

PART 2

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THE CONSTITUTION

ARTICLE 1

1 Powers and Duties of the Shadow Council

- 1.1 The powers and duties of the Shadow Council are set down in a number of Acts of Parliament and supporting legislation. The Shadow Council will exercise its 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 – (The Constitution - Summary and Explanation).

3 Purpose of the Constitution

- 3.1 The objectives of this Constitution are:
- to support the Shadow Council's intentions;
 - to provide a framework for clear leadership to the community in partnership with its people, businesses and other organisations;
 - to support the active involvement of people in its decision-making processes;
 - to help Shadow Councillors to represent their constituents more effectively;
 - to enable decisions to be taken efficiently and effectively;
 - to provide a robust and effective Scrutiny function;
 - to ensure that a decision will not be reviewed or scrutinised by anyone who was directly involved in making the decision;
 - 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;
 - to provide a means of improving the delivery of services to the community
- 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.

3.4 Interpretation and Review of the Constitution

Where the Constitution permits the Shadow Council to choose between different courses of action, the Shadow Council will always choose the option which it considers is closest to meeting the above objectives.

1 Composition

- 1.1 The Shadow Council comprises the 81 Members who are elected, as Shadow Councillors, by the voters in the Shadow Council's area. Appendix 1 to this Article lists details of the Shadow Councillors and the area each represents. Further details and information on the Members can be accessed via the Shadow Council's Website.
- 1.2 There are rules about eligibility which must be met before a person can stand for election.

2 Elections and Term of Office

- 2.1 Elections to the Shadow Council took place on 1st May 2008. The next election will be in May 2011. Elections normally take place on the first Thursday in that month.
- 2.2 Shadow Councillors' terms of office will commence from the fourth day after the election and end on the fourth day after the date of the election. However, a person is not entitled to serve as a Shadow Councillor until he or she has made a written declaration accepting the office and agreeing to observe the Shadow Council's Code of Conduct for Members.
- 2.3 Where a vacancy occurs in the office of a Shadow Councillor, a by-election will be held and the person elected will serve until the fourth day after the date of the next quadrennial election.

3 Role of Shadow Councillors

- 3.1 Shadow Councillors will undertake the following roles:
- as a body, they will set the Shadow Council's major plans, policies and strategies as required by law and will perform those functions identified in the Cheshire (Structural Changes) Order 2008; will take decisions on such matters as may be reserved to the full Shadow Council by law or where the Shadow Council has so decided;
 - oversee the Shadow Council's strategic and corporate management;
 - represent their communities and the views of their electorate in the decision making process;
 - support, as appropriate, individuals in their dealings with the Shadow Council and represent them in seeking to resolve particular concerns or grievances;

- balance the different interests of people within their ward with a view to representing their ward as a whole;
- participate, as appropriate, in the decision-making, regulatory and Scrutiny processes;
- represent the Shadow Council on national, regional and local bodies as required;
- maintain the highest standards of conduct and ethics and will observe the Shadow Council's Code of Conduct for Elected Members.

4 Members' 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.
- 5.4 These requirements shall apply to any person who is co-opted or appointed to serve on a body established by the Shadow Council or in any other capacity.

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 Member to serve as Chairman of the Shadow Council for the ensuing year.
- 6.2 Similarly the Shadow Council will appoint the Vice-Chairman of the Shadow Council for the ensuing year.
- 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 Cabinet cannot be elected or appointed as Chairman or Vice-Chairman of the Shadow Council while serving on the Cabinet.
- 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 Cabinet, to preside.

7 Leader and Deputy Leader of the Shadow Council

- 7.1 The Shadow Council will elect, from amongst its number, at its first meeting, the Leader and Deputy Leader of the Shadow Council for the ensuing year.
- 7.2 Where a vacancy occurs in respect of either office the Shadow Council will elect a successor at its next meeting.

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 paying particular attention to 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 Members' 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 Members' 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 Members' Scheme of Allowances. The Cheshire (Structural Changes) Order 2008 makes specific provision with regard to allowances which apply to the Shadow Council.

11 Member Learning and Development and Support

- 11.1 The Shadow Council will provide learning and development for Members, within allocated resources, to ensure that all Shadow Councillors can carry out their roles effectively.
- 11.2 The Shadow Council will also provide support to Members as appropriate to enable them to fulfil their roles and responsibilities.

CHESHIRE EAST SHADOW COUNCIL
MEMBERS OF THE SHADOW COUNCIL – MAY 2008

NAME	ADDRESS AND TEL. NO.	ELECTORAL WARD	ELECTED
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[Add details of all elected members]

Date: May 2008

RIGHTS AND RESPONSIBILITIES OF CITIZENS

1 Rights

1.1 The Shadow Council's citizens have the following rights in regard to the affairs of the Shadow Council

- 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
- to attend meetings of the Shadow Council and its Committees and Sub-Committees except where exempt or confidential information is likely to be disclosed
- to attend meetings of the Cabinet except where exempt or confidential information is likely to be disclosed
- to have access to the Shadow Council's Forward Plan of Key Decisions to be taken by the Cabinet
- in accordance with the statutory framework to inspect reports, background papers and any records of decisions made by the Shadow Council, the Cabinet or a Committee or Sub-Committee subject to the provisions on exempt or confidential information applying
- 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
- to ask questions or present petitions at designated meetings in accordance with such procedures as the Shadow Council may determine from time to time.
- to contribute to investigations by a scrutiny or other body where invited to do so
- to complain to the Shadow Council itself, or to the Ombudsman after using this process, or to the Standards Board for England (where there is an alleged breach of the Members' Code of Conduct)
- to contact the Shadow Council to express support for the Shadow Council in the delivery of its services or where the Shadow Council has made a major contribution to the well being of the County or a particular area

2 Responsibilities of citizens

- 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.

1 Functions

1.1 The functions of the Shadow Council are set out in the Cheshire (Structural Changes) Order 2008. Other Functions reserved to the full Shadow Council are for example as follows:

- Adopting and amending this Constitution
- Electing/Appointing the Chairman and Vice Chairman of the Shadow Council
- Appointing the Leader and Deputy Leader of the Shadow Council
- Appointing the Members of the Cabinet
- Approving the portfolios to be allocated within the Cabinet and the roles and responsibilities of each portfolio holder
- Appointing to such other offices as may be required by the Shadow Council's Constitution
- Agreeing and amending the terms of reference of Committees and Sub-Committees of the Shadow Council
- Agreeing the composition and appointments to Committees and Sub-Committees of the Shadow Council
- Adopting the Members' Scheme of Allowances
- Appointing the head of the paid service and, if appropriate, his/her dismissal
- Designating and appointing the Shadow Council's Interim/Appointed monitoring officer, its Interim/Appointed chief finance officer, its appointed monitoring officer and its appointed chief finance officer and if appropriate approving their dismissal
- Promoting or approving the making of local legislation or Private Bills
- Determining whether functions which are classified as "local choice" functions under the Local Government Act 2000 should be reserved to the Shadow Council for decision or delegated to the Cabinet

- Determining any matter reserved to the Shadow Council by law or which is not the responsibility of the Cabinet, any Committee or Sub-Committee or an officer
- Adopting the Shadow Council's Codes of Conduct for Members and Officers
- Adopting the Shadow Council's Protocol on Member/Officer Relations

The full list of the matters reserved to the Shadow Council appears in Part 3 of this Constitution (Responsibility for Functions).

2 Shadow Council Meeting

- 2.1 The first meeting of the Shadow Council will be held in May.
- 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.
- 2.4 Extra-ordinary 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.

THE ROLE OF THE CHAIRMAN OF THE SHADOW COUNCIL -ARTICLE 5

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 citizens. 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:-
 - upholding and promoting the purposes of this Constitution and interpreting it with appropriate advice when necessary.
 - 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 citizens.
 - ensuring that at Shadow Council meetings matters of concern to local communities can be debated through the appropriate Shadow Councillors.
 - ensuring that Shadow Councillors who are not on the Cabinet or who do not hold the Chairmanship of a main Committee are able to hold those office holders to account.
 - 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.
 - 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.

4 Eligibility for Office of Chairman or Vice-Chairman of the Shadow Council

- 4.1 Any elected Member of the Shadow Council shall be eligible for appointment to these offices unless he/she is a Member of the Cabinet.

SCRUTINY COMMITTEE

ARTICLE 6

1 Scrutiny

- 1.1 The Shadow Council has, as required in the Local Government Act 2000, established an effective, robust and constructive Scrutiny function.
- 1.2 The Shadow Council acknowledges and endorses the role of Scrutiny bodies in holding the Cabinet and others to account in discharging their functions. The Shadow Council believes that the important parts of the role are:
- To assist the Shadow Council and Cabinet in the development and review of its major plans, policies and strategies, which will set the climate in which the Cabinet and other decision-making bodies will be required to operate
 - To undertake specific reviews of the Shadow Council's organisation with a view to improving service delivery.
- 1.3 This Article goes on to address the arrangements for Scrutiny in the Shadow Council. It should be read in conjunction with the Scrutiny Procedure Rules.

4 Task and Finish Panels

- 4.1 The 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. The role of such panels is to carry out an in-depth examination of particular aspects of the Shadow Council's functions, roles, responsibilities and service delivery.
- 4.2 The Committee will appoint the Chairman (and Vice Chairman, if appropriate) of each panel and agree the membership.
- 4.3 These will be established normally on an ad hoc basis with specific time limited tasks. They may vary in size.
- 4.4 The reporting lines from task and finish panels to other bodies shall be set at the scoping report stage.

5 Role of the Scrutiny Committee

- 5.1 The Scrutiny Committee will/may specifically:

1. discharge the Shadow Council's functions under Section 21 of the Local Government Act 2000 (Scrutiny Committees);
2. oversee the Shadow Council's overall scrutiny function including the preparation, implementation, monitoring and review of an annual work programme for scrutiny and arrangements for the scrutiny of other public bodies particularly where required to do so by law and where partners can contribute to the Community Plan and to Local Area Agreement outcomes;
3. establish such task and finish panels, appointing the Chairman in accordance with the Shadow Council's criteria and with such membership as it sees fit, to undertake scrutiny on a task and finish basis;
4. ensure the Shadow Council's officers discharge their responsibilities effectively and efficiently in relation to the Scrutiny function;
5. scrutinise decisions of the Cabinet, and offer advice or make recommendations on the matter under scrutiny once the Committee have considered the issues;
6. refer to the Shadow Council or appropriate Committee/Sub-Committee any matter which, following scrutiny, the Committee determines should be brought to the attention of the Shadow Council or the Committee or Sub-Committee;
7. if requested, offer any views or advice to the Cabinet in relation to any matter referred to the Committee for consideration;
8. undertake general policy reviews with a cross-service and multi-organisational approach wherever possible and make recommendations to the Shadow Council or the Cabinet to assist in the development of future policies and strategies;
9. in performing its role, the Committee may consult and involve the local community and other local public, private and voluntary bodies or organisations;
10. review the Shadow Council's response to its obligations in respect of the overall performance management regime and, where appropriate, to advise the Cabinet and the Shadow Council of its findings;
11. advise the Cabinet and Shadow Council, as appropriate, of any Scrutiny response to budgetary and performance management matters;

12. scrutinise decisions after implementation to examine their effect and outcomes;
13. review and make recommendations in relation to matters which are not the direct responsibility of the Shadow Council but which affect the social, economic or environmental well-being of an area or under any statutory requirement or Shadow Council contract, procedure or practice;
14. 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;
15. monitor the level and nature of Ombudsman complaints and advise the Cabinet, Committees, Sub-Committees and head of paid service on remedial action as appropriate;
16. ensure in conjunction with the Standards and Governance and Constitution Committees that the Shadow Council has in place appropriate mechanisms to protect Organisational Integrity including the development of appropriate policies and guidance.

6 Proceedings of Scrutiny Committee

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

THE CABINET

ARTICLE 7

1 Role of the Cabinet

- 1.1 The Cabinet will specifically carry out all those duties and responsibilities which are allocated to it under the Local Government Act 2000, relevant Regulations and those executive duties and responsibilities which are contained in the Cheshire (Structural Changes) Order 2008.
- 1.2 The Cabinet will also exercise any functions delegated to it by the full Shadow Council by resolution where that function can be delegated and is subject to “local choice”.
- 1.3 It will also carry out any function under the law or this Constitution where that function is not the responsibility of any other part of the Shadow Council.

2 Composition of the Cabinet

- 2.1 The Cabinet will consist of Shadow Councillors including the Leader and Deputy Leader of the Shadow Council, all of whom shall be appointed by the full Shadow Council at its first meeting.
- 2.2 No deputy or substitution arrangements are allowed in respect of the Cabinet. The Chairman and Vice Chairman of the Shadow Council cannot be appointed to the Cabinet.

3 The Leader

- 3.1 The Leader will hold office until
 - he/she resigns from the office of Leader
 - he/she becomes ineligible to be a Shadow Councillor for a specific period or indefinitely
 - he/she ceases to be a Shadow Councillor
 - he/she is removed from office by a resolution of the Shadow Council
- 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 Council, whether that be an Ordinary or Extra-Ordinary meeting of the body.
- 3.3 Where both the Leader and the Deputy Leader cease to hold office at the same time, the Chairman of the Shadow Council shall call a meeting of the full Shadow Council as soon as possible.

4 Other Cabinet Members

- 4.1 Other Members of the Cabinet shall hold office until any of the events listed in 3.1 above for ending the term of office of the Leader apply to them collectively or individually as Cabinet Members.

5 Proceedings of the Cabinet

- 5.1 All proceedings of the Cabinet shall be conducted in accordance with the Shadow Council and Cabinet Procedure Rules contained within this Constitution.

6 Responsibility for Functions

- 6.1 The Leader will ensure that a record is kept of the Cabinet functions which are the responsibility of the individual Cabinet Members, any Cabinet Committee or Sub-Committee, or officers or under any joint arrangements.
- 6.2 The Cabinet may arrange for any of its functions to be discharged in full or in part by a Committee or Sub-Committee of the Cabinet or by an Officer. Where such delegation takes place the Cabinet will set out in writing the precise terms of the delegation to be exercised by the body or individual. A Committee or Sub-Committee of the Cabinet may delegate in writing, the discharge of any its functions, in whole or in part, to an officer.
- 6.4 Where a delegation arrangement is made under 6.2 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.

OTHER COMMITTEES

ARTICLE 8

1 Other Committees

- 1.1 The Shadow Council will appoint such other Committees as it considers appropriate to exercise any of its functions and to take such decisions which are not within the responsibilities of the Cabinet.

THE STANDARDS COMMITTEE

ARTICLE 9

1 Establishment of the Committee

- 1.1 The Shadow Council is required to establish a Standards Committee.

2 Composition

- 2.1 The composition of the Council's Standards Committee will be agreed at its first meeting.
- 2.2 Independent Members on the Committee have voting rights.

3 Role and Functions

- 3.1 The Committee will be responsible for
- discharging the Shadow Council's functions under Part III of the Local Government Act 2000;
 - considering and granting, or otherwise, dispensations in respect of Members' Interests when so enabled under Part III of the Local Government Act 2000;
 - promoting high standards of ethical behaviour by developing, maintaining and monitoring codes of Conduct for Members of the Shadow Council (including Co-opted Members and other persons acting in a similar capacity) and for employees in accordance with best practice and Government guidance;
 - advising the Shadow Council on the adoption or revision of the Codes of Conduct for Members and Officers;
 - ensuring that Members receive advice and training as appropriate on the Members' Code of Conduct;
 - issuing advice to Members on the treatment of personal interests and on conduct matters generally;
 - ensuring that the Shadow Council maintains appropriate links with the Standards Board for England and the Commission for Local Administration in England (Ombudsman);
 - referring issues, which impinge on staff conduct, performance, terms of employment, training and development to the appropriate and responsible Cabinet Member and/or head of paid service;
 - promoting high standards of responsiveness by the Shadow Council to its clients and contacts

- advising other persons/bodies on probity and ethics as appropriate, particularly where that person or body is exercising functions on behalf of the Shadow Council;
- supporting the Shadow Council's statutory officers as appropriate or their authorised deputies, in the performance of their duties; and
- advising the Shadow Council on any local protocols and policies to influence and/or regulate the conduct of Shadow Members.

1 The Cheshire (Structural Changes) Order 2008

- 1.1.1 The Order makes provision for the Shadow Council to: designate officers to the posts of Interim/Appointed monitoring officer and Interim/Appointed chief finance officer; to appoint officers to the posts of appointed monitoring officer and appointed chief finance officer; and to appoint a head of paid service.
- 1.2 The roles and functions of those officers are set out in the 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.

7 Functions of the Head of the Paid Service

- 7.1 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.

8 Functions of the Interim/Appointed and Appointed Monitoring Officer

- 8.1 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 Members, staff and the public.
- 8.2 After consulting with the head of paid service, the Interim/Appointed monitoring officer will report to the full Shadow Council, (or to the Cabinet in relation to an executive function), if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission 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.
- 8.3 He/she will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- 8.4 He/she will receive and act on reports made by ethical standards officers and decisions of case tribunals.

8.5 he/she will conduct investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the Standards Committee.

8.6 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.

9 Functions of the Interim/Appointed and appointed chief finance officer

9.1 After consulting with the 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 Cabinet in relation to an executive function) and the Shadow Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Shadow Council is about to enter an item of account unlawfully.

9.2 He/she in consultation will have overall responsibility for the administration of the financial affairs of the Shadow Council.

9.3 He/she will contribute to the corporate management of the Shadow Council, in particular, through the provision of professional financial advice.

9.4 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.

9.5 He/she will provide financial information to the media, members of the public and the community.

10 Duty to provide sufficient resources to the Interim/Appointed monitoring officer and Interim/Appointed chief finance officer

10.1 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.

11 Conduct

12.1 Officers will comply with the Officers' Code of Conduct and any Protocol on Member/Officer Relations.

13 Employment

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

1 General

- 1.1 The Shadow Council will keep an up-to-date record, which shall be available for public inspection, of which part of its organisation at Member and Officer level 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 Cabinet 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 Cabinet.
- 2.3 Other Committees, Sub-Committees, Officers of the Joint Implementation Team and Officers of the Shadow Authority will take such decisions as are delegated to them by the Shadow Council or the Cabinet.

3 Decision Making Procedures

- 3.1 In taking decisions the full Shadow Council, the Cabinet, Scrutiny Committee, and other Committees and Sub-Committees will follow the Shadow Council's Procedure Rules and in particular as follows:
- Shadow Council - Shadow Council Procedure Rules
 - Cabinet - Cabinet Procedure Rules
 - Scrutiny Committee - Scrutiny Procedure Rules
 - Committees and Sub-Committees - Shadow Council Procedure Rules

4 Definition Of Key Decision

- 4.1 The statutory definition, as contained in paragraph 8 of Part III of the Local Authorities (Cabinet Arrangements) (Access to Information) (England) Regulations 2000, is as follows:-

“an executive decision which, is likely –

- (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the 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 local authority."

1 Legal Proceedings

- 1.1 The Interim/Appointed and appointed monitoring officer are 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/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 Any contract entered into on behalf of the Shadow Council. 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 must either be signed by the Interim/Appointed/appointed monitoring officer or his authorised deputy or made under the common seal of the Shadow Council.

3 Common Seal of the Shadow Council

The Common Seal of the Shadow Council will be kept in a safe place in the custody of the Interim/Appointed/appointed monitoring officer. A decision of the Shadow Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Interim/Appointed/appointed monitoring officer should be sealed. The affixing of the Common Seal will be attested by the Interim/Appointed/appointed monitoring officer or one of his/her authorised deputies.

REVIEW, REVISION, SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

1 Review

- 1.1 The Governance and Constitution Committee, in consultation with other appropriate Members and the Interim/Appointed/appointed monitoring officer and Interim/Appointed/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.
- 1.2 In monitoring the Constitution, the Committee will need to be aware of the strengths and weaknesses of the Constitution adopted by the Shadow Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the Committee may require
- meetings of different parts of the member and officer structure to be observed
 - an audit trail of a sample of decisions to be undertaken
 - issues raised by Members, officers, the public and other relevant stakeholders to be recorded and assessed
 - practices in the authority to be compared with those in other comparable authorities, or national examples of best practice.

2 Changing the Constitution

- 2.1 Changes to the constitution will only be approved by the full Shadow Council after consideration of the proposal by such bodies as the Shadow Council may from time to time determine.

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/appointed monitoring officer:
- will give each Member access to an electronic copy of this Constitution
 - will ensure that a copy of the Constitution is made available for inspection via the Shadow Council's website
 - will ensure that copies are available for inspection at Shadow Council offices, and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee
 - will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary
 - will provide to any Member, upon request, a copy of the Constitution.