

NORTH NORTHAMPTONSHIRE JOINT COMMITTEE (NNJC)

GOVERNANCE WORKING GROUP

SCOPING DOCUMENT

Agreed by the Working Group 08/08/19

Councillor Jonathan Ekins (Chair)	Northamptonshire County Council
Councillor Andrew Mercer	East Northamptonshire Council
Councillor Bob Eyles	Corby Borough Council
Councillor Lloyd Bunday	Kettering Borough Council
Councillor Barry Graves	Borough Council of Wellingborough

1. Purpose/Objectives of this Working Group

- To consider and prepare a draft Constitution for the North Northamptonshire Shadow Authority only, for recommendation to the NNJC, which will recommend a Constitution to the Shadow Authority for adoption at its inaugural Full Council meeting.
- To consider and prepare a draft Members' Code of Conduct for the Shadow Authority (which will be incorporated into its Constitution) for recommendation to the North Northamptonshire Joint Committee, which will recommend a Members' Code of Conduct to the Shadow Authority for adoption at its inaugural Full Council meeting.

2. Outcomes Required

- A draft Constitution for the North Northamptonshire Shadow Council that:
 - is suitable for the specific functions that the Shadow Council will fulfil;
 - will ensure the Shadow Council is properly constituted in accordance with the Structural Change Order and the local government legal framework; and
 - if required, could be adapted in the future to become the first Constitution of the North Northamptonshire Council.
- A draft Members' Code of Conduct for the North Northamptonshire Shadow Council that includes draft arrangements for dealing with alleged breaches of the Code.

3. Information

Information required

- Examples of best and recent practice
- Legal advice
- Democratic Services input
- Structural Change Order (SCO)

Methods used to gather and receive information

- Officer reports
- Presentations
- Desktop research

4. Timetable for completion of the Tasks

The dates and times of the Governance Working Group are as set out in the table below. It is unlikely that all of these meetings will be required.

Date	Time	Location
3 rd September 2019	9:30 am	Wellingborough
26 th September 2019	9:45 am	Wellingborough
24 th October 2019	9:30 am	Wellingborough
31 st October 2019	9:30 am	Wellingborough

Whilst the Structural Change Order (SCO) is unlikely to have completed its Parliamentary process until December 2019, it is suggested that the work of the Group be concluded by the NN Joint Committee of 12th November 2019. Allowing this longer time frame would allow the Group to respond to any issues arising out of the final text of the Order when it is laid in Parliament (October 2019).

An interim report to be presented to the NN Joint Committee by the Group Chair on 16th September 2019.

5. Responsible Officers

Paul Goult	Monitoring Officer & Democratic Services Manager	Corby Borough Council
Paul Hanson	Democratic Services Manager	Northamptonshire County Council
Carol Mundy	Democratic Services	Borough Council of Wellingborough
Ben Smith	Democratic Services Manager	East Northamptonshire Council

6. Proposed Methodology

Background

The currently understood timeline of Local Government Reorganisation in Northamptonshire anticipates the creation of a unitary authority for North Northamptonshire in April 2021. This would likely mean the creation of a shadow authority for North Northamptonshire in May 2020.

The SCO is anticipated to be laid before Parliament after the 2019 Summer Recess. Completion of the Parliamentary process on the SCO might be expected by the end of 2019. The first meeting of the Shadow Authority would take place within 14 days of the designated election day of 7th May 2020. Therefore, it is estimated, the first meeting of the Shadow Authority would take place by the end of May 2020.

In summary, the role of the Shadow Authority will be to do all that is necessary to prepare for the establishment of the North Northamptonshire Council in April 2021 and the taking on of full local government functions and powers from that time. Until April 2021, the Shadow Authority will have no service delivery role as the current Councils will continue in existence until then. However, the Shadow Authority will still require standing orders and rules of procedure to govern how business is transacted.

Therefore, it will be necessary for the Shadow Authority to adopt a Constitution (and a Members' Code of Conduct) at its first meeting, as it will require a Constitution in order to start operating.

While there are a number of reasons that could cause the anticipated timetable to change and be delayed, it is currently necessary to work on the basis that a Constitution for the Shadow Authority will be required in May 2020. The North Northamptonshire Joint Committee has been given the role of preparing a Constitution for recommendation to the Shadow Authority at its inaugural meeting.

Template Constitution

Due to the shortness of time, it is recommended that a suitable pre-existing Constitution be used as a starting point and is adapted to suit the requirements of the North Northamptonshire Shadow Council.

The Dorset, Bournemouth and Poole area has recently undergone local government reorganisation resulting in the creation of two new unitary authorities from the start of April this year. They are one year ahead in the process, of the anticipated timetable in Northamptonshire. This means that they have already created Constitutions suitable for a shadow authority. It is suggested therefore that the Dorset Shadow Authority Constitution be used as the template for the North Northamptonshire Shadow Authority Constitution. Dorset Shadow Council's Constitution is suggested rather than Bournemouth and Poole's only on the basis that the County Monitoring Officer Group

started to consider this Constitution last year. The Bournemouth and Poole Constitution can also be used as a reference if it is available and significantly different to the Dorset Shadow Constitution.

At this point in time, an assumption is being made that any SCO made in relation to Northamptonshire will closely follow recent examples of other local government reorganisations including in Cheshire and in Dorset.

The Dorset Shadow Authority Constitution necessarily incorporated the requirements of the Bournemouth, Dorset and Poole SCO. This is a benefit of using the Dorset Shadow Authority Constitution as a starting point in North Northamptonshire.

It should also be noted that the West Northamptonshire Joint Committee has already considered the drafting of a constitution, based upon the Dorset model. It is important that the local choices of North Northamptonshire members are reflected in any constitution drafted by this working group, however there may be merit in considering using the West Northamptonshire draft as a template.

Work Packages

It is proposed to split the component parts of the Constitution into a number of different work packages as set out below, in order that (where resources are available) different subject matter experts can work on different parts, with the Officers supporting this Working Group having broad oversight of the entire document.

- Summary and Explanation
- Articles
- Responsibility for Functions
- Rules of Procedure
 - Council Procedure Rules
 - Access to Information and Open Government
 - Budget and Policy Framework
 - Financial Regulations
 - Executive Procedure Rules
 - Overview and Scrutiny Procedure Rules
- Members' Code of Conduct and Arrangements for dealing with alleged breaches of the Code
- Other Protocols eg. Protocol on Member/Employee Relations
- Members' Allowances Scheme (*Note: the narrative for this to be provided by the Independent Remuneration Panel once established*)
- Provisions relating to Officers including Employment Procedure Rules

(Please note this is not an exhaustive list and may evolve as work commences).

'Exceptions'

Every Constitution is made up of a combination of legal and technical sections that are broadly the same in all Constitutions and other elements where there is more discretion and local choice available in the arrangements that are operated by the Council. It is therefore proposed that the Constitution for the Shadow Authority is drafted by exception. Officers would draft the standard legal and technical parts and the skills of the Members of this Working Group would be deployed to consider only those areas of the Constitution which are of greatest political and practical importance and to advise Officers of their preferred way forward.

The suggested areas for consideration and Member input by the Working Group are suggested below, together with some initial Officer suggestions for discussion by Members:

A. What Committees will the Shadow Authority need/want?

It is suggested that initially, the Shadow Authority will require the following Committees:

- The Shadow Executive Committee – (there are likely to be details about the composition of this Committee in the Structural Changes Order).
- Standards Committee
- Overview and Scrutiny Committee – (see further details in section B below)
- Senior Appointments Committee – (to deal with appointments of Senior Officers and potentially any disciplinary or appeals matters).

It is considered that the Shadow Authority will not be able to operate without the Committees listed above. There may be other types of Committees that the Shadow Authority could potentially have, for example Audit and Governance or General Purposes (for non-executive functions where it may not be practical to convene the entire Full Council). However, consideration needs to be given to the resourcing of such Committees, as the sovereign authorities will still be operating their own committees at this time.

Consideration also needs to be given to the limited functions and decision making power of the Shadow Authority and the need for the governance arrangements to be proportionate and manageable in practice. It would always be possible for the Shadow Authority to amend its Constitution during its lifetime, to establish additional Committees if a need arose.

B. Overview and Scrutiny Arrangements

- Structure and Composition – eg. one Committee or multiple Committees?
- Will it have Sub-Committees?
- Will it have Scrutiny Panels/Scrutiny Working Groups?
- Call-in rules?
- The need to be clear about the likely purpose of Overview and Scrutiny in the Shadow Authority context.

Northamptonshire County Council has a single Overview and Scrutiny Committee. The County Council's approach to overview and scrutiny was recently reviewed by the Centre for Public Scrutiny and this was the approach that they recommended.

Corby Borough Council operate a single Overview & Scrutiny Panel (OSP) however given the council's committee-style governance structure, the OSP tends to focus on monitoring service delivery rather than reviewing decisions made by the main policy committee.

Kettering Borough Council (which operates executive arrangements) operates two scrutiny committees. One predominately relating to audit & financial scrutiny, the other scrutinising service delivery.

Neither the Borough Council of Wellingborough or East Northamptonshire Council have dedicated overview & scrutiny committees, with scrutiny-type functions undertaken by other committees.

It is recommended that a single Committee approach would lend itself well to a Shadow Authority where there is a need to focus and where there is unlikely to be the resource to administer multiple Overview and Scrutiny Committees.

C. Public Participation and Access to Information

The rights of the press and the public in relation to attending and recording meetings and to access information etc. will as a minimum need to reflect the requirements in legislation. However, as Members will be aware, the extent to which the public may participate in meetings is a matter of local discretion and there is a continuum ranging from limited public participation to more extensive public participation rights being granted. For example, elements of some different models are set out below as a starting point for discussion by Members:

- A limited number of members of the public may speak on any topic at the beginning of the meeting.
- Members of the public may speak only on items on the public agenda.
- Members of the public may speak only to ask questions.
- Member access to information, "right to know" provisions protocol? constitutional rules?

D. Member Officer Protocol

Dorset Council's Constitution has a Member/Officer Protocol and it is considered best practice in governance terms for the interface between different parties to be properly managed

E. Terminology to refer to Members of the Shadow Executive Committee

'Portfolio Holder' may be clearer than 'Shadow Executive Committee Member' due to 'shadow' usually being associated with the role of opposition spokespersons.

F. Code of Conduct for Members of the Shadow Authority and Arrangements for Dealing with Allegations of Breaches.

The following matters will require consideration:

- The general structure of the Code of Conduct? For example, some Codes contain much more detail than others. Possibility of choosing one of the Codes of the member Councils of the NNJC and adapting as required?
- What approach should be taken with respect to personal interests that are locally defined (as opposed to the statutorily defined Disclosable Pecuniary Interests)?
- What process should be used for dealing with allegations of breaches of the Code? Again, there is a lot of variation amongst the approaches of different Councils to dealing with complaints about alleged breaches of a Members' Code of Conduct. For example, some councils have very streamlined arrangements for dealing with alleged breaches and others follow lengthy processes. Some Councils delegate a significant amount of the work in assessing cases to the Monitoring Officer who can act as a filter, whereas others might refer more matters to a Standards type committee. Possibility of choosing the Arrangements for dealing with alleged breaches of one of the member Councils of the NNJC and adapting as required?
- The need for a statutory Independent Person to meet the requirements of the Localism Act 2011.

G. Standing Orders

The rules of debate in the Constitution should be based on the Local Government Act 1972, Standing Orders Regulations and the model standing orders that underpin every local authority constitution. Areas of discretion include:

- Time and place of meetings
- Scope of questions and addresses
- Questions by councillors – to the Executive and/or Overview and Scrutiny chair
- Motions – deadline for submitting, number of motions that may be considered and scope of motions
- Amendments – the deadline for submitting amendments to motions
- Alterations – the rights of Members to alter a motion that they have placed on the agenda and/or proposed
- Recorded votes – threshold for requesting all votes to be recorded.

H. Financial Procedure Rules

The Financial Procedure Rules will need to be relevant to the role and functions of the Shadow Authority. It is suggested that the Financial Procedure Rules are referred to the Section 151 Officers of the Member authorities initially and then brought back to this Working Group for consideration.

Officers will expand on the topics set out in paragraphs A to E above at this first meeting of the Working Group and seek Members' views and direction in order to enable the drafting of the Constitution to be commenced. The topics set out in paragraphs F to H above will be considered at a later meeting of the Working Group.

Matters relating to the establishment of an Independent Remuneration Panel and that Panel proposing a Shadow Council Scheme of Allowances is being considered by a separate working group.

7. Resolutions

The Working Group resolved to:

- a) Agree the scope of the Working Group as set out in this document;
- b) Consider and discuss the 'exceptions' set out at section 6 of this document at paragraphs 'A' to 'E' and provide direction on these topics to officers at Working Group meetings to enable the drafting of the Shadow Constitution for North Northamptonshire to commence;
- c) Advise Officers of any additional 'exception' areas it wishes to add for consideration by the Working Group;
- d) Agree a timetable of meetings for the Working Group during 2019/2020 (see above).