

Part 2

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.

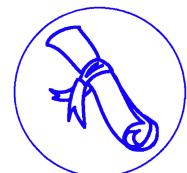
1.2 The Constitution

This Constitution, and all its appendices, is the Constitution of Horsham District Council and was first approved by the Council pursuant to the Local Government Act 2000 Section 37, the Local Government Act 1972 sections 101, 102, 106 and 135 Schedule 12 paragraph 42 and all other enabling powers on 2nd May 2001 and became operative on 23rd May 2001. This Constitution is subject to change and the amendments are recorded in the relevant Part. This Part 2 shall come into force on 14th April 2010 but nothing in these Articles shall prejudice the validity of any actions taken before that date under the previous Articles

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 members of the public, businesses and other organisations;
- (b) support the active involvement of councillors and members of the public 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 no one will review or scrutinise a decision for which he or she was responsible;
- (g) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and



- (h) provide a means of continuing to improve the delivery of services to the community.

1.4 Interpretation and Review of the Constitution

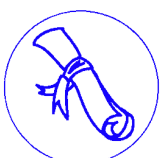
Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purpose stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 16.

1.5 Executive Arrangements

The following parts of this Constitution constitute the Executive arrangements:

- (a) Article 6 (The Executive) and the Executive Procedure Rules in Part 4;
- (b) Article 7 (Scrutiny and Overview Committees) and the Scrutiny and Overview Procedure Rules in Part 4;
- (c) Article 10 (Area Committees);
- (d) Article 12 (Joint arrangements);
- (e) Article 14 (Decision making) and the Access to Information Procedure Rules in Part 4;
- (f) Part 3 (Responsibility for Functions).



Article 2 – Members of The Council

2.1 Composition and eligibility

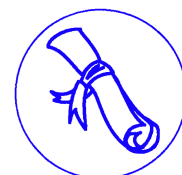
- (a) **Composition.** The Council will comprise councillors, elected by the voters of each ward in accordance with a scheme drawn up by the Electoral Commission through the Boundary Committee for England and approved by the Secretary of State.
- (b) **Eligibility.** Subject to the qualifications and disqualifications set out in the Local Government Act 1972, only registered voters of the District or those living or working there will be eligible to hold the office of councillor.

2.2 Election and terms of councillors

The regular election of councillors will be held on the first Thursday in May every four years subject to any changes approved by the Secretary of State under the Local Government Acts 1972 and 2000. 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 ordinary election.

2.3 Roles and functions of all councillors

- (a) **Key roles.** All councillors will:
 - (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
 - (ii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
 - (iii) effectively represent the interests of their ward and of individual constituents;
 - (iv) respond to constituents' enquiries and representations, fairly and impartially;
 - (v) participate in the governance and management of the Council; and
 - (vi) maintain the highest standards of conduct and ethics.
- (b) **Rights and duties**
 - (i) 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;

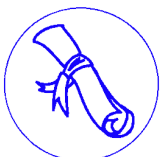
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it;
- (iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.

2.4 Conduct

Councillors will at all times observe the Code of Members’ Conduct set out in Part 5 of this Constitution.

2.5 Members’ Allowances

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

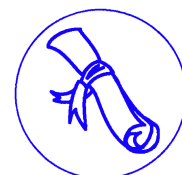


Article 3 – Members of the public and the Council

3.1 Citizens' rights

Members of the public have the following rights. The rights to information (which are different from freedom of information) and to participate are explained in more detail in the Access to Information Rules in Part 4E of this Constitution:

- (a) **Voting and petitions.** Members of the public on the electoral register for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.
- (b) **Information.** Members of the public have the right to:
 - (i) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) attend meetings of the Executive when decisions are being taken;
 - (iii) find out from the Forward Plan what key decisions will be taken by the Executive and when;
 - (iv) see reports and background papers, and any records of decisions made by the Council and the Executive; and
 - (v) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation.** Members of the public have the right to participate in the Council's question time, speak at meetings of the Council, committees and the Executive in accordance with the Rules set out in Part 4 and contribute to investigations by Scrutiny and Overview Committees.
- (d) **Complaints.** Members of the public have the right to complain to:
 - (i) the Council itself under its complaints scheme;
 - (ii) the Council's Standards Committee;
 - (iii) the Ombudsman after using the Council's own complaints scheme or as directed by the Ombudsman;
 - (iv) the Standards Board for England about a breach by a councillor of the Councillors' Code of Conduct.

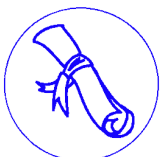


3.2 Citizens' responsibilities

Members of the public must not be violent, abusive or threatening to councillors or officers and must not wilfully harm things owned by the Council, councillors or officers.

3.3 Monitoring of Communications

The Council has the right to monitor communications of any type between its staff and councillors and members of the public for the proper discharge of its functions and the safety and protection of its staff and councillors. Any records of monitoring shall be and remain confidential to the Council.



Article 4 – The Full Council

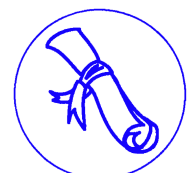
4.1 Meanings

- (a) **Policy Framework.** The policy framework means the following plans and strategies:-
- Local Best Value Performance Plan;
 - Sustainable Community Strategy;
 - Crime and Disorder Reduction Strategy;
 - Development Plan Documents and Plans and strategies which together comprise the Development Plan;
 - Council's Corporate Plan
 - Council's Housing Strategy
 - Statement of Licensing Policy
- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the council tax and decisions relating to the control of the Council's borrowing, investments and capital expenditure, the setting of virement limits and the Asset Management Plan.

4.2 Functions of the full Council

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework and the budget;
- (c) 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 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) agreeing and/or amending the terms of reference for ordinary committees, deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Council;
- (g) adopting an allowances scheme under Article 2.5;



- (h) changing the name of the area;
- (i) confirming the appointment of the Head of Paid Service;
- (j) making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;
- (k) the functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Executive; and
- (l) all other matters which, by law, must be reserved to Council.

4.3 Council meetings

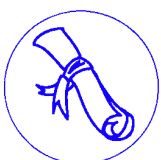
There are three types of Council meeting:

- (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.

4.4 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 Election of the Chairman and appointment of the Vice- Chairman

The Chairman of the Council shall be elected and the Vice-Chairman appointed annually by the Council at the annual meeting from among the Members of the Council.

5.2 Role and function of the Chairman

The Chairman of Council and in his or her absence, the Vice-Chairman will have the following roles and functions:

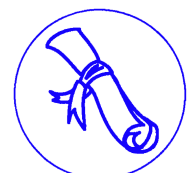
The Chairman will have the following responsibilities:

- (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 councillors who are not members of the Executive are able to hold the Executive and Committee chairmen to account;
- (d) to act as the champion for non-Executive members of the Council;
- (e) to promote public involvement in the Council's activities;
- (f) to be the conscience of the Council;
- (g) to attend such civic and ceremonial functions as the Council and he or she determines appropriate; and
- (h) to preside at meetings of all ordinary committees, Scrutiny and Overview committees and the Standards Committee for the election of the chairman of that committee.

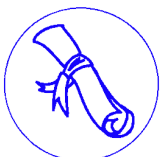
5.3 Additional functions of the Vice-Chairman

In addition to the roles and functions in Article 5.2 the Vice-Chairman shall:

- (a) ensure that the Council is fully represented on those outside bodies to which it makes appointments including acting as substitute where this is possible and where no substitute has been appointed;



- (b) co-ordinate the activities of those members appointed to serve on outside bodies;
- (c) ensure that those members serving on outside bodies properly represent the Council's interests, particularly having regard to the Community Strategy;
- (d) ensure that those members serving on outside bodies report regularly to the appointing body (the Council, the Executive or the Member of the Executive as the case may be);
- (e) make arrangements for the publication of such reports.



Article 6 – The Executive

6.1 Role

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

6.2 Form and composition

The Executive will consist of the Leader together with at least two, but not more than nine, councillors appointed to the Executive by the Leader.

6.3 Leader

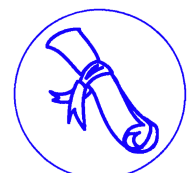
The Leader will be a councillor elected to the position of Leader by the Council. The Leader will hold office until:

- (a) he or she resigns from the office; or
- (b) he or she is suspended from being a councillor under the Local Government Act 2000 Part III (although he or she may resume office at the end of the period of suspension); or
- (c) he or she is no longer a councillor; or
- (d) he or she is removed from office by resolution of the Council; or
- (e) subject to (a) to (d) above the first annual meeting after the next following ordinary election of councillors.

6.4 Other Executive members

Other Executive members shall hold office until:

- (a) they resign from office; or
- (b) they are suspended from being councillors under the Local Government Act 2000 Part III (although they may resume office at the end of the period of suspension); 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 two working days after receipt of the notice by the proper officer; or



- (e) subject to (a) to (d) above the fourth day after the next following ordinary election of councillors.

6.5 Proceedings of the Executive

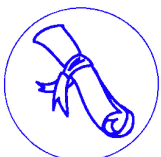
Proceedings of the Executive and its Committees shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution.

6.6 Responsibility for form, composition and functions

The Leader will supply to the Chief Executive details of the number of members to be appointed to the Executive, the named members appointed to the Executive and the allocation of functions sufficient to enable the Chief Executive to 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.

6.7 Appointment of a Deputy

- (a) The Leader will appoint one of the members of the Executive to be his or her Deputy.
- (b) Where a vacancy occurs in the office of Deputy Leader the Leader must appoint another person in his or her place.
- (c) The Deputy Leader shall hold office until:
 - (i) he or she resigns from office; or
 - (ii) he or she is suspended from being a councillor under the Local Government Act 2000 Part III (although they may resume office at the end of the period of suspension); or
 - (iii) he or she is no longer a councillor; or
 - (iv) he or she is removed from office by the Leader who must give written notice of any removal to the Chief Executive. The removal will take effect two working days after the receipt of the notice by the proper officer; or
 - (v) subject to (i) to (iv) above the end of the term of office of the Leader.



Article 7 – Scrutiny and Overview Committees

7.1 Terms of reference

The Council will appoint the Scrutiny and Overview Committees reflecting the political balance of the Council to discharge the functions conferred by the Local Government Act 2000 Section 21. The areas of responsibility will be as set out in Part 3 of this Constitution

7.2 General role

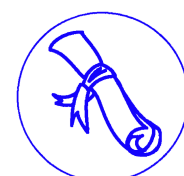
Within their areas of responsibility, Scrutiny and Overview Committees will:

- (a) review and/or scrutinise 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 and/or any joint or statutory area committee in connection with the discharge of any of their functions;
- (c) consider any matter affecting the District or its inhabitants; and
- (d) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive and/or any joint or statutory area committees.

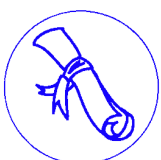
7.3 Specific functions

Within their areas of responsibility Scrutiny and Overview Committees have the following specific functions:

- (a) **Policy development and review.** Scrutiny and Overview Committees may:
 - (i) at the request of the Council or the Executive 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) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
 - (iv) question members of the Executive and/or committees and Heads of Service about their views on issues and proposals affecting the area; and



- (v) 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.** Scrutiny and Overview Committees may:
- (i) review and scrutinise the decisions made by and performance of the Executive and/or 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 Executive and/or 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 Executive and/or appropriate committee and/or 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 Scrutiny and Overview committee and local people about their activities and performance;
 - (vi) question and gather evidence from any person (with their consent); and
 - (vii) set up sub-committees and working groups to assist them in their work, the membership of which may include any member of the Council (not being a member of the Executive) and on a non-voting basis any other person who appears to the Scrutiny and Overview Committees to be able to assist them in their work.
- (c) **Best Value.** The Scrutiny and Overview Committees shall have the duty:
- (i) to formulate and propose to the Council a programme of best value fundamental service reviews and to keep the same under review;
 - (ii) pursuant to the programme of best value fundamental service reviews approved by the Council to commission and undertake

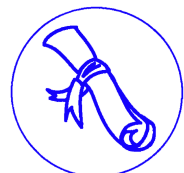


fundamental service reviews and to report to the Executive and the Council.

- (d) **Finance.** Scrutiny and Overview Committees shall annually seek the approval of the Council to a budget for consultation arrangements and may exercise overall responsibility for the finances made available to them.
- (e) **Annual report.** Scrutiny and Overview Committees must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

7.4 Proceedings of Scrutiny and Overview Committees

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

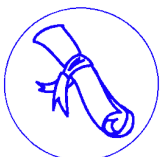


Article 8 – Regulatory and other committees

8.1 Regulatory and other committees

The Council will appoint the committees set out in the table below to discharge the functions set out in Part 3 of this Constitution

Accounts, Audit and Governance
Development Control (North)
Development Control (South)
Licensing
Personnel
Standards Committee



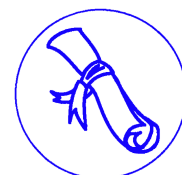
Article 9 – The Standards Committee

9.1 Standards Committee

The Council will establish a Standards Committee.

9.2 Composition

- (a) **Membership.** The Standards Committee will be composed of:
- six members of the Council broadly reflecting the political balance of the Council including
 - Chairman of the Council or the Vice Chairman or immediate past Chairman
 - at least two non-Executive councillors
 - at least one member of the Executive
 - at least three persons who are not councillors or officers of the Council or any other body having a standards committee (independent members);
 - four members of parish councils in the District (Parish Members).
- (b) **Independent members.** Independent members will be entitled to vote at meetings.
- (c) **Parish members.** Parish members will be entitled to vote at meetings. At least one parish member must be present when matters relating to parish councils or their members are being considered although a Parish Member may not participate in the consideration of any matter affecting the Parish Council or Parish Councillors of the parish of which he or she is a parish councillor.
- (d) **District Council Members.** At least one District Councillor must be present at each meeting of the Committee.
- (e) **Chairing the Committee.** The Committee and any sub-committee will be chaired by an Independent member.
- (f) **Parish Councils sub-committee.** The Standards Committee may appoint a sub-committee to exercise the function set out in Articles 9.3 (g) and (h) below. The sub-committee will include at least one Independent Member, one Parish Member and one District Councillor.

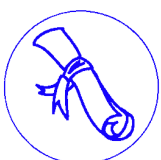


- (g) **Local Determinations Sub-Committee.** The Committee shall appoint a Local Determinations Sub-Committee to make local determinations. The members of the Sub-Committee shall be selected by the Monitoring Officer after having consulted the Chairman of the Committee. The Sub-Committee must include a Parish Member when a determination involves a parish councillor.
- (h) **Other sub-committees.** The Committee may appoint any other sub-committee(s) from among the members of the Committee for the purposes of discharging any of the Committee's functions whether or not to the exclusion of the Committee. The members of the Sub-Committee shall be selected by the Monitoring Officer after having consulted the Chairman of the Committee. A sub-committee must include a Parish Member (when a determination involves a parish councillor) and an Independent Member.

9.3 Role and Function

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by councillors and co-opted members;
- (b) assisting the councillors and co-opted members to observe the Code of Members' Conduct;
- (c) advising the Council on the adoption or revision of the Code of Members' Conduct;
- (d) monitoring the operation of the Code of Members' Conduct;
- (e) advising, training or arranging to train councillors and co-opted members on matters relating to the Code of Members' Conduct;
- (f) granting dispensations to councillors and co-opted members from requirements relating to interests set out in the Code of Members' Conduct;
- (g) dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter which is referred by an Ethical Standards Officer to the Monitoring Officer (local determinations or local investigations);
- (h) any other function imposed by statute;
- (i) the exercise of (a) to (h) above in relation to the parish councils in its area and the members of those parish councils.



Article 10 – Statutory Area Committees

10.1 Statutory Area committees

The Council may appoint statutory area committees.

10.2 Form, composition and function

The Council may appoint statutory area committees to discharge the functions set out in Part 3 of this Constitution.

10.3 Conflicts of interest – membership of statutory area committees and scrutiny committees

- (a) **Conflict of interest.** If a Scrutiny and Overview Committee is scrutinising specific decisions or proposals in relation to the business of the statutory area committee of which the councillor concerned is a member, then the councillor may not speak or vote at the Scrutiny and Overview Committee's meeting unless a dispensation to do so has been given by the Standards Committee.
- (b) **General policy reviews.** Where the Scrutiny and Overview Committee is reviewing policy generally the member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

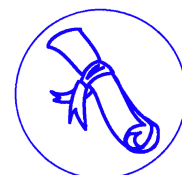
10.4 Statutory Area committees – access to information

Statutory area committees will comply with the Access to Information Rules in Part 4 of this Constitution.

Agendas and notices for statutory area committee 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 statutory area committees

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



Article 11 - Advisory Groups and Working Groups

11.1 Advisory Groups and Working Groups

The Council, the Executive, Members of the Executive and the Scrutiny and Overview Committees may subject to this Article 11 appoint such advisory groups (in the case of the Council, the Executive and Members of the Executive) or working groups (in the case of the Scrutiny and Overview Committees) as they see fit, if they are satisfied to do so will assist them in their work.

11.2 Membership

An advisory group or working group may include any members of the Council (except those working groups appointed by a Scrutiny and Overview Committee may not include a Member of the Executive) and on a non-voting basis any other person including an officer who appears to the appointing body to be able to assist it in its work.

11.3 Advisory groups to Members of the Executive

Members of the Executive shall each appoint at least one advisory group. Such advisory groups shall:

- (a) normally include up to seven members of the Council;
- (b) normally be politically balanced;
- (c) not be appointed without the agreement of the Leader;
- (d) meet regularly.

11.4 Scrutiny and Overview Committee working groups

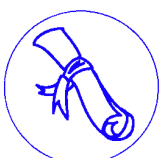
Scrutiny and Overview Committee working groups of an ad hoc nature shall:

- (a) normally include up to seven non-executive members of the Council;
- (b) normally be politically balanced;

11.5 Administrative arrangements

Bodies or persons who appoint advisory groups or working groups shall:

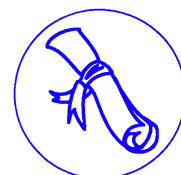
- (a) ensure that each group has terms of reference;



- (b) such terms of reference provide for the period (not exceeding the term of the Council) during which the group shall operate;
- (c) ensure that arrangements are made for the preparation of agenda and notes of meetings of any such group and for the publication of such notes.

11.6 Notification of arrangements

The appointing body or person will notify the Chief Executive within two days of the terms of reference and membership of an advisory group or working group and he or she will register the details available for public inspection.



Article 12 – Joint Arrangements

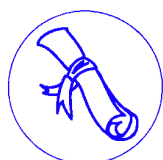
12.1 Arrangements to promote well being

The Council or the Executive 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.

12.2 Joint arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Council may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below, the Executive may only appoint Executive members to a joint committee established under Article 12.2(b) and those members need not reflect the political composition of the local authority as a whole.
- (d) The Executive may appoint members to a joint committee established under Paragraphs 12.2 (a) or (b) from outside the Executive where 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 cases, the Executive may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area. In this case the political balance requirements do not apply to such appointments.
- (e) Details of any joint arrangements including any delegations to joint committees are set out in Part 3 of this Constitution.

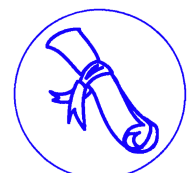


12.3 Access to information

- (a) The Access to Information Rules in Part 4 of this Constitution apply.
- (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 regime is the same as that applied to the Executive.
- (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.

12.4 Contracting out

The Council (for functions which are not executive functions) and the Executive (for executive functions) may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under the Deregulation and Contracting Out Act 1994 Section 70, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no fetter of the Council's discretionary decision making.



Article 13 – Officers

13.1 Management structure

- (a) **General.** The full Council may engage such staff (referred to as officers) including Chief Officers as it considers necessary to carry out its functions.
- (b) **Head of Paid Service, Monitoring Officer and Chief Finance Officer.** The Council will designate the following posts as shown:

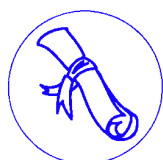
Post	Statutory Designation
Chief Executive	Head of Paid Service
Monitoring Officer and Principal Solicitor	Monitoring Officer
Director of Corporate Resources	Chief Finance Officer

Such posts will have the functions described in Article 13.2 -13.4 below.

- (c) **Structure.** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers as set out at Part 7 of this Constitution.
- (d) **Delegation.** The functions delegated to officers will be as set out in Part 3 of this Constitution.

13.2 Functions of the Head of Paid Service

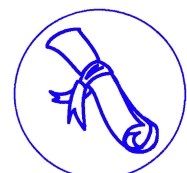
- (a) **Discharge of functions by the Council.** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Overall corporate management.** The Head of Paid Service will be responsible for overall corporate management and operations of the Council.
- (c) **Information.** The Head of Paid Service will provide information to Councillors, the media, members of the public and the community.



- (d) **Restrictions on functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

13.3 Functions of the Monitoring Officer

- (a) **Ensuring lawfulness and fairness of decision making.** After consulting 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 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.
- (b) **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.
- (c) **Receiving reports.** The Monitoring Officer will receive and act on reports and referrals made by Ethical Standards Officers and decisions of the case tribunals.
- (d) **Conducting investigations.** The Monitoring Officer will conduct investigations into matters referred by Ethical Standards Officers or the Standards Committee and make reports or recommendations in respect of them to the Standards Committee.
- (e) **Proper officer for 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) **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.
- (g) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.



13.4 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 full Council or to the Executive 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.

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

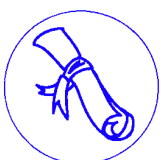
The Council will provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

13.6 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.

13.7 Employment

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



Article 14 - Decision Making

14.1 Responsibility for decision making

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

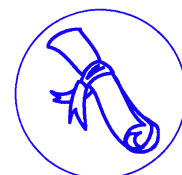
14.2 Principles of decision making

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

- (a) proportionality (i.e. 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; and
- (e) clarity of aims and desired outcomes.

14.3 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 being an executive decision which, is likely -
 - (i) 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 function to which the decision relates; or
 - (ii) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the District.
- (c) In accordance with the Local Government Act 2000 Section 38, in determining the meaning of "significant" for the purposes of paragraph (i) regard shall be had to any guidance for the time being issued by the Secretary of State. For the Council's purposes "significant" in financial terms means the lower of 5% of the total project cost or £50,000 (in respect of capital) and the lower of 10%



of the budget or £10,000 (in respect of revenue) subject in both cases to a minimum of £2,000.

- (d) 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.

14.4 Decision making by the full Council

Subject to Article 14.8, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

14.5 Decision making by the Executive

Subject to Article 14.8, the Executive will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.

14.6 Decision making by Scrutiny and Overview Committees

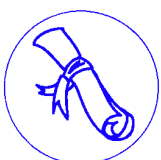
Scrutiny and Overview Committees will follow the Scrutiny and Overview Procedure Rules set out in Part 4 of this Constitution when considering any matter.

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

Subject to Article 14.8, other Council committees and sub-committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

14.8 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 15 – Finance, Contracts and Legal Matters

15.1 Financial management

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

15.2 Contracts

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

15.3 Legal proceedings

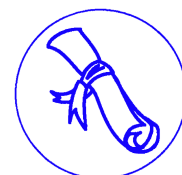
The Head of Financial and Legal Services is authorised to institute, defend or participate in any legal proceedings and to take any necessary and incidental steps for the purpose in any case where such action is necessary to give effect to decisions of the Council or in any case where the Head of Financial and Legal Services considers that such action is necessary to protect the Council's interests.

15.4 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 Chief Executive, Deputy Chief Executive or Head of Financial and 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.

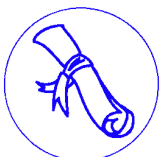
Any contract entered into on behalf of the Council shall in respect of a contract having a value of £50,000 or less be evidenced in writing and in respect of a contract exceeding £50,000 in value be made in writing. Contracts having a value of £50,000 or less may be on the Council's official order form. Every contract exceeding £50,000 in value not required or intended to be made under seal shall be signed on behalf of the Council by two officers of the Council being the Head of Financial and Legal Services and one of the Chief Executive, the Deputy Chief Executive, or other officers authorised by the Chief Executive or under the Scheme of Delegation to Officers.

Every contract required or intended to be made under seal shall be sealed on behalf of the Council by the Chief Executive, the Deputy Chief Executive or the Head of Financial and Legal Services.



15.5 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 Financial and 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 Head of Financial and Legal Services should be sealed. The affixing of the Common Seal will be attested by the Chief Executive, Deputy Chief Executive or Head of Financial and Legal Services.



Article 16 – Review and Revision of the Constitution

16.1 Duty to monitor and review the Constitution

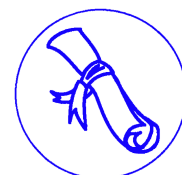
The Chairman of the Council and the Director of Corporate Resources are responsible for monitoring and reviewing constitutional matters and will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

16.2 Changes to the Constitution

Changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Leader and Director of Corporate Resources responsible for monitoring and reviewing constitutional matters.

16.3 Report to Council

The Director of Corporate Resources will report to the Council from time to time on the Constitution and any necessary or desirable changes following consultation in particular with the Head of the Paid Service, the Monitoring Officer and the Chief Finance Officer.



Article 17 – Suspension, Interpretation and Publication of the Constitution

17.1 Suspension of the Constitution

(a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules 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.

17.2 Interpretation

The ruling of the Chairman of 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.

17.3 Publication

(a) The Chief Executive will give a printed copy of this Constitution to each member of the Council upon delivery to him or her of that individual's declaration of acceptance of office on the member first being elected to the Council.

(b) The Chief Executive will ensure that copies 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.

