



Part 2

Articles of the Constitution

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Contents

Article 1 – The Constitution	3
Article 2 – Members of the Council	4
Article 3 – Citizens and the Council	6
Article 4 – The Full Council	7
Article 5 – Chairing the Council	10
Article 6 – Overview, Scrutiny and Audit Committee	11
Article 6 – Policy and Regulatory Committees	11
Article 7 – The Standards Committee	12
Article 8 – Task Groups, Local Strategic Partnership and Forums	14
Article 9 – Joint Arrangements	17
Article 10 – Officers	18
Article 11 – Decision Making	21
Article 12 – Finance, Contracts and Legal Matters	22
Article 13 – Review and Revision of the Constitution	23
Article 14 – Suspension, Interpretation and Publication of the Constitution	24

Article 1 – The Constitution

Powers of the Council

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

The Constitution

- 1.2 This Constitution, and all its parts, is the Constitution of Melton Borough Council.

Purpose of the Constitution

- 1.3 The purpose of the Constitution is to:
- enable the Council to provide clear leadership to the community in partnership with citizens, business and other organisations;
 - support the active involvement of citizens in the process of local authority decision-making;
 - help Councillors represent their constituents more effectively;
 - enable decisions to be taken efficiently and effectively within the principles of open and accountable local government;
 - create a powerful and effective means of holding decision-makers to public account;
 - ensure that no one will review or scrutinise a decision in which they were directly involved;
 - ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions;
 - provide a means of improving the delivery of services to the community and ensuring the delivery of efficient, effective and high quality services; and
 - stimulate a strategically led organisation with appropriate delegation of power, effective performance management and the effective use of resources.

Interpretation and Review of the Constitution

- 1.4 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 13.

Article 2 – Members of the Council

Composition and Eligibility

2. (a) **Composition.** The Council will comprise 28 Members, otherwise called Councillors. 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**
 - (i) A person intending to stand for election must be 18 years of age;
 - (ii) In simple terms registered voters of the Borough or those living or working here are eligible to hold the office of Councillor.

2.1 Election and Terms of Councillors

The regular election of councillors will be held on the first Thursday in May every four years beginning in 2003. 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.

Roles and Functions of all Councillors

- 2.2 (a) **Key Roles.** All Councillors will:
 - (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
 - (ii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
 - (iii) effectively represent the interests of their ward and of individual constituents;
 - (iv) respond to constituents' enquiries and representations, fairly and impartially;
 - (v) participate in the governance and management of the Council; and
 - (vi) maintain the highest standards of conduct and ethics.
- (b) **Rights and duties**
 - (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
 - (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
 - (iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

(c) The Leader

The Council will appoint a Leader who will provide clear leadership to the community. He or she will be able to attend, speak and vote at any meetings of the Council's policy committees. He or she may present a regular "Leader's" Report to the Council on which questions or comments from other Councillors or members of the public will be taken, in accordance with Part 4 of the Constitution. The Leader will hold office until:

- (a) he or she resigns from the office; or
- (b) he or she is suspended from being a district councillor under Part (III) of the Local Government Act 2000 (although he or she may resume office at the end of the period of suspension, subject to the provisions of this Constitution); or
- (c) he or she is no longer a district councillor; or
- (d) he or she is removed from office by resolution of the Borough Council; or
- (e) the annual meeting of the Borough Council next following his or her appointment.

(d) The Deputy Leader

Melton Borough Council may, if it considers it appropriate to do so, appoint a Deputy Leader. The Deputy Leader, where such an appointment is made, will hold office on the terms listed at paragraph 2.2(c) above in respect of the Leader when the Leader is absent.

Conduct

- 2.3 Councillors will at all times observe the Members' Codes of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

Allowances

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

Article 3 – Citizens and the Council

Citizens' Rights

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

- (a) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution. They may also submit petitions in respect of specific issues.
- (b) **Information.** Citizens have the right to:
 - (i) attend meetings of the Full Council and its committees except those parts where confidential or exempt information is likely to be disclosed;
 - (ii) see reports and background papers except where confidential exempt information is disclosed, and any records of decisions made by the Council and its committees, and
 - (iii) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation.** Citizens have the right to participate in the Council's public question time, ask questions in relation to the Leader's report and local Councillors' reports and contribute to investigations by the ~~Overview, Scrutiny and Audit~~ Councils Policy Committees.
- (d) **Complaints.** Citizens have the right to complain to:
 - (i) the Council itself under its complaints scheme;
 - (ii) the Ombudsman after using the Council's own complaints scheme;
 - (iii) the Standards Committee/Ethical Governance Panel via the Council's Monitoring Officer about a breach of the Councillors' Code of Conduct.

Citizens' Responsibilities

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

Article 4 – The Full Council

Meanings

- 4.1 (a) **Policy Framework.** The policy framework means the following plans and strategies:
- Sustainable Community Strategy;
 - Local Area Agreement
 - Multi Area Agreement
 - Crime and Disorder Reduction Strategy;
 - Plans and strategies which together comprise the Development Plan;
 - Council's Corporate Strategy and Plan;
 - Food Law Enforcement Service Plan;
 - Housing Strategy and HRA Business Plan;
 - Local Agenda 21 Strategy;
 - Economic Development Strategy;
 - Capital Strategy;
 - Asset Management Plan
 - Health Improvement Plan;
 - Information Technology/Information Systems Strategy
 - Cultural Strategy;
 - Local Transport Plan.
 - Statement of Licensing Policy
- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.
- (c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

Functions of the Full Council

- 4.2 Only **the Council** will exercise the following functions:
- (a) adopting and changing the Constitution;
 - (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;

- (c) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (d) appointing representatives to outside bodies unless the appointment has been delegated by the Council;
- (e) adopting an allowances scheme under Article 2.4;
- (f) changing the name of the area, conferring the title of honorary alderman or freedom of the Borough;
- (g) confirming the appointment of the Head of Paid Service;
- (h) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills; and
- (i) all other matters which by law must be reserved to Council.

Council Meetings

4.3 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's Rules of Procedure in Part 4 of this Constitution.

New Corporate Policy Framework



Article 5 – Chairing the Council

Role and Function of the Mayor

- 5.1 The Mayor will be elected by the Council annually. The Mayor and in his/her absence, the Deputy Mayor, will have the following roles and functions:
 - 5.1.1 to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
 - 5.1.2 to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
 - 5.1.3 to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who do not sit on policy committees or hold committee chairs are able to hold the members of the policy committees and committee chairmen to account;
 - 5.1.4 to promote public involvement in the Council's activities;
 - 5.1.5 to be the conscience of the Council;
 - 5.1.6 to attend such civic and ceremonial functions as the Council and he/she determines appropriate; and
 - 5.1.7 to represent the Borough with dignity and without party political partisanship.
- 5.2 While holding the position of Mayor or Deputy Mayor, a Councillor will not also hold the position of leader of a political group, party whip or chairman or vice chairman of a committee.

~~Article 6 – Overview, Scrutiny and Audit Committee~~

~~Terms of Reference~~

~~The Council will appoint one Overview, Scrutiny and Audit committee, which will perform all Overview, Scrutiny and Audit functions on behalf of the Council. Its detailed terms of reference and rules of procedure are set out in Part 4 of this Constitution.~~

~~General Role~~

~~Within its terms of reference, the Overview, Scrutiny and Audit Committee may:~~

~~review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;~~

~~make reports and/or recommendations to the Full Council and/or any policy, joint or area committee in connection with the discharge of any functions;~~

~~consider any matter affecting the area or its inhabitants; and~~

~~exercise the right to call in, for reconsideration, decisions taken but not yet implemented by any policy committee~~

~~Specific Functions~~

~~6.3 (a) **Policy development and review.** The Overview, Scrutiny and Audit Committee may:~~

~~assist the Council in the development of its budget and policy framework as detailed in the Council's Budget and Policy Framework Rules;~~

~~conduct research, community and other consultation in the analysis of policy issues and possible options;~~

~~consider and implement mechanisms to encourage and enhance community participation in the development of policy options;~~

~~question members of committees and chief officers about their views on issues and proposals affecting the area; and~~

~~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.~~

~~**Scrutiny.** The Overview, Scrutiny and Audit Committee may:~~

~~review and scrutinise the decisions made by and performance of committees and Council officers both in relation to individual decisions and over time;~~

~~review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;~~

~~question members of committees and senior officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;~~

~~make recommendations to the appropriate committee and/or Council arising from the outcome of the scrutiny process;~~

~~review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview, Scrutiny and Audit Committee and local people about their activities and performance; and~~

~~question and gather evidence from any person (with their consent).~~

~~**Finance.**— The Overview, Scrutiny and Audit Committee may exercise overall responsibility for the finances made available to them.~~

~~**Annual report.**— The Overview, Scrutiny and Audit Committee must consider a report annually on its workings during the preceding year and may make recommendations for future work programmes and amended working methods if appropriate.~~

~~**Officers.**— Adequate officer support will be provided to the Overview, Scrutiny and Audit Committee to ensure that it may exercise its responsibilities under the Constitution satisfactorily.~~

~~**Proceedings of Overview, Scrutiny and Audit Committees**~~

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

Article 6 – Policy and Regulatory Committees

Policy and other Committees

- 6.1 The Council will appoint the committees set out in Part 3 of this Constitution to discharge the functions specified.

Article 7 – The Standards Committee

Standards Committee

7.1 The Council meeting will establish a standards committee.

Composition

- 7.2 (a) **Membership.** The Standards Committee will be composed of
- four Councillors;
 - four persons who are not councillors or officers of the Council or any other body having a standards committee (Independent Members) the Term of Office of the Independent Members will be until the legislation requires the function to end;
 - three members of a parish council wholly or mainly in the Council's area (a parish member);
- (b) **Independent Members.** Independent Members will be entitled to vote at meetings;
- (c) **Parish Members.** Parish Members must be present when matters relating to those parish councils or their members are being considered. Parish Members will be entitled to vote at meetings.
- (d) **Chairing the Committee.** The Committee will be chaired by an Independent Member.
- (e) The relevant Sub Committees will be established to fulfil its legislative responsibilities.

Role and Function

- 7.3 The Standards Committee will have the following roles and functions in respect of Assessing, Reviewing and Hearing complaints:
- (a) promoting and maintaining high standards of conduct by Councillors and Co-opted Members;
 - (b) To consider complaints against members and from that process considering any training/support guidance that may need to be developed/delivered.
 - (c) assisting the Councillors and Co-opted Members to observe the Councillor's Code of Conduct;
 - (d) overseeing the development, implementation and review of an ethical framework and codes of conduct for Councillors, Co-opted Members and officers;
 - (e) monitoring the operation of the Councillors' Code of Conduct;
 - (f) providing advice and guidance to Members and employees and making arrangements for training in connection with any matters within the terms of reference of the Committee;

- (g) granting dispensation to Councillors and Co-opted Members from requirements relating to interests set out in the Councillors' Code of Conduct.
- (h) dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter including any allegations or complaints about bullying, harassment or intimidation or any matter which is referred by an ethical standards officer to the Monitoring Officer.
- (i) Making recommendations from time to time for amendments to the Council's Disciplinary and Grievance procedures arising out of any matter within the Committee's Terms of Reference generally in connection with the Public Interest Disclosure Act 1998;
- (j) Responding to issues raised by the Local Government Association and Central Government and any other organisation about any matter relating to the general principles of conduct for Members or employees of the Council;
- (k) Liaising between the Council and external agencies, in particular the External Auditor and the Local Government Ombudsman, in connection with any matter within the Committee's Terms of Reference;
- (l) Developing guidance in relation to Members' conduct whilst representing the Council on outside partnerships, companies or organisations;
- (m) Providing guidance on, and keeping under review, arrangements for the declaration of Members' financial and non-financial interests;
- (n) The exercise of (a) to (l) above in relation to the parish councils wholly or mainly in its area and the members of those parish councils.
- (o) To raise awareness and advise and encourage training on the effects of bullying harassment and intimidation, and the avoidance thereof.

Article 8 – Task Groups, Local Strategic Partnership and Forums

Task Groups

- 8.1 The Policy Committees ~~and Overview, Scrutiny and Audit Committee~~ may appoint task groups to deal with specific projects or, exceptionally, for more general purposes.

Form, Composition and Function

- 8.2 (a) Standing task groups will be the exception rather than the rule. Task groups will normally be set up as ad hoc groups by the Policy Committees ~~and the Overview, Scrutiny and Audit Committee~~ to carry out a specified task or project and will have defined terms of reference and be time limited. These may vary in formality and constitution and may be either open to the press and public or closed. All such task groups shall submit a report to the relevant committee at the completion of their work.
- (b) Any Member who has formed part of a task group shall be entitled to see all papers considered by the task groups and shall be entitled to attend and speak at the relevant committee during the report back session. A Member will only be able to vote if they are appointed as a voting member of the relevant committee.
- (c) The meetings of task groups shall be as open as possible and will vary in format but will usually be less formal than the Policy Committees ~~and Overview, Scrutiny and Audit Committee meetings~~ themselves.
- (d) The form and number of Members and Officers appointed to a Task Group will be decided by the parent Committee. In addition, representatives of outside bodies and organisations may also be invited to task group meetings. The main responsibilities of task group members are:-
- To work closely with other Members and officers on the task group to consider the relevant issues or matters;
 - To make recommendations to the ~~three~~ Policy ~~or Overview, Scrutiny and Audit~~ Committees.
 - To receive information from a variety of sources including external sources, in determining various issues.

Local Strategic Partnership

- 8.3 The Council has formed a Local Strategic Partnership in order to:
- Allow local communities to articulate their aspirations, needs and priorities
 - Co-ordinate the actions of the Council with local public, voluntary, community and private sector organisations, and
 - Re-focus and shape current and future activity, so that the Council strives to meet community needs and aspirations.
- 8.4 The Local Strategic Partnership will be responsible for developing a community strategy for Melton which should aim to enhance the quality of life of the local

community through action to improve the economic, social and environmental well-being of the area and of local residents. Membership of the LSP will reflect both the aims and breadth of issues that will fall within the scope of the community strategy.

- 8.5 The LSP will serve as a single strategic umbrella body, bringing together and co-ordinating the work of existing community partnerships. It will identify gaps and avoid duplication. The community strategy will provide the overarching framework from which these more specific local partnerships will draw their terms of reference.

Forums

- 8.6 In order to give local citizens a greater say in Council affairs the following statutory and participatory forums will be supported by the Council:

- Access Forum (participatory)
- Action for Youth (participatory)
- A Decent Place to Live group (participatory)
- Locality based Partnership Form
- Melton Area Safer Communities Partnership (statutory)
- Parish Council Liaison (participatory)
- People and Places Board (participatory)
- Seniors' Forum (participatory)
- Tenants' Forum (participatory)
- Town Centre Partnership (participatory)
- Vulnerable Adults and Families group (participatory)

- 8.7 In addition to the above, the Local Strategic Partnership may initiate and promote other issue-based forums such as Health, Food Industry, Tourism, and Town Centre. The meetings of all of these forums will normally be held in public and in general will:

~~• advise the Overview, Scrutiny and Audit Committee on matters of interest in its area;~~

- assist all Councillors in listening to and representing their community;
- help to build partnerships between Melton Borough Council, other local public, private and voluntary sector organisations and the public;
- support the LSP in developing community strategies as part of the wider community planning process;
- undertake specific tasks relating to responsibilities covered by their terms of reference, delegations from higher bodies falling within those terms of reference, or requirements set out in statutory provision.

Form, Composition and Function

- 8.8 The form, composition and function of each statutory and participatory forum will be governed by the agreed terms of reference of that forum, and the following general points will apply:

- (a) Constitution. Each forum will agree its own constitution and working arrangements in order to fulfil its terms of reference which must have been approved by either the Council or the LSP (depending on which body established the forum), which will be reviewed periodically, and will be drawn up so as not to conflict with any article of this Constitution.
- (b) Naming convention. The main participative meetings in each case will be known as forums. Any smaller planning, policy development, or organising group(s) will be known as executive panels, unless statutory naming conventions apply.
- ~~(c) Conflict of interest. If the Overview, Scrutiny and Audit Committee is scrutinising specific proposals in relation to the business of a forum of which an Overview, Scrutiny and Audit Committee Member is a member, then that Councillor may not speak or vote at the Overview, Scrutiny and Audit Committee meeting unless a dispensation to do so is given by the Standards Committee.~~
- ~~(d)~~(c) Balanced representation. A Councillor who is not one of this Council's nominated representatives on a specific forum may not hold office on an executive panel of that forum, except as the representative of another organisation. (N.B. Where a forum is initiated by the Council, there will be a maximum of four Councillors nominated by the Council as its representatives.)

8.9 Working Groups

Details of current Working Groups are to be found in Part 3.

Notwithstanding the Council's intention of operating predominantly through a committee and task group system, it may from time to time create working groups, the purpose of which neither lend themselves to the formality of the committee structure or the time limited, task related nature of Task Groups. Working Groups will be non-decision making groups acting in an advisory capacity to a decision making body.

Article 9 – Joint Arrangements

Arrangements to Promote Well Being

- 9.1 The Council, in order to promote the economic, social or environmental well-being of its area, may:
- (a) enter into arrangements or agreements with any person or body;
 - (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
 - (c) exercise on behalf of that person or body any functions of that person or body.

Joint Arrangements

- 9.2
- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions in any of the participating authorities, or advise the Council.
 - (b) Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

Access to Information

- 9.3
- (a) The Access to Information Rules in part 4 of this Constitution apply.
 - (b) If the Joint Committee contains Members who are not on the executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

Delegation to and from other Local Authorities

- 9.4 The Council may delegate functions to another local authority or, in certain circumstances, the executive of another local authority.

Contracting Out

- 9.5 The Council may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

Article 10 – Officers

Management Structure

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

Post	Functions and areas of responsibility
Chief Executive (and Head of Paid Service)	<p>Overall corporate management and operational responsibility (including overall management responsibility for all officers).</p> <p>Provision of professional advice to all parties in the decision making process.</p> <p>Together with the Solicitor to the Council, responsibility for a system of record keeping for all the Council's decisions and maintaining the Constitution.</p> <p>Representing the Council on partnership and external bodies (as required by statute or the Council).</p> <p>Management of responsible officers for the following general functions:</p> <ul style="list-style-type: none"> • Human Resources, Communications & Member Development • Corporate Policy and Performance Monitoring including Internal Audit.
Strategic Director	To support the Chief Executive in the performance of their duties
Strategic Director	To support the Chief Executive in the performance of their duties

- (c) **Head of Paid Service, Monitoring Officer and Chief Financial Officer.** The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Strategic Director (CM)	Monitoring Officer
Head of Central Services	Chief Finance Officer

Such posts will have the functions described in Article 10.2 – 10.4 below.

- (d) **Structure.** The Head of Paid Service will publicise a description of the overall departmental structure of the council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

Functions of the Head of Paid Service

- 10.2 (a) **Discharge of functions by the Council.** The Head of Paid Service will report to Full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Restrictions on functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

Functions of the Monitoring Officer

- 10.3 (a) **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 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. The Monitoring Officer must also report on any maladministration or injustice where the Ombudsman has carried out an investigation.
- (b) **Supporting the Standards Committee, Governance Committee and Ethical Governance Panel.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee, Governance Committee and Ethical Governance Panel.
- (c) **Receiving reports.** The Monitoring Officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals.
- (d) **Conducting investigations.** The Monitoring Officer may conduct or oversee investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the Standards Committee, Governance Committee and Ethical Governance Panel.
- (e) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all Councillors.
- (f) **Establishing and maintaining a Register of Interest of Members and Co-opted Members of the Council.** The Monitoring Officer will ensure sound advice to all Members on these potentially difficult questions and to ensure that regular updates are sought. The Monitoring Officer will also be obliged to maintain a register of gifts and hospitality.
- (g) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

Functions of the Chief Finance Officer

- 10.4 (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Full Council and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause

a loss or deficiency or if the Council is about to enter an item of account unlawfully.

- (b) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity 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.

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

- 10.5 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.

Conduct

- 10.6 Officers will comply with the Officers' Code of Conduct and the protocol on Officer/Member Relations set out in Part 5 of this Constitution.

Employment

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

10.8 Delegations

Delegations to Officers are set out in Part 3 of the Constitution.

Article 11 – Decision Making

Responsibility for Decision Making

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

Principles of Decision Making

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

- (a) proportionality – 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 transparency and openness; and
- (e) clarity of aims and desired outcomes.

Decision Making by the Full Council

11.3 Subject to Article 11.5, the Full Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

~~Decision Making by the Overview, Scrutiny and Audit Committee~~

~~11.4 The Overview, Scrutiny and Audit Committee will follow the Overview, Scrutiny and Audit procedures rules set out in Part 4 of this Constitution when considering any matter.~~

Decision Making by other Committees and Sub-Committees Established by the Council

~~11.5~~11.4 Subject to Article 11.5, 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.

Decision Making by Council bodies acting as Tribunals

~~11.6~~11.5 The Council including its committees and sub-committees, a Councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

Article 12 – Finance, Contracts and Legal Matters

Financial Management

- 12.1 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.

Contracts

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

Legal Proceedings

- 12.3 The Solicitor to the Council is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Solicitor to the Council considers that such action is necessary to protect the Council's interests.

Authentication of Documents

- 12.4 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Solicitor to the Council or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Common Seal of the Council

- 12.5 The Common Seal of the Council will be kept in a safe place in the custody of the Solicitor to the Council. A decision of the Council, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Solicitor to the Council should be sealed. The affixing of the Common Seal will be attested by the Chief Executive or some other person authorised by him/her being the Strategic Directors.

Article 13 – Review and Revision of the Constitution

Duty to Monitor and Review the Constitution

- 13.1 The ~~Overview, Scrutiny and Audit~~ Governance Committee in consultation with the Head of Paid Service and 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.

Protocol for Monitoring and Review of Constitution by Monitoring Officer

- 13.2 A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:
- (a) observe meetings of different parts of the member and officer structure;
 - (b) undertake an audit trail of a sample of decisions;
 - (c) record and analyse issues raised with him/her by Members, officers, the public and other relevant stakeholders; and
 - (d) compare practices in this authority with those in other comparable authorities, or national examples of best practice.
- 13.3 Following the review outlined in paragraph 13.2, the Monitoring Officer shall submit an annual report to the ~~Overview, Scrutiny and Audit~~ Governance Committee which, following the consideration of the report, shall then report to Full Council.

Changes to the Constitution

- 13.4 (a) **Approval.** Changes to the Constitution will only be approved by the Full Council after consideration of the proposal by the ~~Overview, Scrutiny and Audit~~ Governance Committee or by the Monitoring Officer in consultation with the Chair of the ~~Overview, Scrutiny and Audit~~ Governance Committee agreeing that a proposed amendment may be sent direct to Council in respect of minor or urgent amendments.
- (b) **Change from alternative arrangements 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.
- (c) **Change from alternative arrangements to a leader and cabinet 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.

Article 14 – Suspension, Interpretation and Publication of the Constitution

Suspension of the Constitution

- 14.1 (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules set out in Part 4 may be suspended by the Full Council or the appropriate committee to the extent permitted within those Rules and the law.
- (b) **Procedure to suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

Interpretation

- 14.2 (a) The ruling of the Mayor as to the construction or application of this Constitution as to any proceedings of the Council shall not be challenged at that meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.
- (b) Notwithstanding paragraph 14.2(a), a Member may request the Mayor to review such interpretation, following consultation with the Monitoring Officer, for future proceedings of the Council.

Publication

- 14.3 (a) The Chief Executive will give access to an electronic copy or printed copy upon request of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.
- (b) The Chief Executive will ensure that copies are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Chief Executive will ensure that the summary of the Constitution is made available on the Council's website and is updated as necessary.