

## **Part 2**

# **Articles of the Constitution**

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## **Article 1 - The Constitution**

### **1.1 Powers of the Council**

The Council will exercise all its powers and duties in accordance with the law and this Constitution.

### **1.2 The Constitution**

This Constitution, and all its appendices, is the Constitution of Stafford Borough Council.

### **1.3 Purpose of the Constitution**

The purpose of the Constitution is to:

- (a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- (b) support the active involvement of citizens in the process of local authority decision-making;
- (c) help Councillors represent their constituents more effectively;
- (d) enable decisions to be taken efficiently and effectively;
- (e) create a powerful and effective means of holding decision-makers to public account;
- (f) ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions; and
- (g) provide a means of improving the delivery of services to the community.

### **1.4 Interpretation and Review of the Constitution**

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

### **1.5 Accessibility of the Constitution**

The Council will provide translated or accessible parts of this Constitution upon request. Please contact Committee Services on (01785) 619209 to arrange this.

## Article 2 - Members of the Council

### 2.1 Composition and Eligibility

- (a) **Composition.** The Council will comprise 40 members, otherwise called councillors. One or more councillors will be elected by the voters of each ward in accordance with the scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- (b) **Eligibility.** Only registered voters of the Borough of Stafford or those living or working there will be eligible to hold the office of councillor.

### 2.2 Election and Terms of Councillors

**Election and terms.** The regular election of councillors will be held on the first Thursday in May every four years beginning in 2003. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

### 2.3 Roles and Functions of all Councillors

#### Key Roles

All councillors are elected for, and should act for the good of, the Borough as a whole and will:

- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (ii) represent their communities and bring their views into the Council's decision-making process, ie become the advocate of and for their communities;
- (iii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision-making;
- (iv) deal with individual casework and act as an advocate for constituents in attempting to resolve particular concerns or grievances and effectively represent the interests of their Ward;
- (v) respond to constituents' enquiries and representations, fairly and impartially;
- (vi) balance different interests identified within the ward or electoral division and represent the ward or electoral division as a whole;
- (vii) be involved in decision-making through participation in the governance and management of the Council;
- (viii) be available to represent the Council on other bodies; and

- (ix) maintain the highest standards of conduct and ethics.

### **Rights and Duties**

- (x) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law and the Access to Information Rules in Part 4 of this Constitution;
- (xi) Councillors will not make public information which is confidential or exempt without the consent of the Council nor divulge information given in confidence to anyone other than a councillor or officer entitled to know it;
- (xii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.

## **2.4 Conduct**

Councillors will at all times observe the Members’ Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

## **2.5 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 6 of this Constitution.

## **Article 3 - Citizens and The Council**

### **3.1 Citizens' Rights**

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:

#### **Voting and Petitions**

Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.

#### **Information**

Citizens have the right to:

- (a) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed;
- (b) attend public meetings of the Executive except where confidential or exempt information is likely to be disclosed;
- (c) find out from the forward plan what key decisions will be taken by the Cabinet and when;
- (d) see reports and background papers, and any records of decisions made by the Council and the Cabinet; and
- (e) inspect the Council's accounts as provided for by law and make their views known to the external auditor.

#### **Participation**

Citizens have the right to participate in public question time at meetings of the Council and its committees.

#### **Complaints**

Citizens have the right to complain to:

- (a) the Council itself under its complaints scheme;
- (b) the Ombudsman after using the Council's own complaints scheme;
- (c) the Standards Board for England about a breach of the Councillor's Code of Conduct.

### **3.2 Citizens' responsibilities**

Citizens must not when attending meetings conduct themselves in a disorderly, disruptive or offensive manner nor attempt to interfere with the proper business of the meeting.

## Article 4 - The Full Council

### 4.1 Meanings

- (a) **Policy Documents.** The Policy Documents mean the following plans and strategies:
- (i) those required by Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and regulations proposed under section 32 of the Local Government Act 2000 to be adopted by the Council;
  - (ii) those other plans and strategies which Chapter 2 of DETR Guidance recommends should be adopted by the Council as part of the Policy Framework;
  - (iii) other plans and strategies which the Council may decide should be adopted by the Council as a matter of local choice.

A list of the Policy Documents is set out in Section 5 of Part 3;

- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

### 4.2 Functions of the full Council

#### **Only the Council will exercise the following functions:**

- (a) electing the Mayor;
- (b) adopting and changing the Constitution;
- (c) approving or adopting the Policy Documents, the budget and any application to the Secretary of State in respect of any Housing Land transfer;
- (d) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the Policy Document or the budget where the decision maker is minded to make it in a manner which would be contrary to the Policy Documents or contrary to/or not wholly in accordance with the budget;
- (e) appointing the Leader of the Council;

- (f) agreeing and/or changing the terms of reference for committees, deciding on their composition, making appointments to them and appointing the chairmen of them;
- (g) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
- (h) adopting an allowances scheme under Article 2.5;
- (i) changing the name of the area, conferring the title of Honorary Alderman/Alderwoman or the freedom of the Borough;
- (j) confirming the appointment of the head of paid service;
- (k) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (l) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet; and
- (m) all other matters which, by law, must be reserved to Council and;
- (n) setting a framework for the delegation of executive functions by the Cabinet (set out in Section 3 of Part 3 as “Onward limits of delegation”)

### **4.3 Council Meetings**

There are four types of Council meeting:

- (a) the annual meeting,
- (b) the first ordinary meeting,
- (c) ordinary meetings and
- (d) extraordinary meetings.

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

### **4.4 Responsibility for Functions**

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council’s functions which are not the responsibility of the Executive.



## **Article 5 - Chairing the Council**

### **5.1 Role and Function of the Mayor**

The Mayor and in their absence, the Deputy Mayor will have the following roles and functions;

### **5.2 Ceremonial Role**

The Mayor is the First Citizen of the Borough and the Ceremonial representative of the Council and will have the following responsibilities:

- (a) to be a symbol of the Council in the community;
- (b) to be a focus for the civic life of the Borough;
- (c) to be a focus for voluntary and charitable work in the Borough for the benefit of its citizens;
- (d) to take the leading role in the Council's ceremonial events.

### **5.3 Chairing the Council Meeting**

The Council will elect the Mayor annually. The Mayor will have the following responsibilities:

- (a) to uphold and promote the purpose of the Constitution;
- (b) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- (c) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members, who are not in the Executive, are able to hold the Executive to account;
- (d) to promote public involvement in the Council's activities.

## **Article 6 - Scrutiny Committees**

### **6.1 Terms of Reference**

The Council will appoint one or more scrutiny committees to discharge the functions of overview and scrutiny conferred by section 21 and 9F of the Local Government Act 2000 and the Police and Justice Act 2006. The Council will determine the terms of reference of and number of members on each scrutiny committee. The current approved scrutiny committees, the number of members on them and their terms of reference are set out in Section 4 of Part 3 of this Constitution.

### **6.2 General Role**

Within their terms of reference, scrutiny committees will:-

- (a) scrutinise and/or review decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (b) make reports and/or recommendations to the full Council and/or the Executive in connection with the discharge of any functions;
- (c) consider any matter affecting the area or its inhabitants; and
- (d) exercise the right to call-in, for consideration, decisions made but not yet implemented by the Executive.

### **6.3 Specific Functions**

#### **Policy development and review**

Scrutiny committees may:

- (i) assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues;
- (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (iii) question members of the Executive and/or Chief Officers and Heads of Service about their views on issues and proposals affecting the area; and
- (iv) liaise with other external organisations operating in the area, whether national, regional or local on issues and proposals affecting the area.

## **Scrutiny**

Scrutiny committees may:

- (i) review and scrutinise the decisions made by and performance of the Executive and committees and council officers both in relation to individual decisions and over time;
- (ii) review and scrutinise the performance of the Council and the Executive in relation to policy objectives, performance targets and/or particular service areas;
- (iii) question members of the Executive, committees and Chief Officers and Heads of Service about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (iv) make recommendations to the Executive and/or the Council arising from the outcome of the scrutiny process;
- (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee and local people about their activities and performance; and
- (vi) question and gather evidence from any person (with their consent).

## **Finance**

Scrutiny committees may exercise overall responsibility for any finances made available to them.

## **Annual report**

Scrutiny committees must report annually to full Council on their workings and future work programmes.

### **6.4 Proceedings of Scrutiny Committees**

Scrutiny committees will conduct their proceedings in accordance with the Scrutiny Procedure Rules set out in Part 4 of this Constitution.

## **Article 7 - The Executive**

### **The Role of the Executive**

#### **7.1 Role**

The Executive will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

#### **7.2 Form and Composition**

- (a) The Executive will consist of the Leader together with at least 2, but not more than 9, Councillors appointed to the Cabinet.
- (b) The Leader shall determine the number of members of the Cabinet and the portfolio of each Cabinet office. (The current Cabinet offices and their portfolios are set out in Section 3 of Part 3 of this Constitution.)
- (c) The Leader shall appoint a Cabinet Member to each of the Cabinet offices.

#### **7.3 Leader**

- (a) The Leader will be a Councillor elected to that position by the Council at the first Annual Meeting after the ordinary election of Councillors. The Leader will hold office until the first Annual Council meeting after the next ordinary election of Councillors following their election as Leader but shall cease to be the Leader if:
  - (i) they resign from the office; or
  - (ii) they are suspended from being a Councillor under Part III of the Local Government Act 2000; or
  - (iii) they cease to be a Councillor; or
  - (iv) they are removed from office by resolution of the Council passed at an extraordinary meeting of the Council called for that purpose at least fourteen days notice of which has been sent to all Members of the Council.
- (b) If the Leader ceases to be Leader under the provisions of paragraphs (a)(i)-(iv) a new Leader shall be elected either at the Council meeting at which they are removed under (a)(iv) or at a Council Meeting to be called as soon as practicable;
- (c) The Leader shall not cease to be a Councillor on the ordinary day for retirement of Councillors following the ordinary election of Councillors but shall continue to be a member of the Council during their term of office as Leader

## **7.4 Cabinet Members**

Cabinet Members shall hold office until:-

- (a) they resign from office; or
- (b) they are suspended from being Councillors under Part III of the Local Government Act 2000; or
- (c) they are no longer Councillors; or
- (d) they are removed from office by the Leader who must give written notice of any removal to the Chief Executive. The removal will take effect on the first working day after the date of the receipt of the notice by the Chief Executive.

## **7.5 Proceedings of the Executive**

Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution.

## **7.6 Responsibility for Functions**

The Leader will maintain a list in Part 3 of this Constitution setting out which individual Members of the Executive, committees of the Executive, officers or joint arrangements are responsible for the exercise of particular executive functions.

## **7.7 Deputy Leader**

The Leader shall appoint a member of the Cabinet to be Deputy Leader who shall hold office until:-

- (a) The end of the term of office of the Leader or
- (b) They resign from office or
- (c) They cease to be a member of the Cabinet or
- (d) They are removed from office by the Leader who must give written notice of any removal to the Chief Executive. The removal will take effect on the first working day after the date of the receipt of the notice by the Chief Executive

On the Deputy Leader ceasing to hold that office the Leader must appoint a new Deputy Leader and give notice of the appointment to the Chief Executive.

## **Article 8 - Regulatory and Other Committees**

### **8.1 Planning Committee**

#### **Constitution**

The Planning Committee shall be a Committee of the Council with 11 Members.

#### **Terms of Reference**

To consider and determine or make recommendations on:

- (a) applications in respect of development control, building regulation and advertising regulations, listed building control and all related matters;
- (b) enforcement in relation to the above matters.
- (c) Objections to Tree Preservation Orders.

To agree or approve:

- (a) Planning Applications Validation Criteria
- (b) Development master plans, development briefs, and other planning guidance as material planning considerations.

#### **Delegation**

The Planning Committee shall have delegated power to act on any matter within its terms of reference which may lawfully be delegated to it.

### **8.2 Employee Appeals and Disciplinary Committee**

#### **Constitution**

The Employee Appeals and Disciplinary Committee shall be a Committee of the Council with 5 Members (at least one of which shall be a Cabinet member).

#### **Terms of Reference**

To hear and determine appeals in relation to terms and conditions of service.

To consider allegations relating to the conduct, capability or breakdown of trust of the Chief Executive, the Section 151 Officer and the Monitoring Officer and to take action in accordance with the Council's approved Disciplinary procedure for these officers, including suspension, appointment of Independent Investigator and disciplinary action short of dismissal.

## **Delegation**

The Employee Appeals and Disciplinary Committee shall have delegated power to act on any matter within its terms of reference which may lawfully be delegated to it.

### **8.3 Licensing Committee**

#### **Constitution**

The Licensing Committee shall be a Committee of the Council with 10 Members. Three members of the Committee may sit as a Licensing Sub-Committee with the authority to carry out any of the Committee's functions.

#### **Terms of Reference**

- (a) To discharge the Council's Licensing Functions under the Licensing Act 2003 except the determination of its Licensing Policy and publication of the licensing statement under Section 5 of that Act.
- (b) To discharge the Council's functions under the Gambling Act 2005 except for the functions specified in sections 166, 212 and 349 of the Act.
- (c) To determine any issues relating to the approval, revocation, suspension or variation of licences, other than those submitted under the Licensing Act 2003 and the Gambling Act 2005.

#### **Delegation**

The Licensing Committee shall have delegated power to act on any matter within its terms of reference which may be lawfully delegated to it.

### **8.4 Audit and Accounts Committee**

#### **Constitution**

The Audit and Accounts Committee shall be a Committee of the Council with 6 members none of whom may be a member of the Executive or the Chairman of a Scrutiny Committee.

#### **Terms of Reference**

- (a) To approve the annual Statement of Accounts.
- (b) To approve the Annual Governance Statement.
- (c) To approve the Annual Internal Audit Plan and to monitor delivery of the Plan.
- (d) To approve the external audit plan and monitor its delivery.

- (e) To approve the:-
- Anti Fraud and Bribery Framework;
  - the Confidential Reporting Framework ; and
  - the Anti-Money Laundering Framework.
- (f) To consider internal and external audit reports referred to it, by the Chief Executive, the Chief Financial Officer, the Monitoring Officer, the Chief Internal Auditor or the Cabinet, including the Annual Audit Letter, and seek assurances that appropriate action is being taken.
- (g) To monitor the effectiveness of the Council's systems of control and its arrangements relating to risk management and prevention of fraud and corruption.
- (h) To consider the Internal Audit Annual Report and the opinion on the level of assurance this provides over the council's framework of governance, risk management and control.
- (i) To monitor the effectiveness of the council's corporate governance arrangements.
- (j) To consider the Risk Management Policy and Strategy.
- (k) To review any other issue referred to it in relation to audit, systems of control and corporate governance.

### **Delegation**

The Committee shall have delegated power to approve the annual Statement of Accounts, the Annual Governance Statement, the Annual Internal Audit Plan, the External Audit Plan, the Anti Fraud and Bribery Framework the Confidential Reporting Framework and the Anti Money Laundering Framework. On other matters within its terms of reference it may make recommendations to the Council or the Executive as appropriate.

## **8.5 Members Facilities Group**

### **Constitution**

The Members Facilities Group shall comprise 4 Members of the Council.

### **Terms of Reference**

To consider the findings of the Members Survey and to make recommendations for Members Facilities, including budget implications for Members Facilities, including budget implications and practical implications.



## Delegation

The Members Facilities Group shall have delegated powers to act on any matter within its terms of reference which may lawfully be delegated to it.

(Note:- Reports of meetings of the Group shall be submitted to the Cabinet for approval and the decisions arising therefrom shall be subject of call-in).

## 8.6 Joint Appointments Panel

### Constitution

The Joint Appointments Committee shall be a joint committee of Cannock Chase District Council and Stafford Borough Council, established in accordance with Section 102 (1) (b) of the Local Government Act 1972.

The Joint Appointments Committee shall comprise of Six Members, including the respective Leaders of both councils plus two members appointed by Cannock Chase District Council and two members appointed by Stafford Borough Council.

Appointments shall be made in accordance with the Local Government (Committees and Political Groups) Regulations 1990.

### Terms of Reference

Appointment of Joint Chief Officers

- (i) Subject to (ii) below, to undertake and determine on behalf of the councils all aspects of the process for the recruitment and selection of Joint Chief Officers, including final approval of the terms and conditions of employment (based on current provisions) for that post.
- (ii) The final decision as to the appointment of the joint Chief Executive, Section 151 Officer and Monitoring Officer shall be reserved to full meetings of both councils, and subject to no material or well-founded objection to the making of an offer of appointment being received by either Leader on behalf of their respective executives.

### Delegation

The Joint Appointments Committee shall have delegated power to act on any matter within its terms of reference which may be lawfully delegated to it.

**Quorum:** 3 (subject to each council being represented at a meeting by at least 1 member).

**Host Chair:** The Joint Appointments Committee shall be chaired by the Leader of the council (or substitute Executive member) who will act as the employer of the relevant Chief Officer.

**Substitutes:** Substitutes shall be allowed as notified in advance by the relevant Group Leader, provided that there must be at least one member of the Executive of each Council present.

**Voting:** Any matter will be decided by a simple majority of those members of the Joint Appointments Committee present and voting at the time the question was put. A vote shall be taken either by show of hands or, if there is no dissent, by the affirmation of the meeting. In the event of a tie in voting, the Host Chair will have a second and casting vote.

**Frequency of Meetings:** Meetings of the Joint Appointments Committee will be convened by the Chief Executive, or the Monitoring Officer, as required.

## **Article 9 - The Standards Committee**

### **9.1 Standards Committee**

The Council will establish a Standards Committee.

### **9.2 Terms of Reference**

The Standards Committee is a standing committee of the Council with the purpose advising the Council, its committees and members and the Executive on matters relating to standards of behaviour and the Council's Code of Conduct.

### **9.3 Composition**

The Standards Committee will be composed of:-

- (a) five members of the Council. The Leader of the Council shall not be a member of the Committee and no more than one member of the Executive may be a member of the Committee
- (b) five members of a Parish Council in the Council's area as non-voting members
- (c) The Independent Person and any reserve independent person shall be entitled to attend any meeting of the Committee in an advisory capacity

### **9.4 Chairman**

The Chairman of the Committee will be a member of the Council appointed by the Council.

### **9.5 Quorum**

The quorum for the Standards Committee shall be four Members including, where a matter concerning a parish councillor is to be considered, one Parish Member.

### **9.6 Role and Function of the Standards Committee**

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by Councillors;
- (b) assisting the Councillors to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;

- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising, training or arranging to train Councillors on matters relating to the Members' Code of Conduct;
- (f) when requested granting dispensations to Councillors from requirements relating to interests set out in the Members' Code of Conduct;
- (g) hold hearings into complaints against councillors and parish councillors relating to potential breaches of the Code of Conduct which are referred to it.
- (h) to deal with any other matter referred to it by the Council, the Executive or the Monitoring Officer

## **9.7 Delegated powers**

The Committee is empowered to deal with all its functions under delegated powers and to set and amend its own procedures for handling complaints and dispensations.

## **Article 10 - Not Used**

Deleted Section

## **Article 11 - Joint Arrangements**

### **11.1 Joint Health Scrutiny Arrangements**

11.1.1 The Council has agreed a Code of Joint Working between the Borough Council and Staffordshire County Council in relation to Overview and Scrutiny of health matters.

11.1.2 In accordance with the agreed code:

- (a) the County Council shall discharge the overview and scrutiny function under the Health and Social Care Act 2001 and subsequent guidance including the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.
- (b) the Chairman of the Community Wellbeing Scrutiny Committee will be appointed to Staffordshire County Council's Health and Care Overview and Scrutiny Committee.
- (c) the County Council is entitled to appoint one of its members to the Community Wellbeing Scrutiny Committee in relation to health matters.

### **11.2 Shared Services with Cannock Chase District Council**

11.2.1 In April 2023, the Council approved a Framework Agreement with Cannock Chase District Council to enable the sharing of staffing resource across both authorities ("shared services").

11.2.2 Under section 101 of the Local Government Act 1972, and section 9EA of the Local Government Act 2000, a local authority may arrange for the discharge of any of its functions by any other local authority. Cabinet and Council agreed to delegate authority to Cannock Chase District Council to discharge the Council's functions in respect of Regulatory Services, Wellbeing, Housing and Corporate Asset Management, Finance and Transformation and Assurance. The Council also agreed to accept delegated authority from Cannock Chase District Council to discharge that Council's functions in respect of Economic Development and Planning, Operations, Transformation and Assurance (Human Resources and Technology) and Law and Governance. It was also agreed that those functions would be delegated to officers in accordance with the Council's scheme of delegation to officers.

- 11.2.3 Under section 113 of the Local Government Act 1972, a local authority may enter into an agreement with another local authority for the placing at the disposal of the latter authority the services of staff employed by the former authority. In April 2023, both Councils agreed to place its officers at the disposal of the other Council for the purpose of delivering any services shared between them.
- 11.2.4 By virtue of the above, the functions delegated to the Council by Cannock Chase District Council can be carried out by officers under the Councils scheme of delegation regardless of whether the officer is employed by the Council or by Cannock Chase District Council.

## **Article 12 - Officers**

### **12.1 General**

The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.

### **12.2 Statutory Officers and Directors**

The full Council will engage persons for the following posts,

- (a) Chief Executive (and Head of Paid Service);
- (b) Monitoring Officer;
- (c) Chief Financial Officer

### **12.3 Management Structure**

The Chief Executive will determine and publicise a description of the overall management structure of the Council. This is set out at Part 7 of this Constitution.

### **12.4 Functions of the Head of Paid Service**

- (a) The Head of Paid Service will report to the Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.
- (c) Overall corporate management and operational responsibility (including overall management responsibility for all officers)
- (d) Provision of professional advice to all parties in the decision making process.
- (e) Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions.
- (f) Providing advice. The Head of Paid Service will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and the elected Mayor and will support and advise Councillors and officers in their respective roles.



## 12.5 Functions of the Monitoring Officer

- (a) The 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.
- (b) Ensuring lawfulness and fairness of decision making. After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council (or to the Executive in relation to an Executive function if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration.) Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) Supporting the Standards Committee. The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- (d) The Monitoring Officer will arrange for complaints concerning the conduct of members to be handled in accordance with procedures agreed by the Standards Committee.
- (e) Access to information. The Monitoring Officer will ensure that Executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (f) Advising whether Executive decisions are within the budget and policy framework. The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.
- (g) Providing advice. The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.
- (h) The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

## **12.6 Functions of the Chief Finance Officer**

- (a) Ensuring lawfulness and financial prudence of decision making. After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council or to the Executive in relation to an executive function and the Council's external auditor if they consider 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 Council is about to enter an item of account unlawfully.
- (b) Administration of financial affairs. The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) Contributing to corporate management. The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) Providing advice. The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and the elected Mayor and will support and advise Councillors and officers in their respective roles.
- (e) Give financial information. The Chief Finance Officer will provide financial information to the media, members of the public and the community.

## **12.7 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer**

The Council will provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

## **12.8 Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

## **12.9 Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

## **Article 13 - Decision Making**

### **13.1 Responsibility for Decision Making**

The Council will issue and keep up to date a record of who has responsibility for particular types of decisions or decisions relating to particular areas or functions. This is set out in Part 3 of this Constitution.

### **13.2 Principles of Decision Making**

All decisions of the Council will be made in accordance with the following principles:

- (a) proportionality (ie the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes;
- (f) environmental sustainability;
- (g) the Council's duty to consider crime and disorder implications under section 17 of the Crime and Disorder Act 1998.

### **13.3 Types of Decision**

- (a) Decisions reserved to full Council.

Decisions relating to the functions listed in Article 4.2 will be made by the full Council and not delegated.

- (b) Key decisions.
  - (i) A key decision means an Executive decision which is likely to:
    - (a) result in the incurring of expenditure which is or the making of savings which are significant having regard to the budget for the service or function to which the decision relates; or
    - (b) be significant in terms of its effects on communities living or working in an area comprising two or more wards.
  - (ii) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

### **13.4 Decision Making by the Full Council**

Subject to Article 13.8, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### **13.5 Decision Making by the Executive**

Subject to Article 13.8, the Executive will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### **13.6 Decision Making by Overview and Scrutiny Committees**

Overview and Scrutiny Committees will follow the Overview and Scrutiny Procedures Rules as set out in Part 4 of this Constitution when considering any matter.

### **13.7 Decision Making by Other Committees and Sub-Committees Established by the Council**

Subject to Article 13.8, other Council Committees and Sub-Committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution which apply to them.

### **13.8 Decision Making by Council Bodies Acting as Tribunals**

The Council, a Councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

## **Article 14 - Finance, Contracts and Legal Matters**

### **14.1 Financial Management**

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 4 of this Constitution.

### **14.2 Contracts**

Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 4 of this Constitution.

### **14.3 Legal Proceedings**

The Head of Law and Governance is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Head of Law and Governance considers that such action is necessary to protect the Council's interests.

### **14.4 Authentication of Documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Law and Governance or other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

### **14.5 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Law and Governance. A decision of the 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 Head of Law and Governance should be sealed. The affixing of the Common Seal will be attested by the Head of Law and Governance or some other person authorised by them.

## **Article 15 - Review and Revision of the Constitution**

### **15.1 Duty to Monitor and Review the Constitution**

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

#### **Protocol for Monitoring and Review of Constitution by Monitoring Officer**

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the 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 tasks the Monitoring Officer may:

- 1 observe meetings of different parts of the Member and officer structure;
- 2 undertake an audit trail of a sample of decisions;
- 3 record and analyse issues raised with them by Members, officers, the public and other relevant stakeholders; and
- 4 compare practices in this authority with those in order comparable authorities, or national examples of best practice.

Any report of the Monitoring Officer arising from this duty shall be made to the Scrutiny Committee to which the Council allocates the power to review constitutional matters, which Committee shall make such recommendations as it considers appropriate to the Council.

The Monitoring Officer shall report to the Scrutiny Committee under the previous paragraph at least once in every municipal year.

#### **Approval**

- (a) Save for when (c) below applies, changes to the constitution will only be approved by the full Council after consideration of a recommendation by the appropriate Scrutiny Committee.
- (b) Before considering any change in the form of executive arrangements from a Leader and Cabinet form to any other form the Council must take reasonable steps to consult with local electors and other interested persons in the area and comply with any other requirements of the law.
- (c) The Monitoring Officer shall be authorised to make minor amendments to the Constitution as required by legislation or to reflect decisions taken by members.

## **Article 16 - Suspension, Interpretation and Publication of the Constitution**

### **16.1 Suspension of the Constitution**

- (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.
- (b) **Procedure to suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- (c) **Rules capable of suspension.** The following Rules may be suspended in accordance with this Article:
  - (i) the Council Procedure Rules except Rules 1, 4, 5.1, 5.3, 7, 9, 20, 21, 22 and 23;
  - (ii) the Scrutiny Committee Procedure Rules except 2.2 and 2.3;

### **16.2 Interpretation**

The ruling of the person presiding at a meeting of the Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

### **16.3 Publication**

- (a) The Head of Law and Governance will ensure that the Constitution is available on the Council's website.
- (b) Printed copies of the Constitution will be available to Members of the council on request. Any other person may obtain a printed copy upon payment of a reasonable fee to cover the cost reproduction. All requests to be made to the Head of Law and Governance.

## **Schedule 1 : Description of Executive Arrangements**

The following parts of this Constitution constitute the Executive arrangements:

- 1 Article 6 (Overview and Scrutiny Committees) and the Overview and Scrutiny Procedure Rules;
- 2 Article 7 (The Executive) and the Executive Procedure Rules;
- 3 Article 11 (Joint arrangements) - Councils should make clear the extent to which they apply, ie where Area Committees have functions delegated to them by the Executive;
- 4 Article 13 (Decision making) and the Access to Information Procedure Rules;
- 5 Part 3 (Responsibility for Functions).