

Part 2 – Articles of the Constitution

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1 ARTICLE 1 – THE CONSTITUTION

1.1 Powers of the Council

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

1.2 Purpose of the Constitution

1.2.1 The purpose of the Constitution is to:

- enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- support the active involvement of citizens in the process of local authority decision-making;
- help Councillors represent their constituents more effectively;
- enable decisions to be taken efficiently and effectively;
- provide a means of holding decision-makers to public account;
- ensure that no one will review or scrutinise a decision in which they were directly involved;
- ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions;
- provide a means of improving the delivery of services to the community.

1.3 Interpretation and Review of the Constitution

1.3.1 The Council will monitor, review and amend as necessary, the Constitution. The Council's Monitoring Officer will provide advice on the interpretation of the constitution and his/ her decision will be final.

2 ARTICLE 2 – MEMBERS OF THE COUNCIL

2.1 Composition and eligibility

(a) Composition

2.1.1 The Council will comprise 60 members, otherwise called Councillors. Three Councillors will be elected by the electorate of each ward.

(b) Eligibility

2.1.2 Any person over 18 who either lives, works or studies in the Borough and meets the statutory eligibility requirements may stand for election as a Councillor.

2.2 Election and terms of Councillors

2.2.1 The election of Councillors will take place every 4 years (from 2002) normally on the first Thursday in May. 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

(a) Key roles

2.3.1 All Councillors will:

- (a) collectively approve the Budget and strategic policies;
- (b) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;

- (c) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- (d) balance different interests identified within the ward or electoral division and represent the ward or electoral division as a whole;
- (e) be involved in decision-making.
- (f) be available to represent the Council on other bodies; and
- (g) maintain the highest standards of conduct and ethics, including compliance with the Councillors' Code of Conduct.

(b) Rights and duties

- (h) 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.
- (i) Councillors will not disclose to anyone information which is confidential or exempt without the consent of the Council, or divulge information given in confidence to anyone other than a Councillor, Officer or third party entitled by law to know it.
- (j) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules.

2.4 Election of the Mayor

2.4.1 The Mayor will be elected by the Councillors at the Annual Council meeting. The term of office for the Mayor will be one year. S/he will take office immediately upon her/his declaration of acceptance of office of Mayor and will continue in office until her/his successor is elected, unless s/he ceases to be Mayor.

2.5 Conduct and disqualification

2.5.1 Councillors will at all times observe the Code of Conduct and the Protocol on Member/Officer Relations.

2.5.2 Any Councillor who fails to attend any meeting of the Council or of any committee, joint committee or sub-committee of which they are a member for more than six months, unless the failure to attend was due to some reason, approved by the Council within that six month period, shall cease to be a member of the Council.

2.6 Allowances

2.6.1 Councillors are entitled to receive allowances in accordance with the Councillors' Allowances Scheme.

3 ARTICLE 3 – CITIZENS AND THE COUNCIL

3.1 Citizens' rights

3.1.1 Citizens' rights to information and to participate are explained in more detail in the Access to Information Rules. In summary citizens have the following rights:-

(a) Voting and petitions

3.1.2 Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for a directly elected Mayor form of executive.

3.1.3 As well as residents, those who work or study in the borough may present petitions on other matters in accordance with the Council's Petitions Scheme.

(b) Information

3.1.4 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, and the meeting, or part of it, is therefore held in private;

- (b) find out from the Forward Plan what key decisions will be taken by the Executive and when. The Forward Plan is available for inspection at the Council's reception and on its website;
- (c) see reports and background papers, and any records of decisions made by the Council and the Executive;
- (d) inspect the Council's accounts and make their views known to the external auditor;
- (e) take part in public consultation processes commenced by the Council.

(c) Participation

3.1.5 Citizens have the right to participate in Council and committee meetings (in accordance with procedures set out in this Constitution) and may contribute to reviews undertaken by the Overview and Scrutiny Committees.

(d) Complaints

3.1.6 Citizens have the right to complain to:

- (a) the Council under its complaints scheme;
- (b) the Local Government Ombudsman after using the Council's own complaints scheme;
- (c) the Council's Monitoring Officer about a breach of the Councillors' Code of Conduct.

3.2 Citizens' responsibilities

3.2.1 When participating in meetings, or in dealings with the Council, citizens must not be disruptive, violent, abusive or threatening to Councillors or Officers and must not wilfully damage property owned by the Council, Councillors or Officers.

4 Article 4 – The Full Council

4.1 Meanings

(a) Policy Framework

4.1.1 The Policy Framework means the following plans and strategies required by law to be approved by the full Council:

- (a) Crime and Disorder Reduction Strategy;
- (b) Development Plan documents;
- (c) Licensing Authority Policy Statement and Statement of Licensing Policy;
- (d) Youth Justice Plan;
- (e) Councillors' Allowances Scheme;
- (f) Plan or strategy for the control of the Authority's borrowing investments or capital expenditure.

4.1.2 The Council has also decided to include the following in the Policy Framework:

- (a) Health and Wellbeing Strategy
- (b) Sustainability and Transformation plan.

4.1.3 The Council has the power to vary the Policy Framework from time to time, provided it does so in accordance with any statutory guidance.

(b) Budget

4.1.4 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.

(c) Housing land transfer

4.1.5 Housing land transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

4.2 Functions of the Full Council

4.2.1 Only the Council will exercise the following functions:

- (a) adopting and amending the Constitution;
- (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) subject to the urgency procedure contained in the Access to Information Procedure Rules, making decisions about any matter in the discharge of an executive function which is covered by the Policy Framework or the Budget where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget;
- (d) appointing the Leader ;

- (e) exercising powers to remove the Leader from office before completion of his/her term of office;
- (f) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (g) appointing representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Council;
- (h) adopting and varying the Councillors' Allowances Scheme;
- (i) changing the name of the area,
- (j) conferring the title of honorary alderman or honorary alderwoman, or awarding the Freedom of the Borough
- (k) confirming the appointment of the Head of Paid Service;
- (l) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (m) all local choice functions which the Council decides should be undertaken by itself rather than the Executive
- (n) a decision to accept an invitation to become an 'opted in' Authority, for the purposes of appointing external auditors.
- (o) making or revising a Council Tax Reductions Scheme.
- (p) all other matters which, by law, must be reserved to Council.

4.3 Council meetings

4.3.1 There are four types of Council meeting:

- (a) the Annual Meeting
- (b) Ordinary Meetings
- (c) Extraordinary Meetings

(d) Special Meetings

and they will be conducted in accordance with the Council Procedure Rules.

4.4 Responsibility for functions

4.4.1 The Council will maintain and publish information on the responsibilities for the Council's functions, which are not the responsibility of the Executive.

5 ARTICLE 5 – THE MAYOR

5.1 Role and functions of the Mayor as Chair of the Council

5.1.1 The Mayor will be elected by the Council annually and will have the following responsibilities when chairing meetings of the Council:

- (a) to ensure the governance of the meeting is in accordance with the Constitution and to interpret the Constitution when necessary with advice from their Council's Monitoring Officer
- (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 Councillors who are not part of the Executive are able to hold the Leader and other members of the Executive and committee chairs, including chairs of Overview and Scrutiny Committees, to account;
- (d) to promote public involvement in the Council's activities;
- (e) to be the conscience of the Council and act in a non-partisan way.

6 Article 6 – OVERVIEW AND SCRUTINY

6.1 Terms of reference

6.1.1 Overview and Scrutiny refers to all the Overview and Scrutiny functions within the Council and is used in this Constitution as a collective term for all individual Overview and Scrutiny Committees, sub-committees and scrutiny panels.. Specific terms of reference for the Overview and Scrutiny Committee(s) are found in Part 7 of this Constitution.

6.2 General role

6.2.1 Within their terms of reference, Overview & Scrutiny Committee(s) will:

- (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (b) review and/or scrutinise the performance of external bodies subject to scrutiny by the Council;
- (c) consider matters raised under the Councillor Call for Action procedures.
- (d) in accordance with their remit and terms of reference, make reports and/or recommendations to the full Council and/or the Executive and/or any committee or joint committee in connection with the discharge of any functions;
- (e) consider any matter affecting the area or its inhabitants;
- (f) exercise the right to call in, for reconsideration, decisions made but not yet implemented by the Executive and/or any committee (where exercising Executive functions), as well as pre-scrutinise any proposed decisions published in the Forward Plan. The procedure to be followed when the right to call-in is exercised is included in Part 6 of this Constitution;
- (g) create time-limited panels to consider specific issues.

6.3 Statutory Officer

There shall be an officer as defined in Part 3 of the Constitution, Responsibility for Functions, whose role is:

- (a) to promote the role of the authority's overview and scrutiny committee or committees,
- (b) provide support to the authority's overview and scrutiny committee or committees and the members of that committee or those committees,
- (c) to provide support and guidance to—
 - (i) members of the authority,
 - (ii) members of the Executive of the authority, and
 - (iii) officers of the authority,

in relation to the functions of the authority's Overview And Scrutiny Committee or Committees.

6.4 Specific functions

(a) Policy development and review

6.4.1 Overview & Scrutiny Committees may:

- (a) assist the Council and the Executive in the development of its Budget and Policy Framework by in-depth analysis of policy issues;
- (b) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (c) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (d) question members of the Executive and/or committees and Officers about their views on issues and proposals affecting the area;
- (e) liaise with other 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

6.4.2 Overview & Scrutiny Committees may:

- (a) review and scrutinise the decisions made by and the performance of the Executive and/or committees and council officers both in relation to individual decisions and over time;
- (b) review and scrutinise the Council's performance in relation to its policy objectives, performance targets and/or particular service areas;
- (c) question members of the Executive and/or committees and 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;
- (d) make recommendations to the Executive, appropriate committee. Officer and/or the full Council arising from the outcome of the scrutiny process;
- (e) review and scrutinise the performance of other public bodies in the area and call for reports from them and attendance of appropriate representatives to address the Overview and Scrutiny Committees and local people about their activities and performance;
- (f) question and gather evidence from any person (with their consent).

(c) Finance

6.4.3 Overview & Scrutiny Committees may exercise overall responsibility for the finances made available to them.

(d) Annual report

6.4.4 The Overview & Scrutiny Committee(s) must report annually to Council on their work.

6.5 Proceedings of Overview and Scrutiny Committees

6.5.1 The Overview & Scrutiny Committees will conduct their proceedings in accordance with the Overview & Scrutiny Procedure Rules set out in Part 6 of this Constitution.

7 ARTICLE 7 – THE EXECUTIVE (LEADER AND CABINET)

7.1 Role

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

7.2 Form and composition

7.2.1 The Council has adopted the Leader and Cabinet model of executive governance.

7.2.2 The Executive will consist of the Council Leader together with a Cabinet of at least 2 but not more than 9 other Councillors appointed by the Leader.

(a) The Leader

7.2.3 The Leader will be a Councillor elected by the Council at the Annual Council Meeting in the year of the Borough Council elections. The Leader will hold office for the term of four years until the next post-election Annual Council Meeting, or unless s/he resigns from the office; or s/he is removed from office by resolution of the Council.

7.2.4 In the event of the office of Leader becoming vacant before expiration of their Term of Office, the Council will elect a new Council Leader at its next meeting or at a meeting called for that purpose. The new Leader will serve for the period of office remaining (i.e. until the next post-election Annual Council Meeting)

(b) The Deputy Leader

7.2.5 The Leader shall appoint a Cabinet Member to serve as Deputy Leader.

7.2.6 The Deputy Leader of the Council will hold office until the end of the term of office of the Leader unless:

- (a) s/he resigns from the office; or
- (b) s/he is no longer a councillor; or
- (c) s/he is removed from that office by the Leader

7.2.7 Where a vacancy occurs in the office of Deputy Leader, the Leader of the Council must appoint another Cabinet Member to that role.

7.3 Other Cabinet members

7.3.1 The Leader must appoint between two and nine Cabinet members including the Deputy Leader.

7.3.2 The Leader shall determine the terms of office of Cabinet Members, which shall be no longer than the end of the term of office of the Leader. A Cabinet member shall cease to hold that office if:

- (a) s/he resigns from office; or
- (b) s/he is no longer a Councillor; or
- (c) s/he is removed from office by the Leader.

7.4 Proceedings of the Cabinet

7.4.1 Proceedings of the Cabinet shall take place in accordance with the Executive Procedure Rules.

7.5 Responsibility for functions

7.5.1 The Leader has responsibility for the exercise of all the functions of the Executive.

7.5.2 The Leader may discharge any executive function or delegate their exercise to:

- (a) the executive as a whole (Leader and Cabinet),
- (b) an individual Cabinet member,

- (c) a committee of the Cabinet,
- (d) an officer,
- (e) an area committee,
- (f) joint arrangements (Article 11)
- (g) individual non-executive members where a scheme under the Local Government and Public Involvement in Health Act 2007 has been established.

7.5.3 Those persons or bodies exercising executive functions may delegate those powers so far as allowed by law.

7.5.4 A list of responsibilities for Executive functions will be maintained by the Council's Monitoring Officer and published on the Council's website.

8 Article 8 – Regulatory and other committees

8.1 Regulatory and Other Committees

8.1.1 The Council will appoint certain committees to deal with statutory or regulatory functions. Some committees may be set up as consultation or advisory forums (i.e. without decision-making powers). A list of these committees as amended or added to from time to time will be maintained by the Monitoring Officer.

8.2 Audit and Governance

8.2.1 The Council will appoint one or more committees that between them will undertake (a) the role of an Audit Committee and (b) ensure compliance in decision-making in respect of the Council's political management arrangements and constitutional procedures. The latter role includes all parts of the Council that are responsible for making decisions including full Council, Cabinet, Officers under delegated authority, the Planning and Licensing Committees and other Council bodies, including joint bodies with other agencies and partnerships.

9 ARTICLE 9 – ETHICAL STANDARDS ARRANGEMENTS

9.1 Establishment

9.1.1 The Council will promote and maintain high standards of conduct by councillors, and through the Audit and Governance Committee will determine complaints and appeals under the Councillors' Code of Conduct

(a) Independent person

9.1.2 The Council has made provision to appoint at least one statutory Independent Person:

- Whose views are to be sought and taken into account before decisions are made on an allegation about a councillor's conduct;
- Whose views may be sought by a councillor or co-opted member of the authority if that person's behaviour is the subject of an allegation; and
- Who will be invited to attend any panel meetings to determine the outcome of an investigation into an allegation about a councillor's conduct or to appeal the outcome of a previous determination and, if present, may advise the panel and the councillor who is the subject of the hearing or appeal.

9.1.3 A vacancy for an Independent Person must be sought by advertisement in such manner as the authority considers is likely to bring it to the attention of the public

9.1.4 The Council may only consider and approve candidates who have submitted to the authority an application to fill the vacancy

9.1.5 Independent Person appointments must be approved by a majority of the Council. Appointments will be for a term of office determined by Full Council.

9.1.6 An Independent Person does not cease to be independent as a result of being paid any amounts by way of allowances or expenses in connection with performing the duties of the appointment.

9.1.7 A person is not independent if the person is

- (a) A member, co-opted member or officer of the authority, or was a member, co-opted member or officer of the Council at any time during the 5 years ending with the appointment; or
- (b) a relative or close friend, of a member, co-opted member or officer of the council.

10 ARTICLE 10 – COMMUNITY COUNCILS, FORUMS and AREA COMMITTEES

10.1 Community Councils and Forums

10.1.1 The Council may appoint and dissolve Community Councils, forums and Area Committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision-making.

10.2 Form, composition and function

10.2.1 The Council will publish the details of any Community Councils, Forums and Area Committees including:

- (a) the area they will serve;
- (b) their terms of reference;
- (c) the functions and extent of delegation to the Community Councils, Area Committees and Forums the amount, if any, of any budget allocated to them.

10.3 Conflicts of interest

10.3.1 If Overview and Scrutiny is scrutinising specific decisions or proposals in relation to the business of the Community Council and/or Area Committee

Forum and of which the Councillor concerned is a member, then the Councillor may not participate or vote at the relevant Overview & Scrutiny committee meeting unless so permitted under the Code of Conduct or a dispensation to do so is granted.

10.3.2 Where Overview and Scrutiny is reviewing policy generally the member must declare their interest before the relevant agenda item is reached, but need not withdraw.

10.4 Community Councils and Forums – Access to Information

10.4.1 The Council's Access to Information Procedure Rules will apply to Community Councils, Forums and Area Committees.

10.4.2 Agendas and notices for Community Council, Forum and Area Committee's meetings which deal with both functions of the Executive and functions which are not the responsibility of the Executive will state clearly which items are which.

10.5 Executive members on Community Councils, Area Committees and Forums

10.5.1 An Executive member may serve on a Community Council Forum and/ or Area Committee if eligible to do so as a Ward Councillor.

10.5.2 The Leader will appoint a Member of the Executive as a (non-voting) Cabinet Community Champion to each Community Council Forum and/ or Area Committee.

11 ARTICLE 11 – JOINT ARRANGEMENTS & PARTNERSHIPS

11.1 Joint arrangements

11.1.1 The Council may establish joint arrangements with one or more local authorities to exercise functions that are not Executive functions in any of the participating authorities. Such arrangements may involve the appointment of a joint committee with these other local authorities.

11.1.2 The Executive may establish joint arrangements with one or more local authorities to exercise functions that are Executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.

11.1.3 The Executive may only appoint Executive members to a joint committee undertaking executive functions, except in circumstances in which 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. In such case the Executive may appoint to the joint committee any Councillor who is a member for a ward that is wholly or partly contained within the area. Where the joint committee comprises 5 or more Local Authorities it is not necessary to appoint a member of the executive to the joint committee, the appointee can be either executive or non-executive

11.1.4 Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations, as amended from time to time.

11.2 Access to information

11.2.1 The Access to Information Rules apply to joint arrangements.

11.2.2 If all the members of a joint committee are members of the Executive in each of the participating authorities then the access to information regime for the joint committee is the same as that applied to the Executive.

11.2.3 If the joint committee contains members who are not on the Executive of any participating authority then the access to information rules will apply.

11.3 Delegation to and from other local authorities

11.3.1 The Council may delegate non-Executive functions to another local authority or, in certain circumstances where permitted by law, to the Executive of another local authority.

11.3.2 The Executive may delegate Executive functions to another local authority or the Executive of another local authority.

11.3.3 The decision whether or not to accept such a delegation from another local authority shall be reserved to Council.

12 ARTICLE 12 – OFFICERS

12.1 Management Structure

(a) General

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

(b) Chief Officers

The Head of Paid Service shall have the responsibility and the power to amend the portfolios of Chief Officers as he/she considers necessary to deliver the Council's functions, vision and priorities. Such changes shall be carried out in accordance with the relevant HR policies applicable. The Head of Paid Service shall consult Cabinet before such changes and report them to Full Council as soon as practicable thereafter.

(c) Head of Paid Service, Monitoring Officer and Chief Financial Officer

12.1.2 Council officers are required to be appointed to these posts by law undertaking specified functions. The Council has designated the following posts as set out below.

Post	Designation
Chief Executive	Head of Paid Service
Director of Governance and Law	Monitoring Officer
Strategic Director of Finance and Governance	Chief Finance Officer (Section 151 Officer)

(d) Structure

12.1.3 The Head of Paid Service will maintain 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 11 of this Constitution.

12.1.4 The assigned portfolio of responsibilities for Chief and Deputy Chief Officers.

12.2 Functions of the Head of Paid Service

(a) Discharge of functions by the Council

12.2.1 The Head of Paid Service will report to Council on the manner in which the discharge of the Council's functions is coordinated, the number and grade of Officers required for the discharge of functions and the organisation of Officers.

(b) Restrictions on functions

12.2.2 The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

12.3 Functions of the Monitoring Officer

(a) Maintaining the Constitution

12.3.1 The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Councillors, staff and the public.

(b) Ensuring lawfulness and fairness of decision-making

12.3.2 After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report in writing to the Full Council, or to the Leader or Cabinet in relation to an Executive function if s/he considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration.

12.3.3 Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

(c) Conducting investigations

12.3.4 The Monitoring Officer will conduct investigations into allegations of misconduct by councillors and make reports or recommendations in respect of them to a panel of the Audit and Governance Committee.

(d) Proper Officer for access to information

12.3.5 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.

(e) Advising whether Executive decisions are within the Budget and Policy Framework

12.3.6 The Monitoring Officer will advise whether decisions of the Executive are in accordance with the Budget and Policy Framework.

(f) Providing advice

12.3.7 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.

(g) Contributing to Corporate Management

12.3.8 The Monitoring Officer will contribute to the Corporate Management of the Council in particular through the provision of legal and governance advice.

(h) Restrictions on posts

12.3.9 The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

12.4 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 Council, or to the Executive in relation to an Executive function, and the Council's external auditor if s/he 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

12.4.1 The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

(c) Contributing to corporate management

12.4.2 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

12.4.3 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

12.4.4 The Chief Finance Officer will provide financial information to the media, members of the public and the community.

12.5 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer

12.5.1 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.

12.6 Conduct

12.6.1 Officers will comply with the Officers' Code of Conduct and the Protocol for Member-Officer Relations in this Constitution.

12.7 Employment

12.7.1 The recruitment, selection and dismissal of Officers will comply with the Employment Procedure Rules.

13 ARTICLE 13 – DECISION-MAKING

13.1 Responsibility for decision-making

13.1.1 The Council will issue and keep an up-to-date record of which Council body or which individual Councillor or officer has responsibility for particular types of decisions or decisions relating to particular areas or functions.

13.1.2 It will establish the threshold levels for key decisions

13.2 Principles of decision-making

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

- (a) proportionality (i.e. reasonableness of action);
- (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) a statement of all options considered;
- (g) a statement of the reasons for the decision.

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 Council and not delegated.

- (b) **Key Decisions:** A key decision is an Executive decision, which is likely:
- (i) to be significant in terms of its effects on communities living or working in an area comprising one or more wards in the Borough; and / or
 - (ii) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or functions to which the decision relates.

Key decisions can generally be considered to be decisions which involve one or more of the following:

- Decisions involving significant expenditure as set out in the Financial Thresholds in the Executive Procedure Rules.
- Decisions having a “significant impact” on people in one or more wards; and/or
- Decisions which are politically sensitive and which the Executive wishes to take rather than delegate to officers.

A decision maker may only make a Key Decision in accordance with the requirements of the Executive Procedure Rules.

Decision-making by the full Council

13.3.1 Subject to the principles of natural justice and respecting human rights, the Council meeting will follow the Council Procedure Rules, when considering any matter.

13.4 Decision-making by the Executive

13.4.1 Subject to the principles of natural justice and respecting Human Rights, the Executive will follow the Executive Procedures Rules when considering any matter.

13.5 Decision-making by Overview and Scrutiny Committees

13.5.1 Subject to the principles of natural justice and respecting Human Rights, the Overview and Scrutiny Committees will follow the Committee Procedure Rules and Scrutiny Procedures Rules when considering any matter.

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

13.6.1 Subject to the principles of natural justice and respect for human rights, other Council committees and sub committees will follow the Committee Procedure Rules.

13.7 Decision-making by Council bodies acting as tribunals

13.7.1 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.

14 ARTICLE 14 – FINANCE, CONTRACTS AND LEGAL MATTERS

14.1 Financial management

14.1.1 The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules.

14.2 Contracts

14.2.1 Every contract made by the Council will comply with the Contracts Procedure Rules.

14.3 Legal proceedings

14.3.1 The Director of Governance and Law is authorised to institute, defend or participate in any legal proceedings (whether actual or contemplated) in

any case where such action is necessary to give effect to decisions of the Council or in any case where s/he considers that such action is necessary to protect the Council's interests. The Director of Governance and Law may further delegate these powers, in so far as is legally permissible.

14.4 Authentication of documents

14.4.1 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Director of Governance and Law, 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.

14.4.2 Any contract with a value exceeding £100,000 entered into on behalf of the Council in the course of the discharge of an Executive function shall be made in writing and under the Common Seal of the Council.

14.5 Common Seal of the Council

14.5.1 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 also to those documents, which in the opinion of the Director of Governance and Law or an officer authorised by him/her, should be sealed.

14.5.2 The Director of Governance and Law (or such other person(s) authorised by him/her) will attest the affixing of the Common Seal. An entry of every sealing of a document shall be made and consecutively numbered in a book kept for the purpose and shall be signed by a person who has attested the seal.

14.6 Custody of the Seal

14.6.1 The Common Seal of the Council shall be kept in a safe place in the custody of the Director of Governance and Law.

14.7 Authentication of documents for legal proceedings

14.7.1 Where any document will be a necessary step in legal proceedings on behalf of the Council, it shall be signed by the Director of Governance and Law or an officer authorised by him, unless any enactment otherwise requires or authorises, or the Council or a Committee acting under delegated powers gives the necessary authority to some other person for the purpose of such proceedings.

15 ARTICLE 15 – REVIEW AND REVISION OF THE CONSTITUTION

15.1 Duty to monitor and review the constitution

15.1.1 A key role of the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations to the Council's Constitution Working Group for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task, the Monitoring Officer may:

- (a) attend and observe meetings of different parts of the Councillor and Officer structure;
- (b) undertake an audit trail of a sample of decisions;
- (c) record and analyse issues raised with her/him by Councillors, Officers, the public and other relevant stakeholders;
- (d) without any reduction or restriction on the lawful requirements of the role of the Monitoring Officer, s/he will work in co-ordination with the Chief Finance Officer and the Chief Executive;
- (e) compare practices in the Council with those in other comparable authorities, or national examples of best practice;
- (f) amend the Constitution to rectify any typographical or grammatical errors or to delete or update any obsolete terms, titles or references.

16 ARTICLE 16 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

16.1 Suspension of the Constitution

(a) Limit to suspension

16.1.1 The Articles of this Constitution may not be suspended. The Rules specified in (c) below may be suspended by the Council to the extent permitted within those Rules and the law.

(b) Procedure to suspend

16.1.2 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

16.1.3 The Council may decide to suspend any rule, other than any rule which is prescribed by law and cannot be so suspended.

16.2 Interpretation at Meetings

16.2.1 The ruling of the Mayor as to the construction or application of this Constitution or as to any proceedings of the Council shall be final and 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

16.3.1 The Chief Executive will ensure that the Constitution is available for on the Council's website and for inspection at the main Council offices.
(Democratic Services: Tel: 020 8496 4344 Email: DemocraticServices@walthamforest.gov.uk)