may allow two or more amendments to be discussed (but not voted on) together if this would facilitate the proper conduct of the business before the meeting.

## 8 **Status of Amendments**

If an amendment is lost, another amendment may be moved on the original motion. If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the motion upon which any further amendment may be moved.

## 9 **Alterations to Motions or Amendments**

A Shadow Councillor may alter a motion or amendment of which he/she has given notice and may also, with the consent of the seconder, alter a motion or amendment which he/she has moved. In both cases, the consent of the Shadow Council (the Committee or Sub-Committee) is required. There should be no discussion on whether consent should or should not be given.

## 10 **Withdrawal of Motion**

A motion or amendment may be withdrawn by the mover provided the seconder and the meeting, without discussion, agree. Once the mover has asked for permission to withdraw, there should be no further discussion, unless the meeting refuses to agree to the request.

## 11 **Right of Reply**

The mover of the motion shall have a right to reply at the close of the debate on the motion, immediately before it is put to the vote. If an amendment is moved, the mover of the original motion shall have a right of reply at the close of the debate on the amendment but shall not otherwise speak on it. The mover of the amendment shall have no right of reply to the debate on his/her amendment.

## 12 **Motions which may be moved during debate**

When a motion is under debate no other motion shall be moved except the following:

- (a) to amend the motion;
- (b) to adjourn the meeting;
- (c) to adjourn the debate;
- (d) to proceed to the next business;
- (e) to suspend Procedure Rules;
- (f) to refer a matter to the Shadow Council, Shadow Executive Committee, a Committee or Sub-Committee for consideration or reconsideration;

- (g) that the question be now put;
- (h) that a Shadow Councillor be not further heard;
- (i) by the Chairman under Procedure Rule 35.2, that a Shadow Councillor do leave the meeting;
- (j) a motion under Section 100A(4) of the Local Government Act 1972 to exclude the public.

### 13 **Closure Motions**

A Shadow Councillor may move, without comment, at the conclusion of a speech of another Shadow Councillor, "That the Shadow Council proceed to the next business", "That the question be now put", "That the debate be now adjourned", or "That the Shadow Council do now adjourn". When one of these Motions has been seconded the Chairman shall proceed as follows:

- (a) on a motion to proceed to next business - unless in his/her opinion the matter before the meeting has been insufficiently discussed, he/she shall first give the mover of the original motion the right of reply, and then put to the vote the motion to proceed to next business;
- (b) on a motion that the question be now put - unless in his/her opinion the matter before the meeting has been insufficiently discussed, he/she shall put to the vote the motion that the question be now put and, if it is passed, give the mover of the original motion the right of reply before putting the motion to the vote;
- (c) on a motion to adjourn the debate or the meeting - if in his/her opinion the matter before the meeting has been insufficiently discussed on that occasion he/she shall put the adjournment motion to the vote without giving the mover of the original motion the right of reply on that occasion.

### 14 **Points of Order**

A Shadow Councillor may rise on a point of order or in personal explanation and shall be entitled to be heard immediately. A point of order shall relate only to an alleged breach of a Procedure Rule or statutory provision and the Shadow Councillor shall specify the Procedure Rule or statutory provision and the way in which he/she considers it has been breached. A personal explanation shall be confined to some material part of a former speech by him/her which may appear to have been misunderstood in the current debate.

### 15 **Ruling of Chairman on a Point of Order/Personal Explanation**

The ruling of the Chairman of the meeting on a point of order or on the admissibility of a personal explanation shall not be open to discussion and shall be final.

**16 Respect for the Chair**

At the Shadow Council meeting whenever the Chairman rises during a debate a Shadow Councillor then standing shall sit down and the Shadow Council shall be silent. In Committee or Sub-Committee meetings, whenever the Chairman rises from his/her seat, the Shadow Councillors should remain in their seats and the Committee or Sub-Committee shall be silent.

## **Appendix 4 - Procedure Rules Relating to the Shadow Council, Committees and Sub-Committees: Meeting Procedure Rules 18 and 30 - Urgent Business**

### **Non-Shadow Executive Committee Functions**

#### **1 Approval of urgent business**

Where any matter is urgent and cannot await the next meeting, the lead officer of the Central Implementation Team may take the necessary action, provided that he/she has first consulted the relevant Chairman (or Vice-Chairman if he/she is not available).

#### **2 Consultation**

A copy of the consultation document shall be sent to the appropriate Shadow Executive Committee Member, the Chairman and Spokespersons of the appropriate Overview and Scrutiny Committee, the party group leaders and the local Shadow Councillors.

#### **3 Written approval**

Any such approval shall be in writing, consideration being given after consultation with the Interim/Appointed Chief Finance Officer and the Interim/Appointed Monitoring Officer.

#### **4 Obligations of the Interim/Appointed/ Monitoring Officer**

The Interim/Appointed Monitoring Officer shall forthwith supply a copy of any approval requiring a report to a Committee or Sub-Committee which has been given by him/her to the lead officer of the Central Implementation Team and the Interim/Appointed Chief Finance Officer.

#### **5 Report to Committee**

A report of any action under paragraphs 1 to 4 above of this Procedure Rule shall be made available by electronic means to all Shadow Councillors of the Shadow Council.

### **Shadow Executive Committee functions**

#### **6 Consultation**

The lead officer of the Central Implementation Team shall have sole discretion to decide the matter, having first taken into account any views of Shadow Councillors consulted under this procedure. A copy of the consultation document under this procedure shall also be sent to the Chairman and Spokespersons of the appropriate Overview and Scrutiny Committee, the appropriate Shadow Executive Committee Member and the local Shadow

Councillor.

**7 Written Approval**

Any such approval shall be in writing, and shall only be given after consultation with the Interim/Appointed Chief Finance Officer and the Interim/Appointed Monitoring Officer.

**8 Obligations of the Interim/Appointed Monitoring Officer**

A copy of any approval which has been obtained under paragraphs 6 to 8 above shall be supplied forthwith to the Interim/Appointed Monitoring Officer and Interim/Appointed Chief Finance Officer.

**9 Report to Shadow Executive Committee**

A report of any decision under paragraphs 6 to 8 above shall be made available by electronic means to all.

**10 Access to Information**

In processing and deciding any matter under paragraphs 6 to 10 above, the relevant requirements of the Access to Information Procedure Rules will apply, as set out in this Constitution.

## **Appendix 5 - Procedure Rules relating to Committees and Sub Committees: Meeting Procedure Rule 27 - Agenda items submitted by Shadow Councillors**

- 1 This Rule does not apply to special meetings of Committees and Sub-Committees or to the Shadow Executive Committee.
- 2 A Shadow Councillor may, by notice given to the Interim/Appointed Monitoring Officer no later than ten clear working days before the appropriate meeting, request that an item of business be included on the agenda of a Committee or Sub-Committee.
- 3 A Shadow Councillor may not give notice of more than one item of business for any one meeting. The notice shall state the nature of the business and shall include the signature of that Shadow Councillor.
- 4 This procedure shall not apply where the item of business, if agreed, would have the effect of rescinding or amending any resolution passed by a Committee or Sub-Committee of the Shadow Council within the preceding 12 months.
- 5 Items arising from such notices shall appear on the agenda at the end of the Part 1 or 2 business.
- 6 This procedure will apply to Shadow Councillors of the Overview and Scrutiny Committee exercising their rights under Section 9FC of the Local Government Act 2000 and Overview and Scrutiny Procedure Rule 32 to have an item, within the remit of that particular body, included on the Agenda and discussed at the next meeting of that body. The restrictions in paragraph 3 on the number of items shall not apply.

## **Appendix 6 - Procedure Rules relating to Shadow Council Meetings, Committees and Sub-Committees: Meeting Procedure Rules 11A and 28**

1. Members of the public may ask questions at meetings of the full Shadow Council, Shadow Executive Committee, and Committees of the Shadow Council. The protocol for questions is as follows:
  - (a) Subject to the requirements of this protocol, a member of the public who lives or works in the area of the Shadow Council may submit a written question to the Leader of the Shadow Council, a portfolio holder or the Chairman of the Shadow Council or of a Committee of the Shadow Council.
  - (b) A person wishing to ask a question shall submit the question in writing which must be received by the Interim/Appointed Monitoring Officer at the main office of the Shadow Council by 10.00 am three clear working days before the meeting of the Shadow Council at which it is to be asked. The person's name and address must be included.
  - (c) A question shall relate to Shadow Council business, shall not normally exceed 50 words in length and shall be so framed as to elicit information rather than make a statement. No member of the public may ask more than four questions in any one financial year.
  - (d) Questions shall be printed in order of receipt and circulated to Shadow Councillors prior to the commencement of the Shadow Council meeting. No discussion shall be allowed upon questions or answers.
  - (e) The person asking the question shall normally attend the meeting to read out their question and to hear the answer. However, persons may, if they prefer, ask for an officer of the Shadow Council to read out their question.
  - (f) If questions are unsuitable in form, frivolous, defamatory, derogatory or relate to a matter which the Shadow Council would be likely to consider in the absence of the press and public, the Chairman of the Shadow Council shall have the right to rule the question out of order.
  - (g) No supplementary questions will be permitted.
2. Members of the public may make statements at meetings of the full Shadow Council, Shadow Executive Committee, and Committees of the Shadow Council. The protocol for statements is as follows:
  - (a) Subject to the requirements of this protocol, a member of the public who lives or works in the the area of the Shadow Council may submit a written statement to the Leader of the Shadow Council, a portfolio holder or the Chairman of the Shadow Council or of a Committee of the Shadow Council.

- (b) A person wishing to make a statement under this protocol shall submit the statement in writing which must be received by the Interim/Appointed Monitoring Officer at the main office of the Shadow Council by midday the day before the meeting of the Shadow Council at which it is to be raised. The person's name and address must be included.
  - (c) A statement put under this protocol shall relate to Shadow Council business, shall not normally exceed 100 words in length.
  - (d) Statements shall be printed in order of receipt and circulated to Shadow Councillors prior to the commencement of the Shadow Council meeting. No discussion shall be allowed upon statements.
  - (e) The person making the statement shall normally attend the meeting to read out their statement and to hear the answer. However, persons may, if they prefer, ask for an officer of the Shadow Council to read out their statement.
  - (f) If statements are unsuitable in form, frivolous, defamatory, derogatory or relate to a matter which the Shadow Council would be likely to consider in the absence of the press and public, the Chairman shall have the right to rule the statement out of order.
3. The time for questions and statements from members of the public shall normally commence immediately after the item 'Code of Conduct' on the Shadow Council agenda and shall be restricted to a total of 30 minutes, or at the discretion of the Chairman of the Shadow Council or the chairman of the meeting, provided that where a question to which an answer is to be given is not reached within the time limit, a written answer shall be provided to the questioner within two working days of the meeting and a copy e-mailed to all Shadow Councillors.

## **E. Financial Procedure Rules**

### **1. Introduction**

- 1.1. The Local Government Act 1972 Section 151 requires the Shadow Dorset Council to make arrangements for the proper administration of its financial affairs. The Shadow Council has allocated this responsibility to the Section 151 Officer (Chief Financial Officer) for the new Dorset Council.
- 1.2. References to Section 151 Officer also apply to the Interim appointment until a permanent appointment is made to the post.
- 1.3. These Financial Procedure Rules set out the financial responsibilities of the Shadow Council, the Shadow Executive, Section 151 Officer and the Head of Paid Service (Designate or the appointed Chief Executive) and their nominated representatives as appropriate, in relation to the Shadow Dorset Council prior to the creation of Dorset Council on the 1 April 2019.
- 1.4. Should any uncertainty or dispute arise about these Procedure Rules, the matter must be referred to the Section 151 Officer for interpretation and arbitration.
- 1.5. The Section 151 Officer has the authority to delegate matters under these Financial Procedure Rules, where appropriate, and records will be maintained of any such delegations.

### **2. Financial Transactions**

- 2.1. The Shadow Council will not incur any payments or receive any income.
- 2.2. Any expenditure incurred or income received on behalf of the Shadow Council will be undertaken and accounted for by the existing councils, namely Dorset County Council, East Dorset District Council, North Dorset District Council, Purbeck District Council, West Dorset District Council and Weymouth and Portland Borough Council, herein and after referred to as the "Existing Councils".

### **3. Employees**

- 3.1. Interim appointments to the three statutory posts made by the Shadow Dorset Council will be made on a secondment basis and the appointed employees will remain employed by their existing councils on their existing terms and conditions.
- 3.2. The appointment to permanent posts by the Shadow Council on behalf of the Dorset Council will be employed by Dorset County Council under terms and conditions to be agreed by the Shadow Executive.

#### 4. **Responsibilities of the Section 151 Officer**

- 4.1. Under Section 151 of the Local Government Act 1972, to undertake the duties of the Responsible Financial Officer to the Shadow Council in preparing for a legally compliant Dorset Council on the 1 April 2019.
- 4.2. As Responsible Financial Officer, under Section 114 of the Local Government Finance Act 1988, making a report to the Shadow Council, the Shadow Executive and external auditor if the Shadow Council or one of its appointed officers:
  - a. has made, or is about to make, a decision which involves committing one of the Existing Councils to unlawful expenditure on behalf of the Shadow Council; or
  - b. has taken, or is about to take, an unlawful action on behalf of the Shadow Council, which has resulted or would result in a loss or deficiency to the Existing Councils or the future Dorset Council.
- 4.3. As Responsible Financial Officer, under the Accounts and Audit Regulations 2015, to comply with internal control requirements as far as they are applicable to the creation of Dorset Council.
- 4.4. Reporting to the Shadow Executive any significant decisions of the Existing Councils that would be to the detriment of the Shadow or Dorset Council.
- 4.5. Working with the Budget Task and Finish Group and the Shadow Executive to provide advice and financial information on the emerging financial position of Dorset Council and on the key financial controls necessary to secure sound financial management in the new organisation.
- 4.6. Maintaining and updating a medium term financial strategy.
- 4.7. Preparing the revenue budget and capital programme; advising on the level of council tax; and preparing treasury management, banking and exchequer functions.

#### 5. **Policies, Strategies and Plans**

- 5.1. The Section 151 Officer is responsible for preparing the following documents for consideration by the Shadow Executive and approval by the Shadow Council at the same time as the 2019/20 budget is approved and council tax set:
  - a) Capital Programme;
  - b) Treasury Management Strategy including:
    - i) Capital Prudential Indicators and Limits for 2019/20 to 2023/24;
    - ii) Minimum Revenue Provision Statement;

- iii) Treasury Prudential Indicators;
  - iv) Authorised Limit Prudential Indicator; and
  - v) Debt and Investment Strategy 2019/20 and associated criteria.
- c) Treasury Management Policy Statement;
  - d) Capital Strategy 2019-2024; and
  - e) Medium Term Financial Strategy 2019–2024.
- 5.2. The Head of Paid Service is responsible for preparing Dorset Council’s Pay Policy Statement for 2019/20, for consideration by the Shadow Executive and approval by the Shadow Council at the same time as the budget is set.

## 6. **Budget Setting for 2019/20**

- 6.1. The revenue budget should reflect the corporate aims and priorities of the Shadow Council and is set in the context of the proposed Medium Term Financial Strategy.
- 6.2. The Section 151 Officer is responsible for preparing a balanced 2019/20 budget in accordance with the Local Government Act 1992, as amended, in particular by the Localism Act 2011. To achieve this the Section 151 Officer is responsible for:
- a) preparing a 2019/20 budget strategy and timetable for engagement with: the Shadow Executive; Shadow Council; and the public, for consideration by the Shadow Executive;
  - b) setting a timetable for receipt of local precept information from town and parish councils in the Dorset Council area;
  - c) determining the detailed form of revenue estimates;
  - d) consolidating the first draft 2019/20 budget from the budget information prepared by the Existing Councils;
  - e) developing the draft budget, taking into account the revenue implications of the proposed capital programme and the council tax harmonisation policy, to identify the budget gap and recommend ways to close this gap, in liaison with the Budget Task and Finish Group, having regard for achieving best use of resources and value for money;
  - f) undertaking consultation on the budget proposals and reporting the outcome of the consultation to the Budget Task and Finish Group for consideration;
  - g) reporting the final draft budget, along with proposals to balance the budget and the outcome of the consultation, to the Shadow Executive for consideration.

- 6.3. The Shadow Executive must consider the draft budget and agree budget proposals which will be submitted to the Shadow Overview and Scrutiny Committee for review, before the end of January 2019.
- 6.4. The Shadow Executive must make recommendations on the final, scrutinised, budget and council tax proposals to the Shadow Council for approval by the third week of February 2019.

## 7. **Capital Programme**

- 7.1. The Section 151 Officer is responsible for undertaking financial appraisals of schemes, if required, and collating the capital estimates to form the capital programme, identifying the required financing and taking into account the full year revenue effect of each scheme and report this to the Shadow Executive.
- 7.2. The Shadow Executive will make recommendations on the capital programme and on any associated financing requirements to the Shadow Council as part of the budget setting process.

## 8. **Council Tax Base**

- 8.1. Each of the existing billing authorities comprising the five district/borough councils (East Dorset District Council; North Dorset District Council; Purbeck District Council; West Dorset District Council and Weymouth and Portland Borough Council) is responsible for calculating the council tax base for each of the towns and parishes within its administrative area and aggregating these figures to provide a council tax base for the district/borough in accordance with the Local Authorities (Calculation of Council Tax Base) (England) Regulations 2012.
- 8.2. The Section 151 Officer is responsible for:
  - a) aggregating the council tax base information provided by each of the districts and boroughs to create a council tax base for the administrative area of Dorset Council (the billing authority), in early December;
  - b) promptly notifying the major preceptors and local preceptors of the relevant tax base for their purposes.

## 9. **Setting the Council Tax**

- 9.1. In order to raise sufficient council tax to meet the needs of Dorset Council, the major preceptors and local preceptors, the Section 151 Officer is responsible for:
  - a) using the tax base to calculate the average band D council tax and all of the council tax bands for Dorset Council and each of the major and local preceptors in the billing authority's area in accordance with the Local Government Act 1992, as amended, in particular by the Localism Act 2011;

- b) agreeing the council tax leaflet for inclusion with the bills, with the Leader of the Shadow Council;
- c) promptly publishing the list of council tax bands, once approved by the Shadow Council; and
- d) applying any alternative notional amounts to the council tax comparators for 2018/19, when undertaking the comparison with the 2019/20 council tax, for the purposes of identifying if the council tax referendum limit has been breached. A statement as to the outcome of this calculation to be approved by the Shadow Council.

9.2. The Shadow Council is responsible for approving the council tax bands in respect of Dorset Council and the aggregation of the bands to arrive at the actual council tax chargeable in each town and parish area and the average council tax bands for the billing authority area.

## 10. **Collection Fund**

10.1. The Section 151 Officer is responsible for:

- a) creating a Collection Fund for the Dorset Council area one day after the Shadow Authority sets the 2019/20 budget and council tax; and
- b) undertaking council tax and national non-domestic rates billing, as soon as the Shadow Council has approved the council tax.

## 11. **Reserves and Balances**

11.1. Financial reserves and balances are maintained as a matter of prudence against unforeseen events and future contingencies. They will enable Dorset Council to provide for unexpected events and thereby protect it from future extraordinary expenditure and overspends. Reserves for specific known purposes are also maintained and it is reasonable to build reserves in anticipation of a known call on resources in future years.

11.2. The Section 151 Officer is responsible for advising the Shadow Executive and Shadow Council on the prudent level of reserves and balances for Dorset Council as part of the annual budget setting process based on an assessment of risk.

11.3. The purpose, usage and basis of transactions must be clearly set out in respect of each of the reserves and balances held by Dorset Council.

## 12. **Returns and Grant Claims**

The Section 151 Officer is responsible for submission of all returns and grant claims in respect of Dorset Council prior to the 1 April 2019. These returns include:

- a) CTB1 – Calculation of Council Tax Bases

- b) NNDR1 – National Non-Domestic Rates Return
- c) CTR1 – Council Tax Requirement Return
- d) RA – Revenue Account Form
- e) Benefit Subsidy Claim

### 13. **Financial Control**

Under the Accounts and Audit Regulations 2015, the Section 151 Officer is responsible for ensuring that appropriate systems and financial controls are in place on the 1 April 2019 to provide effective management information, financial stewardship and control for Dorset Council.

### 14. **Banking Arrangements**

14.1. The Section 151 Officer is responsible for:

- a) Identifying the bank accounts required and opening these accounts in the name of Dorset Council by the 1 April 2019;
- b) authorising bank signatories and setting up authorised accesses and roles;
- c) putting in place the arrangements required for the transmission of funds and collection of cash;
- d) agreeing procedures for managing the transition from the existing bank accounts and banking arrangements to those of Dorset Council.

### 15. **Treasury Management**

The Section 151 Officer is responsible for putting in place all necessary arrangements to enable Dorset Council to invest or borrow monies on the 1 April 2019.

### 16. **Insurances**

The Section 151 Officer is responsible for putting in place adequate insurance arrangements for Dorset Council in readiness for the 1 April 2019.

### 17. **Taxation**

The Section 151 Officer is responsible for liaising with HM Revenues and Customs to obtain appropriate taxation and VAT reference numbers, including a separate PAYE reference for Dorset Council's Returning Officer.

### 18. **Audit**

The Section 151 Officer is responsible for liaising with Dorset Council's appointed internal and external auditors prior to the creation of the new Dorset Council on the 1 April 2019.

## **F. Staff Employment Procedure Rules**

### **1 General**

- 1.1 The Shadow Council has limited powers in connection with the employment and designation of staff. It relies upon staff resources provided by all of the Dorset local authorities to carry out its work. These Rules must therefore be read in that context.
- 1.2 Staff within the organisation are employed, appointed, designated or engaged on behalf of the whole Shadow Council and not by parts of the organisation or individuals.
- 1.3 The employment, appointment, designation or engagement of all staff will be in compliance with the law and any policies and practices of the Shadow Council.
- 1.4 Generally (except for certain senior staff appointments) the function of appointment and dismissal of, and taking disciplinary action against a member of staff of the Shadow Council must be discharged on behalf of the authority by the Head of the Paid Service or by an officer nominated by him/her.

### **2 Recruitment and Appointment of Staff**

- 2.1 Subject to the provisions of these Procedures, the recruitment, designation and appointment of staff will be conducted in accordance with the law and the Shadow Council's policies and procedures.
- 2.2 Any candidate for any designation or appointment with the Shadow Council who knows that he/she is related to a Shadow Councillor or employee of the Shadow Council shall, when making application, disclose, in writing, that relationship to the Central Implementation Team Lead Officer for Human Resources. A person who deliberately fails to disclose such a relationship shall be disqualified from designation or appointment and, if designated or appointed, shall be liable to dismissal.
- 2.3 Every Shadow Councillor and employee of the Shadow Council shall disclose to the Central Implementation Team Lead Officer for Human Resources any relationship known to him/her to exist between him/herself and any person he/she knows is a candidate for a designation or appointment by the Shadow Council.
- 2.4 Any candidate for designation or appointment who directly or indirectly seeks the support of a Shadow Councillor or officer of the Shadow Council in any designation or appointment shall be disqualified and, if designated or appointed, shall be liable to dismissal. A Shadow Councillor shall not solicit for any person in respect of any designation or appointment with the Shadow Council, but may give a written testimonial of a candidate's ability, experience or character.

- 2.5 Persons shall be deemed to be related to a candidate or officer if they are a spouse, partner (i.e. member of a couple living together) parent, parent-in-law, grandparent, child, stepchild, adopted child, grandchild, child of partner, brother, sister, uncle, aunt, nephew or niece or the spouse or partner of any of the preceding persons.
- 2.6 In the case of a dispute under paragraph 2.5 above about the status of a relationship in relation to an appointment, the Central Implementation Team Lead Officer for Human Resources will rule and such ruling will be applied.
- 2.7 The Central Implementation Team Lead Officer for Human Resources will ensure that the provisions of these Rules are reflected, as appropriate, in application forms or in any accompanying detailed procedures for each post, following advertisement.

### **3 Responsibility for Human Resources Matters**

- 3.1 Subject to any matters reserved to the Shadow Council, the Shadow Executive Committee is responsible for the development of corporate personnel policies and for determining and monitoring such policies and for the operational implementation of those policies, including the development of practices and procedures to support those policies.

### **4 Responsibility of the Senior Appointments Committee**

- 4.1 The responsibilities of the Senior Appointments Committee are set out in Part 3.
- 4.2 Subject to the provisions of these Rules, the Committee is also responsible for hearing and determining appeals under the Shadow Council's employment-related policies, the suspension of sick pay and the review and determination of matters relating to any fixed term contracts. In determining these matters the Committee will have regard to the appropriate provisions of this procedure. The Committee may agree to discharge some of these functions through a Sub-Committee.
- 4.3 The Shadow Executive Committee Member with responsibilities for individual Departments or Services and the associated resources is required to ensure that corporate personnel policies and procedures are applied by the Shadow Council, including training, matters relating to discipline, workforce performance management, and grievance (other than determining appeals).

### **5 Appointment of Head of the Paid Service**

- 5.1 The appointment of head of the paid service is subject to specific requirements as set out below.
- 5.2 Where the Shadow Council proposes to appoint to the Head of the Paid

Service, the Senior Appointments Committee will oversee the arrangements for filling the vacancy. For this purpose the Committee shall include at least one member of the Shadow Executive Committee in its membership.

- 5.3 The Senior Appointments Committee shall:
- (a) draw up a statement specifying the duties of the officer concerned and any qualifications or guidelines to be sought in the person to be appointed;
  - (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it;
  - (c) make arrangements for a copy of the statement mentioned above to be sent to any person on request;
  - (d) where a post has been advertised as required above, the Committee will select from the applications a short list of qualified candidates and will then interview those included in the short list.
- 5.4 Following the interview of candidates, the Committee will come to a view as to the most suitable person for the position.
- 5.5 The Committee must advise the Central Implementation Team Lead Officer for Human Resources of:
- (a) the name of the person in question; and
  - (b) any other particulars which the Committee consider are relevant to the appointment.
- 5.6 Within two clear working days of receiving the notification in paragraph 5.5 above, the Central Implementation Team Lead Officer for Human Resources will notify each member of the Shadow Executive Committee of:
- (a) the information notified under paragraph 5.5 above; and
  - (b) the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Shadow Executive Committee to the Central Implementation Team Lead Officer for Human Resources; such period shall not exceed five clear working days.
- 5.7 An offer of appointment must wait until:
- (a) the Leader has, within the period of the notice under paragraph 5.6 above, notified the Committee through the Central Implementation Team Lead Officer for Human Resources that neither he/she nor any member of the Shadow Executive Committee has any objection to the making of the offer; or

- (b) the Central Implementation Team Lead Officer for Human Resources has notified the Committee that no objections have been received by her within the period of the notice under paragraph 5.6 above; or
  - (c) the Committee is satisfied that any objection received from the Leader within the notice period is not material or is not well founded. In this regard, where necessary, the advice of the Interim/Appointed Monitoring Officer should be sought.
- 5.8 Where following the above procedure there are no objections to the proposed appointment or any objections are not up-held, the Committee will recommend that person for appointment at the next meeting of the full Shadow Council or at a specially convened meeting of the Shadow Council. If the Shadow Council approve the recommendation, then a formal offer of appointment can be made.
- 5.9 Where following the interviews the Committee are of the view that there is no suitable candidate, it will re-advertise the post.
- 5.10 Where the Shadow Council do not approve the recommendation of the Committee, it shall indicate how it wishes to proceed.

## **6 Appointment/dismissal of Interim/Appointed Head of Paid Service, Statutory Chief Officers, Non-Statutory Chief Officers and Deputy Chief Officers**

The requirements of the Local Authorities (Standing Orders)(England) Regulations 2001 (“the Regulations”) will be followed in respect of those posts which fall within the definitions of Head of Paid Service, Statutory Chief Officer, Non-Statutory Chief Officer and Deputy Chief Officer.

## **7 Appointments/dismissal of other officers**

Where any appointments are made to positions other than those referred to in paragraph 6 above, or where such persons are dismissed, these shall be the responsibility of the head of the paid service, or another officer to whom he/she has delegated that responsibility.

**PART 5 -  
CODE OF CONDUCT AND  
MEMBER/OFFICER PROTOCOL**

## Code of Conduct for Shadow Councillors

The Code of Conduct, as set out below, was adopted by the Shadow Council with effect from \* June 2018.

### 1 Introduction

- 1.1 The Shadow Council has a duty to promote and maintain high standards of conduct by its councillors. This Code of Conduct sets out the conduct that is expected of councillors when carrying out Shadow Council business or representing the Shadow Council.
- 1.2 The Code of Conduct is to be interpreted in a way that is consistent with the following principles:

<b>Selflessness</b>	Councillors should act solely in terms of the public interest.
<b>Integrity</b>	Councillors must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
<b>Objectivity</b>	Councillors must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
<b>Accountability</b>	Councillors are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
<b>Openness</b>	Councillors should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
<b>Honesty</b>	Councillors should be truthful.
<b>Leadership</b>	Councillors should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

### 2 General obligations

- 2.1. A Shadow Councillor must
- (a) comply with this Code of Conduct and any other of the Shadow Council's policies, protocols and other procedures relating to the conduct of councillors
  - (b) treat others with respect

- (c) when using or authorising the use by others of the Shadow Council resources act in accordance with the Shadow Council's reasonable requirements.
- (d) take into account any relevant advice provided by the Chief Finance Officer; or Interim/Appointed Monitoring Officer, when reaching decisions on any matter
- (e) inform the Interim/Appointed Monitoring Officer of the receipt of any gifts and hospitality that they estimate has a value of more than £50 and the name of person providing the gift or hospitality

2.2 A Shadow Councillor must not –

- (a) do anything which may cause the Shadow Council to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);
- (b) bully any person;
- (c) intimidate or attempt to intimidate any person who is or is likely to be –
  - (i) a complainant,
  - (ii) a witness, or
  - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a councillor (including them) has failed to comply with this Code of Conduct; or
- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Shadow Council.
- (e) disclose information given to them in confidence by anyone, or information acquired by them which they believe, or ought reasonably to be aware, is of a confidential nature, except where –
  - (i) they have the consent of a person authorised to give it;
  - (ii) they are required by law to do so;
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is reasonable and in the public interest; and is made in good faith and in compliance with the Shadow Council's reasonable requirements;

- (f) prevent another person from gaining access to information to which that person is entitled by law; or
- (g) behave in a way which could reasonably be regarded as bringing their office or the Shadow Council into disrepute;
- (h) use or attempt to use their position improperly to confer on or secure for them or any other person, an advantage or disadvantage; or
- (i) use the Shadow Council's resources improperly for political purposes (including party political purposes).

### 3. **Interests**

- 3.1 A Shadow Councillor must register any disclosable pecuniary interest (see Appendix A) that they or their husband or wife, civil partner or any person that they are living with as husband or wife or civil partner, as if they are their own interests, when they know about them.
- 3.2 A Shadow Councillor must declare their membership of or any positions of general control or management in the following bodies referred to in this code as 'local interests' in accordance with paragraph 3.4 below.
  - (a) Bodies to which they have been appointed as a representative of a Parish or Town Council;
  - (b) Public authorities or bodies exercising functions of a public nature;
  - (c) Companies, industrial and provident societies, charities or bodies directed to charitable purposes;
  - (d) Bodies whose principal purposes include the influence of public opinion or policy; and
  - (e) Trade unions or professional associations.
- 3.3 A Shadow Councillor must register any disclosable pecuniary interests and local interests with the Monitoring Officer within 28 days of:
  - (a) being elected or appointed to office;
  - (b) this Code of Conduct being adopted;
  - (c) declaring an unregistered interest at a meeting of the Shadow Council; and
  - (d) becoming aware of any new interests or changes in those interests
- 3.4 A Shadow Councillor who is aware or ought reasonably to be aware that they have a disclosable pecuniary interest or a local interest in any business of the

Shadow Council who attends a meeting of the Shadow Council at which that business is discussed, must disclose to the meeting the existence and nature of the interest at the beginning of the meeting or when it becomes apparent that they have such an interest. Where information about an interest has been agreed with the Monitoring Officer to be sensitive, the Shadow Councillor need only declare the existence of the interest.

- 3.5 A Shadow Councillor who has a disclosable pecuniary interest in any business of the Shadow Council must not take part in the consideration of that business and must withdraw from the room where the meeting is being held unless they have been granted a dispensation by the Interim/Appointed Monitoring Officer

#### 4. **Monitoring and review**

- 4.1. This Code will be kept under review by the Shadow Council.

## APPENDIX A

### **Disclosable Pecuniary Interests**

1. For the purposes of this Appendix

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means the person M referred to in section 30 of the Act;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act; and

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000(b) and other securities of any description, other than money deposited with a building society.

2. The following are disclosable pecuniary interests.

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment of financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged
Land	Any beneficial interest in land which is within the area of the relevant authority
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer
Corporate tenancies	Any tenancy where (to M’s knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest
Securities	Any beneficial interest in securities of a body where— (a) that body (to M’s knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the

	relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class
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## **Protocol on the relationship between Councillors and Officers**

### **1. Introduction**

- 1.1 The purpose of this Protocol is to guide Shadow Councillors and Officers of the Shadow Council in their relations with one another in such a way that ensures that the Shadow Council runs smoothly.
- 1.2 The relationship between Shadow Councillors and Officers is based on the following principles:
- (a) the purpose of the Shadow Council is to prepare for the transition to the new Dorset Council and it is in the interests of all of the inhabitants of the Shadow Council's area that this is achieved seamlessly and without favouring one part over another;
  - (b) the Shadow Council is a single entity;
  - (c) the separate functions of the Shadow Council are part of the Shadow Council as a corporate body;
  - (d) in everything they do, Shadow Councillors and Officers must act within the law and comply with relevant codes of conduct;
  - (e) dealings between Shadow Councillors and Officers are based on mutual trust and respect;
  - (f) the relationship must exist on a professional basis only so that the ability of an officer to deal impartially with Shadow Councillors or political groups cannot be questioned; and
  - (g) Officers should not approach Shadow Councillors on matters to do with employment matters except as agreed by the Interim/Appointed Head of Paid Service.
- 1.3 Shadow Councillors and Officers each have their own roles to play in the work of the Shadow Council and care should be taken to avoid one encroaching upon the other.

### **The role of Councillors**

- (a) To provide the political direction and leadership of the Shadow Council.
- (b) As part of the controlling group to see that the transformation is achieved in accordance with the policies and plans approved by the Shadow Council.
- (c) To receive appropriate professional advice from officers and to have that advice recorded, so that all Shadow Councillors are fully aware of the implications of their decisions and have the assurance that their decisions comply with the law.
- (d) To make reasonable comment and ask questions about the Shadow Council's decisions and performance both at formal meetings and informally. An officer's seniority and area of responsibility will determine what are reasonable comments and questions.

## **The role of Officers**

- (a) To serve the whole Shadow Council as a single corporate body.
- (b) To provide wherever practicable, support to all Shadow Councillors in their representational role and act to uphold the rights of councillors in law and under this Constitution.
- (c) To take decisions within their area of responsibility which have been delegated to them but recognising that, where functions have not been delegated to officers, it is the right of Shadow Councillors to take the final decisions in the light of officers' advice.
- (d) To provide factual, honest and objective advice. The advice and the actions officers take should be politically neutral and should serve the interests of the Shadow Council as a whole. Officers do not give advice on party political matters.

## **2. Officer advice to Shadow Councillors and Party Groups**

- 2.1 For the proper functioning of the Shadow Council as a whole, officers will normally be permitted to share information freely between them.
- 2.2 Where the information has been given on the basis of party political confidentiality:
  - (a) officers will respect that confidentiality unless they believe that any action appears to be in conflict with the law, or would amount to an abuse of the processes of the Shadow Council and in those circumstances may share that information with other officers where they believe it to be necessary to check the legality, financial probity or procedural regularity of any action disclosed by that information.
  - (b) The request for party political confidentiality will be honoured by any officers with whom the information is shared.
- 2.3 Where party political confidentiality has been requested, officers may invite those councillors requesting confidentiality to agree to the information being shared with the other political groups on the grounds that it would assist the more effective functioning of the Shadow Council; however, in the absence of any such agreement to waive confidentially, officers will continue to respect it.

## **3. Support services to Councillors and Party Groups**

- 3.1 Support services and resources must only be used on Shadow Council business and should never be used in connection with any political or campaigning activity or for private purposes.

## **4. Councillors' access to information and to Shadow Council documents**

- 4.1 Councillors may ask the Officers for such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as a Shadow Councillor. This can range from a request for general

information about some aspect of the Shadow Council's activities to a request for specific information on behalf of a constituent.

- 4.2 A Shadow Councillor does not have a right to "a roving commission" to examine documents of the Shadow Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". This question must initially be determined by the Officer holding the document in question. In the event of dispute, the question falls to be determined by the Interim/Appointed Monitoring Officer.
- 4.3 In addition to the above a Shadow Councillor may request information under the Freedom of Information Act 2000, and the Local Government Act 1972 provides a statutory right of access to documents. Any document which is in the Shadow Council's possession and contains material relating to any business to be transacted at a meeting of the Shadow Council, a Committee or Sub Committee or the Shadow Executive Committee is to be open to inspection by any Shadow Councillor. However, there is no right of inspection where it appears to the Interim/Appointed Monitoring Officer that a document discloses certain classes of exempt information as set out in Access to Information Procedure Rules.
- 4.4 The Code of Conduct limits the ability of a Shadow Councillor to disclose confidential information.

## 5. **Correspondence**

- 5.1 Correspondence between an individual Shadow Councillor and an Officer should not normally be copied by the Officer to any other Councillor. Where exceptionally it is necessary to copy the correspondence to another Shadow Councillor, this should be made clear to the original Councillor. In other words, a system of "silent copies" should not be employed.

# PART 6 - MEMBERS ALLOWANCES SCHEME

[To be inserted when agreed]