

PART 2

Articles of the Constitution

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 Wirral Borough Council.

1.3 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 identified to local people and that they explain the reasons for decisions; and
- (8) provide a means of improving the delivery of services to the community.

1.4 Interpretation and Review of the Constitution

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

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

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

Election and terms - 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 that in 2009 and every fourth year after 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) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
 - (iii) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
 - (iv) balance different interests within the ward and represent the ward as a whole;
 - (v) be involved in decision-making;
 - (vi) be available to represent the Council on other bodies;
 - (vii) maintain the highest standards of conduct and ethics; and
 - (viii) take part in member development and training.
- (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 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 Protocol on Member/Officer Relations set out in Part 5 of this Constitution, and comply with any reasonable request of the Council’s Standards Committee.

2.5 **Allowances**

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

Article 3 - Citizens and the Council

3.1 Citizens' Rights

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

- (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, Cabinet and its Committees, except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private;
 - (ii) find out from the Forward Plan what key decisions will be taken by the Cabinet and when;
 - (iii) see reports and background papers, and any records of decisions made by the Council and the Cabinet; and
 - (iv) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation** - Citizens have the right to participate in the Council's question time and contribute to investigations by Overview and Scrutiny Committees. Citizens have the right to submit petitions to Councillors or officers about matters that are of local concern.
- (d) **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 Standards Board for England about a breach of the Councillors' Code of Conduct.

3.2 Citizens' responsibilities

- (a) Citizens must not be violent, abusive or threatening to Councillors or officers and must not wilfully harm things owned by the Council, Councillors or officers.
- (b) Citizens are legally required to register to vote and actively encouraged to exercise their vote as part of their commitment to citizenship and local democracy.

Article 4 - The Full Council

4.1 Meetings

The full Council will decide the Council's budget and policy framework.

- (a) **Policy Framework** - The policy framework means the following plans and strategies:
- Adult and Family Learning Plan;
 - Best Value Performance Plan;
 - Children and Young People's Plan;
 - Community Strategy;
 - Council's Corporate Plan;
 - Crime and Disorder Reduction Strategy;
 - Licensing Authority Policy Statement
 - Local Agenda 21 Strategy;
 - Local Public Service Agreement;
 - Local Transport Plan;
 - Plans and strategies which together comprise the Local Development Framework;
 - Public Library Position Statement;
 - Quality Protects Management Action Plan;
 - The plan and strategy which comprise the Housing Investment Programme;
 - Youth Justice Plan;
- (b) **Budget** - The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council tax base, setting the Council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.
- (c) **Housing Land Transfer** - Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary

of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under section 32 or 43 of the Housing Act 1985.

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, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules, making decisions about any matter in the discharge of an Executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to, or not wholly in accordance with, the budget;
- (d) appointing the Leader, Deputy Leader and members of the Cabinet;
- (e) agreeing and/or amending the terms of reference for 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;
- (h) changing the name of the area or conferring the title of Honorary Alderman or the Freedom of the Borough;
- (i) confirming the appointment of the Head of Paid Service;
- (j) making, amending, revoking, re-enacting or adopting [bylaws](#) ~~Cabinet decisions~~ and promoting or opposing the making of local legislation or personal Bills;
- (k) all local-choice functions set out in Part 3 of the 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) the ordinary meetings;
- (c) extraordinary meetings;

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

4.4 **Responsibility for functions**

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

Article 5 - Chairing the Council

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:

- (1) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (2) 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;
- (3) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Executive or do not hold committee chairs are able to hold the Executive and committee chairs to account;
- (4) to promote public involvement in the Council's activities;
- (5) 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.

Article 6 –Overview and Scrutiny Committees

6.1 Terms of reference

The Council will appoint ten Overview and Scrutiny Committees set out in the left hand column of the table below to discharge the functions conferred by section 21 of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000 in relation to the matters set out in the right hand column of the same table. Each Overview and Scrutiny Committee mirrors a single Cabinet portfolio,

Committee	Scope
Children's Services and Lifelong Learning	Those areas of responsibility set out in the terms of reference of the Cabinet Portfolio for Children's Services and Lifelong Learning which incorporate the provision, planning and management of services for children and young people, including services for health, education (including play), and social care.
Community and Customer Engagement	Those areas of responsibility set out in the terms of reference of the Cabinet Portfolio for Community and Customer Engagement.
Corporate Services	Those areas of responsibility set out in the terms of reference of the Cabinet Portfolio for Corporate Services.
Culture, Tourism and Leisure	Those areas of responsibility set out in the terms of reference of the Cabinet Portfolio for Culture Tourism and Leisure
Environment	Those areas of responsibility set out in the terms of reference of the Cabinet Portfolio for Environment.
Finance and Best Value	Those areas of responsibility set out in the terms of reference of the Cabinet Portfolio for Finance and Best Value.
Housing and Community Safety	Those areas of responsibility set out in the terms of reference of the Cabinet Portfolio for Housing and Community Safety
Regeneration and Planning Strategy	Those areas of responsibility set out in the terms of reference of the Cabinet Portfolio for Regeneration and Planning Strategy.
Social Care, Health and Inclusion	Those areas of responsibility set out in the terms of reference of the Cabinet Portfolio for Social Care and Inclusion and the holding to account of local health services and the NHS

	organisations that run them.
Streetscene and Transport Services	Those areas of responsibility set out in the terms of reference of the Cabinet Portfolio for Streetscene and Transport Services.

6.2 General role

Within their terms of reference, Overview and Scrutiny Committees will:

- (i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (ii) make reports and/or recommendations to the Council and/or the Cabinet and/or any joint or area committee in connection with any policy or the discharge of any functions;
- (iii) consider any matter affecting the area or its inhabitants; and
- (iv) exercise the right to call in, for reconsideration, decisions made but not yet implemented by the Executive. Decisions may be called in only once.

6.3 Specific functions

- (a) **Policy development and review** –Overview and Scrutiny Committees may:
 - (i) assist the Council and the Cabinet in the development of the 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 Cabinet and committees and chief officers 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** –Overview and Scrutiny Committees may:
- (i) review and scrutinise the decisions made by and performance of the Cabinet and committees and Council officers both in relation to individual decisions and over time;
 - (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
 - (iii) question members of the Cabinet and committees and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
 - (iv) make recommendations to the Cabinet or appropriate committees or the Council arising from the outcome of the scrutiny process;
 - (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny committee and local people about their activities and performances; and
 - (vi) question and gather evidence from any person (with their consent).
- (c) **Best Value** –Overview and Scrutiny Committees will:
- (i) recommend the terms of reference for best value reviews to the Cabinet;
 - (ii) receive progress reports on best value reviews;
 - (iii) recommend the final report and improvement plans to the Cabinet.
- (d) **Finance** –Overview and Scrutiny Committees may exercise overall responsibility for any finance made available to them.
- (e) **Annual Report** –Overview and Scrutiny Committees may report annually to the Council on their workings and make recommendations for future work programmes and amend working methods if appropriate.
- (f) **Officers** –Overview and Scrutiny Committees may exercise overall responsibility for the work programme of any officers employed to support their work.

6.4 **Proceedings of Overview and Scrutiny Committees**

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

Article 7 - The Executive

THE ROLE OF THE EXECUTIVE

7.1 Role

The Leader and Cabinet (the Executive) and its Executive Board will carry out all of the local authority's functions that are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

7.2 Form and composition

The Executive will consist of the Executive Leader together with at least two, but not more than nine, Councillors appointed to the Cabinet by the Council. The Executive is commonly referred to as the Cabinet.

7.3 Leader

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

- (a) he/she resigns from the office; or
- (b) he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) he/she is no longer a Councillor; or
- (d) on the expiry date of a 12 month fixed term [or until the subsequent annual meeting of the Council \(whichever is the longer period\)](#), save that the Council may remove the Leader from office at an earlier date but only in the event of a change in political control of the Council, including moving to a position where no party has overall control.

7.4 Other Cabinet Members.

Other Cabinet members will be appointed by the Council. They shall hold office until:

- (a) they resign from office; or
- (b) they are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (c) they are no longer Councillors; or
- (d) on the expiry date of a 12 month fixed term [or until the subsequent annual meeting of the Council \(whichever is the longer period\)](#), save that

the Council may remove them from office, either individually or collectively, at an earlier date but only in the event of a change in political control of the Council, including moving to a position where no party has overall control.

7.5 Proceedings of the Cabinet

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

7.6 Responsibility for functions

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

Article 8 - Regulatory and other committees

8. Regulatory and other committees

- 8.1 The Council will appoint the committees set out in the left hand column of Table 2 (Responsibility for Council Functions) in Part 3 of this Constitution to discharge the functions described in column 3 of that table.
- 8.2 Proceedings of regulatory or other committees: the committees will conduct their proceedings in accordance with the relevant provisions of the Council Procedure Rules set out in Part 4 of this Constitution.

Article 9 - The Standards Committee

9.1 Standards Committee

The Council meeting will establish a Standards Committee.

9.2 Composition

- (a) **Membership** - The Standards Committee will be composed of:
- six Councillors, not more than one of whom is a member of the Executive (other than the Leader) and
 - three persons who are not councillors or officers of the Council or of any other body having a Standards Committee (independent members).
- (b) **Independent members** - Independent members will be entitled to vote at meetings.
- (c) **Chairing the Committee** - A member of the Executive may not chair the Committee.

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, co-opted members and church and parent governor representatives;
- (b) assisting the Councillors and co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising, training or arranging to train Councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to Councillors and co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of 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.

- (h) monitoring and reviewing as necessary the operation of whistleblowing procedures;
- (i) considering reports arising from external inspections, audit investigations, Ombudsman investigations where maladministration is found, legal challenges and other sources which cast doubt on the honesty or integrity of the Council or its members;
- (j) to consider and make recommendations on such other matters as the Committee itself thinks appropriate or which are referred to it by Council, which further the aim of promoting and maintaining the highest standards of conduct within the Authority;
- (k) approve the payment of compensation involving sums in excess of £800 (or less, if considered appropriate) to settle complaints of maladministration, provided the amount of compensation to be offered has been approved informally by the Local Ombudsman.

Article 10 - Area Committees/Forums

10.1 Area Committee Forums

The Council may appoint area committees/forums as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making.

10.2 Forums' composition and function

The Council will appoint the Area Forums with composition and terms of reference as set out in the table below

Name of Forum	Composition	Terms of Reference
All Area Forums (named as indicated below)	As these are advisory only, there is no requirement for political balance - members could be drawn from the relevant area together with co-optees	To reflect its consultative role, the body has an advisory capacity. It may submit reports on matters of concern locally to the Cabinet or Overview and Scrutiny Committee as the Forum deems necessary.
East Wallasey (comprising Liscard and Seacombe)	The Ward Councillors of the respective Wards within the area of Forum.	To act as a voice for the community with respect to:-
West Wirral (comprising Hoylake & Meols and West Kirby & Thurstaston)	Representatives of partner organisations	the development of area action plans which reflect the needs and priorities of the area;
Bidston and Claughton	Members of the local community living or working within the area of the Forum	issues concerning the environment, traffic, policing, education, jobs, health;
Birkenhead and Clatterbridge		development of the Borough's Community Strategy
Birkenhead & Tranmere and Rock Ferry		
Bromborough and Eastham		the quality, range and level of services provided in the area by public bodies;
Greasby/Frankby/Irby and Upton (incl. Woodchurch)		to provide public bodies with an opportunity to consult with local people

<p>Heswall and Pensby & Thingwall</p> <p>Leasowe & Moreton East and Moreton West & Saughall Massie</p> <p>New Brighton and Wallasey</p> <p>Oxton and Prenton</p>		<p>on the development and delivery of plans, programmes and services</p> <p>to make recommendations to the Executive in respect of the expenditure of any funds allocated to them.</p>
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Article 11 - Joint Arrangements

11.1 Arrangements to promote well-being

In order to promote the economic, social or environmental well-being of its area, the Council or the Executive 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 function of that person or body.

11.2 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 Executive 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 appoint only Executive members to a joint committee 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 from outside the Executive in the following circumstances:
 - 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 of a ward which is wholly or partly contained within the area;
 - the political balance requirements do not apply to such appointments.
- (e) Details of any joint arrangements including any delegations to joint committees will be found in the Council's Scheme of Delegation in Part 3 of this Constitution.

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

- (a) The Council may delegate non-Executive functions to another local authority or, in certain circumstances, the Executive of another local authority.
- (b) The Executive may delegate Executive functions to another local authority or the Executive of another local authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

11.4 **Contracting out**

The Council, for functions which are not Executive functions, and the Executive 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.

Article 12 - Officers

12.1 Management structure

- (a) **General** - The full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers** - The full Council will engage persons for the following posts, who will be designated chief officers:

Chief Executive
Deputy Chief Executive/Director of Corporate Services
Director of Children's Services
Director of Finance
Director of Regeneration
Director of Adult Social Services
Director of Technical Services

- (c) **Head of Paid Service, Monitoring Officer and Chief Finance Officer**

The Council will designate the following posts as shown:-

Post	Designation
Chief Executive	Head of Paid Service
Head of Legal and Member Services	Monitoring Officer
Director of Finance	Chief Finance Officer

Such posts will have the functions described in Article 12.2-12.4 below.

- (d) **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. This is set out at Part 7 of this Constitution.

12.2 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) **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.

12.3 Functions of the Monitoring Officer

The Monitoring Officer will:

- (a) maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public;
- (b) after consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to an Executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise of maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered;
- (c) contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee;
- (d) receive and act on reports made by ethical standards officers and decisions of the case tribunals;
- (e) conduct investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the Standards Committee;
- (f) 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;
- (g) advise whether decisions of the Cabinet are in accordance with the budget and policy framework;
- (h) 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;

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

12.4 **Functions of the Chief Finance Officer**

The Chief Finance Officer will:

- (a) after consulting with the Head of Paid Service and the Monitoring Officer, report to the full Council, or to the Cabinet in relation to a Cabinet 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 which is unlawful;
- (b) have responsibility for the administration of the financial affairs of the Council;
- (c) contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and the elected Leader and will support and advise Councillors and officers in their respective roles.
- (e) provide financial information to the media, members of the public, relevant third parties and the community.

12.5 **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.

12.6 **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.

12.7 **Employment**

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

Article 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 which 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 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 consideration of professional advice from officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes; and
- (f) Wednesbury reasonableness (i.e. the decision must 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 Types of decision

- (a) Decisions reserved to full Council. Decisions relating to the functions listed in Article 4.2 will be made by the full Council and not delegated.

(b) Key decisions

- (i) The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 state that a key decision means an Executive decision which is likely -
 - (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or
 - (b) to be significant in terms of its effect on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority;

subject to any guidance issued by the Secretary of State in relation to the meaning of significant.

- (ii) In the absence of such guidance, a key decision is
 - (a) any decision of the Cabinet incurring expenditure or making savings in excess of 10% of the relevant budget head or £250,000, whichever is the smaller, unless
 - (i) the specific expenditure or saving has previously been agreed in full Council or
 - (ii) it is a decision taken in accordance with the Council's Treasury Management Policy

OR

- (b) any decision of the Cabinet which, in the view of the Leader, will have a significant effect on a significant number of people.

In addition to the above, and for the avoidance of doubt, any decision approving proposals for the making of a plan or budget which requires the approval of full Council shall be treated as a key decision.

- (iii) A decision-taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

13.4 Decision making by the full Council

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

13.5 Decision making by the Executive

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

13.6 Decision making by Overview and Scrutiny Committees

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

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

Subject to Article 13.8, other Council committees and sub-committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

13.8 Decision making by Council bodies acting as tribunals

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

Article 14 - Finance, Contracts and Legal Matters

14.1 Financial Management

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

14.2 Contracts

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

14.3 Legal proceedings

The Head of Legal and Member Services is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where he/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 Head of Legal and Member 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 with a value as specified in the Contract Procedure Rules entered into on behalf of the local authority in the course of the discharge of an Executive function 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 Head of Legal and Member Services. A decision of the Council, or 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 Legal and Member Services should be sealed. The affixing of the Common Seal will be attested by the Head of Legal and Member Services or some other person authorised by him/her.

Article 15 - Review and Revision of the Constitution

15.1 Duty to Monitor and Review the Constitution

The Head of Legal and Member Services (Monitoring Officer) in association with the [Cabinet or the](#) Executive Board will 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:

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

15.3 Changes to the Constitution

- (a) **Approval** - Changes to the constitution will only be approved by the full Council after consideration of a proposal by the Monitoring Officer, and relevant Overview and Scrutiny Committee if appropriate. Amendments will be submitted [to](#) and considered by the annual meeting of the Council, unless otherwise required by the Monitoring Officer, after consultation with the [Cabinet or the](#) Executive Board and/or the relevant Overview and Scrutiny Committee.
- (b) **Change from a Leader and Cabinet form of Executive to alternative arrangements** - The Council must take reasonable steps to consult with local electors and other interested parties in the area when drawing up proposals.

Article 16 - Suspension and Interpretation and Publication of the Constitution

16.1 Suspension of Constitution

- (a) **Limit to suspension** - The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.
- (b) **Procedure to suspend** - Any suspension of any of the Rules must be in accordance with the Council's Procedural Rules.

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) The Head of Legal and Member Services will give a printed copy of this Constitution to each member of the Authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.
- (b) The Head of Legal and Member Services will ensure that copies are available for inspection at Council offices, libraries and other appropriate locations, available electronically on the Council's website and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Head of Legal and Member Services will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

Schedule 1: Description of Executive Arrangements

The following parts of this Constitution constitute the Executive Arrangements:-

1. Article 6 (Overview and Scrutiny Committees) and the Overview and Scrutiny Procedure Rules;
2. Article 7 (The Executive) and the Executive Procedure Rules;
3. Article 10 (Area Committees and Forums) - Councils should make clear the extent to which they apply, i.e. where area committees have functions delegated to them by the Executive;
4. Article 11 (Joint Arrangements) - Councils should make clear the extent to which they apply, i.e. where joint committees have functions delegated to them by the Executive;
5. Article 13 (Decision Making) and the Access to Information Procedure Rules;
6. Part 3 (Responsibility for Functions).