

MID DEVON DISTRICT COUNCIL

1. 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 Mid Devon District Council.

1.3 Purpose of the Constitution

The purpose of the Constitution is to:

- (a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- (b) support the active involvement of citizens in the process of local authority decision-making;
- (c) help Councillors represent their constituents more effectively;
- (d) enable decisions to be taken efficiently and effectively;
- (e) create a powerful and effective means of holding decision-makers to public account;
- (f) ensure that no one will review or scrutinise a decision in which they were directly involved;
- (g) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- (h) provide a means of 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 14.

2. Article 2 – Members of The Council

2.1 Composition and Eligibility

(a) Composition

The Council will comprise 42 Members, otherwise called Councillors. One or more 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 the District or those living or working there will be eligible to hold the office of Councillor.

2.2 Election and Terms of Councillors

The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2011. The Terms of Office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

2.3 Roles and functions of all Councillors

Key roles

All Councillors will:

- (a) Irrespective of the ward to which they are elected, have as their overriding duty the representation of interest of the whole community of Mid Devon collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (b) Collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions and will contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- (c) Represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities and effectively represent the interest of their ward and of individual constituents;
- (d) Deal with individual casework and may act as an advocate for constituents in resolving particular concerns or grievances and respond to constituent's enquiries and representations, fairly and impartially;
- (e) Balance different interests identified within the ward and represent the ward as a whole
- (f) Be involved in decision-making
- (g) Be available, where possible, to represent the Council on other bodies; and

- (h) Maintain the highest standards of conduct and ethics.

2.4 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 should consider the situation carefully and, if appropriate, seek guidance from the Monitoring Officer before making 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 are defined in the Access to Information Procedure Rules in Part 4 of this Constitution.

2.5 Conduct

Councillors must at all times observe the Members’ Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

Councillors must promote and maintain high standards of behaviour as per the seven Nolan principles:

- Selflessness:** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends.
- Integrity:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in performance of their official duties.
- Objectivity:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
- Accountability:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- Openness:** Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- Honesty:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protect the public interest.

Leadership: Holders of public office should promote and support these principles by leadership and example.

2.6 Allowances

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

3. Article 3 – Citizens and The Council

Citizens have a number of rights and responsibilities. The following list is a general summary of rights in terms of information, the opportunity to participate and the ability to make complaints.

1.1 Citizens' Rights

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

- (a) Voting and petitions
 - (i) Member of the public have the right to vote and sign a petition;
 - (ii) Citizens on the electoral roll may submit a petition requesting a referendum on the Council's form of Governance i.e. Cabinet or Committee system
- (b) Information

Citizens have the right to:

- (i) Attend meetings of the Council, the Cabinet and its other Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (ii) See agendas, reports and background papers, and any records of decisions made by the Council, the Cabinet and other Committees, except where confidential or exempt information is likely to be disclosed; and
- (iii) inspect the Council's accounts and make their views known to the external auditor.
- (iv) Expect courtesy and respect from officers and Councillors.

- (c) Participation

Citizens have the right to participate in the Council's question time and contribute to investigations by the Scrutiny Committee in accordance with the procedures for these committees and, in particular:

- (i) Citizens should be helped to gain access to buildings and information
- (ii) Citizens have the right to record the meeting in accordance with the Local Authorities openness and transparency regulations 2014.
- (iii) Human Rights issues will be respected in accordance with Schedule 1 Part 1 of the Human Rights Act 1998
- (iv) Community Call for Action Section 21 of the Local Government Act 2000

(d) Complaint

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 Councillor's Code of Conduct.
- (iv) Housing Ombudsman Service (Complaints from Council Housing tenants)

3.2 Citizens' Responsibilities

Citizens must not be violent, abusing or threatening to Councillors or officers and must not wilfully harm things owned by the Council, Councillors or officers.

4. Article 4 – The Full Council

4.1 Introduction

The full Council is a formal meeting of all 42 Councillors. The full Council is required by law to take certain important decisions including setting the Council's Budget and Council Tax and approving a number of key plans and strategies, which together form the Policy Framework (listed below). The full Council must also by law take decisions on a number of specific matters.

The full Council provides a central forum for debate for all Councillors and they are able to ask questions. Members of the public are able, to ask questions about the Council or matters affecting the Council at all full Council meetings with the exception of the Annual Meeting.

4.2 The Council

(a) Role

A meeting of the Council is one which all 42 members are entitled to attend and to speak and vote. The Council is responsible for the Budget and Policy Framework of the Council and for all of the functions not the responsibility of the Cabinet. It will carry out some functions itself but others will be delegated to Committees or named officers.

(b) Plans and Budgets

The Council is responsible for the determination of its Budget and Policy Framework. The Council is responsible for regulatory and other non-Cabinet functions and has a role in holding the Cabinet to account.

4.3 Policy Framework

The Policy Framework means the plans and strategies which are approved by the Council annually and any other such plans and strategies adopted by Council as part of the policy framework:

(a) those required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and regulations proposed under section 32 of the Local Government Act 2000 to be adopted by the Council;

(b) those other plans and strategies which Chapter 2 of Department for Communities Local Government Guidance recommends should be adopted by the Council as part of the Policy Framework;

(c) other plans and strategies which the Council may decide should be adopted by the Council meeting as a matter of local choice.

4.4 Budget

Responsibility for the Budget includes the allocation of financial resources to different services and projects, proposed contingency funds, determining the Council tax base, setting the Council tax level, decisions relating to the control of the Council's borrowing

requirements, investments, the control of its capital expenditure and the setting of expenditure limits and permitted budget transfers.

4.5 Functions of the full Council

Only the full Council will exercise the following functions:

- (a) Adopting and changing the Constitution;
- (b) Amending, 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 in Part 4 of this Constitution, making decisions about any matter where the Cabinet is proposing to make a decision which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget;
- (d) Annual election of the Chairman and the Vice Chairman of the Council at the Annual General Meeting
- (e) Electing the Leader following the ordinary election of Councillors every four years. Removing the Leader;
- (f) Annual election of the Chairman of the Scrutiny Committee at the Annual General Meeting
- (g) Determining which Committees, Sub-Committees, Boards, Panels etc. shall be established as standing committees, the terms of reference of each body, the number of members (voting and non-voting) that each consists of and making the necessary appointments to the bodies;
- (h) Appointing representatives to joint authorities, joint committees and other outside bodies unless the appointment is a Cabinet function or has been delegated by the Council;
- (i) Adopting a scheme for members' allowances under article 2.6;
- (j) Changing the name of the Council's area;
- (k) Conferring the title of honorary alderman or Freeman of the District;
- (l) Confirming the appointment of the Head of Paid Service; Chief Finance Officer and designating the Monitoring Officer and the taking of any disciplinary action against the these Officers and the designating of "Proper Officers";
- (m) The approval or adoption of applications to the Secretary of State for approval of a programme of disposal of 500 or more properties or where consent is required for disposal of land used for residential purposes;
- (n) The approval of an increase in rents for Council housing properties;

- (o) Making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;
- (p) Adopting a Code of Conduct for Members (Councillors);
- (q) Taking decisions in respect of functions which are not the responsibility of the Leader and which have not been delegated by the Council to Committees, Sub-Committees or officers;
- (r) The making of Procedure Rules (except the Cabinet Procedure Rules) including in relation to Contracts and Finance;
- (s) The delegation of non-executive functions to Committees, Sub-Committees and officers, subject to the right to amend the Delegation Scheme from time to time as may be required;
- (t) All other matters which, by law, must be reserved to the decision of the Council as a whole;
- (u) Provide a means whereby councillors may ask questions of matters relevant to the Council's functions and to bring forward motions for debate;
- (v) Receive an Annual Report from the chairmen of the Scrutiny Committee, Policy Development Groups and the Audit Committee and provide an opportunity for members to ask questions on the report;
- (w) Receive reports from the Leader, the Cabinet, the Scrutiny Committee and the Audit Committee which they have referred to Council;
- (x) Consider and decide on recommendations of Committees on non-Cabinet functions not within their delegation or which a committee has referred to the Council for decision;
- (y) Consider reports on lawfulness and maladministration;
- (z) Consider decisions referred from the Scrutiny Committee in respect of Cabinet functions where decisions have not yet been implemented and the Committee considers the decisions may be contrary to the Budget or Policy Framework;
- (aa) Receive reports from the Leader or Cabinet on urgent decisions contrary to the Policy Framework;
- (bb) Take all decisions in respect of delegating non-executive functions to another local authority;
- (cc) Set the Council Tax base and the Council Tax;
- (dd) Any function under a local Act other than a function specified or referred to in Regulation 2 or Schedule 1 of The Local Authorities Functions and Responsibilities (England) Regulations, 2000 as amended;

- (ee) Applications to the Secretary of State under Section 10 of the Representation of the People Act 2000 for an Order to proceed with pilot election arrangements.

4.6 **Council Meetings**

There are three types of Council meeting:

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

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

4.7 **Responsibility for Functions**

The Council will keep under review the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

5. Article 5 – Chairing The Council

The Chair and Vice-Chair of the Council will be elected by the Council annually. The Chair and in his absence the Vice-Chair, will have the following responsibilities, to:-

- 5.1 Uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- 5.2 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;
- 5.3 Ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold the Cabinet to account;
- 5.4 Promote public involvement in the Council's activities;
- 5.5 Be the conscience of the Council;
- 5.6 Attend or be represented at such civic and ceremonial functions as the Council and he/she determines appropriate;
- 5.7 Determine any matter referred to him/her under the urgency provisions of the Access to Information Procedure Rules or the Budget and Policy Framework Procedure Rules in Part 4 of the Constitution; and
- 5.8 Be consulted on any matter to which consultation with the Chair of the Council is required under this Constitution.

6. ARTICLE 6 – Scrutiny Committee, Policy Development Groups (PDGs), Audit Committee and Standards Committee

6.1 Introduction

- (a) The Council is required by Law to discharge certain overview and scrutiny functions. These functions are an essential component of local democracy. Overview and Scrutiny Committees should be powerful committees that can contribute to the development of Council policies and also hold the Cabinet to account for its decisions. Another key part of the overview and scrutiny role is to review existing policies, consider proposals for new policies and suggest new policies.
- (b) Overview and scrutiny should be carried out in a constructive way and should aim to contribute to the delivery of efficient and effective services that meet the needs and aspirations of local inhabitants. Overview and Scrutiny Committees should not shy away from the need to challenge and question decisions and make constructive criticism.
- (c) Mid Devon District Council has three Policy Development Groups which act as the overview function, developing and reviewing policy.
- (d) Mid Devon District Council also has a Scrutiny Committee which scrutinises internal and external matters as well as holding the Cabinet to account.

6.2 Scrutiny Committee: General role

6.2.1 The Scrutiny Committee will:-

- (a) Review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions whether by the Cabinet or another part of the Council or any of its Committees;
- (b) Make reports and/or recommendations to the Council and/or the Cabinet in connection with the discharge of any functions;
- (c) Consider any matter which affects the Council's area or its citizens;
- (d) Make reports and/or recommendations to the Full Council on any matters of broad local concern or importance not otherwise specified within the remit of the Policy Development Groups; and
- (e) Exercise the right to call in for reconsideration decisions made but not yet implemented by the Cabinet or key decisions made but not yet implemented by Officers.

6.2.2 The Council or the Leader of the Cabinet or Scrutiny Committee may from time to time establish such other committees or sub-committees as it sees fit.

6.3 **Scrutiny Committee: Specific Functions**

6.3.1 The Scrutiny Committee may:-

- (a) Review and scrutinise the decisions made by and performance of the Cabinet and/or Committees and Council Officers in relation to individual decisions and over time;
- (b) Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (c) Question members of the Cabinet and/or Committees and Chief Officers from the Council 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 project;
- (d) Make recommendations to the Cabinet and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;
- (e) Review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Committee and local people about their activities and performance; and
- (f) Question and gather evidence from any person with a relevant knowledge, expertise or responsibility (with their consent).

6.3.2 Officers

Scrutiny Committee will have continuity of administrative support and be able to call on other relevant officer support and external expertise where necessary.

6.3.3 Annual Report

The Scrutiny Committee must report annually to the full Council on their workings with recommendations for its future work programme and amended working methods if appropriate.

6.4 **Committee and Membership**

The Scrutiny Committee will comprise of 10 Councillors, plus any additional members as the Council may see fit to appoint. Cabinet Members may not be members of the Scrutiny Committee.

6.5 **Proceedings of Overview and Scrutiny Committee**

The Scrutiny Committee will conduct their proceedings in accordance with the Scrutiny Procedure Rules set out in Part 4 of this Constitution.

6.6 **Policy Development Groups: General role:**

Within their terms of reference Policy Development Groups may:

- (a) Make reports and/or recommendations to the full Council and/or the Cabinet and/or any other bodies of the Council in connection with the discharge of any functions;
- (b) Make reports and/or recommendations to the full Council on any matters of broad local concern or importance within their remit; and

- (c) Undertake the functions below within the thematic areas set out in the table below. These thematic areas will of necessity be broadly defined. Any potential confusion or duplication between the thematic areas of these bodies which may result in duplication of effort or omission will be resolved by the Programming Panel. The Programming Panel will also have discretion in ensuring that there is a reasonable division of issues for consideration between each of the Policy Development Groups.

Group	Thematic area
Managing the Environment	Waste and Recycling, Street Scene Services, Climate Change, Open Spaces
Decent and Affordable Homes	Provision of Affordable Housing, Tenant Satisfaction, Social Housing/Decent Homes Standard
Community Well Being	Community Leadership, Community Consultation/Development/Participation, Community Planning, Economic Development Town Centre Improvements, Food, Health and Safety and Pollution Control

6.7 Policy Development Groups: specific functions:

Policy Development Groups may:

- (a) Assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of current provision, performance and policy issues;
- (b) Instigate and conduct research, community and other consultation in the analysis of policy issues, possible options and the development of policy;
- (c) Regularly involve members of the Cabinet and occasionally members of other bodies of the Council and officers to question them to find out their views on issues, proposals and policy affecting the area;
- (d) Consider reports from any individual councillor on matters relevant to the terms of reference of the group to enable the views of constituents and other organisations to be taken into account; and
- (e) Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
- (f) Consider the impact of policies to assess if they have made a difference

6.8 Annual report

The Chairmen of the Policy Development Groups must report annually to full Council on their workings and make recommendations to amended working methods if appropriate.

6.9 Committee and Membership

The Policy Development Groups will each comprise of 7 Councillors, plus any additional members as the Council may see fit to appoint. Cabinet Members may not be members of a Policy Development Group.

6.10 Proceedings of Policy Development Groups

Policy Development Groups will conduct their proceedings in accordance with the Procedure Rules set out in Part 4 of this Constitution.

6.11 Audit Committee: General Role

Within their terms of reference, the Audit Committee may:

- (a) Provide independent assurance of the adequacy of the risk management framework and the associated control environment;
- (b) Provide independent scrutiny of the authority's financial and non-financial performance to the extent that it affects the authority's exposure to risk and weakens the control environment;
- (c) Oversee the financial reporting process;
- (d) Approve the Statement of Accounts, Annual Governance Statement and the Council's Final Accounts
- (e) Make reports and/or recommendations to full Council and/or Cabinet and/or any other bodies of the Council in connection with the discharge of its functions;
- (f) Make reports and/or recommendations to full Council on any matters of broad local concern or importance within their remit.

6.12 Audit Committee: Specific Functions

The Audit Committee may:-

(a) Audit Activity:-

- (i) Consider and approve the strategic audit approach and the annual audit programme;
- (ii) Consider the annual internal audit report including an overall opinion on the adequacy of the Council's control environment, the extent to which the audit plan has been achieved, and a summary of any unresolved issues;
- (iii) Consider summaries of specific internal audit reports as requested;
- (iv) In the event of the audit service being contracted out, consider reports dealing with the management and performance of the providers of internal audit services;
- (v) Consider reports from internal audit on agreed recommendations not implemented within reasonable timescales;
- (vi) Consider the external auditor's annual letter, relevant reports and the report to those charged with governance;
- (vii) Consider specific reports as agreed with the external auditor;
- (viii) Comment on the scope and depth of external audit work and to ensure it gives value for money;

- (ix) Liaise with the Audit Commission over the appointment of the Council's external auditor should that become necessary;
 - (x) Commission work from internal and external audit.
- (b) ***Internal Controls***
- (i) Maintain an overview of this Constitution including the Financial and Contract Procedure Rules;
 - (ii) Review any issues referred to by the Chief Executive or any Council body;
 - (iii) Monitor the Council's confidential reporting policies in relation to anti fraud and anti corruption, whistle blowing and Anti Money Laundering, including monitoring the use of the Whistle Blowing policy and the Council's Complaint process;
 - (iv) Annually approve the Council's Risk Management Strategy and review the effectiveness of the Council's Risk Management process on a regular basis and gain assurance that appropriate action is being taken to ensure that corporate risks are being managed, including a report to the Council annually;
 - (v) Oversee the production of the Council's Annual Governance Statement and to ensure that relevant and suitable evidence has been obtained to support the disclosures within the Statement;
 - (vi) Review and approve the Council's Annual Governance Statement and monitor the progress against the Annual Statement action plan on a regular basis;
 - (vii) Annually review and update the Council's Code of Corporate Governance to ensure compliance with best practice and legislative guidance;
 - (viii) Consider the Council's compliance with its own and other published standards and controls.
- (c) ***To review and formally approve the Annual Statement of Accounts***
- (i) Consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from audit regarding the robustness of the accounts that need to be brought to the attention of the Council;
 - (ii) Consider the external auditor's reports to those charged with governance on issues arising from the audit of the accounts.

6.13 Annual report

The Chairman of the Audit Committee must report annually to full Council on their workings and make recommendations to amended working methods if appropriate.

6.14 Committee and Membership

The Audit Committee will comprise of 7 Councillors, plus any additional members as the Council may see fit to appoint. Cabinet Members may not be members of the Scrutiny Committee.

6.15 Proceedings of the Audit Committee

The Audit Committees will conduct their proceedings in accordance with the Procedure Rules set out in Part 4 of this Constitution.

6.16 Standards Committee: General role

The Council shall establish a Standards Committee to carry out its functions relating to ethical matters under the Localism Act 2011.

6.17 Standards Committee: Specific Functions

The Standards Committee will have the following roles and functions:

- (i) Promoting and maintaining high standards of conduct by Councillors and co-opted Members;
- (ii) Assisting the Councillors and co-opted members to observe the Member's Code of Conduct;
- (iii) Advising the Council on the adoption or revision of the Members' Code of Conduct;
- (iv) Monitoring the operation of the Members' Code of Conduct;
- (v) Advising, training or arranging to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct;
- (vi) Granting some dispensations to Councillors and co-opted Members from requirements relating to interests set out in the Members' Code of Conduct;
- (vii) Dealing with any reports from a case and any other report from the Monitoring Officer on any matter;
- (viii) Exercising of (i) to (vii) above in relation to the town and parish councils wholly or mainly in its area and the members of those town and parish councils;
- (ix) Overview of complaints handling and Ombudsman investigations; and
- (x) Overview of the Constitution
- (xi) Consider any recommendations put forward by the Standards Sub-Committee in respect of any hearings

6.18 Standards Committee: Composition

- (i) The Standards Committee shall be composed of nine District Councillors
- (ii) The Standards Sub-Committee shall be composed of three of the District Councillors on the Standards Committee

6.19 Standards Sub Committee: Specific Functions

The Standards Sub-Committee will have the following roles and functions

- (i) To conduct hearings into allegations of the Code of Conduct following referral from the Monitoring Officer
- (ii) To make any recommendations back to the Standards Committee, such actions to include:
 - (a) Publication of the findings of the Standards (Hearing) Sub-Committee in respect of the Subject Member's conduct

- (b) Reporting the findings of the Standards (Hearing) Subcommittee to Council for information
- (c) Recommendation to Council that the Subject Member should be censured
- (d) Recommendation to the Subject Member's Group Leader (or in the case of ungrouped members to Council) that the Subject Member should be removed from any or all Committees or Sub-Committees of the Council for a recommended period
- (e) Recommend to Leader that the Subject Member should be removed from the Cabinet, or removed from their Portfolio responsibilities
- (f) Instructing the Monitoring Officer to arrange training for the Subject Member
- (g) Recommendation to Council that the Subject Member should be removed from all appointments to which the Subject Member has been appointed or nominated by the Council
- (h) Withdrawal of facilities provided to the Subject Member by the Council, such as a computer, website and/or e-mail and Internet access
- (i) Placing such restrictions on the Subject Member's access to council staff, buildings or parts of buildings as may be reasonable in the circumstances

The caveat to the sanctions above is subject to circumstances where the Councillor has acted outside of their role as a Councillor – in this case the Head of Paid Service may determine a course of action if appropriate.

7. ARTICLE 7 – THE CABINET

7.1 Introduction

The Cabinet is appointed to carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution. Many decisions will be made by the Cabinet, rather than the full Council.

7.2 Form and Composition of the Cabinet

The Executive (which is also known as the Cabinet) will consist of:-

- (a) The Leader of the Council (the "Leader"); and
- (b) The Deputy Leader of the Council together with at least three but not more than eight Councillors appointed to the Cabinet by the Leader.

7.3 Leader

(a) Election

The Leader of the Council will be a Councillor elected to the position of Leader by the Council for a period of four years at the Annual Meeting immediately following the local government elections.

(b) Term of Office

- (a) The Leader of the Council will hold office until:-
 - (i) he/she resigns from the office; or
 - (ii) he/she is disqualified from being a Councillor; or
 - (iii) where the Council passes a resolution removing him/her from office.
- (b) In the event of any casual vacancy in the position of Leader the Deputy Leader shall act in the Leader's place until the appointment of a new Leader by the Council.

(c) Role of the Leader

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

7.4 Deputy Leader

(a) Appointment

The Leader may designate one of the members of the Cabinet as Deputy Leader.

(b) Duties of the Deputy Leader

The Deputy Leader may exercise all the functions of the Leader where the position is vacant or where the Leader is absent or is otherwise unable to act.

(c) Removal from Office

The Leader may, if he/she thinks fit, remove the Deputy Leader from office at any time.

7.5 Other Cabinet Members

Other Cabinet Members will be Councillors elected to the position of Cabinet Member by the Leader. Each Cabinet Member shall hold office until:-

- (a) He/she resigns from that office; or
- (b) They are no longer councillors; or
- (c) He/she is disqualified from being a Councillor
- (d) He/she is removed from that office by the Leader upon such notice (if any) as the Leader considers appropriate; or
- (e) He/she ceases to be a Councillor.

The Leader may at any time appoint a Cabinet Member to fill any vacancies.

7.6 Proceedings of the Cabinet

The proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules in Part 4 of this Constitution.

7.7 Delegation of Functions

The Leader may exercise executive functions himself/herself or may otherwise make arrangements to delegate responsibility for their discharge as set out below:-

The Leader may delegate executive functions to:-

- (a) The Cabinet as a whole;
- (b) A Committee of the Cabinet (comprising executive members only);
- (c) An individual Cabinet Member;
- (d) A joint committee;
- (e) Another local authority or the executive of another local authority;
- (f) A delegated Officer.

8. ARTICLE 8 – REGULATORY AND OTHER COMMITTEES

8.1 Introduction

The Council will appoint committees to undertake a variety of regulatory and other functions that are the responsibility of the Council but which do not have to be carried out by the full Council.

8.2 Standing Committees

The Standing Committees are listed below and full details of their functions can be found in [*insert cross reference*].

8.3 Other Committees and Sub-Committees

- (a) The Council will appoint such other committees as it considers appropriate to exercise any of its functions.
- (b) Any committee appointed by the Council may at any time appoint additional sub-committees and panels throughout the year. Their terms of reference and delegation of powers to them shall be explicit and within the Appointing Committee's terms of reference.
- (c) The Council in the case of Standing Committees or the parent committee in the case of sub-committees or panels will, in the case of sub-committees or panels, appoint the members to serve on the committee, sub-committee or panel subject to the right of a political group within the meaning of the Local Government and Housing Act 1989 and any regulations made under that Act to make nominations for those appointments at the meeting that makes the appointments before the appointments are made.

9. ARTICLE 9 – JOINT ARRANGEMENTS

9.1 Introduction

There are a number of circumstances where the Council or the Cabinet is entitled to carry out certain functions jointly with another local authority.

9.2 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 advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Cabinet 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. Except as set out below, or as permitted or required by Law, the Cabinet may only appoint Cabinet Members to such joint committees and those Members need not reflect the political composition of the Council as a whole.
- (c) The Cabinet may appoint members to a Joint Committee from outside the Cabinet where the Joint Committee has functions for only part of the area of the Council and that area is smaller than two fifths of that local authority, by area or population. In such cases, the Cabinet may appoint to the Joint Committee any Councillor who is member for a ward contained within the area. Political balance requirements do not apply to such appointments.

9.3 Access to Information

- (a) The Access to Information Procedure Rules apply.
- (b) If all the Members of a Joint Committee are Members of the Cabinet in each of the participating authorities, then its access to information regime is the same as that applied to the Cabinet.
- (c) If the Joint Committee contains members who are not on the Cabinet of any participating authority, then the Access to Information Rules in part VA of the Local Government Act 1972 (as amended) will apply.

9.4 Delegation to and from Other Local Authorities

- (a) The Council can delegate non-executive functions to another local authority or, where those functions are the responsibility of the executive of another local authority, to that executive.
- (b) The Cabinet can 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 is reserved to the full Council.

9.5 **Contracting Out**

The Council (in respect of non-executive functions) and the Cabinet (in respect of executive functions) may contract out to another body or organisation functions:-

- (a) 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
- (b) 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.

10. **ARTICLE 10 - OFFICERS**

10.1 **Management Structure**

(a) **General**

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

(b) **Chief Officers**

The Council will engage persons for the following posts, who will be designated Chief Officers. The Head of Paid Service shall have responsibility and power to amend the functions and areas of responsibility of the Chief Officers as he/she considers necessary to deliver the Council's functions, vision and priorities. Such changes will be carried out in accordance with any relevant Human Resources policies.

Post Functions and Areas of Responsibility

Post	Duties
Chief Executive	<ul style="list-style-type: none"> <input type="checkbox"/> Overall corporate management and operational responsibility (including overall management and responsibility for all officers) <input type="checkbox"/> Principal advisor to the Council on general policy <input type="checkbox"/> Overall responsibility for delivering the Council's policies and programmes <input type="checkbox"/> Provision of professional advice to all parties in the decision-making process <input type="checkbox"/> To act as Head of Paid Service.

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

The Council will designate the following posts as shown:

Designation	Post
Head of Paid Service	Chief Executive

Monitoring Officer	Head of Communities and Governance
Chief Finance Officer	Head of Finance

Such posts will have the functions described in 10.2 to 10.4 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.

10.2 **Functions of the Head of Paid Service**

(a) Discharge of Functions by the Council

The Head of Paid Service will keep under review 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 Financial Officer if a qualified accountant.

10.3 **Functions of the Monitoring Officer**

(a) Maintaining the Constitution

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

(b) Ensuring Lawfulness and Fairness of Decision Making

After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to a Cabinet function, if he or /she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

(c) Supporting the Standards Committee

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

Notwithstanding the duty of confidentiality, the Monitoring Officer shall be at liberty to disclose any information relating to the Council's affairs, and provide copies of any records or documents belonging to the Council to the Standards

Committee, for the purposes of investigation or determination of a complaint against a Member.

(d) Conducting Investigations

The Monitoring Officer will conduct investigations into matters and carry out any other actions as directed by the Standards Committee and make reports or recommendations in respect of them to the Standards Committee.

(e) Proper Officer for Access to Information

The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible.

(f) Advising Whether Cabinet Decisions are within the Budget and Policy Framework

The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.

(g) Providing Advice

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors. Where the Monitoring Officer considers that a Member(s) has acted contrary to his/her advice it is open to him/her to issue a report to the Council under s.5 Local Government and Housing Act 1989, or seek judicial review, as he or she considers appropriate in the circumstances.

(h) Restrictions on Posts

The Monitoring Officer cannot be the Chief Finance Officer.

10.4 **Functions of the Chief Finance Officer**

(a) Ensuring Lawfulness and Financial Prudence of Decision Making

If the Chief Financial Officer 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. After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council or to the Cabinet in relation to a Cabinet function and the Council's external auditor. When the report is completed the Chief Finance Officer shall send a copy to: (a) the current auditor of the Council's accounts; and, (b) each Member of the Council.

(b) Administration of Financial Affairs

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

(c) Contributing to Corporate Management

The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

(d) Providing Advice

The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.

(e) Give Financial Information

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

10.5 **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.

10.6 **Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 4 of this Constitution.

10.7 **Employment**

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

11. **ARTICLE 11 - DECISION MAKING**

11.1 **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.

11.2 **Principles of Decision Making**

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

- (a) Proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) Due consultation and the taking of professional advice from officers;
- (c) Respect for human rights;
- (d) A presumption in favour of openness;
- (e) Clarity of aims and desired outcomes;
- (f) Consideration of any alternative options; and,
- (g) The giving of reasons for the decision and the proper recording of those reasons.

11.3 **Type of Decision**

- (a) Decisions reserved to full Council. Decisions relating to the functions listed in Article 4 will be made by the full Council and will not be delegated.
- (b) Key decisions – a “key decision” means a Cabinet decision which is likely:
 - (i) To involve expenditure or savings in excess of £50,000.00 as well as otherwise being significant having regard to the Council’s budget for the service or function to which the decision relates; or
 - (ii) To be significant in terms of its effects on communities living or working in an area comprising two or more wards in the district.

In accordance with section 38 of the Local Government Act 2000, in determining the meaning of “significant” regard shall be had to any guidance for the time being issued by the Secretary of State.

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

11.4 **Decision Making by the Full Council**

Subject to Article 11.8, the Council meeting will follow the Council Procedures Rules 2012 set out in Part 4 of this Constitution when considering any matter.

11.5 **Decision Making by the Cabinet**

Subject to Article 11.8, the Council meeting will follow the Cabinet Procedures Rules set out in Part 4 of this Constitution when considering any matter.

11.6 **Decision Making by the Scrutiny Committees**

The Scrutiny committees will follow the Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

11.7 **Decision Making by Other Committees and Sub-Committees Established by the Council**

Subject to Article 11.8, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

11.8 **Decision Making by Council Bodies Acting as Tribunals**

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

12. **ARTICLE 12 - FINANCE, CONTRACTS AND LEGAL MATTERS**

12.1 **Financial Management**

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

12.2 **Contracts**

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

12.3 **Legal Proceedings**

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

The Legal Services Manager has delegated powers to authorise officers to appear in court on the Council's behalf.

12.4 **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 Legal Services Manager or other person authorised by him/her, unless any enactment or otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract with a value exceeding £50,000.00, entered into on behalf of the Council shall be made in writing. Subject to the Contracts Procedure Rules, such contracts must be signed by at least two officers of the Council or made under common seal of the Council attested by at least one officer if they exceed £50,000.00 in value.

In addition to any other person who may be authorised by resolution of the Council, the proper officer for the purposes of authentication of documents under the Local Government Acts shall be:

- (a) The Chief Executive;
- (b) The Legal Services Manager;
- (c) Any Chief Officer of the Council concerned with the matter to which the document relates; or,
- (d) Any officer authorised in writing by such Chief Officer or by the Legal Services Manager.

12.5 **Common Seal of the Council**

- (a) Common Seal

The Common Seal of the Council shall be kept in a safe place in the custody of the Legal Services Manager.

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.

(b) Sealing and Execution of Documents

The common seal of the Council shall be affixed to a document only on the authority of:-

- (i) A resolution of the Council;
- (ii) A resolution of a Committee or Sub-Committee which the Council has empowered to authorise the use of the seal;
- (iii) A decision by the Council, or by a Committee, Sub-Committee or officer exercising delegated functions, to do anything where a document under the common seal is necessary or desirable as part of the action.

The affixing of the common seal shall be attested by the Monitoring Officer, the Legal Services Manager or another solicitor authorised by the Legal Services Manager.

(c) Record of Sealing of Documents

Any entry of the sealing of every deed or document to which the Common Seal has been affixed shall be made by the Legal Services Manager and consecutively numbered in a book to be provided for the purpose.

(d) Disposal of Land and Real Property

Every disposal of land and real property made by the Council will comply with the Financial and Contract Procedure Rules set out in Part [?] of the Constitution.

13. **ARTICLE 13 - REVIEW AND REVISION OF THE CONSTITUTION**

13.1 **Duty to Monitor and Review the Constitution**

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. The Chief Finance Officer shall be responsible for keeping under review the Financial Procedure Rules set out in Part 4 of the Constitution and shall make any necessary amendments and revisions as are required from time to time. He/she shall report any amendments made to Part 4 for the next available Council meeting for noting.

13.2 **Protocol for Monitoring and Review of Constitution by Monitoring Officer**

A key role for the Monitoring Officer is to make recommendations for ways in which the Constitution could be amended in order to better 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 Council with those in comparable authorities, or national examples of best practice.

13.3 **Changes to the Constitution**

(a) **Approval**

Subject to 13.3 (b), changes to the Constitution will only be approved by the full Council following discussion by the Standards Committee. Where the table of Chief Officers in Article 10 or the Management Structure section of the Constitution needs to be updated, the Monitoring Officer may make the necessary changes upon receipt of notification from the Chief Executive that he/she has made changes to these structures following Council or relevant committee approval of such changes.

(b) **Minor Changes**

If, in the reasonable opinion of the Monitoring Officer, a change is:

- (a) A minor variation; or
- (b) Required to be made to remove any inconsistency or ambiguity; or
- (c) Required to be made so as to put into effect any decision of the Council or its committees or the Cabinet,

in which case the Monitoring Officer may make such a change. Any such change made by the Monitoring Officer shall come into force with immediate effect and he/she will notify all Councillors of the minor amendments.

(c) Change to a Mayoral Form of Executive

The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and must hold a binding referendum.

(d) Legislative Change

Any part of the Constitution may be amended by the Monitoring Officer where such amendment is required to be made so as to comply with any legislative provision. Such amendments shall take effect when the Monitoring Officer so decides or the legislation (where relevant) so provides. Such changes shall be notified to all Councillors.

14. **ARTICLE 14 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION**

14.1 **Suspension of the Constitution**

(a) **Limit to Suspension**

The Articles of this Constitution may not be suspended. The Council Procedure Rules in Part 4 of this Constitution may be suspended by the full Council to the extent permitted within those Rules and the law.

(b) **Procedure to Suspend**

A motion to suspend any Rules will not be moved without notice unless at least one half of the whole number of councillors 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.

14.2 **Interpretation**

The ruling of the Chairman of the Council (or other person presiding) 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.

14.3 **Publication**

- (a) The Monitoring Officer will give a printed copy of this Constitution to each member of the Council upon delivery to him of that individual's declaration of acceptance of office on the member first being elected to the Council.
- (b) The Monitoring Officer will ensure that copies are available for inspection at Council offices, libraries and other appropriate locations and 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 Monitoring Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.