

PART 2

Articles of the Constitution

Article 1 – The Constitution**1.01 Powers of the Council**

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

1.02 The Constitution

This Constitution is the Constitution of the Royal Borough of Greenwich.

1.03 Purpose of the Constitution

The purposes of the Constitution are to:

- (a) ensure that decision making is transparent – decision-makers should be clearly identifiable to citizens and should explain the reasons for their decisions;
- (b) support the active involvement of citizens in the decision-making process;
- (c) enable decisions to be taken efficiently and effectively;
- (d) create a powerful and effective means of holding decision-makers to public account;
- (e) ensure that decisions are reviewed or scrutinised independently of the person who took the decision;
- (f) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- (g) help councillors represent their constituents more effectively; and
- (h) provide a means of improving the delivery of services to the community.

1.04 Interpretation and review of the Constitution

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

The Council will monitor and evaluate the operation of the Constitution as provided by Article 15.

Article 2 – Members of the Council

2.01 Composition and eligibility

- (a) **Composition.** The Council comprises 51 councillors, elected by the voters of 17 wards. 3 councillors will represent each ward.
- (b) **Eligibility.** Only registered voters of the borough, or those living or working in the borough, may be elected or hold office as councillors. Council employees, or persons who are otherwise disqualified, may not be elected or hold office.

2.02 Election and terms of councillors

The regular election of councillors is on the first Thursday in May every four years. The term of office of councillors starts on the fourth day after being elected, and

- (a) in the case of the Leader, finishes on the day of the annual meeting after the whole Council election which follows his or her election as Leader, and
- (b) in the case of all other councillors, finishes on the fourth day after the date of the next whole Council election.

2.03 Roles and functions of all councillors

- (a) **Key roles.** All councillors will:
 - (i) maintain the highest standards of conduct and ethics.
 - (ii) respond to constituents' enquiries and representations fairly and impartially;
 - (iii) participate in the governance of the Council;
 - (iv) effectively represent the interests of their ward and of individual constituents; and
 - (vi) be available to represent the Council on other bodies.

(b) **Rights and duties**

- (i) Councillors will have such rights of access to documents, information, land and buildings of the Council as are necessary for them to carry out their functions properly and in accordance with the law.
- (ii) Councillors will not make public any information which is confidential or exempt without the consent of the Council, and will not divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
- (iii) "Confidential" and "exempt" information is defined in the Access to Information Procedures in Part 4 of this Constitution.

(c) A councillor may refer, in line with the Council's procedures, to Overview and Scrutiny Committee or to a Scrutiny Panel any matter which is relevant to its functions and which:

- (i) relates to the discharge of any function of the Council, and
- (ii) affects all or part of the ward for which that councillor is elected, or any person who lives or works in that ward, and
- (iii) is not a licensing or planning decision, a matter where there is a right of review or appeal or which is vexatious, discriminatory or not reasonable to be included in the agenda or to be discussed at a meeting, or
- (iv) any other matter specified in an order made by the Secretary of State.

In considering whether to exercise this power, the councillor must have regard to any guidance issued by the Secretary of State and the Council's procedures for managing Councillor Call for Action.

2.04 **Conduct**

- (a) Councillors will at all times observe the Members' Code of Conduct and the Protocol on Member/Officer Relations and Guidance in Part 5 of this Constitution and abide by the General Principles of Conduct in Public Life (the 'Nolan Principle').

- (b) Councillors will fully co-operate with any investigation following an allegation that they, or any other member, may have breached the Code of Conduct.

2.05 **Allowances**

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

Article 3 – Citizens and the Council

3.01 Citizens' rights

Citizens have the following rights.

- (a) **Voting and petitions.** Citizens on the electoral roll for the area may vote and to sign a petition to request a referendum for an elected mayor. Residents of the Borough may also bring concerns to the direct attention of the Council by asking a councillor to present a petition at a Council meeting, by asking to address the Council as part of a deputation, or by asking a question at a Council meeting during 'public question time'.
- (b) **Information.** Citizens have the right to:
 - (i) attend meetings of the Cabinet and full Council and their committees, except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private;
 - (ii) find out from the forward plan what key decisions will be taken by the Cabinet and when;
 - (iii) see reports and background papers, and any records of decisions made by the Council and the Cabinet; and
 - (iv) inspect the Council's accounts and make their views known to the external auditor.

Citizens' rights to information are explained in more detail in the Access to Information Procedures in Part 4 of this Constitution.
- (c) **Participation.** Citizens have the right to ask questions at the Council meeting and to take part in community events, and may be invited to contribute to the work of overview and scrutiny panels. Citizens' rights to participate are explained in more detail in the Access to Information Procedures in Part 4 of this Constitution.
- (d) **Complaints.** Citizens have the right to complain to:
 - (i) the Council under its complaints scheme;
 - (ii) the Ombudsman, after using the Council's own complaints scheme;

- (iii) the Chief Executive about a breach of the Councillor's Code of Conduct.

3.02 **Citizens' responsibilities**

Citizens must not be violent, abusive or threatening to councillors or officers and must not wilfully harm property owned by the Council, councillors or officers.

Article 4 – The Full Council

4.01 Meanings

- (a) **Policy Framework.** The Policy Framework means the following plans and strategies: -

Required by law

- Community Strategy.
 - Community Safety Plan.
 - Development Plan documents.
 - Licensing Policy Statement.
 - Gambling Policy Statement.
 - Local Transport Plan.
 - Plans and alterations which together comprise the Development Plan.
 - Youth Justice Plan.
- (b) **Budget.** The Budget includes allocating revenue and capital resources to different services, programmes and projects, proposing contingency funds, setting the council tax base and the council tax, decisions relating to controlling the Council's borrowing requirement and its capital expenditure and setting virement limits.
- (c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft or not) to the Secretary of State to:
- approve a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993, or
 - dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

4.02 Functions of the full Council

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution except where authority has been delegated to a committee or Chief Officer appointed by the Council;
- (b) approving or adopting the Policy Framework, the Budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) approving proposals in connection with the preparation of an altered or replacement development plan, prior to public consultation;
- (d) making decisions about any matter in carrying out an executive function which is covered by:
 - (i) the Policy Framework, where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework, or
 - (ii) the Budget, where the decision maker is minded to make it in a manner which would be contrary to or not wholly in accordance with the Budgetsubject to the urgency procedure contained in the Budget and Policy Framework Procedures in Part 4 of this Constitution;
- (e) appointing the Leader of the Council;
- (f) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them except where authority has been delegated to a committee appointed by the Council;
- (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 2.05;
- (i) changing the name of the area, conferring the title of honorary alderman or freedom of the borough;
- (j) confirming the appointment of the Chief Executive;

- (k) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (l) electing a Mayor of the Royal Borough of Greenwich each Municipal Year (at the Annual Council Meeting);
- (m) determining the annual work programme of overview and scrutiny activities;
- (n) approving a Local Code of Conduct for Members;
- (o) the setting of the Council Tax;
- (p) the annual Statement of Accounts;
- (q) all other matters which, by law, must be reserved to Council.

4.03 **Council meetings**

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings.

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

4.04 **Responsibility for functions**

The Council will maintain Schedule B in Part 3 of this Constitution which sets out the responsibilities for Council functions.

Article 5 – The Mayor

5.01 Role and function of the Mayor

At the Annual Council Meeting, the Council will elect the Mayor and the Mayor will appoint the deputy Mayor. Neither the Mayor nor Deputy Mayor may be a Member of the Cabinet.

5.02 Unless he or she resigns or becomes disqualified, the Mayor will continue in office until a newly elected Mayor becomes entitled to act, and will continue to be a member of the Council notwithstanding the provisions of Article 2.02.

5.03 The Mayor, and in his or her absence, the deputy Mayor, will have the following responsibilities:

- (a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (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 on the Cabinet are able to hold the Cabinet to account;
- (d) to promote public involvement in the Council's activities;
- (e) to attend such civic and ceremonial functions as the Council and he/she determines appropriate; and
- (f) in the absence of the chair of Overview and Scrutiny Committee, to decide whether an executive decision which would be contrary to the Policy Framework or to the Budget needs to be made as a matter of urgency .

Article 6 – Overview and Scrutiny Committee

6.01 Terms of reference

- (a) The Council will appoint an Overview and Scrutiny Committee to carry out the functions conferred by section 21 of the Local Government Act 2000.
- (b) The Overview and Scrutiny Committee will appoint standing overview and scrutiny panels to carry out functions within a specified remit.
- (c) Overview and Scrutiny Committee may appoint ad hoc overview and scrutiny panels to carry out time limited reviews within an overall work programme approved by the Council, or may allocate the function to standing panels.

6.02 Overview and scrutiny committee

Within its terms of reference, overview and scrutiny committee will:

- (a) co-ordinate the work of standing and ad hoc overview and scrutiny panels;
- (b) assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;
- (c) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions, or the crime and disorder functions of the Council or of the relevant Chief Office of Police, or matters relating to the health service in the borough;
- (d) review and/or scrutinise decisions made or actions taken by other public sector partners and regional and sub regional partnerships on matters which affect the whole or any part of the borough or all or any persons resident or present in the borough;
- (e) make reports and/or recommendations to the full Council and/or the Cabinet and/or any joint committee in connection with the discharge of any of the functions or matters set out in paragraphs

- (c) and (d) above;
- (f) consider any matter affecting the area or its inhabitants; and
- (g) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Cabinet.

6.03 **Overview and scrutiny panels**

- (a) **Policy development and review.** Standing and ad hoc overview and scrutiny panels may:
 - (i) conduct research, community and other consultation in the analysis of policy issues and possible options;
 - (ii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
 - (iii) question members of the Cabinet, committees and chief officers about their views on issues and proposals affecting the area; and
 - (iv) liaise with external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
- (b) **Scrutiny.** Standing and ad hoc overview and scrutiny panels may:
 - (i) review and scrutinise the decisions made by and performance of the Cabinet, committees and council officers both in relation to individual decisions and over time;
 - (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
 - (iii) question members of the Cabinet, committees and chief officers 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 Cabinet and Council arising from the outcome of the scrutiny process;
 - (v) review and scrutinise the performance of other 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).

- (c) **Resources.** Overview and Scrutiny Committee will draw up a work programme for the officers employed to support its work, and will exercise overall responsibility for any finances made available to it.
- (d) **Annual report.** Overview and Scrutiny Committee will report annually to full Council on its workings, and make recommendations for future work programmes and amended working methods if appropriate.

6.04 **Proceedings of Overview and Scrutiny Committee and panels**

Overview and Scrutiny Committee and panels will conduct their proceedings in accordance with the Overview and Scrutiny Procedures in Part 4 of this Constitution.

Article 7 – The Leader and Cabinet

7.01 The Leader

The Leader will be elected at the first annual meeting after the ordinary Council elections, and whenever there is a vacancy, the Council will elect a replacement. The Leader who will hold office until:

- (a) the day of the first annual meeting after the next ordinary Council elections, or
- (b) he/she ceases to be a councillor otherwise than by retirement, or
- (c) he/she is removed from office by a resolution of the Council.

7.02 The Deputy Leader

The Leader will appoint a member of the Cabinet to be Deputy Leader. The Deputy Leader will act in place of the Leader if for any reason the Leader is unable to act or if the office of Leader is vacant. The Deputy Leader will hold office until the end of the Leader's term of office, unless:

- (a) He or she resigns as Deputy Leader or ceases to be a councillor, or
- (b) He or she is removed from office by the Leader.

The Leader must fill any vacancy in the office of Deputy Leader.

7.03 The Cabinet

- (a) The Cabinet will consist of the Leader and between 2 and 9 other councillors who will appointed and may be removed by the Leader.
- (b) If for any reason the Leader is unable to act or the office of Leader is vacant, and the Deputy Leader is unable to act or the office of Deputy Leader is vacant, the Cabinet will act in the Leader's place or will arrange for a Cabinet member to act in the Leader's place.

7.04 Functions

- (a) The Leader will carry out all of the Council's executive functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution, or which have not been delegated by the Leader.
- (b) The Leader delegates the Council's executive functions in accordance with the scheme of delegation set out in Schedule A of Part 3 of this Constitution.
- (c) The Leader will allocate and may re-assign or vary the portfolios of Cabinet members and will set out those portfolios in Schedule A of Part 3 of this Constitution.

7.05 Proceedings

Proceedings of the Cabinet will take place in accordance with the Cabinet Procedures in Part 4 of this Constitution.

Article 8 – Regulatory and other committees

8.01 Regulatory and other committees

The Council will appoint the committees in column 1 of section 1 of Schedule B in Part 3 of this Constitution to discharge the functions described in column 3.

8.02 Conflicts of interest

If a councillor is a member both of a committee, and of Overview and Scrutiny Committee or a Scrutiny Panel, then

- (a) if Overview and Scrutiny Committee or Scrutiny Panel is scrutinising decisions or proposals in relation to the business of that committee, the councillor must not speak or vote at the meeting unless a dispensation to do so is given by the Standards Committee or the Chief Executive;
- (b) if Overview and Scrutiny Committee or Scrutiny Panel is reviewing policy in relation to the business of that committee, the councillor must declare his/her interest before the relevant agenda item is reached, but need not withdraw from the meeting.

8.03 Access to information

Regulatory and other committees will comply with the Access to Information Procedures in Part 4 of this Constitution.

8.04 Cabinet members on regulatory and other committees

A member of the Cabinet may serve on a committee if otherwise eligible to do so as a councillor.

Article 9 – Standards Committee

9.01 Standards Committee

The Council will establish a standards committee to promote high standards of conduct.

9.02 Composition

- (a) **Membership.** The Panel will be composed of:
 - (i) three councillors, appointed by the Council, together with named deputies; and
 - (ii) three independent persons who are not councillors or officers of the Council or of any other local authority, police authority or fire authority.
- (b) **Independent members.** Independent members will not be entitled to vote at meetings but their views will be sought and taken into consideration.
- (c) **Chair.** An independent member will chair the Panel.
- (d) **Independent Person:** The Panel will be advised by an independent person appointed by the Council prior to deciding what action should be taken following the investigation of a complaint that a member or co-opted member has breached the Code of Conduct. The Independent Person may not be an independent member of the Standards Committee.

9.03 Role and function

The Panel will have the following roles and functions:

- (a) To promote high standards of conduct by members.
- (b) To advise the Council on the adoption or revision of a Code of Conduct and related Codes
- (c) To assist members to observe the Code of Conduct, in particular by ensuring access to training.

- (d) To consider and grant dispensations from requirements relating to interests set out in the Code of Conduct upon receipt of a written request made to the Chief Executive by a member or co-opted member. Having had regard to all relevant circumstances, Committee may grant a dispensation if it:
 - (i) considers that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business.
 - (ii) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
- (e) To draw up a protocol for receipt and consideration of complaints
- (f) To consider any written complaint that a member has failed to comply with the Code of Conduct and, if thought fit, to refer the complaint to the Chief Executive for investigation
- (g) To decide what action to take following an investigation, having sought and taken into account the views of an independent person appointed for that purpose.

Article 10 – Community Forums

10.01 Area, composition and function

The Council will have community engagement arrangements as determined by the Authority.

Article 11 – Joint arrangements

11.01 Arrangements to promote well-being

The Council, the Leader or the Cabinet, in order to promote the economic, social or environmental well-being of its area, may:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body.

11.02 Joint arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise council functions in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (b) The Leader and/or the Cabinet may establish joint arrangements with one or more local authorities to exercise executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out in paragraph (d) below, the Leader and/or the Cabinet may only appoint Cabinet members to a joint committee. Those members need not reflect the political composition of the local authority as a whole.
- (d) The Leader and/or the Cabinet may appoint members to a joint committee from outside the Cabinet where (i) the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population; or, (ii) if the joint committee has members from five or more local authorities. In cases relating to (i), the Leader and/or the Cabinet may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area. The political balance requirements do not apply to such appointments.

- (e) Details of any joint arrangements, including any delegations to joint committees, are in the Council's scheme of delegation in Part 3 of this Constitution.

11.03 **Access to information**

- (a) The Access to Information Procedures in Part 4 of this Constitution apply to joint arrangements.
- (b) If all the members of a joint committee are members of the executive in each of the participating authorities, then its access to information procedures are the same as those applied to the Cabinet.
- (c) If the joint committee contains members who are not on the executive of any participating authority, then the access to information rules in Part VA of the Local Government Act 1972 will apply.

11.04 **Delegation to and from other local authorities**

- (a) The Council may delegate council functions to another local authority or, in certain circumstances, to the executive of another local authority.
- (b) The Leader and/or the Cabinet may delegate executive functions to another local authority or to the executive of another local authority in certain circumstances.
- (c) The decision whether or not to accept delegated functions from another local authority is reserved to the Council.

11.05 **Contracting out**

- (a) The Council (for council functions) and the Leader or Cabinet (for executive functions) may contract out functions to another organisation. The functions must be those which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles.

- (b) There must be no delegation of the Council's discretionary decision making.

Article 12 – Officers

12.01 Management structure

- (a) **General.** The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Structure.** The Chief Executive will determine and publicise a description of the overall departmental structure of the Council, showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.
- (c) **Head of Paid Service, Monitoring Officer and Chief Finance Officer.** The Council will designate the Chief Executive as the Head of Paid Service, the Director of Finance as the Chief Finance Officer, the Director of Legal Services as the Monitoring Officer and the Head of Scrutiny as the Scrutiny Officer.

12.02 Functions of the Head of Paid Service

- (a) **Discharge of functions by the Council.** The Head of Paid Service will report to full 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) **Restrictions on functions.** The Head of Paid Service may not be the Monitoring Officer but may, if a qualified accountant, hold the post of Chief Finance Officer.

12.03 Functions of the Chief Finance Officer

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council, or to the Cabinet in relation to an executive function, and the 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 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 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.

12.04 **Functions of the Monitoring Officer**

- (a) **Maintaining the Constitution.** 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 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 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) **Receiving reports.** The Monitoring Officer will receive and act on reports made by ethical standards officers and decisions of case tribunals.
- (e) **Conducting investigations.** The Monitoring Officer will conduct investigations into matters referred by the Chief Executive and make reports or recommendations in respect of them to the Standards Committee.
- (f) **Advising whether executive decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Cabinet 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) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

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

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

12.06 **Conduct**

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

12.07 **Employment**

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

Article 13 – Decision making

13.01 Responsibility for decision making

The Council will issue and keep up to date a record of which part of the Council or individual has responsibility for particular types of decisions, or decisions relating to particular areas or functions. This record is in Part 3 of this Constitution.

13.02 Principles of decision making

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

- (a) 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 and the promotion of equality;
- (d) a presumption in favour of openness; and
- (e) clarity of aims and desired outcomes.

13.03 Decisions

- (a) Decisions relating to the functions listed in Article 4.02 will be made by full Council and not delegated.
- (b) Key decisions must be made in accordance with the Access to Information Procedures in Part 4 of this Constitution. Key decisions are executive decisions which are likely to:
 - (i) result in the Council incurring or making significant expenditure or savings, having regard to the budget for the service or function concerned; or
 - (ii) have a significant effect on communities living or working in more than one ward.

The criteria to assist in determining whether a decision is a key decision are set out in the Appendix to the Access to Information Procedures.

13.04 Decision making by the full Council

Subject to Article 13.08, the Council meeting will follow the Council Procedures in Part 4 of this Constitution when considering any matter.

13.05 Decision making by the Cabinet and Cabinet Members

Subject to Article 13.08, the Cabinet and Cabinet Members will follow the Cabinet Procedures in Part 4 of this Constitution when considering any matter.

13.06 Decision making by Overview and Scrutiny Committee

Overview and Scrutiny Committee and Scrutiny Panels will follow the Overview and Scrutiny Procedures in Part 4 of this Constitution when considering any matter.

13.07 Decision making by other committees and sub-committees established by the Council

Subject to Article 13.08, other Council committees and sub-committees will follow those parts of the Council Procedures in Part 4 of this Constitution as apply to them.

13.08 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

14.01 Financial management

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

14.02 Contracts

Every contract made by the Council will comply with the Contract Standing Orders in Part 4 of this Constitution.

14.03 Legal proceedings

The Director of Legal Services 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 Director of Legal Services considers that such action is necessary to protect the Council's interests.

14.04 Authentication of documents

- (a) Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Director of Legal Services or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.
- (b) Any contract with a value exceeding £50,000 entered into on behalf of the local authority in the course of the discharge of an executive function must be made in writing. Such contracts must either be signed by at least two officers of the authority or made under the common seal of the council attested by at least one officer.

14.05 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Director of Legal Services. 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 Director of Legal Services should be sealed. The Director of Legal Services, or some other person authorised by him/her, will attest the affixing of the Common Seal.

Article 15 – Review and revision of the Constitution

15.01 Duty to monitor and review the constitution

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that purposes of the Constitution are given full effect. In undertaking this, the Monitoring Officer may:

- (a) observe meetings of different parts of the member and officer structure;
- (b) undertake an audit trail of a sample of decisions;
- (c) record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
- (d) compare practices in this authority with those in other comparable authorities, or national examples of best practice.

15.02 Changes to the Constitution

- (a) Full Council may change this Constitution, but only after considering a proposal by the monitoring officer.
- (b) The Council will take reasonable steps to consult with local electors and other interested persons in the area, should it propose to change from a leader and cabinet form of executive to alternative arrangements.
- (c) The Chief Executive may change the management structure set out at Part 7 of this Constitution.

Article 16 – Suspension, interpretation and publication of the Constitution

16.01 Suspension of the Constitution

- (a) **Articles.** The Articles may not be suspended.
- (b) **Rules of procedure.** Full Council may suspend the Procedures in Part 4 of this Constitution to the extent permitted within those Procedures and the law. A motion to suspend any Procedure may not be moved without notice, unless at least one half of the whole number of councillors is 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.

16.02 Interpretation

The ruling of the Mayor as to how this Constitution is interpreted or applied, or as to any proceedings of the Council, may not be challenged at any meeting of the Council. Any ruling will have regard to the purposes of this Constitution contained in Article 1.

16.03 Publication

The Chief Executive will:

- (a) give a printed copy of this Constitution to each member of the Council upon delivery to the Chief Executive of that member's declaration of acceptance of office on first being elected to the Council;
- (b) ensure that copies of this Constitution are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee; and
- (c) ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

