



WEST NORTHAMPTONSHIRE SHADOW AUTHORITY

SHADOW AUTHORITY MEETING

15 September 2020

Report of the Governance Task and Finish Group

Report Title	Proposed amendments to the West Northamptonshire Shadow Authority Constitution – Part 5 Code of Conduct and Part 4D (Meeting Procedure Rules) Annex 2 paragraph 7
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1. Purpose

- 1.1 At the meeting of the Governance Task and Finish Group held on 20 August 2020, two proposed amendments to the West Northamptonshire Shadow Authority (WNSA) Constitution were discussed. These matters came to the attention of the Task and Finish Group having been raised at the WNSA Full Council meetings on 2 June and 18 August 2020.

2. Recommendations

- 2.1 It is recommended that the Shadow Authority
- 1) Notes the recommendation of the Governance Task and Finish Group to amend the Shadow Authority's Constitution as set out in Section 3 below;
 - 2) Approves the wording of the proposed amendment to be made to the Code of Conduct, set out in paragraph 3.2.2 of the report; and
 - 3) Approves the deletion of paragraphs 6 and 7 in Appendix 2 to Part 4D of the Constitution (Meeting Procedure Rules) and the insertion of the text set out in paragraph 3.2.6 of this report.

3. Issues and Choices

3.1 Report Background

- 3.1.1 The Task and Finish Group has a remit to keep the Shadow Authority's Constitution under review and to report to the Authority on any recommended amendments for approval.
- 3.1.2 At the Shadow Authority meeting on 2 June 2020, Councillor Harris recommended that the Authority consider an amendment to the wording of the Code of Conduct for Members.
- 3.1.3 At Shadow Authority meeting on 18th August 2020, several Councillors expressed their dissatisfaction with the wording of Part 4D Annexure 2 paragraph 7 which deals with the automatic referral of certain Motions on Notice directly to the WNSA Executive.

3.2 Issues and Choices

- 3.2.1 Under its Terms of Reference, the Task and Finish Group has the remit to consider the Constitution and to recommend amendments.
- 3.2.2 The first part of the Constitution recommended for amendment in this report is Part 5 Code of Conduct. On page 128 of the general provisions of the Code, the Seven Principles of Public Life, (commonly referred to as the Nolan Principles) are listed with the following preamble:

"The Code is underpinned by the following seven Nolan principles of public life, which should be borne in mind when interpreting the meaning of the Code"

The proposal for amendment is the deletion of the phrase "borne in mind" and replacing it with "adhered to" so the paragraph reads as follows:

"The Code is underpinned by the following seven Nolan principles of public life, which should be adhered to when interpreting the meaning of the Code"

- 3.2.3 The second part of the Constitution recommended for amendment in the report is Part 4D (Meeting Procedure Rules) Appendix 2 paragraphs 6 and 7, which read:

"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 Chair may determine, for consideration and report. However, if the Chair considers it conducive to the dispatch of business, the motion may be dealt with at the meeting at which it was brought forward. Unless the Chair 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 the 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. Where any Committee or Sub-Committee advises on a Notice of Motion referred to it under this rule that Committee or Sub-Committee shall record such advice in an Appendix to its minutes. At its next meeting the Shadow Council shall, in addition to approving those minutes, consider the Appendix containing the advice on the Notice of Motion as a separate agenda item.”

“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, on formally moving the motion, has the right to speak to the Motion. The seconder may also speak to the Motion. The Chair 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 Members shall have the opportunity to respond. No speeches including the response shall exceed 3 minutes. No amendments to the motion may be moved. The motion will then stand referred to the Shadow Executive Committee.

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

- 3.2.4 For context, the intention of these paragraphs is to prevent the Shadow Authority from taking a decision that would otherwise be reserved in law for the Shadow Executive, just as the Shadow Executive is prevented from taking decisions that are reserved for the Shadow Authority (such as adopting the scheme of allowances and agreeing the appointment of staff).
- 3.2.5 Although this safeguard preserves the lawful transaction of business through the correct decision making structures, Shadow Councillors understandably expressed frustration that the effect of these paragraphs is to constrain debate at Shadow Authority meetings. It is therefore proposed that these paragraphs be deleted entirely.

- 3.2.6 Notwithstanding that, the Task and Finish Group considered that it would be prudent to include a safeguard within this section of the constitution, not least to provide clarity to Shadow Councillors about the powers and duties of the Shadow Authority and its respective decision making bodies. It is therefore proposed to insert the following text in place of these paragraphs:

“Any notice of motion which would have the effect of reviewing or rescinding a decision of the Shadow Executive taken under powers ascribed to the Shadow Executive by the Structural Changes Order, otherwise than in the form of a proposal that the matter be referred to the Executive for consideration and report, shall not be deemed to have been duly given for the purposes of this Standing Order.”

4. Implications (including financial implications)

4.1 Policy

- 4.1.1 By its nature, the task of drafting the constitution is inter-dependent on the output of other work streams, Tasks and Finish Groups or Committees. However, the Council Procedure Rules and some other areas of the Constitution are not largely dependent on these work streams

4.2 Resources and Risk

- 4.2.1 The lawfulness of the Constitution, as well as its ability to support effective and efficient governance is a risk that will be managed through the Task and Finish Group process, with input from officers where required.

4.3 Legal

- 4.3.1 Adoption of the draft Constitution will establish a clear framework for governance of the new authority.
- 4.3.2 Councillors should be aware that the acceptance of a Motion on Notice by Full Council on matters which are the sole responsibility of the Executive will not, in law, bind the Executive.

4.4 Equality and Health

- 4.4.1 There are no equality and health implications arising directly.

Appendices

None.