



CONSTITUTION OF THE COUNCIL

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CONSTITUTION OF THE COUNCIL

Part 2 Article 1

ARTICLE 1 – THE CONSTITUTION

1.01 Powers of the Council

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

1.02 The Constitution

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

1.03 Purpose of the Constitution

The purpose of the Constitution is to:

1. enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
2. support the active involvement of citizens in the process of local authority decision-making;
3. help Councillors represent their constituents more effectively;
4. enable decisions to be taken efficiently and effectively;
5. create a powerful and effective means of holding decision-makers to public account;
6. ensure that no one will review or scrutinise a decision in which they were directly involved;
7. ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions;
8. ensure that high standards of probity and ethics are evident in decision-making and all activities of the Council
9. provide a means of improving the delivery of services to the community and
- 10, provide a means of supporting the Council to deliver its Corporate Plan as adopted for the current municipal year.

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 that option which it thinks best applies the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.



CONSTITUTION OF THE COUNCIL

Part 2 Article 2

ARTICLE 2 - MEMBERS OF THE COUNCIL

2.1 Composition and eligibility

- (a) **Composition** - The Council will comprise 66 members, otherwise called Councillors. Three Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- (b) **Eligibility** - Only registered voters of Wirral Borough or those living or working there will be eligible to hold the office of Councillor.

2.2 Election and terms of Councillors

The ordinary election of a third (or as near as may be) of all Councillors will be held on the first Thursday in May in each year except every fourth year after 2013 there will be no regular election. The terms of office of Councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

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) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
 - (iv) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
 - (v) balance different interests within the ward and represent the ward as a whole;
 - (vi) be involved in decision-making;
 - (vii) be available to represent the Council on other bodies;
 - (viii) maintain the highest standards of conduct and ethics; and
 - (ix) take part in member development and training.

(b) **Rights and duties**

- (a) 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.
- (b) 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.
- (c) For these purposes, “confidential” and “exempt” information is defined in the Access to Information Rules in Part 4 of this Constitution.

2.4 Conduct

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

2.5 Allowances

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



CONSTITUTION OF THE COUNCIL

Part 2 Article 3

ARTICLE 3 – CITIZENS AND THE COUNCIL

3.1 Citizens' Rights

Members of the public have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4(2) of this Constitution.

- (a) **Voting and petitions** - Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.
- (b) **Information** - Citizens have the right to:
 - (i) attend meetings of the Council, its Committees and Sub-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 Council and its Committees and when;
 - (iii) see reports and background papers, and any records of decisions made by the Council and its Committees; and
 - (iv) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation** - Citizens may:
 - (i) speak or ask a question at meetings of the Council and its committees according to the Council Standing Orders set out in Part 4(1) of this Constitution;
 - (ii) contribute to investigations as and when Committees are exercising their policy development and review function;
 - (iii) participate in consultations; and
 - (iv) submit petitions to Councillors or officers about matters that are of local concern.
- (d) **Citizens' Responsibilities** - Citizens are expected to conduct themselves in an appropriate and respectful manner and not to indulge in violent, abusive or threatening behaviour or language to anyone, including Members and Officers of the Council. This is particularly important when attending or addressing meetings

where there are likely to be a wide range of views strongly held by different sections of the community where emotions will run high. Citizens' rights of participation are dependent upon:

- (i) refraining from causing damage to property;
- (ii) respecting the diversity and equality of all sections of the community
- (iii) respecting the integrity of the roles that Members and professional officers of the Council are required to undertake; and
- (iv) avoiding language, making statements or behaviours that are racist, derogatory or offensive, such conduct can amount to a criminal offence and may also amount to slander or libel.

(e) **Complaints** - Citizens have the right to complain to:

- (i) the Council itself under its complaints scheme;
- (ii) the Ombudsman after using the Council's own complaints scheme;
- (iii) the Monitoring Officer about a breach of the Councillors' Code of Conduct.



CONSTITUTION OF THE COUNCIL

Part 2 Article 4

ARTICLE 4 – THE FULL COUNCIL

4.1 Composition

The Full Council is made up of the 66 elected Members.

4.2 Council Meetings

There are three types of Council meeting:

- (a) The Annual Meeting
- (b) Ordinary meetings
- (c) Extraordinary meetings

Meetings will be conducted in accordance with the Council Standing Orders in Part 4 of this Constitution.

4.3 Functions and Powers

(a) **Functions** – Full Council has a number of specific functions allocated to it by statute. These include:

- approving the Council's Policy Framework
- approving the Council's Budget
- adopting and amending the Constitution
- establishing committees, agreeing their terms of reference and deciding their composition
- adopting the Pay Statement
- appointing the Head of Paid Service
- adopting the Members Allowances Scheme

(b) Meanings

(i) **Policy Framework:** The Council's Policy Framework means the following:-

- (1) The following plans and strategies where adoption or approval is required by law to be reserved to a meeting of full Council, which will

take into account the recommendation of the Policy and Resources Committee or relevant Policy and Service Committee:

- Annual Library Plan (Section 1(2) of the Public Libraries and Museums Act 1964(1))
- Crime and Disorder Reduction Strategy (Sections 5 and 6 of the Crime and Disorder Act 1998(2))
- Development Plan Documents (Section 15 of the Planning and Compulsory Purchase Act 2004(3))
- Licensing Authority Policy Statement (Section 349 of the Gambling Act 2005(4))
- Local Transport Plan (Section 108(3) of the Transport Act 2000(5))
- Plans and alterations which together comprise the Development Plan (the Local Plan) (Part 2 of, and Schedule 8 to, the Planning and Compulsory Purchase Act 2004(6))
- Sustainable Community Strategy (Section 4 of the 2000 Act)
- Youth Justice Plan (Section 40 of the Crime and Disorder Act 1998(8))

(2) The following plans and strategies where Council has decided that adoption or approval is to be reserved to a meeting of full Council, which will take into account the recommendation of the Policy and Resources Committee or relevant Policy and Service Committee:

- Council's Corporate Plan

(3) Any plans and strategies where the Policy and Resources Committee has recommended that adoption or approval should be determined only by a meeting of full Council.

(ii) **Budget** – The approval or adoption of a plan or strategy for the control of the local authority's borrowing, investments or capital expenditure, or for determining the authority's minimum revenue provision, which meaning will include:

- the allocation of financial resources to different services and projects,
- proposed contingency funds
- the Council tax base
- setting the Council tax

- decisions relating to the control of the Council's borrowing requirement
- treasury management functions
- the control of its capital expenditure and
- the setting of virement limits.

4.4 **Responsibility for Functions**

Part 3 of this Constitution sets out those and other responsibilities for the Council's functions, both those above that are reserved to Full Council and those that are delegated to Committees and Sub-Committees, to an officer or to another local authority.



CONSTITUTION OF THE COUNCIL

Part 2 Article 5

ARTICLE 5 – THE MAYOR

5.1 Role and function of the Mayor

The Mayor and Deputy Mayor will be elected by the Council annually. The Mayor and, in his/her absence, the Deputy Mayor will have the following responsibilities:

- (i) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (ii) 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;
- (iii) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and a place at which Members are able to ask questions of the Leader and the Chairs of Committees and are able to hold each other to account;
- (iv) to promote public involvement in the Council's activities; and
- (v) to act as the Borough's first citizen and to attend such civic and ceremonial functions as the Council and or he/she determines appropriate.



CONSTITUTION OF THE COUNCIL

Part 2 Article 6

ARTICLE 6 – POLICY AND SERVICE COMMITTEES

6.1 Background to Committees

- (a) **Power** - Unless legislation directs otherwise, the Council may appoint a committee or sub-committee of the authority or the Council with one or more other local authorities may appoint a joint committee of those authorities, and any such committee may appoint one or more sub-committees, for the discharge of any of the Council's functions.
- (b) **Form and functions** - The law requires that certain committees must be established and must operate in a particular manner. Those and other committees, where established, are required by law to discharge particular functions and to discharge their functions in particular ways. Full Council is otherwise free to decide on the size, terms of reference and level of delegation of each committee or sub-committee it establishes. The Council will establish a number of standing committees in order to undertake its functions in a more efficient way or as required. The Committees are grouped accordingly.

6.2 Policy and Service Committees

- (a) **Purpose** - Policy and Service Committees are those committees established for the implementation of the Council's budget and policy framework, with powers delegated from the full Council.
- (b) **Functions** - These are known as policy and service committees because their business concerns the Council's delivery of services to the Council's area. Their functions are
- (i) to take decisions on those matters that do not need to be referred to the Council and
 - (ii) to examine in detail specific issues or aspects of policy, procedure or service, including performance and risk management, and to make recommendations to other committees and to the Council.

6.3 Terms of Reference

The Council has currently agreed to establish the following standing Policy and Service Committees. A summary of the functions of each Committee is shown in the third column of the table below. The detailed terms of reference, functions and powers delegated to each of these committees are more particularly set out in Part 3 – Responsibility for Functions: Committees of Council.

<i>Name of Standing Committee</i>	<i>Name of Standing Sub-Committee</i>	<i>Summary of Purpose</i>
Policy & Resources Committee		This Committee is responsible for co-ordinating processes for the development of the Budget and Policy Framework, together with decision making on cross-cutting policies not part of the Policy Framework and decisions on resources concerning virements and purchase and sale of assets. The Committee is also responsible for a number of corporate functions, including employment of officers, company and asset ownership and overall performance and risk management in respect of the Council's delivery of functions as well as matters of urgency and review.
	Finance & Procurement Sub-Committee	Responsible for development and monitoring of the Council's budget and oversight of the Council's procurement framework
	Senior Officer Appointments & Staffing Sub-Committee	Responsible for appointments and related matters in respect of chief officers and deputy chief officers, as set out at Part 4(N) of the Constitution, together with oversight of employment policies, terms and conditions.
	Shareholder Board	Responsible for the Council's functions as corporate shareholder of a company, or group of companies.
	Local Plan Sub-Committee*	Is responsible for production and recommendation of the Development Plan documents *Time limited until adoption of the Local Plan, when reverts to sub-committee of the Economy, Regeneration and Development Committee
Adult Social Care and Public Health Committee		This Committee is responsible for those services under the remit of adult social care and as the lead Committee on matters of public health.

<i>Name of Standing Committee</i>	<i>Name of Standing Sub-Committee</i>	<i>Summary of Purpose</i>
Children, Young People and Education Committee		This Committee is responsible for education, social care services and health services to children and young people and exercises the functions of the Council as Local Education Authority.
Economy, Regeneration and Development Committee		This Committee is responsible for planning policies, development projects and growth and economic development of the Borough
Housing Committee		This Committee has responsibility for the Council's housing functions including private sector housing support and standards, licensing of residential accommodation, strategic housing including the housing investment programme; allocations and homelessness and housing related support services.
Tourism, Communities, Culture and Leisure Committee		This Committee is responsible for community development and community services including libraries, cultural services & museums and leisure centres, for community safety and customer services. It is also responsible for public protection services including environmental health and trading standards.
Environment, Climate Emergency and Transport Committee		This Committee is responsible for the Council's response to the climate emergency and for the environment, including parks and open spaces, highways management and infrastructure, coastal protection, flood defence and recycling and waste.

6.4 Composition

- (a) **Political Balance** - All committees, other than where specified, will comply with the proportionality rules as set out in the Local Government and Housing Act 1989.
- (b) **Membership** -

- (i) Policy and Resources Committee will normally be constituted of fifteen (15) members, which may be altered to accommodate the overall political balance calculation;
 - (ii) other Policy and Service Committees will normally be constituted of eleven (11) members, which may be altered to accommodate the overall political balance calculation;
 - (iii) sub-committees will normally be constituted of five (5) members, which may be altered to accommodate the overall political balance calculation, or be constituted of such other number as the parent Committee decides;
 - (iv) may include non-councillors by invitation of up to two (2) non-voting co-optees in addition to any statutory co-opted members; and
 - (v) Policy & Resources Committee shall include within its membership the Chair of each of the other Policy and Service Committees.
- (c) **Chairs** – The Chair and Vice-Chair of each committee will be appointed by Full Council or, where no appointment has been made by Council, each Committee shall appoint a Chair at its first meeting.
- (d) **Procedure** - Meetings will be conducted in accordance with the Council Standing Orders and Procedure Rules set out in Part 4 of this Constitution.
- (e) **Policy development and review functions** - Where fulfilling a function of policy development, reviewing or scrutinising decisions made and action taken to implement them in connection with the discharge of any functions of the Council a Policy and Services Committee will have regard to the Review Procedure Rules at Part 4(4) of this Constitution.

6.5 Urgent Business

When an urgent matter has arisen after the publication and dispatch of an appropriate agenda of a Committee the following procedure applies:

(a) Urgent agenda item

The Committee Chair has the authority to agree to take urgent items not on the agenda. The Chair will consult with the Vice-Chair and Group Spokespersons for the Committee. The Chair (with advice from the Monitoring Officer as appropriate) needs to be satisfied as to the need for urgency under the following criteria:

- i) the item has arisen between the compilation of the agenda and the date of the meeting.
- ii) the item requires an urgent decision in the public interest which cannot be dealt with by other means

In all cases the reason for the urgency shall be clearly stated and recorded in the minutes of the meeting and the urgent item will be taken as the Chair may decide.

(b) Urgency Committee

If a decision on an issue is required as a matter of urgency, and if time allows under the provisions of the Access to Information Rules as set out at Part 4(2) of this Constitution, then a Committee will be called comprising of the Leader and/or the Deputy Leader together with the Group Leaders or other members of Opposition Groups such as are required to meet political balance rules. The decision may be within the terms of reference of another committee, but this will not invalidate the decision as the arrangements to discharge the function in cases of urgency.

A matter of urgency sufficient to call this committee will be as determined by the Leader or, in the absence of the Leader, two of the Group Leaders (or Deputy Leader) with advice from one or more statutory chief officers. The Committee must consult with the Chair of the relevant Committee wherever it is reasonable and practicable to do so.

In all cases the reason for the urgency shall be clearly stated and recorded in the minutes of the meeting and reported to the next meeting of Full Council.

(c) Use of Delegated authority

If a decision on an issue is required as a matter of urgency, and the urgency means that time does not allow for the holding of an Urgency Committee under the provisions of the Access to Information Rules as set out at Part 4(2) of this Constitution, then responsibility to exercise such a function is granted to the Head of paid Service (or other officer acting under delegated authority from him or her). This authority is concurrent with the Scheme of Delegation of Officers set out in Part 3(C) of this Constitution and included here for the avoidance of doubt.



CONSTITUTION OF THE COUNCIL

Part 2 Article 7

ARTICLE 7 – DELEGATED AUTHORITY AND REVIEW

7.1 Decisions

Any Committee, Sub-Committee or officer when making a decision within the scope of their delegated authority, as set out in Part 3 of this Constitution, shall be held to be exercising that authority and the decision shall be implemented accordingly except in the circumstances set out in this Article:

7.2 Decisions contrary to the Budget and Policy Framework or Constitution

A decision can be challenged on the grounds that the decision has been taken contrary to the terms of delegation established by the Council (the Budget and Policy Framework) and as set out in Part 3 of this Constitution, the Council's Principles of Decision Making as set out in Article 13 of this Constitution or has in some other way breached the Council's Constitution. If such a challenge is made, the Monitoring Officer, in liaison with the Chief Executive and S.151 Officer, after having carried out appropriate consultation, will determine whether the challenge is upheld and if so, what action should be taken.

7.3 Controversial Decisions

(a) Removal of delegation

Where the matter being considered by a Policy and Services Committees is felt to be a controversial decision, either by

- (i) the Committee itself by resolution or
- (ii) by a minimum of 40% of the Committee either notifying the Chair of the relevant meeting prior to the close of the meeting

delegated authority for that matter shall be withdrawn from the Committee and the item of business will be referred to the next meeting of the Policy and Resources Committee or, if in respect of an item on the agenda of the Policy and Resources Committee, Full Council

(b) Process

The controversial decision procedure to remove delegated authority from a Policy and Services Committee is set out in Part 3B (Responsibility for Functions).

7.4 Decision Review

(a) Decision Review Process

Key decisions made by one of the Policy and Services Committees, or an officer acting under delegated authority from one of those committees, are published within a decision notice, normally within a period of two working days after the relevant meeting. Unless the relevant decision-making body has stated that the decision is not suitable for review, the decision will not be implemented for a period of three working days from the date of publication, during which time any six (6) Members of the Council may call-in the decision for review. The decision will then be referred to a meeting of the Decision Review Committee for review, together with a statement of the reasons for the review request. Implementation of the decision shall be held in abeyance pending the conclusion of the process.

(b) Decision Review Committee (Scrutiny)

(i) **Purpose** - the Decision Review Committee is a committee established by the Council with powers set out in the 2012 Local Authorities (Committee System) (England) Regulations to review or scrutinise a decision made but not yet implemented as referred to above.

(ii) **Function** - The Decision Review Committee is to consider the decision called in for review as soon as possible, and, normally within 15 working days. In doing so it shall provide an opportunity for a representative of the signatories to the call in the opportunity to address the meeting on the subject. The Decision Review Committee may either

(1) uphold the original decision, in which case it has immediate effect, or

(2) refer it back to the decision-making Committee, Policy and Resources Committee or (exceptionally), a meeting of the Full Council

with or without recommendations for change. This is the only function of the Committee.

(iii) Composition

(1) **Political Balance** - All committees, other than where specified, will comply with the proportionality rules as set out in the Local Government and Housing Act 1989.

(2) **Membership** - will normally be constituted of eleven (11) members, which may be altered to accommodate the overall political balance calculation. A Member may not sit as a member of the Committee where that Committee is due to consider, or is likely to consider, something that has been or might be considered by a committee of which the Councillor is a member.

- (3) **Chair** – The Chair and Vice-Chair will be appointed by Full Council or, where no appointment has been made by Council, each Committee shall appoint a Chair at its first meeting.

(c) **Procedure**

The decision review process and meetings of the Decision Review Committee will be conducted in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4(4) of this Constitution

7.5 Partnerships Committee (Overview and Scrutiny)

- (a) **Purpose** – The Partnerships Committee, together with the Decision Review Committee, are those committees established for the implementation of the authority’s overview and scrutiny functions as set out in Part 3 of the Local Authority (Committee System) (England) Regulations 2012
- (b) **Functions** – The Partnerships Committee is a committee established to review and scrutinise matters which affect the Borough or the inhabitants of the Borough. In particular, the Committee:
- (i) will carry out the Council’s statutory responsibilities for scrutiny as stated in:
- the Police and Justice Act 2006, to review or scrutinise any decisions made or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions, and
 - the Health and Social Care Act 2006 (as amended), to review and scrutinise, in accordance with regulations, matters relating to the health service in the authority’s area and to make reports and recommendations on such matters in accordance with the regulations,
- as referred to in the Local Authority (Committee System) (England) Regulations 2012; and
- (ii) may make reports or recommendations to the authority (including any committee or sub-committee) or make reports or recommendations to the authority that relate to the functions of a relevant partner authority so far as exercisable in relation to the authority’s area; or inhabitants of that area

(A “relevant partner authority” means any person who is a partner authority in relation to the authority for the purposes of Chapter 1 of Part 5 of the Local Government and Public Involvement in Health Act 2007, other than a chief officer of police.)

(c) **Composition**

- (i) **Political Balance** - All committees, other than where specified, will comply with the proportionality rules as set out in the Local Government and

Housing Act 1989.

- (ii) **Membership** – The Committee will normally be constituted of eleven (11) members, which may be altered to accommodate the overall political balance calculation. In addition, there may also be advisory non-voting members appointed by the Committee and a co-opted member may be permitted to vote at meetings but only in accordance with a scheme made by the authority under Regulation 11 of the Local Authority (Committee System) (England) Regulations 2012 . A Member may not sit as a member of the Committee where that Committee is due to consider, or is likely to consider, something that has been or might be considered by a committee of which the Councillor is a member.
- (iii) **Chair** – The Chair and Vice-Chair will be appointed by Full Council or, where no appointment has been made by Council, each Committee shall appoint a Chair at its first meeting.
- (d) **Procedure** - The meetings of the Committee will be conducted in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4(4) of this Constitution.

7.6 Joint Health Scrutiny Committee(s)

(a) Role and Function

- (i) The role and function of any Joint Health Scrutiny Committee shall be determined in accordance with the arrangements set out in the ‘Protocol for the Establishment of Joint Health Scrutiny Arrangements for Cheshire and Merseyside’.
- (ii) To undertake joint health scrutiny obligations arising under the Health Scrutiny Regulations (as detailed in the ‘Protocol for the Establishment of Joint Health Scrutiny Arrangements for Cheshire and Merseyside’) as from 1st April 2013 (i) where more than one local authority’s health scrutiny arrangements consider a proposed change in NHS services to be substantial in terms of the impact on its area; and/or (ii) in other circumstances as permitted by the Health Scrutiny Regulations or the Protocol.

(b) Composition

The composition of any Joint Health Scrutiny Committee shall be in accordance with the ‘Protocol for the Establishment of Joint Health Scrutiny Arrangements for Cheshire and Merseyside’.

(c) Membership

The appointment of Members to any Joint Health Scrutiny Committee will be in accordance with the ‘Protocol for the Establishment of Joint Health Scrutiny Arrangements for Cheshire and Merseyside’. Nominations to any Joint Health

Committee shall be determined and made by the Partnerships Committee which is responsible for oversight of the discharging of the Council's Health Scrutiny responsibilities.

(d) Quorum

The quorum of any Joint Health Scrutiny Committee shall be determined in accordance with the arrangements set out in the 'Protocol for the Establishment of Joint Health Scrutiny Arrangements for Cheshire and Merseyside'.

(e) Frequency of Meetings

The frequency of meetings of any Joint Health Overview Scrutiny Committee will be determined at the first meeting of any Committee in line with the purposes for which it has been established.

(f) Access to Information

The Access to Information Regulations set out at Part 4(2) shall apply to any Joint Health Scrutiny Committee.



CONSTITUTION OF THE COUNCIL

Part 2 Article 8

ARTICLE 8 – STATUTORY, REGULATORY AND OTHER COMMITTEES

8.1 Background to Committees

- (a) **Power** - Unless legislation directs otherwise, the Council may appoint a committee or sub-committee of the authority or the Council with one or more other local authorities may appoint a joint committee of those authorities, and any such committee may appoint one or more sub-committees, for the discharge of any of the Council's functions.
- (b) **Form and functions** - The law requires that certain committees must be established and must operate in a particular manner. Those and other committees, where established, are required by law to discharged particular functions and to discharge their functions in particular ways. Full Council is otherwise free to decide on the size, terms of reference and level of delegation of each committee or sub-committee it establishes. The Council will establish a number of standing committees in order to undertake its functions in a more efficient way or as required. The Committees are grouped accordingly.
- (c) **Statutory, Regulatory and Other Committees** - These committees regulate the conduct of the Council's business and make decisions in relation to regulatory, administrative and corporate governance matters. A summary of the functions of each Committee is shown below. The detailed terms of reference, functions and powers delegated to each of these committees are more particularly set out in Part 3C.

8.2 Statutory Committees

The Council is obliged to establish the following standing Statutory Committees. A summary of the functions of each Committee is shown in the third column of the table below. The detailed terms of reference, functions and powers delegated to each of these committees are more particularly set out in Part 3B – Responsibility for Functions: Committees of Council.

<i>Name of Committee</i>	<i>Name of Sub-Committee</i>	<i>Summary of Purpose</i>
Licensing Act Committee		This statutory committee is established under the Licensing Act 2003, responsible for discharging the Council's functions as licensing

<i>Name of Committee</i>	<i>Name of Sub-Committee</i>	<i>Summary of Purpose</i>
		authority under the Licensing Act 2003 and Gambling Act 2005
	Licensing Panels	These Sub-Committees meet to consider individual applications and determinations
Health and Well-being Board		This statutory committee is established under the Health and Social Care Act 2012 to act as a partnership forum in which key leaders from the local health and care system could work together to improve the health and wellbeing of their local population.

8.3 Regulatory Committees

The Council has currently agreed to establish the following standing Regulatory Committees. A summary of the functions of each Committee is shown in the third column of the table below. The detailed terms of reference, functions and powers delegated to each of these committees are more particularly set out in Part 3

<i>Name of Committee</i>	<i>Name of Sub-Committee</i>	<i>Summary of Purpose</i>
Regulatory and General Purposes Committee		This committee is responsible for discharging the Council's licensing functions (other than under the Licensing Act 2003) and miscellaneous other administrative and civic functions
	Regulatory Panels	These Sub-Committees meet to consider individual applications and determinations
Planning (Development Control) Committee		This committee is responsible for making decisions on planning applications and similar regulatory matters

8.4 Other Committees

The Council has currently agreed to establish the following standing Other Committees. A summary of the functions of each Committee is shown in the third

column of the table below. The detailed terms of reference, functions and powers delegated to each of these committees are more particularly set out in Part 3.

<i>Name of Committee</i>	<i>Name of Sub-Committee</i>	<i>Summary of Purpose</i>
Constitution and Standards Committee		This committee is responsible for keeping under review all aspects of the Council's Constitution so as to ensure that it remains current and fit for purpose.
	Standards Panels	These Sub-Committees meet to consider individual allegations of a failure to observe the members Code of Conduct and any referred appeals
Audit and Risk Management Committee		This Committee is responsible for discharging the Council's function to review and approve the annual statement of accounts and to provide independent assurance of the adequacy of the risk management framework and the associated control environment
Pension Committee		This Committee is responsible for all matters relating to the Council's pension fund, operated as a Joint Committee by Wirral MBC on behalf of the Merseyside Pension Fund



CONSTITUTION OF THE COUNCIL

Part 2 Article 9

ARTICLE 9 – JOINT ARRANGEMENTS

9.1 Arrangements to Promote Wellbeing

The Council, in order to take the reasonable action needed ‘for the benefit of the authority, its area or persons resident or present in 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;
or
- (c) exercise on behalf of that person or body any functions of that person or body.

9.2 Joint Arrangements

- (a) The Council may establish joint arrangements with one or more local authorities to exercise functions and any such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Partnerships Committee may delegate its functions under Section 7 of the Health and Social Care Act 2001 as amended by the Health and Social Care Act 2012 to a joint overview and scrutiny committee when this is required by a Direction issued by the Secretary of State for Health or is otherwise considered to be conducive to the efficient scrutiny of proposals affecting more than one Social Services local authority area.
- (c) The Partnerships Committee may appoint members to a joint overview and scrutiny committee established under paragraph (b) above. In this case the political balance requirements will apply to such appointments.
- (d) Any joint arrangements, including any delegations to joint committees, will be found in Articles 6, 7 and 8 and in the Responsibility for Functions and as set out in Part 3 of this Constitution.

9.3 Access to Information

The Access to Information Procedure Rules in Part 4 of this Constitution apply.

9.4 Delegation to and from other Local Authorities

- (a) The Council may delegate functions to another local authority.

(b) Other local authorities may delegate functions to the Council and the decision whether or not to accept such a delegation from another local authority shall be reserved to the relevant Committee of Council.

9.5 **Contracting Out**

The Council may contract out to another body or organisation functions 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, provided there is no delegation of the Council's discretionary decision making.



CONSTITUTION OF THE COUNCIL

Part 2 Article 10

ARTICLE 10 – LEADER, DEPUTY LEADER AND GROUP LEADERS OF THE COUNCIL

10.1 Introduction

As the Council operates a Committee System, no formal legal powers and duties are vested in the Leader or Deputy Leader under the Local Government Act 1972 or the Local Government Act 2000. In practice, however, all local authorities need to appoint a councillor to hold the most significant elected Member role within the Council, to be seen as the political head of the Council and to provide a focal point for political leadership and strategic direction for the Council, both within the Authority but also to outside organisations, partners, governmental bodies and the community at large.

Likewise, there are several other roles that involve political leadership and representation of the Council, beyond civic or formal functions and the role of a councillor as Member of the Authority (described Article 2 above) as set out below.

10.2 Appointment of Leader and Deputy Leader

- (a) At the Annual Meeting of Council the Council will appoint a Leader of the Council who shall act as Chair of the Policy and Resources Committee.
- (b) At the Annual Meeting of Council the Council will appoint a Deputy Leader of the Council who shall act as Vice-Chair of the Policy and Resources Committee.
- (c) Once appointed, the Leader and the Deputy Leader will hold office until the next Annual Meeting unless he/she:-
 - (i) resigns from the office;
 - (ii) is no longer a member of the Council; or
 - (iii) is removed from office by resolution of the Council
- (d) The process of appointment is set out in the Council's Standing Orders at Part 4(1) of the Constitution.

10.3 Role and Function of the Leader

- (a) The Leader shall be:
 - (i) the Chair of the Policy and Resources Committee;

- (ii) the Council’s representative Member to the Liverpool City Region Combined Authority; and
 - (iii) entitled to attend all meetings of the Council’s functional committees in an ex officio capacity.
- (b) The Leader will:
- (i) provide a focal point for political leadership and strategic direction for the Council;
 - (ii) represent the interests of the Council in circumstances where that is necessary; and
 - (iii) ensure effective Corporate Governance and ethical conduct throughout the Council.

10.4 Key Responsibilities of the Leader

The Leader will:

- (a) Be the political (rather than ceremonial) leader of the Council, for the benefit of all the Borough’s communities - its citizens, taxpayers, businesses, public bodies and other public authorities.
- (b) Represent and pursue the interests of the Council in the community and at international, national and regional levels.
- (c) Be the key contact for outside organisations (including Central Government, Local Authority Associations and Council partners), and internally for the Council’s Chief Officers.
- (d) Be the representative voice of the Council, for example, in its dealings with Central Government, other Local Authorities and their Associations, and positively promote the Council as a whole to the media.
- (e) Promote the long-term financial, business and economic stability of the Council and the Borough.
- (f) Meet regularly to progress the Council’s objectives with Committee Chairs, the Chief Officers, Group Leaders, partner organisations, stakeholders, community representatives, government representatives, local Members of Parliament, etc.
- (g) Promote high standards of corporate governance and ethical conduct throughout the Council including working with all political groups to seek to achieve, where possible, cross party co-operation.
- (h) Promote and maintain professional working relationships and mutual respect between all Members and officers.
- (i) Work across the Council, particularly with the Chairs and Vice-Chairs of its Committees and Sub-Committees, and to be responsible for the development

and implementation of the Council's strategic vision for the future, policy framework, budgets and other strategies.

10.5 Role and Function of the Deputy Leader

- (a) The Deputy Leader shall be:
 - (i) the Vice-Chair of the Policy and Resources Committee
 - (ii) the substitute Wirral Borough Council's Constituent Council Member of the Liverpool City Region Combined Authority (unless another Member of the Council is so appointed)
- (b) The Deputy Leader will:
 - (i) assist the Leader of the Council in representing the Council to its citizens, stakeholders and partners and in providing political leadership for the Council and the Borough;
 - (ii) assist the Leader in carrying out the key responsibilities associated with the role of Leader (as set out at 10.4 above);
 - (iv) work with the Leader on budget and policy development; and
 - (v) undertake the powers, functions and responsibilities of the Leader in their absence.

10.6 Political Group Leaders

- (a) Political groups, and the leader (and any deputy group leader) of a political group, have a formal role under the provisions of the Local Government and Housing Act 1989 and The Local Government (Committees and Political Groups) Regulations 1990 in respect of political balance of committees and appointments of the Council.
- (b) The Council acknowledges the key leadership role played by the leaders of all political groups on the Council and the importance of their commitment to cross-party working.
- (c) The role and responsibilities of Political Group Leaders are:
 - (i) To provide the leadership of a political group.
 - (ii) To be the principal political spokesperson for the political group.
 - (iii) To nominate members of their Group to serve on Committees, Working Groups, outside bodies, etc.
 - (iv) To be a representative voice in dealings with government agencies, local authority associations etc.
 - (v) To encourage the highest standards of conduct by members of the group.

- (vi) To appoint group spokespersons and allocate other responsibilities to group members as appropriate.
- (vii) To assist in ensuring appropriate levels of attendance are maintained by group members.
- (viii) To encourage a culture of learning and development among members, including the active participation of group members in briefings, seminars and other learning and development processes.
- (ix) To maintain effective liaison with the other group leaders, including being a member of an informal Group Leaders' meeting, attending Group Leaders' briefings and so forth.
- (x) To establish and maintain effective working relationships with the Chief Officers and other senior officers and to meet regularly with them in order to keep fully apprised of relevant service issues.



CONSTITUTION OF THE COUNCIL

Part 2 Article 11

ARTICLE 11 – COMMITTEE CHAIRS, VICE-CHAIRS AND GROUP SPOKESPERSONS: ROLE AND RESPONSIBILITIES

11.1 Introduction

Some formal powers are vested in the chair of a committee under the Local Government Act 1972 and a number of powers lie with the chair under the Council's Standing Orders or the common law, all in relation to the calling of a meeting and the procedure during it. In practice, however, the chairs of committees in a local authority bear a wider responsibility of influence and undertake a wider leadership role on behalf of their committee's remit. The Committee Chair is widely seen as the political focal point for the functions of the committee, the services they deliver and the business of the committee as a whole.

11.2 Appointment of Committee Chairs and Vice-Chairs

- (a) The Annual Meeting of the Council will agree the appointment of members to committees and the appointment of Chairs and Vice-Chairs to such committees as are provided for, unless the Council decides in any instance not to do so, in which case the chair is appointed at the first meeting of a committee in the municipal year.
- (b) The appointment of a Member as Chair of a Committee shall not take effect unless and until that Member has undergone such training as may be determined by the Council (in the absence of which shall be such training as may be determined by the Monitoring Officer).
- (c) The process of appointment is set out in the Council's Standing Orders at Part 4(1) of the Constitution.

11.3 Role and Function of Committee Chairs

- (a) The Chair of a Committee shall:
 - (i) lead the work of the committee and make sure it carries out its business effectively and efficiently, lawfully and within its terms of reference;
 - (ii) chair meetings of the committee impartially and in such a way as to facilitate open discussion, obtain valid contributions from members and produce sound decisions;
 - (iii) assist the public and press in terms of their rights of access; and

- (iv) ensure respectful engagement between the committee, its officers, guests and the public and maintain ethical conduct throughout the meeting.
- (b) The Chair of a Committee will:
- (i) lead an agenda management process for the Committee in association with the Vice-Chair and Group Spokespersons; and
 - (ii) act as consultee and spokesperson for their Committee in instances of exercise of delegated authority by an officer, where that delegation is subject to being in consultation with the Chair of the Committee or where otherwise requested by a Chief Officer

11.4 Key Responsibilities of Committee Chairs

- (a) The Chair of a Committee will undertake:
- (i) To have a working knowledge of the functions, policies, practices, procedures, services and budgets of the Committee which they chair.
 - (ii) To lead in the development of the work of the Committee which they chair in association with the Vice-Chair and Group Spokespersons, including the agenda management process, also taking into account the wider vision, such as corporate, cross-service and partnership issues.
 - (iii) To lead in consideration and review of service delivery, policy development and in the implementation of policies approved by the Council where these relate to the Committee which they chair.
 - (iv) To be the Council's lead spokesperson in respect of the Committee's activities and act in liaison with the Leader and Deputy Leader in matters of Council policy.
 - (v) To establish effective working relationships with the Group Spokespersons on the Committee and with other Committee Chairs and the Leader and Deputy Leader of the Council
 - (vi) To establish effective working relationships with the Chief Officers, and other key officers.
 - (vii) To represent and pursue the interests of the Committee which they chair in the community and at regional and national levels
 - (viii) To ensure that meetings of the Committee which they chair are properly conducted and reports of proceedings are forwarded on as necessary, for example to full Council
 - (ix) To promote and uphold high standards of ethical conduct by the Council's Members and officers

11.5 Role and Responsibilities of Committee Vice-Chairs

The Vice Chair will:

- (a) assist the Chair in carrying out their role and responsibilities as set out at 11.3 and 11.4 above; and
- (b) undertake the responsibilities of the Chair in their absence

11.6 **Group Spokespersons**

- (a) A Group Spokesperson is a position that is held by members of each of the political groups on the Council in relation to each Committee. The overall role is to provide an effective political counter-balance to the role of the Committee Chair.
- (b) In respect of activities within the relevant Committee (or functional) area, the role and responsibilities of a Group Spokesperson is:
 - (i) To develop expertise and knowledge.
 - (ii) To provide political focus and leadership within the Group.
 - (iii) To lead the development of approaches to policy and operational issues, on behalf of the Group.
 - (iv) To support the democratic process by ensuring that the activities of the Administration (the Council's largest political group) are examined and where necessary challenged.
 - (v) To be the Group's lead spokesperson and first political point of contact within the Group.
 - (vi) To keep members of the Group apprised of all relevant information.
 - (vii) To establish and maintain effective working relationships with Chief Officers, Heads of Service and other key officers.
 - (viii) To establish effective working relationships with other Group spokespersons.
 - (ix) To establish appropriate contacts with other bodies and individuals to exchange views and learning.
 - (x) To meet with relevant senior officers at organised briefings or as necessary in order to keep fully apprised of relevant issues and to advise the Group and Group Leader.



CONSTITUTION OF THE COUNCIL

Part 2 Article 12

ARTICLE 12 – OFFICERS

12.1 Management Structure

- (a) **General** - The Council engages such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers** - The full Council will engage persons who will be designated chief officers and deputy chief officers (referred to as executive directors and assistant directors). Chief Officer appointments are made by Members of the Council in accordance with the Officer Employment Procedure Rules set out at Part 4(7), which shall include:
- (i) the statutory chief officers, being the Head of Paid Service, Chief Finance (s.151) Officer, Monitoring Officer, Director of Children’s Services (DCS), Director of Adult Social Services (DASS) and Director of Public Health (DPH); and
 - (ii) such other chief officers and deputy chief officers as are considered necessary by the authority for the co-ordination and discharge of its different functions.
- (c) **Structure** - The Head of Paid Service will determine and publicise a description of the overall directorate structure of the Council, showing the management structure and deployment of officers. This is set out in Part 7 of this Constitution.

12.2 Functions of Chief Officers

- (a) **Definition** – For these and all other purposes, a Chief Officer of the Council is defined in Part 1 of the Localism Act 2011 and includes each of the following—
- (i) the head of its paid service designated under section 4(1) of the Local Government and Housing Act 1989;
 - (ii) its monitoring officer designated under section 5(1) of that Act;
 - (iii) a statutory chief officer mentioned in section 2(6) of that Act;
 - (iv) a non-statutory chief officer mentioned in section 2(7) of that Act; and
 - (v) a deputy chief officer mentioned in section 2(8) of that Act
- each of whom will be subject to specific duties in respect of the legislation related to their post, some of which are described further below.

- (b) **General Role** - Chief Officers are the Authority's most senior post-holders who are responsible for the day-to-day managerial and operational decisions within the Council and provide support to all Members in their several roles. The generic role of Chief Officers is to:
- (i) to support and advise the Council and its Committees on policy and service delivery in order that Members' decisions are based on appropriate advice and information that is both legally and financially sound;
 - (ii) to ensure that the policies and decisions of the Council are formulated and implemented effectively and efficiently;
 - (iii) to provide strong managerial leadership and direction, foster cross directorate working and implement organisational improvement;
 - (iv) to set high standards and drive up the performance, effectiveness and reputation of the Council;
 - (v) to work with outside bodies and access additional funds and resources in order to support the Council's programmes of work;
 - (vi) to recruit, develop, motivate and inspire staff; and
 - (vii) to ensure that the Council's staff work in an ethical environment in accordance with the Council's Officer Code of Conduct and the principles of public life (sometimes referred to as the Nolan principles).

12.3 Governance Chief Officers

- (a) The Council will designate the following posts as shown:

<i>Post</i>	<i>Designation</i>	<i>Legislation</i>
Chief Executive	Head of Paid Service	Section 4, Local Government and Housing Act 1989
Director of Law and Governance	Monitoring Officer	Section 5, Local Government and Housing Act 1989
Director of Resources	Chief Finance (s.151) Officer	Section 151, Local Government Act 1972 & s.114 Local Government Finance Act 1988

Such posts will have the functions described below

(b) Functions of the Head of Paid Service

- (i) **Discharge of functions by the Council** - The Head of Paid Service where he or she considers it appropriate to do so will report to the authority on:
 - (1) the manner in which the discharge of the Council's functions is co-ordinated;

- (2) the number and grade of officers required for the discharge of functions;
- (3) the organisation of officers; and
- (4) the appointment and proper management of the authority's staff.

in accordance with section 4 of the Local Government and Housing Act 1989

- (ii) **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.

(c) Functions of the Monitoring Officer

- (i) **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 inspection by Members, officers and the public.
- (ii) **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 any relevant committee, if he or she considers that any proposal, decision or omission would give, is likely to give, or has given, rise to a contravention of any enactment or rule of law, or any maladministration. Such a report has the effect of stopping the proposal or decision being implemented until the report has been considered.
- (iii) **Supporting the authority's duty to promote and maintain high standards of conduct** - The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Committee with responsibility for standards. The Monitoring Officer will establish and maintain the Register of Members' Interests and ensure it is kept up to date and made publicly available.
- (iv) **Conducting Investigations** - The Monitoring Officer will conduct, or arrange to have conducted, investigations in relation to allegations that member or co-opted member of the authority has failed to comply with the Members' Code of Conduct and in relation to public interest disclosures (whistleblowing) complaints in accordance with the authority's adopted procedures, policies and protocols.
- (v) **Proper Officer for Access to Information** - The Monitoring Officer will ensure that the decisions of Council and its committees, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (v) **Contributing to corporate management** - The Monitoring Officer will contribute to the corporate management of the Council, in particular through the provision of professional administrative and legal advice.

- (vi) **Providing advice** - The Monitoring Officer will provide advice on issues concerning the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and whether decisions made under delegated authority are in accordance with the terms of delegation established by the Council (the Budget and Policy Framework) to all Members and will support and advise Members and officers in their respective roles.
- (vii) **Personal duty** - The duties of the Monitoring Officer under Section 5 of the Local Government and Housing Act 1989 shall be performed by him or her personally or, where he or she is unable to act owing to absence or illness, personally by such member of his or her staff as have for the time being been nominated by the monitoring officer as his or her deputy for the purposes of this legislation.
- (viii) **Restrictions on functions** - The Monitoring Officer may not hold the post of Head of Paid Service nor the post of Chief Finance Officer.
- (ix) **Monitoring Officer Protocol** - Set out at Part 5(9) of this Constitution is a protocol which explains the role and function of the Monitoring Officer and the arrangements established for ensuring the role is effectively carried out.

(d) **Functions of the Chief Finance Officer**

- (i) **Ensuring lawfulness and financial prudence of decision making** - After consulting with the Head of Paid Service and Monitoring Officer, the Chief Finance Officer will report to the Full Council, or to any relevant committee, and to 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.
- (ii) **Administration of financial affairs** - The Chief Finance Officer will have responsibility for the proper administration of the financial affairs of the Council.
- (iii) **Public financial information** - The Chief Finance Officer will provide financial information about the Council to Members of the Council, the media, members of the public and the community.
- (iv) **Internal Audit** - The Chief Finance Officer will ensure there is maintained an adequate and effective internal audit function.
- (v) **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.
- (vi) **Providing advice** - The Chief Finance Officer will provide advice on issues concerning the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and whether decisions

made under delegated authority are in accordance with the terms of delegation established by the Council (the Budget and Policy Framework) to all Members and will support and advise Members and officers in their respective roles.

(vii) **Personal duty** - The duties of the Chief Finance Officer under Section 114 of the Local Government Finance Act 1988 shall be performed by him or her personally or, where he or she is unable to act owing to absence or illness, personally by such member of his or her staff as have for the time being been nominated by the chief finance officer for these purposes under sub-section 114(6) of that Act.

(viii) **Restrictions on functions** - The Chief Finance Officer may not hold the post of Monitoring officer and should not hold the post of Head of Paid Service.

(e) **Duty to provide sufficient resources**

The Council is under a duty to provide the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer with such staff, accommodation and other resources as are, in that officer's opinion, sufficient to allow their respective legal duties (as described above) to be performed.

12.4 **Conduct**

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

12.5 **Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Procedure Rules set out in Part 4(7) of this Constitution.



CONSTITUTION OF THE COUNCIL

Part 2 Article 13

ARTICLE 13 – DECISION MAKING

13.1 Responsibility for Decision Making

The Council will issue 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.

13.2 Principles of Decision Making

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

- (i) Actions should be proportionate to the desired outcome.
- (ii) Appropriate consultation will be carried out and decisions will take account of its results
- (iii) Decisions will be taken following receipt of due professional advice from officers.
- (iii) Decisions will reflect the spirit and requirements of Human Rights legislation.
- (iv) A presumption in favour of openness.
- (v) Decisions will be clear about what they aim to achieve and the results that can be expected
- (vi) Decisions will seek to be sound in terms of Wednesbury reasonableness (i.e. the decision shall not be so unreasonable that no reasonable Council could have reached it, having taken into account all relevant considerations, and having ignored irrelevant considerations).

13.3 Key Decisions

The Council has adopted the concept of a Key Decision for the purposes of meetings and access to information in order to differentiate those decisions that require a greater degree of openness and rigour. Where Full Council, a Committee or Sub-Committee of Council or an officer takes a Key Decision, or intends to take a Key Decision, they must adhere to the following.

- (a) **Meaning of a Key Decision** - A key decision is currently defined in Regulations (Statutory Instruments 2012/2089) as one which:
- (i) results, or is likely to result, in the Council incurring expenditure which is, or the making of savings which are, in excess of 10% of the relevant budget head or £500,000, whichever is the smaller; or
 - (ii) is significant in terms of its effect on communities living or working in an area comprising two or more wards (where the meaning of 'significant' is subject to any guidance to be issued by the Secretary of State and, in the absence of any such guidance, is to be interpreted as a decision which, in the view of the Leader, will have a significant effect on a significant number of people).
- (b) **Requirements of a Key Decision** - A key decision may only be taken:
- (i) following notice being given (the Forward Plan) as may be required by the Council's Access to Information Procedure Rules set out at Part 4(2) of this Constitution;
 - (ii) on consideration of a full report by the relevant officer(s), published as may be required by the Council's Access to Information Procedure Rules set out at Part 4(2) of this Constitution, and which shall contain as a minimum:
 - (1) a recommended decision;
 - (2) an explanation of the reasons for the recommendation being put forward;
 - (3) details of any alternative options, if any, considered and rejected for recommendation;
 - (4) details of any consultation undertaken or proposed including, in respect of consultation undertaken, the nature and extent of the consultation undertaken with stakeholders and the overview and scrutiny committees and the outcome of that consultation;
 - (5) a consideration of the financial and legal issues pertaining to the matter, and such other matters as governance chief officers (the Head of Paid Service, Chief Finance Officer or Monitoring Officer) may require, which may include risk, staffing, equalities, crime and disorder and climate change implications; plus
 - (6) a list compiled of any Background Papers to the report, which are those documents other than published works that, in the opinion of the proper officer, relate to the subject matter of the report or, as the case may be, the part of the report and:
 - (aa) disclose any facts or matters on which the report or an important part of the report is based; and

- (bb) were relied on to a material extent in preparing the report; and
- (iii) subject to delayed implementation to permit a request for the decision to be reviewed in circumstances set out in Article 7 and Part 4(4) of this Constitution.

13.4 Decision Making

Subject to Article 13.5 below, the procedure for decision making will follow at or by:

- (a) **Full Council.** Meetings of the Full Council are to follow the Council Standing Orders set out at part 4(1) of this Constitution, except where non-mandatory standing orders are waived by resolution, and will follow the applicable procedure rules contained elsewhere within Part 4 of this Constitution.
- (b) **Decision Review Committee and Partnership Committee** - The Decision Review Committee and Partnership Committee are overview and scrutiny committees and will follow the Overview and Scrutiny Procedure Rules and the Council Standing Orders and rules of procedure set out at Part 4(4) of this Constitution and relevant to them.
- (c) **Other Council Committees** - The Policy and Services Committees, Statutory Committees and the Regulatory and Other Committees will follow those parts of the Council Standing Orders and rules of procedure that apply to them set out at Part 4 of this Constitution
- (d) **Officers** – Decisions made by officers shall adhere to the principles set out at 13.2 above and, in relation to the taking of either a Key Decision or a decision that, if it would otherwise have been taken by the Full Council, a committee or sub-committee of the Council, but has been delegated to an officer either—
 - (i) under a specific express authorisation; or
 - (ii) under a general authorisation to officers to take such decisions and, the effect of the decision is to:
 - (1) grant a permission or licence;
 - (2) affect the rights of an individual; or
 - (3) award a contract or incur expenditure which, in either case, materially affects that relevant local government body’s financial position, which is taken to mean expenditure in excess of **£100,000** (excluding social care packages or placements).

a written record must be produced as soon as reasonably practicable after the decision-making officer has made the decision (called an officer decision notice) detailed in the relevant parts of the Access to information Procedure Rules set out at Part 4(2) of this Constitution

13.5 Decision Making by Council Bodies Acting as Tribunals

- (a) **Fair Hearing** - 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 shall 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.
- (b) **Decision making in private** - Subject to any statutory rules or procedures detailed elsewhere in the Constitution, a body acting as a tribunal is permitted, when all evidence has been submitted and speakers (if any) have finished, will hold discussion in the presence of the speakers and, as appropriate and in compliance with the Access to Information Procedure Rules (Part 4(2)), the public and press, and the decision making may thereafter be taken in private adjournment. Decisions will then normally be announced to those present and remaining post-adjournment, at least in summary form, before a decision is issued in writing.



CONSTITUTION OF THE COUNCIL

Part 2 Article 14

ARTICLE 14 – FINANCE, CONTRACTS AND LEGAL MATTERS

14.1 Financial management

The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in Part 4(6) of this Constitution.

14.2 Contracts

Every contract made by the Council will comply with the Contracts Standing Orders set out in Part 4(7) of this Constitution.

14.3 Legal proceedings

The Monitoring Officer, or in their absence or acting under delegated authority, the Deputy Monitoring Officer, 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 he or she considers that such action is necessary to protect the Council's interests.

14.4 Authentication of documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Monitoring Officer, 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 with a value exceeding the amount as specified in the Contract Standing Orders is entered into on behalf of the local authority shall 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.

14.5 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer. 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 Monitoring Officer should be sealed. The affixing of the Common Seal will be attested by the Monitoring Officer or some other person authorised by him/her.



CONSTITUTION OF THE COUNCIL

Part 2 Article 15

ARTICLE 15 – REVIEW AND REVISION OF THE CONSTITUTION

15.1 Duty to Monitor and Review the Constitution

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

15.2 Protocol for Monitoring and Review of Constitution by Monitoring Officer

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

15.3 Changes to the Constitution

- (a) **Approval.** Changes to this Constitution will only be approved by the Full Council after consideration of the proposal by the Standards and Constitution Committee following receipt of a written report of the Monitoring Officer, except that:
 - (i) changes to the Articles of this Constitution will only take effect from the meeting of Council following the meeting that determines the approval (unless legal advice is received from the Monitoring Officer requiring earlier implementation); and
 - (ii) minor and consequential changes, such as those:
 - (1) to factual references;
 - (2) as are required by legislative or legal changes and developments;
 - (3) to reflect changes in procedures and protocols adopted by Committees; and

- (4) to reflect revised arrangements for the distribution of responsibilities and the delegation of powers to officers in accordance with decisions taken by the appropriate committee or chief officer authorised to take such action

may be made by the Monitoring Officer.

- (b) **Change from a Committee form of governance to an executive or alternative form of governance, or vice versa.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.



CONSTITUTION OF THE COUNCIL

Part 2 Article 16

ARTICLE 16 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

16.1 Suspension of the Constitution

- (a) **Limit to Suspension** - The Articles of this Constitution may not be suspended. The rules of the Council contained in Parts 2 to 5 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 serving 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.

16.2 Interpretation

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

16.3 Publication

- (a) **Members** - The Monitoring Officer will ensure that the Constitution is brought to the attention of each Member upon delivery to him/her of their individual's declaration of acceptance of office on first being elected to the Council and shall also provide a printed copy to that Member upon request.
- (b) **Public and press** - The Monitoring Officer will ensure that the Constitution will be available electronically on the Council's website and that copies can be purchased by members of the local press and the public on payment of a reasonable fee.