

# **Chapter 1-The Constitution**

## **Introduction**

Legislation requires the Council to prepare a document known as a “Constitution” which must contain a broad range of information, including details of the way the Council makes decisions and information about its Members (elected Councillors).

## **The Constitution**

This document is the Council’s Constitution which sets out details of how the Council operates, how decisions are made, and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by law, whilst others are chosen by the Council.

The Constitution is a document which explains how the Council’s decisions are made and the rules which apply to the Council’s business. It includes details of:

- the way in which meetings are conducted;
- the responsibilities of the Council, the Cabinet, the scrutiny committees and other committees;
- how Members are appointed to the Cabinet and other decision-making bodies;
- what allowances Members are paid;
- how Members and employed officers should behave;
- the work of the Council in its neighbourhoods, and with partner organisations;
- audit, financial and contract rules and procedures.

The Council will exercise all of its powers and duties according to the law and this Constitution.

## **Purpose of the Constitution**

The Council has a Corporate Plan, which contains details of its aims, objectives and targets.

The objectives of this Constitution are:

- To support the intentions of the Corporate Plan.
- To provide a framework for clear leadership to the community in partnership with its people, businesses and other organisations.
- Encourage the involvement of citizens in the Council’s decision-making.
- To help Councillors effectively represent their constituents.

- To enable decisions to be taken efficiently and effectively.
- To create a powerful and effective means of holding decision-makers to public account.
- To ensure that those responsible for decision-making are identifiable and that the reasons for their decisions are explained.
- To provide a way in which the delivery of services to the community can be improved.
- To ensure that no one will review or scrutinise a decision for which they were responsible.

### **Interpretation**

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose the option which it considers to be closest to the objectives set out above.

## **Chapter 2-Cheshire East Council**

### **Composition of the Council**

The Council has 81 Members who are elected as Councillors. Each of them represents one of the Council's Wards, of which there are 27.

### **Politics**

The political composition of the Council is as follows:

[insert numbers of Members representing the different political groups]

[Insert the following details]

Council Leader and Conservative Group Leader  
Deputy Council Leader  
Labour Group Leader  
Deputy Labour Group Leader  
Liberal Democrat Group Leader  
Deputy Liberal Democrat Group Leader  
Independent Group Leader  
Deputy Independent Group Leader

[Insert table providing hyperlinks to political party, ward and contact details against the name of each Member]

### **Elections and Term of Office**

The Cheshire (Structural Changes) Order 2008 states that all of the Council's Members will retire in May 2011, after which there will be further elections. Elections will take place every four years afterwards.

### **Role and functions of all Councillors**

Councillors have the following roles:

- Together, they will set the Council's major plans, policies, strategies and the budget. They will take decisions together where required by law, or where the Council decides that collective decisions should be taken.
- To oversee the Council's strategic and corporate management.
- To represent their communities and the views of the people in their Wards, in the decision-making process.
- To support individuals in their dealings with the Council and to represent them in resolving concerns or grievances.
- To balance the different views of people within their Wards, with a view to representing their Ward as a whole.

- Participating in the decision-making and scrutiny processes of the Council.
- Where required, to represent the Council on national, regional and local bodies.
- To maintain the highest standards of conduct, and to observe the Council's Member Code of Conduct.

### **Councillors representing their communities**

All Councillors represent their constituents, and the Council sees this to be an important responsibility under this Constitution.

Councillors have an important job in consulting their communities on the development of policies, plans, strategies and other local initiatives. To enable Councillors to do this, the Council will ensure that suitable procedures and processes are in place.

### **Rights of Councillors**

Councillors will have access to any document, information, land or buildings of the Council where this is necessary to enable them to properly perform their role as a Councillor. This Council will act according to the law and this Constitution in this respect.

Councillors are not permitted to make available to the press or public any confidential or exempt information provided to them. Please see the Access to Information Rules in Part 4 of this Constitution and the Members' Code of Conduct in Part 5 of this Constitution for further information. These rules also apply to any person who is co-opted onto or appointed to serve on a body established by the Council.

### **Chairman and Vice Chairman of the Council**

At its first meeting in April 2009, and at each Annual Council meeting afterwards in May of each year, the Council will elect a Councillor to serve as Chairman of the Council. In the same way, it will also appoint a Vice Chairman.

Where either office becomes vacant, the Council will elect/appoint a successor at its next meeting.

A Member of the Cabinet cannot be elected/appointed to either office.

Where both the Chairman and Vice Chairman of the Council are absent from a meeting of the Council, the Council will appoint one of their non-executive Members to preside.

The Chairman of the Council is [insert hyperlink to name and contact details of the Chairman]. The Vice Chairman of the Council is [insert hyperlink to name and contact details of the Vice Chairman].

## **Councillors' Scheme of Allowances**

All Councillors are entitled to receive those allowances which are contained in the Scheme of Allowances which is agreed by Council. The Scheme forms part of this Constitution at Part 6.

## **Chapter 3-Citizens and the Council**

### **Citizens' rights**

Citizens have a number of rights when dealing with the Council. Where dealing with specific services eg applying for a licence or housing benefit, they have additional rights. These are not referred to in this Constitution.

Citizens have the right to:

- Vote at local elections if they are registered to do so.
- Contact their local Councillor about matters of concern to them.
- Obtain a copy of this Constitution (at a reasonable cost).
- Inspect agendas for all Council meetings, either at the Council's offices, or on-line [insert hyperlink to the Council's website].
- Attend meetings all Council meetings, except where these are discussing exempt or confidential information.
- [Subject to agreement] Speak at meetings, subject to certain rules contained in the Council Procedure Rules at Part 4 of this Constitution.
- Find out, from the Forward Plan [insert hyperlink], what major decisions (known as "Key Decisions") are to be discussed by the Cabinet, its committees or by officers.
- Inspect all reports, including background papers used in preparing them, except where they contain exempt or confidential information.
- Inspect all Council decisions [insert hyperlink to minutes pages of website].
- Complain to the Council under the Council's complaints scheme.
- Complain to the Commissioner for Local Administration (the Ombudsman) [insert hyperlink to Ombudsman's website] if they think that the Council has not followed its procedures properly. However, the Ombudsman will usually only deal with complaints where the Council's own complaints process has first been followed.
- Complain to the Council [insert hyperlink to Monitoring Officer] if they have evidence which they think shows that a Councillor has not followed the Council's Members' Code of Conduct.
- Inspect the Council's accounts during the published inspection period each year, and make their views known to the External Auditor.

### **Citizens' Responsibilities**

Citizens must not be violent, abusive or threatening to Councillors or officers of the Council, and must not wilfully harm property of the Council, Councillors or officers.

## **Chapter 4-The Full Council**

### **Policy Framework**

4.1 By law, the Council must have a Policy Framework. This is a list of plans and strategies which are relevant to the Council's functions:

- 4.1.1 Annual Library Plan
- 4.1.2 Best Value Performance Plan
- 4.1.3 Children's Services Plan
- 4.1.4 Community Care Plan
- 4.1.5 Community Strategy
- 4.1.6 Crime and Disorder Reduction Strategy
- 4.1.7 Early Years Development Plan
- 4.1.8 Education Development Plan
- 4.1.9 Local Transport Plan
- 4.1.10 Development Plan documents
- 4.1.11 Youth Justice Plan
- 4.1.12 [Annual Plan] (see Chester)
- 4.1.13 [Annual Report] (ditto)
- 4.1.14 [Budget Strategy] (ditto)
- 4.1.15 Corporate Plan
- 4.1.16 Housing Investment Programme documents
- 4.1.17 Local Agenda 21 Strategy
- 4.1.18 [Treasury Management Policy Statement and Treasury Management Strategy] (ditto)
- 4.1.19 Licensing Authority Policy Statements under the Licensing Act 2003 and Gambling Act 2005
- 4.1.20 [Air Quality Strategy] (see VR)
- 4.1.21 [Art Strategy] (ditto)
- 4.1.22 [Benefit Fraud Strategy] (ditto)
- 4.1.23 [Capital Programme] (ditto)
- 4.1.24 [Capital Strategy and Asset Management Plan] (ditto)
- 4.1.25 [Cheshire Waste Strategy] (ditto)
- 4.1.26 [Consultation Strategy] (ditto)
- 4.1.27 [Cultural Strategy] (ditto)
- 4.1.28 [Derelict Land Strategy] (ditto)
- 4.1.29 [Drug Action Strategy] (ditto)
- 4.1.30 [Energy Efficiency Strategy] (ditto)
- 4.1.31 [Enforcement Concordat] (ditto)
- 4.1.32 [Equal Access Policy] (ditto)
- 4.1.33 [Food Law Enforcement Service Plan] (ditto)
- 4.1.34 [Health Improvement Plan] (ditto)
- 4.1.35 [Information Systems Strategy] (ditto)
- 4.1.36 [Investors in People Strategy] (ditto)
- 4.1.37 [Lifelong Learning Strategy] (ditto)
- 4.1.38 [Medium Term Financial Strategy] (ditto)
- 4.1.39 [Organisational Development Plan] (ditto)
- 4.1.40 [Play Strategy] (ditto)

- 4.1.41 [Procurement Strategy] (ditto)
- 4.1.42 [Social Inclusion Strategy] (ditto)
- 4.1.43 [Sport strategy] (ditto)
- 4.1.44 [Strategy for Sport] (ditto)
- 4.1.45 [Structure Plan Input] (ditto)
- 4.1.46 [Youth Strategy] (ditto)
  
- 4.2 The Budget comprises 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 [Council House rents?] and the setting of virement limits.
  
- 4.3 Decisions to approve or adopt 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**

- 4.4 Only the Council will exercise the following functions:
  - 4.4.1 electing/appointing the Chairman and Vice Chairman of the Council; adopting and changing the Constitution;
  - 4.4.2 adopting and approving the Policy Framework and any of the policies in it, the Budget and those decisions in 4.3 of this Chapter;
  - 4.4.3 subject to the urgency procedure in the Access to Information Procedure Rules (Part 4 of this Constitution) , making decisions about any matter in the discharge of an executive function which is covered by the Policy Framework or the Budget, where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget;
  - 4.4.4 appointing the Leader [add "and Members of the Executive/Cabinet if a Council-led model of arrangements is to be adopted-also add approval of portfolios if the Leader is not to be responsible for this];
  - 4.4.5 taking decisions in respect of functions which are not the responsibility of the Executive, and which have not been delegated by the Council to Committees, officers or elsewhere;
  - 4.4.6 agreeing and/or amending the terms of reference for Committees, deciding on their composition, and making appointments to them;
  - 4.4.7 appointing representatives to outside bodies unless the appointment is an executive function, or has been delegated by the Council;
  - 4.4.8 adopting a Scheme of Member Allowances;
  - 4.4.9 changing the name of the area [conferring the title of Honorary Alderman or Freedom of the District][needs to be confirmed whether these only apply where there is Borough Status];
  - 4.4.10 confirming the appointment of the Head of Paid Service and, if appropriate, his/her dismissal;



- 4.4.11 making, amending, revoking, re-enacting, adopting or enforcing byelaws and promoting or opposing the making of local legislation or personal bills;
- 4.4.12 all local choice functions which the Council decides should be undertaken by itself, rather than the Cabinet;
- 4.4.13 all other matters which, by law, must be reserved to Council;
- 4.4.14 [appointing the Council's Monitoring Officer and Section 151 Officer and, if appropriate, approving their dismissal];
- 4.4.15 adopting the Council's Codes of Conduct for Members and Officers; and
- 4.4.16 adopting the Council's Protocol on Member/Officer Relations.

### **Council Meetings**

4.5 The following are the different types of Council meeting:

- 4.5.1 the Annual Meeting of the Council, which will be held in May;
- 4.5.2 ordinary meetings;
- 4.5.3 extraordinary meetings, which will be called as and when required in accordance with the Council Procedure Rules;

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

### **Responsibility for Functions**

4.6 The Council will keep a record of responsibilities for functions of its decision-making bodies. These are set out in Part 3 of this Constitution.

## **Chapter 5-Chairing the Council**

### **1. Civic Role**

The Chairman of the Council, supported by the Vice Chairman will perform the Council's civic role.

This entails raising and maintaining the profile of the Council's area and its citizens. The aims and values of the Council will be promoted in an apolitical manner.

The Chairman will decide which civic and ceremonial functions to promote following consultations, where appropriate, with officers of the Council. These functions may include representing the Council at events organised by other local authorities or organisations.

### **2. Council Role**

The Chairman of the Council in 2009 was elected at the Council's first meeting in April 2009. In subsequent years, the Chairman will be elected at the Annual Council meeting in May. The Vice Chairman is appointed at the same meeting.

The Chairman is responsible for:

- upholding and promoting the purposes of this Constitution and interpreting it, where necessary, with advice;

- presiding over meetings of the Full Council to ensure that business is carried out efficiently and effectively, whilst preserving the rights of Councillors and the interests of the Council's citizens;

- ensuring that, at Council meetings, matters of concern to local people can be debated through the appropriate Councillors;

- ensuring that Councillors not on the Cabinet, or who do not hold the Chairmanship of a main committee, are able to hold those office holders to account;

- promoting public involvement in the Council's activities and acting as a contact between members of the public and organisations and the Council;

- carrying out other roles on behalf of the Council;

- to be the conscience of the Council.

The Vice Chairman of the Council will:

- support the Chairman in his/her civic role and will also carry out civic duties on behalf of the civic office;

- deputise for the Chairman in his/her absence .

### **3. Who may become Chairman or Vice Chairman**

3.1 Any elected Member of the Council shall be eligible for election to the office of Chairman, or appointment as Vice Chairman, except for Members of the Cabinet.

## **Chapter 6-Scrutiny Committees**

- 1.1 As is required by the Local Government Act 2000, the Council has established an effective, robust and constructive overview and scrutiny function. This comprises a number of Scrutiny Committees.
- 1.2 The Council fully supports the role of its Scrutiny Committees in holding the Cabinet and others to account in discharging their functions. The Council believes that the important parts of the role are:
  - To assist the Council and Cabinet in developing and reviewing its major plans, policies and strategies, which will set the climate in which the Cabinet and other decision-making bodies are required to operate
  - To undertake specific reviews of the Council's organisation and service provision so that improvements can be made to service delivery.
- 1.3 The Council's overview and scrutiny functions include responsibility for reviewing the health service provision within its area and beyond, health promotion and the health and well-being of local communities. This may be done in conjunction with other bodies/agencies.
- 1.4 This Chapter goes on to provide details of the Council's overview and scrutiny arrangements. For those seeking further information, this can be found in the Scrutiny Procedure Rules in Part 4 of this Constitution.

### **2 [Chief Scrutiny Committee]**

- 2.1 The Council has established this Committee to oversee and develop the Council's overview and scrutiny function. It is a politically balanced body and will discharge the duties contained in Section 21 of the Local Government Act 2000, and under any relevant Regulations.

### **3 The Council's other Scrutiny Committees**

- 3.1 The Council has established [ ] Scrutiny Committees (each reflecting the political balance of the Council) to cover the following functions:  
*(these could reflect Directorates or work areas of the Council)*
- 3.2 A Health and Adult Social Care Scrutiny Committee has been established to undertake the scrutiny role in relation to health service provision to the Council's people through the National Health Service and associated bodies. The Committee discharges the duties imposed on the Council under the Health and Social Care Act 2001.
- 3.3 The Minutes of meetings of the Scrutiny Committees will be submitted to the full Council at the appropriate meeting. Reporting lines to the full

Council or [Chief Scrutiny Committee] in respect of specific issues will be on an exception basis.

#### **4 Review Panels**

- 4.1 The [Chief Scrutiny Committee] or a Scrutiny Committee may establish Review Panels which it considers necessary, after taking into account the availability of resources, the work programme and scope of the review in question. The role of Review Panels is to carry out in-depth examinations of particular aspects of the Council's functions, roles, responsibilities and service delivery.
- 4.2 The Committee will appoint the Chairman (and Vice Chairman, if appropriate) of each Panel and agree the membership. This must be politically balanced.
- 4.3 Review Panels will be established normally on an ad hoc basis with specific time limited tasks. They may vary in size.
- 4.4 The reporting lines from Review Panels to other bodies shall be set at the scoping report stage. However, as a principle, major reviews and those of a cross cutting nature will normally be presented to the full Council.

#### **5 Role of the [Chief Scrutiny Committee]**

- 5.1 The [Chief Scrutiny Committee] will/may:
  - 1. discharge the Council's functions under Section 21 of the Local Government Act 2000 (Overview and Scrutiny Committees);
  - 2. oversee the Council's overall scrutiny function including the preparation, implementation, monitoring and review of an annual work programme for scrutiny and arrangements for the scrutiny of other public bodies particularly where required to do so by law;
  - 3. establish such Review Panels, appointing the Chairman in accordance with the Council's criteria and with such membership as it sees fit, to undertake scrutiny on a task and finish basis;
  - 4. ensure the [Head of Paid Service] and [Management Board] discharge their responsibilities effectively and efficiently in relation to the overview and scrutiny function;
  - 5. scrutinise decisions of the Cabinet, and offer advice or make recommendations on the matter under scrutiny once the Committee have considered the issues;

6. refer to the Council or appropriate Committee/Sub-Committee any matter which, following scrutiny, the Committee determines should be brought to the attention of the Council or the Committee or Sub-Committee;
7. if requested, offer any views or advice to the Cabinet in relation to any matter referred to the Committee for consideration;
8. undertake general policy reviews with a cross-service approach wherever possible and make recommendations to the Council or the Cabinet to assist in the development of future policies and strategies;
9. in performing its role, the Committee may consult and involve the local community and other local public, private and voluntary bodies or organisations;
10. review the Council's response to its obligations in respect of the overall performance management regime and, where appropriate, to advise the Cabinet and the Council of its findings;
11. advise the Cabinet and Council, as appropriate, of the Scrutiny response to the formulation of the Council's Budget and performance management reports [produced on a mid year, three quarterly and final out turn basis];
12. scrutinise decisions after implementation to examine their effect and outcomes;
13. review and make recommendations in relation to matters which are not the direct responsibility of the Council but which affect the social, economic or environmental well-being of an area or the Council's area as a whole or under any statutory requirement or Council contract, procedure or practice;
14. develop, maintain and monitor policies and procedures for handling complaints made against the Council and monitor on a regular basis the level and nature of complaints received and ensure that advice is formulated regarding action to be taken to address areas of concern;
15. monitor the level and nature of Ombudsman complaints and advise the Cabinet, Committees, Sub-Committees and Departments and Services on remedial action as appropriate;
16. ensure in conjunction with the [Standards and Governance Committees] that the Council has in place appropriate mechanisms to protect organisational integrity, including the development of appropriate policies and guidance.

## **6 Role of the Scrutiny Committees – [Insert names]**

*(If there is just one main Scrutiny Committee some of the terms of reference below may need to be added to those above)*

6.1 The [ ] Scrutiny Committees will/may each:

1. propose to the [Chief Scrutiny Committee], areas which it considers should be included in the annual work programme to be prepared by that Committee;
2. undertake such reviews as may be required by the [Chief Scrutiny Committee];
3. offer advice and make recommendations to the appropriate body of the Council on the development and review of policy;
4. review or scrutinise decisions or actions taken in respect of any functions which are the responsibility of the Cabinet;
5. make reports or recommendations to the appropriate body of the Council in respect of any functions which are the responsibility of the Cabinet;
6. review or scrutinise decisions or actions taken in respect of any functions which are not the responsibility of the Cabinet;
7. make reports or recommendations to the appropriate body of the Council in respect of any functions which are not the responsibility of the Cabinet;
8. make reports or recommendations to the appropriate body of the Council in respect of any matters which affect the Council's area or its inhabitants;
9. recommend that a decision made but not implemented and taken in respect of a function which is the responsibility of the Cabinet, be reconsidered by the Cabinet;
10. scrutinise matters coming before the Cabinet for decision and respond appropriately to the Cabinet on the matter once the Committee has considered the issues fully;
11. if requested, offer views and advice to the Cabinet in relation to any matter referred to the Committee for consideration;
12. refer to the [Chief Scrutiny Committee] any matter which, following review or scrutiny, the Committee determines should be brought to the attention of that Committee;

13. undertake general policy reviews in their areas of responsibility with the endorsement of the [Chief Scrutiny] Committee and make reports and recommendations to the appropriate body of the Council to assist in the development of future plans, policies and strategies;
14. consult and involve the local community and other local public, private and voluntary sector bodies of organisation in the performance of its role;
15. review the Council's response to its obligations in respect of the Performance Management Regime within the Committee's area of responsibility and, where appropriate, advise the appropriate body of the Council of its findings.

## **7 Role of the Health and Adult Social Care Scrutiny Committee**

The Health and Adult Social Care Scrutiny Committee will:-

1. fulfil the Health Scrutiny duties falling on the Council by virtue of the Health and Social Care Act 2001;
2. liaise with NHS bodies on any matter relating to the planning, provision and operation of health services in the Council's area, including commenting on the annual "health check" of performance;
3. respond to any formal consultations undertaken by NHS bodies on any substantial development or variation in service;
4. if necessary, report to the Secretary of State for Health or Monitor:
  - where the Committee is concerned that consultation on substantial developments or variations in service has been inadequate;
  - where the Committee considers that the proposal is not in the interests of the Health Service;
5. participate with other relevant local authorities external to Council's area, in joint scrutiny arrangements of NHS Trusts providing cross-border services to the Council's residents;
6. commission scrutiny reviews, to ensure that all sections of the Council's local communities have equal access to health Services and have an equal chance of a successful outcome from those Services;



7. establishing appropriate local Health Scrutiny arrangements from time to time, commissioning work and receiving reports and recommendations as appropriate;
8. provide a programme of training and development for all Members and Co-opted Members involved in Health Scrutiny;
9. deal with any matter referred by the Department of Health, a Patients Forum or by another Scrutiny Committee.

## **8 [Sub-Committee of the Chief Scrutiny Committee]**

- 8.1 This Sub-Committee will consider and advise the Executive [(collectively or individually)] in cases of urgency following the service of a “call-in” notice under the Council’s relevant procedures.

## **9 Chairmen and Vice Chairmen of [Chief Scrutiny Committee], [its Sub-Committee] and Scrutiny Committees**

- 9.1 Appointments to these offices shall be made by the Council at its first and at each Annual Meeting.

## **10 Membership of [Chief Scrutiny Committee]/ Scrutiny Committees/Sub-Committees**

- 10.1 The [Chief Scrutiny Committee] will comprise [ ] Members.
- 10.2 The Scrutiny Committees will each comprise [ ] Members The Health and Adult Social Care Scrutiny Committee will comprise [ ] Members.
- 10.3 [The Sub-Committee of the Chief Scrutiny Committee] will comprise [ ] Members.
- 10.4 The Scrutiny Procedure Rules, contained in Part 4 of this Constitution, set out arrangements for co-option to Scrutiny Committees.

## **11 Proceedings of Committees [/Sub-Committees]**

- 11.1 Conduct of the proceedings at [the Chief Scrutiny Committee], and Scrutiny Committees shall be in accordance with the Council and Scrutiny Procedure Rules as appropriate.

## **Chapter 7-The Cabinet**

### **1. Role**

The Cabinet carries out those duties and responsibilities which are not the responsibility of any other part of the Council.

Some of the Cabinet's responsibilities are "local choice" functions, which Council has chosen to delegate to the Cabinet.

Other functions are the responsibility of the Cabinet because the law says so.

### **2. Composition**

The Cabinet consists of the Leader of the Council, and 9 other Councillors. *[strong Leader model]* The Leader of the Council is appointed by Full Council, but the Leader is responsible for appointing the other 9 other Members of the Cabinet.

No deputy or substitution arrangements will apply to the Cabinet, and neither the Chairman nor the Vice Chairman may be appointed to the Cabinet.

### **3. The Leader**

The Leader will hold office until:  
he/she resigns from the office of Leader;  
he/she becomes ineligible to be a Councillor of the Council, either for a specific period, or indefinitely;  
he/she ceases to be a Councillor;  
he/she is removed from office by a resolution of the Council. *[a fixed term of office can be applied here]*

Where there is a vacancy in the office of Leader, the Deputy Leader will assume the responsibilities of the Leader until the next meeting of the Council.

Where both the Leader and Deputy Leader cease to hold office at the same time, the Chairman of the Council shall call a meeting of the Full Council as soon as possible.

### **4. Other Cabinet Members**

Other Members of the Cabinet will hold office until any of the events listed in 3.1 above, which apply to ending the term of office of the Leader, apply to them collectively or individually as Cabinet Members.

### **5. Proceedings of the Cabinet**

Proceedings of the Cabinet shall be conducted in accordance with the Council and Cabinet Procedure Rules, which are part of this Constitution.

## **6. Responsibility for Functions**

The Leader will ensure that a record is kept of the executive functions which are the responsibility of individual Cabinet Members, any Cabinet Committee or Sub-Committee, officers or joint arrangements.

*[As proposals for Cabinet decision making emerge, these need to be outlined in this paragraph]*

## **7. [Policy Advisory Panels]**

The Cabinet is supported on policy development issues by [ ] Policy Advisory Panels, chaired by representatives of the Cabinet.

The role of these Panels is to advise the Cabinet on policy development or strategic issues with policy implications. The focus of their work is upon strategic policy direction rather than operational issues.

The Panels are not decision-making bodies and do not fall within the Access to Information Rules. They report to the Cabinet on an exception basis.

## **8. Cabinet Members**

The following are the Council's Cabinet Members:

*[Insert names and hyperlink to contact details of each Member]*

## **Chapter 8-Regulatory and Other Committees**

### **1. Regulatory Committees**

The Council will appoint those Committees which are listed in Part 3 of this Constitution: Responsibility for Council Functions.

These committees of the Council must be politically balanced.

The powers and duties of these Committees are set out in Part 3.

### **2. Other Committees**

The Council will appoint such other Committees as it considers are needed to exercise any of its functions and take those decisions which are not the responsibility of the Cabinet.

Details of these Committees are also set out in Part 3 of this Constitution.

## **Chapter 9-The Standards Committee**

### **1. Establishment of the Committee**

Part III of the Local Government Act 2000 requires the Council to establish a Standards Committee.

### **2. Composition**

The Standards Committee will be composed of:

[            ] Councillors  
[            ] Statutory Independent Members, who will be entitled to vote at meetings, but who are not Councillors or officers of the Council;  
[            ] Parish Members. At least one Parish Member must be present when matters relating to Parish Councils or their Members are being considered [*Town Councils?*];

A Member of the Cabinet may not chair the Standards Committee.

### **3. Role and Functions**

The Committee will be responsible for

- discharging the Council's functions under Part III of the Local Government Act 2000;
- considering and granting, or otherwise, dispensations in respect of Members' Interests when so enabled under Part III of the Local Government Act 2000;
- promoting high standards of ethical behaviour by developing, maintaining and monitoring codes of Conduct for Members of the Council (including Co-opted Members and other persons acting in a similar capacity) and for employees in accordance with best practice and Government guidance;
- advising the Council on the adoption or revision of the Codes of Conduct for Members and Officers;
- ensuring that Members receive advice and training as appropriate on the Members' Code of Conduct;
- issuing advice to Members on the treatment of personal interests and on conduct matters generally;
- ensuring that the Council maintains appropriate links with the Standards Board for England and the Commission for Local Administration in England (Ombudsman);

- referring issues, which impinge on staff conduct, performance, terms of employment, training and development to the appropriate and responsible Executive Member and/or Manager;
- promoting high standards of responsiveness by the Council to its clients and contacts

(a) advising other persons/bodies on probity and ethics as appropriate, particularly where that person or body is exercising functions on behalf of the Council; and

(b) supporting the Council's statutory officers as appropriate or their authorised deputies, in the performance of their duties.

#### **4 Standards Complaints Sub-Committee**

- 4.1 The Standards Committee may delegate the conduct of a local standards hearing to a Standards Complaints Sub-Committee in accordance with the Council's approved procedure.

## **Chapter 10-[Area][Neighbourhood] Working**

*[As Area/Neighbourhood working arrangements emerge, full details need to be provided here. These should include:*

- *Core Purpose*
- *Operating Principles*
- *Terms of Reference*
- *Public Involvement*
- *Conflicts of Interest*
- *Access to Information]*

## **Chapter 11-Joint Arrangements**

### **11.1 ARRANGEMENTS TO PROMOTE WELL BEING**

The Council or the Cabinet, 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.

### **11.2 JOINT ARRANGEMENTS**

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions which are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities;
- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities;
- (c) Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the local authority as a whole;
- (d) The Cabinet may appoint members to a joint committee from outside the Cabinet in the following circumstances:-
  - the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet 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 to such appointments.

- (e) 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.

### **11.3 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 Cabinet in each of the participating authorities, then its access to information regime is the same as that applied to the Cabinet.
- (c) If the joint committee contains members who are not on the Cabinet of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

### **11.4 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 Cabinet may delegate executive functions to another local authority or the Executive of another local authority in certain circumstances;
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

### **11.5 CONTRACTING OUT**

The Council (for non-executive functions) and the Cabinet 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.

## **Chapter 12-Officers of the Council**

### **1 Definition**

- 1.1 The term “officers” means all employees and staff employed or engaged by the Council to carry out its functions. It includes those under short-term, agency or other non-employed situations. It does not apply to any person employed by contractors who are carrying out work or duties for the Council under contracts.

### **2 Management Structure**

- 2.1 The Council will employ/engage such officers as it considers necessary to carry out its functions.

### **3 Management [Board][Team]**

- 3.1 The Council’s Management [Board][Team] comprises the following officers who shall be regarded as “Chief Officers”
- Chief Executive
  - Director of *[List titles of all Directors as structure emerges]*

### **4 Head of the Paid Service**

- 4.1 The Head of the Paid Service is the Chief Executive.
- 4.2 The Head of the Paid Service cannot be appointed as the Council’s Monitoring Officer.
- 4.3 The Head of the Paid Service may hold the position of the Section 151 Officer if he/she is a qualified accountant.

### **5 Monitoring Officer**

- 5.1 The [Council Solicitor and Monitoring Officer] is designated as the Council’s Monitoring Officer.
- 5.2 The [insert titles] are designated as the Deputy Monitoring Officers.
- 5.3 The Monitoring Officer may appoint, in writing, further deputies as he/she considers appropriate.

### **6 Section 151 Officer**

- 6.1 The [insert title] is designated as the Section 151 Officer. He or she may appoint, in writing, a deputy as appropriate.

## **7 Functions of the Head of the Paid Service**

- 7.1 The Head of the Paid Service will report to the full Council on the manner in which the Council develops its functions and the co-ordination of those functions as well as the number and grade of officers, (and their organisation), required to support the Council in delivering its services. He/she also has statutory functions in relation to staff.

## **8 Functions of the Monitoring Officer**

- 8.1 The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available to Members, staff and the public.
- 8.2 After consulting with the Head of Paid Service and the S151 Officer, the Monitoring Officer will report to the full Council, (or to the Cabinet in relation to an executive function), if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission would give rise to a finding of maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- 8.3 The Monitoring Officer will help to promote and maintain high standards of conduct by providing support to the Standards Committee.
- 8.4 The Monitoring Officer will receive and act on reports made by ethical standards officers and decisions of case tribunals.
- 8.5 The Monitoring Officer will conduct investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the Standards Committee.
- 8.6 The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the Policy Framework.
- 8.7 The Monitoring Officer will provide advice to all councillors on issues in relation to the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy and Planning Framework.
- 8.8 The Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service.
- 8.9 The Monitoring Officer will ensure that executive decisions, the reasons for those decisions, relevant officer reports and background papers are made publicly available as soon as possible.

## **9 Functions of the [Insert title] (Section 151 Officer)**

- 9.1 After consulting with the Head of Paid Service and the Monitoring Officer, the [Insert title] will report to the full Council (or to the Cabinet 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.
- 9.2 The [Insert title] in consultation with the [appropriate finance officer if applicable] will have overall responsibility for the administration of the financial affairs of the Council.
- 9.3 The [Insert title] will contribute to the corporate management of the Council, in particular, with the [appropriate finance officer if applicable], by providing professional financial advice.
- 9.4 He/she will provide advice on issues to all councillors in relation to 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.
- 9.5 He/she will provide, in consultation with the [appropriate finance officer if applicable], as appropriate, financial information to the media, members of the public and the community.

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

- 10.1 The Council will provide the Monitoring Officer and S151 Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed in their statutory roles.

## **11 Returning Officer**

- 11.1 [ ] was appointed by the Council on [ ] as the Returning Officer for Council Elections.

## **12 Conduct**

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

## **13 Employment**

- 13.1 The recruitment, selection and dismissal of officers will comply with the Staff Employment Rules as set out in this Constitution.

# Chapter 13-Decision-making

## 1. Responsibility for decision-making

The Council makes many decisions relating to matters within its area. So that members of the public are clear about what decisions are made and what part of the Council or individual has responsibility for particular types of decisions, the Council will keep a record of these things. This record is set out in Part 3 of this Constitution.

The Council, the Cabinet and any Committee or Sub-Committee of the Council may delegate a function or decision to a Committee, Sub-Committee or officer on a permanent or one-off basis. Permanent delegations are explained in Part 3 of this Constitution, including in various Schemes of Delegation which can be found there.

*The Cabinet [has delegated decision-making powers to individual members of the Cabinet, and details can also be found in Part 3]*

## 2. Principles of decision-making

The following principles will apply to the way in which the Council makes its decisions:

- The Council will take into account all relevant considerations and will ignore those which are not relevant.
- A realistic evaluation of alternatives will be made and consultation will take place through access by the public to those making decisions.
- The Council will take decisions which are proportionate to the desired outcome.
- When it makes decisions, the Council will take professional advice from officers.
- Human rights will be respected.
- The Council makes a presumption that its decision-making processes will be open.
- The Council will be clear in its aims and desired outcomes.
- When executive decisions are taken, the options available will be explained, as well as the reasons for the decision.

## 3. Types of decision and the decision-takers

Decision-making by the Full Council

When the Council makes decisions, it will follow the Council Procedure Rules which can be found in Part 4 of this Constitution.

## Decision-making by the Cabinet

Part 4 of this Constitution contains the Cabinet Procedure Rules, which will be complied with when the Cabinet makes decisions.

## Decision-making by Scrutiny Committees

The Council's Scrutiny Committees must follow the Scrutiny Procedure Rules when they make decisions. These Rules are contained in Part 4 of this Constitution.

## Decision-making by other Committees and Sub-Committees established by the Council

The Council Procedure Rules, contained in Part 4 of this Constitution, will be followed when Committees and Sub-Committees of the Council make decisions.

## Decision-making by Council bodies acting as tribunals

On occasions, the Council, a Councillor or officer act as a tribunal or in a quasi-judicial manner when they determine the civil rights, obligations or criminal responsibility of individuals. When this happens, they 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.

## 4. Key decisions

4.1 Certain types of decisions made by the Cabinet, individual Cabinet Members, Committees or Sub-Committees of the Cabinet are "Key Decisions". Except in cases of urgency, these types of decision receive special advance publicity so that members of the public and Councillors are able to consider the implications of the decision. They may also seek to influence the decision by making contact with the decision-maker. Key Decisions appear on the Council's Forward Plan, which can be viewed on the Council's website, or in hard copy form at the Council's offices.

4.2 The statutory definition of a Key Decisions, as contained in paragraph 8 of Part III of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000, is as follows:-

"an executive decision which, is likely –

- (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or

- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.”

*[The following paragraphs are optional and apply useful mechanisms to exclude certain decisions from the definition]*

- 4.3 Under part (a) of the definition and subject to 4.4 below, the Council has decided that any expenditure or savings of £1m or more shall be significant for the purposes of that part of the definition.
- 4.4 The Council has decided that the letting of any contract by the Council's [Business Services Officer] or the Council's [Policy Officer], which involves the provision of services to, or the purchase of goods and services by the Council shall be excluded from the definition of a Key Decision where such contracts relate mainly to the internal workings of the authority and do not therefore have a significant impact directly on local communities in the same way as other Key Decisions. Such contracts include advertising, library books, vehicles, consumables, food, gas, electricity and cleaning of Council premises.

## **Chapter 14-Finance, Contracts and Legal Matters**

### **1. Financial Management**

The Council has agreed certain financial rules which are contained in Part 4 of this Constitution. The Council will manage its financial affairs in accordance with these rules.

### **2. Contracts**

The Council has also agreed a set of rules for contracts. Every contract made by the Council will comply with these rules, which can be found in Part 4 of this Constitution.

*[This assumes that the Contract Procedure Rules will be a separate document to the Finance Procedure Rules]*

### **3. Legal Proceedings**

- 3.1 The [Council Solicitor and Monitoring Officer] is authorised to institute, defend or participate in any legal proceedings or to take other action where this is necessary to give effect to decisions of the Council or in any case where he/she considers that it is necessary to protect or further the Council's interests.

### **4. Signing etc of documents**

- 4.1 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the [Council Solicitor and Monitoring Officer] or other person authorised by him/her unless any enactment otherwise authorises or requires, or the Council has given the required authority to some other person.
- 4.2 Any contract entered into on behalf of the Council shall be made in accordance with the Council's Finance Procedure Rules. In the absence of any authority given to a specific officer all such contracts must either be signed by at least the [Council Solicitor and Monitoring Officer] or his/her authorised deputy, plus another of his/her authorised deputies or be made under the common seal of the Council.

### **5. The Council's Common Seal**

The Common Seal of the Council will be kept in a safe place in the custody of the [Council Solicitor and Monitoring Officer]. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will



be affixed to those documents which, in the opinion of the [Council Solicitor and Monitoring Officer], should be sealed. The affixing of the Common Seal will be attested by the [Council Solicitor and Monitoring Officer] or one of his/her authorised deputies.

## **Chapter 15-Management of the Constitution**

### **1 Review**

- 1.1 The Governance and Constitution Committee, in consultation with other appropriate Members, the Monitoring Officer and Section 151 Officer, will monitor and review the Constitution to make sure that its aims and principles are given full effect.
- 1.2 In doing this, the Committee will need to be aware of the strengths and weaknesses of the Constitution, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. To do this, the Committee may require:
  - meetings between Members and officers of the Council;
  - an audit-trail of a sample of decisions to be carried out;
  - issues raised by Members, officers, the public and other relevant stakeholders to be recorded and assessed;
  - the Council's practices to be compared with those in other local authorities, or national examples of best practice.

### **2 Changing the Constitution**

- 2.1 Changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Governance and Constitution Committee.
- 2.2 The Council will take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals to change the "Leader and Cabinet" style of government set out in this Constitution.

### **3 Suspension of the Constitution**

- 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 to the extent permitted by those Rules and the law.
- 3.2 A motion to suspend any rules cannot 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 into account the purposes of the Constitution set out in Article 1.

## **4 Interpretation**

- 4.1 The ruling of the Chairman 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.

## **5 Publication**

- 5.1 The [Council Solicitor and Monitoring Officer]:

- will give a printed copy of this Constitution to each Member of the authority upon delivery of that individual's declaration of acceptance of office on the Member first being elected to the Council;  
*[should it be the Council's practice to offer a printed copy to each Member?]*
- 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;
- will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.