

# PART 2

## ARTICLES OF THE CONSTITUTION

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# **Article 1 - The Constitution**

## **1.1. Powers and Duties of the Council**

- 1.1.1. The powers and duties of the Council are established by legislation and clarified through statutory guidance and case law. The Council will exercise those powers and duties in accordance with the law and this Constitution.
- 1.1.1. The Council's Constitution does not contain references to all legislative provisions. Should there be any provision in this Constitution which is at variance to any legislative or legal requirement, the relevant provision shall take precedence over this Constitution.

## **1.2. The Constitution**

The Council's Constitution includes all those parts listed in the Summary and Explanation at Part 1 of this Constitution.

## **1.3. Purpose of the Constitution**

- 1.3.1. The purpose of this Constitution is to:
- a) provide a framework within which the Council can establish and achieve its priorities and provide effective and accountable local leadership;
  - b) enable decisions to be taken transparently, efficiently and effectively;
  - c) provide a robust and effective overview and scrutiny function;
  - d) ensure that a decision will not be reviewed or scrutinised by anyone who was directly involved in making the decision; and
  - e) ensure that those responsible for decision making can be clearly identified and that they can explain the reasons for their decisions.
- 1.3.2. The Council will ensure that the Articles, Procedural Rules and Protocols in this Constitution reflect and deliver the purpose set out above.

## **Article 2 – Councillors**

### **2.1. Composition**

The Council shall comprise 76 elected Councillors. Councillors shall be elected by the voters of each electoral ward in accordance with a scheme drawn up by the Local Government Boundary Commission for England. Further information on the Councillors can be found on the Council's website.

### **2.2. Term of Office**

The term of office for 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. Role of Councillors**

The key responsibilities of the Councillors are to:

- 2.3.1. Participate in the approval of the Council's key plans, policies and strategies as required by law and take decisions on such matters as must be reserved to the Full Council by law or as provided for in this Constitution.
- 2.3.2. Oversee the Council's strategic and corporate management.
- 2.3.3. Represent their communities and the views of their electorate in the decision-making process.
- 2.3.4. Support, as appropriate, individuals in their dealings with the Council and represent them in seeking to resolve particular concerns or grievances.
- 2.3.5. Balance the different interests of people within their ward with a view to representing their ward as a whole.
- 2.3.6. Participate, as appropriate, in the decision-making, and overview and scrutiny processes.
- 2.3.7. Maintain the highest standards of conduct and ethics and observe the Council's Code of Conduct for Elected Councillors.

### **2.4. Councillors' Representational Roles**

- 2.4.1. All Councillors represent their wards and the Council considers this to be an important role and responsibility under this Constitution.
- 2.4.2. Councillors have an important job in consulting their communities on the development of policies, plans and strategies and other local initiatives.
- 2.4.3. The Council will ensure in its processes that appropriate procedures are in place so that Councillors can contribute to the Council's business on behalf of their local community both in terms of policy development and decision making.

## **2.5. Councillors' Rights**

- 2.5.1. Councillors will have rights of access to any document, information, land or buildings of the Council where this is necessary for the proper discharge of their functions as a Councillor and in accordance with the law and this Constitution.
- 2.5.2. A Councillor is not permitted to make available to the public or divulge to anyone, other than a Councillor or Officer entitled to know it, any information which they have been sent or given in whatever form and which is exempt or confidential information without first obtaining consent properly given on behalf of the Council.
- 2.5.3. For these purposes “exempt” and “confidential” includes those classes of information defined in the Access to Information Procedure Rules which are set out at Part 4A of this Constitution as well as information which is confidential in the wider sense.

## **2.6. Conduct of Councillors**

All Councillors are required to observe the Councillors' Code of Conduct and to have appropriate regard to such other protocols, policies, guidance and advice as may be issued from time to time through the Council's formal processes.

## **2.7. Councillors' Scheme of Allowances**

All Councillors shall be entitled to receive such allowances as are contained within the Scheme of Allowances set out in Part 7 of this Constitution.

## **2.8. Councillor Support**

The Council will provide support to Councillors as appropriate to enable them to fulfil their roles and responsibilities. This support will include provision of appropriate IT equipment, information, induction and ongoing training relevant to the role.

## **Article 3 - Rights and Responsibilities Members of the Public**

### **3.1. Rights of the Public**

Members of the public have the following rights:

**3.1.1. Information.** In accordance with the statutory framework and this Constitution, the public have the right to:

- a) access information, subject to such constraints as may be imposed, by law and as set out in the Access to Information Procedure Rules at Part 4A of this Constitution;
- b) attend meetings of the Council and its Committees and Sub-Committees except where exempt or confidential information is likely to be disclosed, and the meeting is therefore held in private;
- c) attend public meetings of the Cabinet except where exempt or confidential information is likely to be disclosed, and the meeting is therefore held in private;
- d) access the Council's Forward Plan of Key Decisions to be taken by the Cabinet;
- e) inspect reports, background papers and any records of decisions made by: the Council; the Cabinet; a Committee; Sub-Committee; the Leader or a Portfolio Holder subject to the provisions on exempt or confidential information; and
- f) inspect the Council's accounts and to make their views known to the external auditors where appropriate.

**3.1.2. Participation.** Subject to the terms of this Constitution, the public have the right to:

- a) ask questions, make statements or present petitions at designated meetings in accordance with such procedures as the Council may determine from time to time; and
- b) contribute to work undertaken by the Overview and Scrutiny Committees where invited to do so.

**3.1.3. Reporting on meetings.** Subject to the guidelines published on the Council's website and available at meetings, the public have the right to:

- a) film, audio record or report on meetings of the Council and its Committees and Sub-Committees and the Cabinet.

**3.1.4. Providing feedback.** The public has the right to:

- a) Complain to the Council where there is an alleged breach of the Councillors' Code of Conduct. The arrangements for dealing with allegations of breach of the Code of Conduct for Councillors is set out in Schedule 1 to Part 6 of this Constitution.

### **3.2. Responsibilities of the Public**

The Public must not:

- a) be disruptive of the proceedings of meetings;
- b) use violent, abusive or threatening behaviour in any form against any Councillor, Officer or persons acting for or on behalf of the Council; or
- c) Wilfully harm or damage property, assets and other resources of the Council, Councillors, Officers or persons acting for or on behalf of the Council.



## **Article 4 - The Full Council**

### **4.1. Functions**

The Council will be responsible for the adoption of the Council's budgetary and key policy frameworks.

#### **4.1.1. Key Policy Framework**

The Key Policy Framework shall mean the Corporate Plan and any policy or strategy required by law or by the Council to be approved by Full Council including the following:

- a) Children and Young People's Plan;
- b) Crime and Disorder Reduction Strategy;
- c) Development Plan Documents;
- d) Licensing Authority Policy Statements;
- e) Local Transport Plan;
- f) Youth Justice Plan;
- g) Housing Strategy;
- h) Corporate Plan; and
- i) Annual Senior Officer Pay Policy Statement.

#### **4.1.2. Budgetary Framework**

The Budgetary Framework shall mean:

- a) The Revenue Budget;
- b) The Capital Programme;
- c) Capital Strategy;
- d) Medium Term Financial Plan; and
- e) To the extent it is not covered by a) to d) above:
  - (i) any plan or strategy for the control of the Council's borrowing, investments or capital expenditure or for determining the Council's minimum revenue provision; and
  - (ii) any other financial requirements that legislation expressly requires to be determined by Full Council.

4.1.3. The Council's functions are set out fully in Part 3 of this Constitution.

### **4.2. Council Meetings**

4.2.1. There are four types of Council meeting:

- a) the Annual Meeting;
- b) Ordinary Meetings;

- c) A Budget Meeting; and
- d) Extraordinary Meetings,

and they will be conducted in accordance with the Procedural Rules at Part 4D of this Constitution.

4.2.2. Full Council will normally have six Ordinary Meetings a year plus the Annual Meeting and a Budget Meeting unless it determines otherwise.

### **4.3. Order of Business**

4.3.1. Save for any statutory items of business, the order of business at Ordinary Meetings will be as follows:-

1. Apologies
2. Declarations of Interest
3. Confirmation of Minutes
4. Announcements and Introductions from the Chairman
5. Public Issues (Questions, Statements and Petitions)
6. Recommendations from Cabinet and Other Committees
7. Other Direct Reports to Council for Determination (e.g., Scheme of Members' Allowances, Outcome of Ombudsman Complaints, etc.)
8. Notices of Motion under Procedure Rule 9
9. Questions from Councillors
10. Urgent Decisions taken by the Chief Executive

4.3.2. The Order of Business at Budget Council shall be:-

1. Apologies
2. Declarations of Interest
3. Confirmation of Minutes
4. Announcements and Introductions from the Chairman
5. Public Issues (Questions, Statements and Petitions) – these must address the business on the agenda in so far as it may relate to the setting of the budget for the coming financial year:-
  - i. Revenue budget (including fees and charges and Housing Revenue Account estimates)
  - ii. Capital programme
6. To agree the Revenue budget (including fees and charges and Housing Revenue Account estimates) and the Capital Programme
7. To agree Council Tax resolution for the coming year based on the above agreed budget

8. To consider and determine the Cabinet's recommendations in relation to Treasury Management Statement and Prudential Indicators, as necessary
9. To consider any other business set out in the notice convening the meeting
10. To consider any business, brought before the Council by the Chairman on the grounds of urgency in accordance with s100B(4) Local Government Act 1972

#### **4.4. Conduct of Council Meetings**

Council meetings will be conducted in accordance with the law and the Procedure Rules as set out at Part 4D of this Constitution.

## **Article 5 - The Role of the Chair of the Council**

### **5.1. Chair**

The Chair will be elected by the Council at its annual meeting. The Vice-Chair will be elected at the same meeting. The Chair and Vice-Chair shall not be members of the Cabinet.

### **5.2. Vice-Chair**

5.2.1. The Vice-Chair will:

- a) support the Chair in their civic role;
- b) carry out civic duties as appropriate on behalf of the Chair;
- c) deputise in the absence of the Chair in carrying out the responsibilities of the Chair.

### **5.3. Civic Role**

5.3.1. The Chair, supported by the Vice-Chair, and other Councillors (as appropriate), will perform civic duties on behalf of the Council, which shall include:

- a) raising and maintaining the profile of the Council's area, the Council and its communities;
- b) promoting the aims and values of the Council in an apolitical manner;
- c) promoting such civic and ceremonial functions as the Council, or the Chair, may determine following consultations, where appropriate; and
- d) representing the Council at civic and ceremonial functions of other local authorities or involving other appropriate bodies.

### **5.4. Council Role**

5.4.1. The Chair shall have the following responsibilities:

- a) upholding and promoting the purposes of this Constitution and interpreting it, taking into account appropriate advice when necessary;
- b) presiding over meetings of the Full Council to ensure that business is carried out transparently, efficiently and effectively whilst preserving the rights of Councillors and the interests of members of the public;
- c) ensuring that at Council meetings matters of concern to local communities can be debated through the appropriate mechanisms;
- d) ensuring that Councillors who are not on the Cabinet or who do not hold the Chair of a main Committee are able to hold those office holders to account;
- e) promoting public involvement in the Council's affairs and acting as a contact between members of the public and organisations and the Council;

- f) undertaking such other roles as may be placed upon the Chair from time to time by the Council.

## Article 6 – Overview and Scrutiny

### 6.1. Overview and Scrutiny

6.1.1. As outlined in the Summary and Explanation at Part 1 of this Constitution, the Council has established arrangements for the Overview and Scrutiny function in line with six principles, those being that the Overview and Scrutiny Board and Committees shall:

- a) contribute to sound decision making in a timely way by holding decision makers to account as a ‘critical friend’;
- b) be a Councillor led and owned function that seeks to continuously improve through self-reflection and development;
- c) enable the voice and concerns of the public to be heard and reflected in the Council’s decision-making process;
- d) engages in decision making and policy development at an appropriate time to be able to have influence;
- e) contribute to and reflect the vision and priorities of the Council; and
- f) be agile and be able to respond to changing and emerging priorities at the right time with flexible working methods.

### 6.2. Responsibilities of the Overview and Scrutiny Board and Committees

The Overview and Scrutiny Board and Committees have the functions set out at Part 3 of this Constitution.

### 6.3. Current Overview and Scrutiny Bodies

6.3.1. There shall be four Overview and Scrutiny bodies:

- a) **Overview and Scrutiny Board** which shall comprise of 13 Councillors meeting twelve times each year. Meetings shall take account of the calendar of meetings for the Cabinet, to enable the Board to make recommendations to the Cabinet;
- b) **Health and Adult Social Care Overview and Scrutiny Committee** which shall comprise of 11 Councillors meeting five times each year;
- c) **Children’s Services Overview and Scrutiny Committee** which shall comprise of 11 Councillors meeting five times each year; and
- d) **Environment and Place Overview and Scrutiny Committee** which shall comprise of 11 Councillors meeting five times each year.

### 6.4. Membership

6.4.1. No member of the Cabinet may be a member of the Overview and Scrutiny Board or Committees or any group established by the Board or Committees.

- 6.4.2. Lead Members of the Cabinet may not be a member of Overview and Scrutiny Board or Committees.
- 6.4.3. The Chair and Vice-Chair of the Audit and Governance Committee may not be a member of any Overview and Scrutiny Board or Committee. This will maintain independence between the two functions of audit and scrutiny, in line with good practice.
- 6.4.4. Where the Chairs of the other Overview and Scrutiny Committees are not members of the Overview and Scrutiny Board they will be invited to attend meetings of the Board in order to report on activity within their Committees.

## **6.5. Substitutes**

If a member is unable to attend a meeting their Group may arrange for a substitute to attend in their place in accordance with Part 4 of this Constitution.

## **6.6. Members of the Public**

- 6.6.1. Members of the public can be invited to attend and contribute to meetings as required to provide insight to a matter under discussion. This may include but is not limited to subject experts with relevant specialist knowledge or expertise, representatives of stakeholder groups or service users. Members of the public will not have voting rights.

## **6.7. Children's Services Overview and Scrutiny Committee**

- 6.7.1. As the functions and duties of the Children's Services Overview and Scrutiny Committee include making decisions in relation to the Council's education responsibilities, the Committee must include two church and two parent governor representatives as voting members in addition to the Councillors. Parent governor membership shall extend to a maximum period of four years and no less than two years. These co-opted education representatives are entitled to vote on any item relating to education.
- 6.7.2. The Children's Services Overview and Scrutiny Committee may also co-opt one representative from the Academy Trusts within the local authority area, to attend meetings and vote on matters relating to education.
- 6.7.3. The Children's Services Overview and Scrutiny Committee may also co-opt on to the Committee two representatives of The Youth Parliament and, although they will not be entitled to vote, will ensure that their significant contribution to the work of the Committee is recognised and valued.

## **6.8. Environment and Place Overview and Scrutiny Committee**

- 6.8.1. The Environment and Place Overview and Scrutiny Committee may co-opt on to the Committee two independent non-voting members. The selection and recruitment process shall be determined by the Environment and Place Overview and Scrutiny Committee.

## 6.9. Conduct of Overview and Scrutiny Board and Committee meetings

Conduct of the proceedings at Overview and Scrutiny Board and Committee meetings shall be in accordance with the Procedure Rules as set out in Part 4C of this Constitution.

## 6.10. Commissioned Work

6.10.1. In addition to committee meetings, the Overview and Scrutiny Board and Committees may commission work to be undertaken in the following ways as it considers necessary after taking into account the availability of resources, the work programme and the matter under review. The Board and each Committee is limited to one commission at a time to ensure availability of resources.

- a) **Working Groups** – a small group of Councillors and Officers gathered to consider a specific issue and report back to a full meeting of the Board or Committee, or make recommendations to Cabinet or Council within a limited timescale. Working Groups usually meet once or twice, and are often non-public;
- b) **Sub-Committees** – a group of Councillors delegated a specific aspect of the main Board or Committee's work for ongoing, in-depth monitoring. May be time limited or be required as a long-standing sub-committee. Sub-Committees are often well suited to considering performance based matters that require scrutiny oversight. Sub-Committees usually meet in public;
- c) **Task and finish groups** – a small group of Councillors tasked with investigating a particular issue and making recommendations on this issue, with the aim of influencing wider Council policy. The area of investigation will be carefully scoped and will culminate in a final report, usually with recommendations to Cabinet or Council. Task and finish groups may work over the course of a number of months and take account of a wide variety of evidence, which can be resource intensive. For this reason, the number of these groups must be carefully prioritised by scrutiny members to ensure the work can progress at an appropriate pace for the final outcome to have influence;
- d) **Inquiry Days** – with a similar purpose to task and finish groups, inquiry days seek to understand and make recommendations on an issue by talking to a wide range of stakeholders and considering evidence relating to that issue, within one or two days. Inquiry days have similarities to the work of Government Select Committees. Inquiry days are highly resource intensive but can lead to swift, meaningful outcomes and recommendations that can make a difference to Council policy; and
- e) **Rapporteurs or scrutiny member champions** - individual Councillors or pairs of Councillors tasked with investigating or maintaining oversight of a particular issue and reporting back to the main Board or committee on its findings. A main Board or committee



can use these reports to facilitate its work prioritisation. Rapporteurs will undertake informal work to understand an issue – such as discussions with Officers and Portfolio Holders, research and data analysis. Rapporteur work enables scrutiny members to collectively stay informed of a wide range of Council activity. In this way the workload is spread between Councillors. This approach to the provision of information to scrutiny members also avoids valuable committee time being taken up with briefings in favour of more outcome-based scrutiny taking place at committee.

## **Article 7 - The Leader of the Council and the Cabinet**

This Article explains the role and appointment of the Leader of the Council and the role and appointment of the Cabinet. The Leader of the Council and the Cabinet members are often together referred to as 'Executive Members'.

### **7.1. The Leader**

#### **7.1.1. Appointment of Leader**

The Council will elect a Councillor to be the Leader of the Council at the annual meeting following a full election of Councillors, unless for any reason the Leader's time in office comes to an end within four years from the date they were appointed, in which case a replacement will be elected at an Extraordinary Council Meeting.

#### **7.1.2. Roles and Functions**

The Leader of the Council will:

- a) be a member of the Cabinet;
- b) appoint up to 9 other Councillors to form the Cabinet. The Leader has the right to remove any member from the Cabinet;
- c) appoint a Deputy Leader from among the Cabinet members and make any other executive appointments required by law;
- d) allocate Portfolio responsibilities and functions to each of the Councillors appointed to the Cabinet, defining the scope, deputising arrangements and scheme of delegation in respect of each Portfolio. One of the Portfolio Holders must be designated with responsibility for Children's Services;
- e) notify the Chief Executive and Monitoring Officer of the allocation of Cabinet members' responsibilities for functions such information to be set out in The Cabinet Portfolio Scheme;
- f) chair meetings of the Cabinet;
- g) lead in the preparation, co-ordination and presentation of the Cabinet's policies and activities and liaise with the Chief Executive on the carrying out of the Council's policies; and
- h) retain the power to make all executive decisions on behalf of the Council pursuant to the relevant legislation.

#### **7.1.3. Ending the Leader's term in Office**

The Leader of the Council will hold office as the Leader of the Council from the day of their appointment until one of the following:

- a) the date of the Council's Annual Meeting following a full election of Councillors;
- b) they resign from office;
- c) they are suspended or disqualified from being a Councillor;
- d) they are removed from office by resolution of the Full Council; or

- e) for any other reason they cease to be a Councillor.

#### **7.1.4. Ending the Deputy Leader's and Cabinet Members' term in Office**

The Deputy Leader and each Cabinet member will remain as members of the Cabinet until one of the following:

- a) the date of the Council's Annual Meeting following a full election of Councillors;
- b) they are removed from office by the Leader;
- c) they resign from office;
- d) they are suspended from being a Councillor; or
- e) for any other reason they cease to be a Councillor.

#### **7.1.5. Votes of No Confidence**

The Leader shall cease to be the Leader if a resolution is passed by a majority of members present and voting to remove the leader at a meeting of the Full Council in accordance with the Procedural Rules contained within Part 4D of this Constitution. Subject to the following:

- a) should a Leader not be able to act or the office is vacant, the Deputy Leader is to act in the Leader's role;
- b) if the Deputy Leader is unable to act or the office is vacant then the Cabinet must act in the Leader's place or must arrange for a member of the Cabinet to take the Leader's role, until a decision is made by the Council to appoint a new Leader; and
- c) in the event of there being no Leader, Deputy or Cabinet members, executive functions shall in the interim be carried out by the Chief Executive.

## **7.2. The Cabinet**

The Cabinet is a group of Councillors who work with Council Officers to run the Council and take most decisions except decisions about major policy issues or setting the annual budget, which only the Full Council can do - or decisions on whether to give planning permissions or licences or any other matters which are reserved to Full Council or other Committees.

#### **7.2.1. Membership**

The Cabinet consists of the Leader of the Council and up to 9 other Councillors appointed by the Leader, not being the Chair or Vice-Chair of the Council.

#### **7.2.2. Roles of Cabinet**

The Cabinet will carry out all functions of the Council which are not by law or, under the Functions Scheme, the responsibility of another part of the Council.

#### **7.2.3. Functions of individual Members of the Cabinet**

The functions of the individual members of the Cabinet are set out in the Cabinet Portfolio Scheme which is contained within Part 3 of this Constitution.

#### **7.2.4. Meetings of the Cabinet**

Meetings of the Cabinet must follow the Procedure Rules contained within Part 4D of this Constitution.

## **Article 8 - Other Committees / Informal Consultative Groups**

### **8.1. Other Committees**

8.1.1. The Council will appoint the following other Committees to take such decisions which are not reserved to Full Council; the responsibility of the Leader / Cabinet or within the remit of Overview and Scrutiny:

- a) **Western BCP Planning Committee** – consisting of 11 Councillors;
- b) **Eastern BCP Planning Committee** – consisting of 11 Councillors;
- c) **Licensing Committee** – consisting of 14 Councillors;
- d) **Standards Committee** – consisting of 7 Councillors;
- e) **Appeals Committee** – consisting of 7 Councillors;
- f) **Audit and Governance Committee** – consisting of 9 Councillors; and
- g) **Investigation and Disciplinary Committee** – consisting of 7 Councillors (including the Leader of the Council and another member of the Cabinet).

8.1.2. The Council may appoint other Committees, Sub-Committees and Special Committees with delegated powers to act under specific terms of reference which must be set out in the minutes of the meetings.

8.1.3. The Council will establish a Health and Wellbeing Board in accordance with the legislative requirements and statutory guidance, and the terms of reference for this Board are published on the website.

### **8.2. Powers of Committees**

8.2.1. The Committees shall have the functions set out within Part 3 of this Constitution.

8.2.2. A Committee may, at any time, decline to exercise a delegated power. The matter must then be considered and determined by the Full Council as appropriate.

### **8.3. Informal Consultative Groups**

The Council may establish informal advisory groups which shall not have any power to make decisions. The groups may be consulted on matters within the terms of reference approved by Council and as set out within Part 3 of this Constitution.

## **8.4. Training Requirements**

No councillor shall sit as a member or, where applicable, as a substitute member of the following bodies unless they have received appropriate training provided for this purpose.

- a) Western BCP Planning Committee;
- b) Eastern BCP Planning Committee;
- c) Licensing Committee;
- d) Appeals Committee;
- e) Transportation Advisory Group.

## **8.5. Conduct of Committee Meetings**

Committee meetings will be conducted in accordance with the law and the Procedure Rules set out within Part 4D of this Constitution.

## **Article 9 – Joint Arrangements**

### **9.1. Joint Arrangements**

- 9.1.1. The Council may enter into joint arrangements with one or more other councils to exercise functions which are not executive functions. The arrangements may involve the appointment of a joint committee with these other councils and appointments to it should reflect the political composition of the Council as a whole.
- 9.1.2. The Leader may enter into joint arrangements with one or more other councils to exercise functions which are Executive Functions or to advise the Leader. Such arrangements may involve the appointment of a joint committee with these other councils. Such a joint committee will be a Committee exercising Executive Functions and appointments to it will be made by the Leader and will be members of the Cabinet. Those members need not reflect the political composition of the Council.
- 9.1.3. Details of any joint arrangements including any delegations to joint committees is set out in the Council's Scheme of Delegations within Part 3 of this Constitution.

### **9.2. Access to Information**

The Access to Information Rules within Part 4A of this Constitution apply to joint arrangements.

### **9.3. Joint Arrangements**

The Council currently has a number of joint arrangements in place, including the following:

- a) Stour Valley and Poole Partnership;
- b) Dorset Public Health Board; and
- c) Aspire Adoption Joint Board.

## **Article 10 - Arrangements for Promoting Good Standards of Behaviour by Councillors**

### **10.1. Adoption of a Code of Conduct for Councillors**

The Council has adopted the Code of Conduct for Councillors set out within Part 6 of this Constitution.

### **10.2. Application of the Code of Conduct**

The Code of Conduct will apply to all Councillors when they are acting as a Councillor or hold themselves out as doing so.

### **10.3. Standards Committee**

The Standards Committee is responsible for monitoring and overseeing the effectiveness of the arrangements for dealing with complaints and the Code of Conduct. It is also in general terms responsible for oversight of the ethical conduct of Councillors and for working with other Committees such as Audit and Governance Committee to ensure the ethical governance framework of the Council is effective and fit for purpose.

### **10.4. Arrangements for dealing with complaints against Councillors**

The Council's adopted arrangements for dealing with complaints against Councillors are set out within Part 6 of this Constitution.



## **Article 11 - Officers**

### **11.1. Management Structure**

#### **11.1.1. General**

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

#### **11.1.2. Chief Officers**

The Council will engage persons for the following posts, who will be designated Chief Officers:

- a) Chief Executive and Head of Paid Service; and
- b) Directors who report directly to the Chief Executive within the line management structure.

#### **11.1.3. Selection and recruitment of Chief Officers**

The process of selection and recruitment of the above Chief Officers shall be undertaken in accordance with provisions set out in the Employment and Procedure Rules at Part 4E of this Constitution.

#### **11.1.4. Other designated Officers**

The Council is required by law to designate an Officer to each of the following statutory roles, further details of which can be found in the Financial Regulations at Part 5 of this Constitution:

- a) Head of Paid Service;
- b) Section 151 Officer; and
- c) Monitoring Officer.

#### **11.1.5. 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. That document shall form part of the Constitution.

### **11.2. Roles and Functions of the Head of Paid Service**

#### **11.2.1. Discharge of functions by the Council.**

The Head of Paid Service will, where they consider it appropriate, 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, the organisation of Officers and to such extent as relevant, the appointment and proper management of Officers.

#### **11.2.2. Restrictions on functions.**

The Head of Paid Service may not be the Monitoring Officer but may hold the post of Section 151 Officer if they are a qualified accountant.

### 11.3. 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 made available to Councillors, Officers and the public;
- b) **ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report to the Full Council, or Cabinet in relation to an executive function, if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration;
- c) **standards.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct;
- d) **proper Officer for access to information.** The Monitoring Officer will ensure that Councillor decisions (including decisions by Committee and individual Cabinet member decisions), together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as required by legislation;
- e) **contributing to corporate management.** The Monitoring Officer will contribute to the corporate management of the Council, in particular through the provision of professional legal advice;
- f) **providing advice.** The Monitoring Officer will provide advice to the Council on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues and will support and advise Councillors and Officers in their respective roles; and
- g) **restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

### 11.4. Functions of the Chief Finance Officer (Section 151 Officer)

- a) **ensuring lawfulness and financial prudence of decision making.** After consulting with the Monitoring Officer, the Section 151 Officer will report to the Full Council, to Cabinet in relation to executive functions and to the Council's external auditor if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully;
- b) **administration of financial affairs.** The Section 151 Officer will have responsibility for the administration of the financial affairs of the Council.
- c) **contributing to corporate management.** The Section 151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice;

- d) **providing advice.** The Section 151 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; and
- e) **give financial information.** The Section 151 Officer will provide financial information to the media, the public and the community.

### **11.5. Duty to provide sufficient resources to the Monitoring Officer and Section 151 Officer**

The Council will provide the Monitoring Officer and Section 151 Officer with such Officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

### **11.6. Conduct**

Officers will comply with the Protocol for Councillor/Officer Relations and the relevant Employee Code of Conduct.

### **11.7. Employment**

The recruitment, selection and dismissal of posts below Chief Officer level will be made in accordance with arrangements prescribed by the Head of Paid Service to the extent not covered by the Employment Procedure Rules at Part 4E of this Constitution.

## **Article 12 - Decision Making**

### **12.1. Principles of Decision Making**

When the Council makes a decision it will:

- a) be clear about what the Council wants to happen and how it will be achieved;
- b) ensure that the decision and the decision-making process are lawful;
- c) consider the Public Sector Equality Duty and its obligations under the Human Rights Act;
- d) consult properly and take professional advice from Officers;
- e) have due regard to appropriate national, strategic, local policy and guidance;
- f) ensure the action is proportionate to what the Council wants to happen;
- g) ensure the decisions are not unreasonably delayed;
- h) explain what options were considered and give the reasons for the decision;
- i) make the decision public unless there are good reasons for it not to be; and
- j) take into account the Council's statutory duties and responsibilities relating to counter-terrorism, prevention of violent extremism and the Prevent channel.

### **12.2. Responsibility for Decision Making**

The Council will prepare and keep up to date a Functions Scheme. The Functions Scheme will show what types of decisions can be made and who or which part of the Council can make them.

### **12.3. Types of Decision**

#### **12.3.1. Decisions Reserved to the Full Council**

Decisions reserved to Full Council in the Functions Scheme will be made by Full Council only. Other non-executive decisions are delegated to Council Committees, Sub-Committees and to Officers as set out in the Functions Scheme.

#### **12.3.2. Key Decisions**

A Key Decision, which must be included in the Cabinet Forward Plan, is a Leader or Cabinet decision which is likely to meet one or more of the following criteria:

- a) it will result in the Council on its own or in partnership with other organisations spending or saving £500,000 or more, with the exception of operational expenditure or savings identified within the agreed Service Plan and Budget; and/or

- b) it is likely to have a significant impact or effect on two or more electoral wards.

12.3.3. A Key Decision must be made in accordance with the Procedure Rules set out at Part 4B of this Constitution.

**12.3.4. Individual Cabinet Member Decisions**

Individual Cabinet member Decisions will be made in accordance with the Procedures set out in this Constitution and the Functions Scheme – Delegation to Cabinet members, the Leader's Scheme of Delegation and the Financial Regulations.

**12.3.5. Major Operational Decisions taken by Officers**

A Major Operational Decision is an Officer decision which is not a Key Decision and which is likely to meet one of the following criteria:

- a) it will result in the Council incurring expenditure, including the loss of income – in excess of £100,000, with the exception of operational expenditure identified within the agreed Service Plan and Service Budget;
- b) it is a decision which has been specifically delegated to Officers – for example to conclude an agreement or contract within the outline terms agreed by the Cabinet; and/or
- c) it is a decision which is controversial and/or politically sensitive in nature or is, in the opinion of the Director, of such significance that a published record of the decision would ensure transparency and accountability in relation to decision making within the Council.

**12.3.6. Day to day Operational Decisions taken by Officers**

A day-to-day operational decision is an Officer decision which is not a Key or Major Operational Decision and meets all of the following criteria:

- a) it is within an agreed Service Plan and Service Budget;
- b) it is not in conflict with the Budget and Policy Framework or other approved policies of the Council; and
- c) it does not raise new issues of policy.

## **Article 13 - Legal Matters**

### **13.1. Financial Management**

The management of the Council's financial affairs will comply with the Financial Regulations contained within Part 5 of this Constitution.

### **13.2. Contracts**

Every contract made by the Council will comply with the Financial Regulations.

### **13.3. Legal Proceedings**

- 13.3.1. The Monitoring Officer can start, defend, settle or take part in any legal proceedings where such action is necessary to act on decisions of the Council and where they consider that such action is necessary to protect the Council's interests and comply with its statutory duties.
- 13.3.2. The Monitoring Officer can designate nominated Officers to carry out this function on their behalf. Details of the powers that the Monitoring Officer has delegated are contained in the Scheme of Delegation to Officers.

### **13.4. Authentication of Documents**

- 13.4.1. Any document necessary for any legal procedure or proceedings will be signed by the Monitoring Officer or by some other person authorised by them, unless any law otherwise authorises or requires another person's signature or the Council has given authority to some other person to sign on its behalf.
- 13.4.2. Any contract with a value over £30,000 entered into on behalf of the Council shall be made in writing.
- 13.4.3. Such contracts must either be signed by the Monitoring Officer or by some other person authorised by them, or one of the persons referred to in Article 13.5 below or made under the Common Seal of the Council certified by at least one of the persons referred to in Article 13.5.3 below.

### **13.5. Common Seal of the Council**

- 13.5.1. The Common Seal of the Council will be kept in a secure place in the custody of the Monitoring Officer.
- 13.5.2. A decision of the Council, or of any part of it to which authority has been delegated, will be authority for sealing any document necessary to give effect to the decision.
- 13.5.3. The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed or otherwise completed as required by the Procedure Rules. The affixing of the Common Seal may be certified by either the Chief Executive, the Monitoring Officer, the Deputy Monitoring Officer, a Director, the Chair, or the Vice-Chair.

## **Article 14 - Review, Revision, Suspension, Interpretation and Publication of the Constitution**

### **14.1. Duty to monitor and review the Constitution**

- 14.1.1. The Monitoring Officer will monitor and review the operation of the Constitution.
- 14.1.2. To the extent that it is not covered by a delegation to an Officer or other committee or as otherwise provided for in this Article (or unless Full Council otherwise expressly resolves), any proposed change to the Constitution before it is considered by Full Council shall have had an opportunity to be considered by the Audit and Governance Committee and/or a Sub-Committee/Working Group appointed by it provided that nothing in this provision shall prevent the Monitoring Officer taking a proposed change of the Constitution to Full Council even if they have delegated power to determine such a matter.
- 14.1.3. Save to the extent as provided for in this Article changes to the Constitution shall be determined by Full Council to the extent as provided for in Article 4 of this Constitution.

### **14.2. Changes to the Constitution by the Monitoring Officer without referral**

The Monitoring Officer shall have power without referral elsewhere to make amendments to the Constitution where they consider this is necessary and/or expedient to reflect legislative change, secure consistency, address any legal ambiguity, and/or address any uncertainty in interpretation. The Monitoring Officer shall notify all Councillors of any such changes.

### **14.3. Suspension of the Constitution**

- 14.3.1. The Articles of this Constitution may not be suspended. However, the Procedure Rules set out in this Constitution may be suspended by the Full Council, Cabinet or relevant Committee to the extent permitted within those Rules and the law.
- 14.3.2. A motion to suspend any rules cannot 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 into account the purposes of the Constitution set out in Article 1 of this Constitution.

### **14.4. Interpretation**

The ruling of the Chair of the Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution and shall be made taking the advice of the Monitoring Officer or such other Officer as designated.

## **14.5. Publication**

The Monitoring Officer will:

- a) give each Councillor access to an electronic copy of this Constitution;
- b) ensure that a copy of this Constitution is made available on the Council's website;
- c) ensure that copies are available for inspection at the Council's main office, and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee; and
- d) provide to any Councillor, upon request, a copy of the Constitution.



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