

## **ARTICLES**

### **ARTICLE 1**

#### **THE CONSTITUTION**

##### **1.1 The Constitution**

This Constitution is the Constitution of the High Peak Borough Council.

##### **1.2 Powers of the Council**

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

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

The purpose of the Constitution is to:

- i) Enable High Peak Borough Council in partnership with its citizens, businesses and other organisations, to provide community leadership in line with the Council's Corporate Plan;
- ii) Support and enable public participation in its decision making;
- iii) Help Councillors represent their constituents effectively;
- iv) Enable decisions to be taken speedily, effectively and within the law;
- v) Provide a means of scrutinising decisions;
- vi) Identify those taking the decisions and make them accountable.

##### **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.

##### **1.5 Transitional**

Any decisions made or policies adopted before this Constitution takes effect are taken to have been made in accordance with it.

## **ARTICLE 2**

### **MEMBERS OF THE COUNCIL**

#### **2.1 Composition and eligibility**

##### **(a) Composition**

The Council will comprise forty-three members, otherwise called councillors. One or more councillors will be elected by the voters of each ward.

##### **(b) Eligibility**

Only registered voters of the borough 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 the next being in 2015. 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**

##### **(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.

Further details can be found in the councillor role description.

**(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.

**2.4 Conduct**

- (iv) Councillors will at all times observe the Councillors’ Code of Conduct and the other Protocols set out in Part 5 of this Constitution.

**2.5 Allowances**

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

**ARTICLE 3**

**CITIZENS AND THE COUNCIL**

**3.1 Citizens’ rights**

**(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. The Council also welcomes petitions from those who live, work, or study in the High Peak in accordance with the authority’s Petition Scheme.

**(b) Information**

Citizens have the right to:

- (i) attend meetings of the Council and its committees and sub-committees except where confidential or exempt information is likely to be disclosed;
- (ii) attend formal meetings of the Executive except where confidential or exempt information is likely to be disclosed;

- (iii) have access to information (see Part 4 of this Constitution).
- (iv) find out from the forward plan what key decisions will be taken by the Executive and when;
- (v) see reports and background papers and any records of decisions made by the Council and the Executive; and
- (vi) inspect the Council's accounts and make their views known to the external auditor.

(c) **Participation**

Citizens have the right to ask questions at Council and speak at the Development Control Committee when planning applications are being considered and to contribute to investigations by select committees.

(d) **Complaints**

Citizens have the right to complain to:

- (i) the Council itself under its complaints scheme
- (ii) the Local Government Ombudsman after using the Council's own complaints procedure
- (iii) a Designated Person and/or the Housing Ombudsman Service
- (iv) the Council regarding its own code of conduct.

(e) **Equalities**

The Council will in the exercise of its functions comply with the Public Sector Equality Duty and have due regard of the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

## **ARTICLE 4**

### **THE FULL COUNCIL**

#### **4.1 Meanings**

##### **(a) Policy Framework**

The Policy Framework means the following plans and strategies:

The Constitution  
Community Strategy  
Annual Audit Plan – External Audit  
Asset Management Plan  
Capital Programme  
Communications Strategy  
Annual Community Safety Plan  
Corporate Equality Plan incorporating Race Equality Scheme  
Corporate Plan  
Derbyshire Joint Municipal Waste Strategy  
Gambling Policy  
Human Resource and Organisational Development Strategy  
Licensing Policy  
High Peak Local Plan  
Housing Strategy  
Social Inclusion Strategy  
Recycling Strategy  
Pay Policy Statement

##### **(b) Budget and Medium Term Financial Plan – (including Housing Revenue Account), Treasury Management Strategy and Capital Programme**

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, 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.

#### **4.2 Functions of the full Council**

Only the Council will exercise the following functions:

- (a) adopting and making material changes to 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) appointing and removing the Leader of the Council;

- (d) agreeing and/or amending the terms of reference of committees and deciding on their composition;
- (e) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
- (f) adopting a Councillors' allowances scheme;
- (g) changing the name of an area and conferring the title of freeman of the Borough;
- (h) confirming the appointment of, or dismissing, the Head of Paid Service, monitoring officer and Chief Finance Officer;
- (i) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (j) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Executive;
- (k) adopting or changing the Councillors' Code of Conduct or to delegate to the Standards Committee;
- (l) all other matters which, by law, must be reserved to Council.

#### **4.3 Council meetings**

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings.
- (d) and they will be conducted according to the Council Procedure Rules in Part 4 of this Constitution.

#### **4.4 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.

## **ARTICLE 5**

### **THE MAYOR**

#### **5.1 Role and function of the Mayor**

The Mayor is the first citizen of the Borough and Chair of the Council. In his/her absence, the Deputy Mayor takes on that role. The Mayor and Deputy Mayor have the following roles and functions:

##### **5.1.1 Ceremonial role**

The Mayor has precedence within the Borough but not so as to affect Her Majesty's royal prerogative. Where a Borough matter is the purpose of a royal visit to the county, the Mayor will take precedence. On other official royal visits, the order of precedence places the Chair of the County Council before the Mayor.

The Mayor is a symbol of the Council, especially its continuity, through the insignia of the robes and chain of office.

The Mayor is a symbol of an open society as the choice of mayor is no longer restricted to those with wealth and connections.

The Mayor is an expression of social cohesion through the many engagements undertaken in the communities of the Borough.

##### **5.1.2 Chairing the Council Meeting**

The Mayor and, in their absence, the Deputy Mayor have the following responsibilities:-

1. to uphold and promote the purposes of the Constitution and to interpret the Constitution when necessary;
2. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
3. to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Councillors who are not on the Executive are able to hold the Executive and the Committee Chairs, to account;
4. to be the conscience of the Council;
5. to reconcile disputes should any arise between the Council and the Executive;

6. to promote public involvement in the Council's activities;
7. to attend or be represented at civic and ceremonial functions.

## **5.2 Appointment of the Mayor**

The Mayor is elected by the Council in May each year in accordance with a points system agreed by the Council from time to time.

# **ARTICLE 6**

## **THE EXECUTIVE**

### **6.1 Role**

The Executive will 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.

### **6.2 Form and composition**

The Executive will consist of the Leader of the Council together no fewer than two nor more than ten Councillors appointed by the Leader.

### **6.3 Leader**

The Leader will hold office until:

- (a) he/she resigns from the office; or
- (b) he/she is no longer a councillor; or
- (c) he/she is removed from office by resolution of the Council.

The Leader is responsible for allocating and changing the composition of portfolios subject to the general principle that the portfolios will follow the Council's corporate aims. In making any changes, the Leader will consult with all other members of the Executive.

### **6.4 Other Executive members**

Only councillors (ie no co-optees) will be on the Executive. They will have no deputies or substitutes. Neither the Mayor nor Deputy Mayor will be appointed to the Executive and members of the Executive will not also be members of any Select Committee or the Audit and Regulatory Committee. Other Executive members shall hold office until:

- (a) they resign from office; or



- (b) they are no longer councillors; or
- (d) they are removed from office by the Leader of the Council.

### 6.5 Proceedings of the Executive

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

### 6.6 Responsibility for functions

The Leader will maintain the list in Part 3 of this Constitution, setting out the responsibilities for the exercise of particular executive functions.

## ARTICLE 7

### SELECT (OVERVIEW AND SCRUTINY) COMMITTEES

#### 7.1 Terms of reference

The Council will appoint the select committees set out below to carry out the functions conferred by section 21 of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000 as amended in relation to the matters set out below.

Committee	Functions
Corporate	Acting as the main scrutiny committee, supervising and co-ordinating the work programmes of the other select committees. Advising the Council and the Executive on the development of policy; monitoring and scrutinising the discharge of executive functions in relation to the corporate policies and objectives of the Council including the Corporate Plan, Budget, Housing Revenue Account, local welfare benefits, staffing and other resources, corporate services, procurement, communications and related matters.
Community	Advising the Council and the Executive on the development of policy, monitoring and scrutinising the discharge of executive functions in relation to recreation, sports and arts facilities, grants to voluntary organisations, social inclusion and equalities, housing tenancy policies, tenant involvement, community safety, the environment, refuse and recycling, environmental health, cemeteries and churchyards, streetcare, road safety, health provision and other related matters.

<b>Committee</b>	<b>Functions</b>
Economy and Growth	Advising the Council and the Executive on the development of policy, monitoring and scrutinising the discharge of executive functions in relation to the Authority's Growth Strategy, strategic and neighbourhood planning matters, Housing Strategy, the Council's accelerated housing and employment delivery programmes, transportation matters, the use and management of non-operational land and the acquisition and disposal of land, economic development, regeneration, car parking, tourism, town centre management and related matters.

## 7.2 General role

Within their terms of reference, select committees will:

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

## 7.3 Specific functions

### (a) Policy development and review

- (i) Select Committees will assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues;
- (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (iv) question members of the Executive and/or Committees, Executive Directors or Service Managers, about their views on issues and proposals affecting the area; and
- (v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

- (vi) Review on a regular basis all significant partnerships and outside bodies.

**(b) Scrutiny**

- (i) review and scrutinise the decisions made by and performance of the Executive and/or committees and officers both in relation to individual decisions and over time;
- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (iii) question members of the Executive or committees, and Executive Directors and Service Managers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (iv) make recommendations to the Executive and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;
- (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting, or if necessary requiring them to address the select committee and local people about their activities and performance; and
- (vi) question and gather evidence from any other person (with their consent).

**(c) Finance**

Select committees may exercise overall responsibility for any finances made available to them.

**(d) Annual report**

Select committees must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate in conjunction with the Chairs of committees.

#### **7.4 Proceedings of select committees**

Select committees will conduct their proceedings according to the Select Committee Procedure Rules set out in Part 4 of the Constitution.

## **ARTICLE 8**

### **REGULATORY AND OTHER COMMITTEES**

8.1 The Council will appoint the committees set out below to carry out the functions listed in more detail in Part 3 of this Constitution.

8.1.1 These committees may:-

- i) Grant approvals, consents, licences, permissions or registrations arising from the exercise of their functions (“Approvals”)
- ii) Impose conditions, limitations, terms or other restrictions on Approvals;
- iii) Amend, modify or vary Approvals

Decide whether, and in what manner, to enforce any failure to comply with an approval.

#### **8.2 Audit and Regulatory Committee**

- (a) The Audit and Regulatory Committee will comprise 9 elected members and 3 (non-voting) independent members. Members of the Executive cannot be members of the Committee. Its principal area of responsibility is to oversee the audit and corporate governance functions of the Council as set out in the Statement of Purpose and Terms of Reference in Part 3 of the Constitution and make recommendations to the Council on the Mayor elect.

#### **8.3 Appointments and Appeals Panel**

The Appointments and Appeals Panel has three councillors including one member of the Executive and the Leader of the main opposition group on the Council.

#### **8.4 Licensing Committee**

8.4.1 The Licensing Committee will comprise 12 members of which no more than three shall be selected for each sub-committee by the Monitoring Officer.

8.4.2 The committee will deal with all licensing matters including taxi and private hire, licences issued under the Licensing Act 2003, Gambling Act 2005 or any subsequent legislation of a similar nature and the issue of new street trading consents.

#### **8.5 Development Control Committee**

The Development Control Committee will comprise 12 councillors who, as far as possible, will represent all areas of the borough.

- a) The Development Control Committee will deal with any matters arising under Table 2 of Part 3 of this Constitution.

## **ARTICLE 9**

### **THE STANDARDS COMMITTEE**

#### **9.1 Role**

- (a) The Council will establish a Standards Committee to carry out the functions set out more fully in Part 3 of the Constitution. These include, promoting high standards of conduct amongst councillors and making sure they are properly trained; granting dispensations; ensuring that appropriate arrangements are in place for dealing with allegations into breaches of the Code of Conduct; hearing representations from councillors who may become disqualified for not attending meetings; advising the Council on Members' allowances.

#### **9.2 Composition**

- (a) **Membership**

The Standards Committee will be composed of:

- six members of the Council appointed proportionally
- up to two Town or Parish Council members who may be co-opted on to the Committee as non-voting members

- (b) **Independent Person**

The Council's Independent Person (and their substitutes) will be invited to attend meetings of the Standards Committee and will be entitled an allowance and to the same subsistence and travelling allowances as elected members.

- (c) **Parish/Town Councillors**

Where a complaint refers to a Parish/Town Councillor, hereafter known as a Parish Councillor, a non-voting Parish member of the Standards Committee may also attend any Hearing Panel and will be entitled to an allowance and the same subsistence and travelling allowances as elected members.

#### **9.3 Other functions**

- (a) The Hearings Panel (a Sub-Committee of the Council's Standards Committee) shall comprise a maximum of five councillors of the Council's Standards Committee, including not more than one member

of the authority's Executive. The appointed Hearings Panel shall nominate a Hearings Panel Chair. The Independent Person shall be invited to attend all meetings of the Hearings Panel. Where a complaint refers to a Parish Councillor, a non-voting Parish member of the Standards Committee may also attend any Hearing Panel.

- (b) The Committee will hear appear appeals from officers who do not wish to appear as witnesses before a select committee (see Protocol for Officers in Part 4 of the Constitution); monitor complaints received by the Ombudsman; monitor the member development programme and evaluate its effectiveness.

## **ARTICLE 10**

### **JOINT ARRANGEMENTS**

#### **10.1 Arrangements to promote well being**

The Council or the Executive, 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 of their functions.

#### **10.2 Joint arrangements**

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Executives, to exercise functions which are not executive functions, in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Executive may establish joint arrangements with one or more local authorities, to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below, the Executive may only appoint Executive members to a joint committee and those members need not reflect the political composition of the Council as a whole.
- (d) The Executive may appoint members to a joint committee from outside the Executive in the following circumstances:

Where the Joint Committee has functions for only part of the Borough and that area is smaller than two fifths of the Borough by area or population. In such cases the Executive may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area.

The political balance requirements do not apply.

- (e) Where a joint committee is discharging some executive and some non-executive functions of the Council, appointments to the joint committee are made by the Council with the agreement of the Executive and:
  - i) where only one member is to be appointed to the joint committee, that member may or may not be a member of the Executive
  - ii) where more than one member is to be appointed, at least one must be a member of the Executive.

The political balance rules apply.

- (f) Where five or more authorities are represented on a joint committee, or where functions have, by law rather than local choice, to be dealt with by a joint committee, the Executive may appoint an Executive member(s) or a non-Executive member(s) to the joint committee, and the political balance rules do not apply to such appointments.
- (g) Details of any joint arrangement including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

### 10.3 Access to information

- (a) The Access to Information Rules in Part 4 of this Constitution apply.
- (b) If all the members of a joint committee are members of the Executive in each of the participating authorities then its access to information regime is the same as that applied to the Executive.
- (c) 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.

### 10.4 Delegation to and from other local authorities

- (a) The Council may delegate non-executive functions to another local authority or, in certain circumstances, the Executive of another local authority.
- (b) The Executive may delegate executive functions to another local authority or the Executive of another local authority in certain circumstances.

## 10.5 Contracting out

The Council for functions which are not executive functions and the Executive for executive functions, 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 11

### OFFICERS

#### 11.1 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 Executive and Executive Directors

The Council will engage persons for the following posts, who will be designated Chief Officers and may from time to time, add to, vary or reduce the number, designation and areas of responsibility; -

- Chief Executive and Head of Paid Service
- Executive Director and Chief Finance Officer
- Executive Director and Monitoring Officer
- Executive Director

##### (c) Head of Paid Service, Monitoring Officer and Chief Financial Officer

The Council will designate the following posts as shown:

<b>Post</b>	<b>Designation</b>
Chief Executive	Head of Paid Service
Executive Director (People)	Monitoring Officer
Executive Director (Transformation)	Chief Finance Officer



Such posts will have the functions described in Article 11.2 – 11.4 below.

(d) **Structure**

The Chief Executive will determine and publish a description of the overall structure of the Council showing the roles and responsibilities of all its officers. This is set out in Part 7 of this Constitution.

**11.2 Functions of the Head of Paid Service**

(a) **Discharge of functions by the Council**

The Head of Paid Service will report to the Council on the way 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.

**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 available to councillors, 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 Executive in relation to an executive function, if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise 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.

(d) **Conducting investigations**

The Monitoring Officer will conduct investigations (or arrange for them to be conducted) and make reports or recommendations (or arrange for them to be made) in respect of them to the Standards Committee.

(e) **Proper officer for access to information**

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

(f) **Advising whether executive decisions are within the budget and policy framework**

The Monitoring Officer will advise whether decisions of the Executive 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.

(h) **Restrictions on posts**

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

(i) **Monitoring Officer Protocol**

The Monitoring Officer will act in accordance with the Monitoring Officer Protocol set out in Part 5 of this Constitution.

#### 11.4 **Functions of the Chief Finance Officer**

(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 or to the Executive in relation to an executive function, and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account 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, 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.

11.5 **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.

11.6 **Conduct**

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

11.7 **Employment**

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

## **ARTICLE 12 – DECISION MAKING**

12.1 **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 (the delegation scheme).

12.2 **Principles of decision making**

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

- due regard to all relevant and material considerations and without regard to any irrelevant considerations;
- where appropriate, the realistic evaluation of alternatives;
- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights and equalities;
- a presumption in favour of openness;
- clarity of aims and desired outcomes;
- reasons being given for the decision.

### 12.3 Types of decision

The decisions reserved to the full Council as set out in paragraph 4.2 of Article 4 will be made by the full Council and not delegated.

### 12.4 Key decisions

- (a) A key decision is:-
- i) a report proposing changes or additions to the Budget and Policy Framework (as defined in the Constitution)
  - ii) a report in connection with the preparation of the Annual Revenue Budget;
  - iii) a report in connection with the preparation of the Capital Programme;
  - iv) a report proposing specific action which is outside the Budget and Policy Framework, Annual Revenue Budget or Capital Programme previously approved by the Council;
  - v) a report likely to result in expenditure or savings which are significant having regard to the Council's budget for the service or function to which the decision relates.
  - vi) a report proposing action which the originator of the report, in consultation with his/her chief officer, and in consultation with the relevant portfolio holder, believes may have a significant impact on communities living or working in an area comprising one or more wards.
- (b) The Executive may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution and the provisions of paragraphs 13 to 24 of the Access to Information Rules also in Part 4.

## **12.5 Decision making by the full Council**

Subject to Article 12.8, the Council will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

## **12.6 Decision making by the Executive**

The Executive will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter. Decisions of The Executive may be subject to Call-In in accordance with the Select Committee Procedure Rules.

## **12.7 Decision making by Select Committees**

- a) Select Committees will follow the Select Committee Procedure Rules set out in Part 4 of this Constitution when considering any matter.
- b) Select Committees will, when considering any matter, follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them, and the Select Committee Procedure Rules set out in Part 4.
- c) Select committees do not have delegated powers.

## **12.8 Decision making by other committees and sub-committees established by the Council**

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

## **12.9 Decision making by Council bodies acting as tribunals**

The Council, a member 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.

## **12.10 Decision making by officers**

Many routine decisions taken within existing Council policies are delegated to officers. The full scheme of delegation to officers is set out in Part 3 of the Constitution.

## **ARTICLE 13 – FINANCE, CONTRACTS AND LEGAL MATTERS**

### **13.1 Financial management**

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

### **13.2 Contracts**

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

### **13.3 Legal Proceedings**

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

### **13.4 Authentication of documents**

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

Any contract with a value exceeding £75,000 entered into on behalf of the Council must be made under the Common Seal of the Council attested by at least one officer duly authorised in writing to do so.

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

The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer. A decision of the Council, or of any part of it, or of any officer acting under delegated powers in accordance with this Constitution, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed. The affixing of the Common Seal will be attested by the Monitoring Officer or some other person authorised in writing by him/her.

Details of every deed and other document to which the Common Seal is to be affixed shall be entered, prior to the time of its sealing or as soon as practicable thereafter, by the Monitoring Officer or his/her representative, in a book to be kept for that purpose and that book shall be signed by the person attesting the affixation of the Common Seal.

## **ARTICLE 14**

### **REVIEW AND REVISION OF THE CONSTITUTION**

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

The Audit and Regulatory Committee and 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.

#### **14.2 Monitoring and review of the Constitution by Monitoring Officer.**

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

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

#### **14.3 Changes to the Constitution**

Changes to Part 2 of the Constitution must be approved by the full Council; changes to Part 4 must be approved by the Audit and Regulatory Committee and changes to Part 5 are delegated to the Monitoring officer (in so far as this is legally permissible); changes to Part 3 are as detailed in paragraph 1 (contents and summary) of Part 3.

## **ARTICLE 15**

### **SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION**

#### **15.1 Suspension of the Constitution**

##### **(a) Limit to suspension**

The Articles of this Constitution may not be suspended. The Rules of Procedure may be suspended to the extent permitted within those Rules and the law.

(b) **Procedure to suspend**

This is as set out in the Rules themselves. 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.

**15.2 Interpretation**

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

**15.3 Publication**

- (a) The Monitoring Officer will ensure each member of the authority is aware of how to access the Constitution on the intranet and will make a printed copy available on request, as soon as practicable after receiving the councillor's declaration of acceptance of office.
- (b) The Monitoring Officer 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 Monitoring Officer will ensure that the Guide to the Constitution is made widely available and is updated as necessary.

**SCHEDULE 1**

**DESCRIPTION OF EXECUTIVE ARRANGEMENTS**

The following constitute the Council's Executive Arrangements:

- 1. Article 6 (The Executive) and Part 4 (The Executive Procedure Rules)
- 2. Article 12 (Decision Making) and Part 4 (Access to Information Procedure Rules)
- 3. Article 7 Select (Overview and Scrutiny) Committees and Part 4 (Select Committee Procedure Rules)
- 4. Part 3 – Responsibility for Functions