

Part 2

Articles of the Constitution

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Article 1 – The Constitution

1 Powers of the Council

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

2 The Constitution

This Constitution, together with all its appendices, is the Constitution of the London Borough of Richmond upon Thames.

3 Purpose of the Constitution

The purpose of the Constitution is to:

- 3.1 enable the Council to provide clear leadership to the community in partnership with residents, businesses and other organisations;
- 3.2 support the active involvement of the public in the process of local authority decision-making;
- 3.3 help Councillors represent their constituents more effectively;
- 3.4 enable decisions to be taken efficiently and effectively;
- 3.5 create a powerful and effective means of holding decision-makers to public account;
- 3.6 ensure that no one will review or scrutinise a decision in which they were directly involved (for example, a Member of the Executive cannot also serve on an Overview and Scrutiny Committee);
- 3.7 ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- 3.8 provide a means of improving the delivery of services to the community.

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 15.

Article 2 – Members of the Council

1 **Composition and eligibility**

- (a) **Composition.** The Council comprises 54 Members, otherwise called Councillors. Three Councillors will be elected by the voters of each Ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- (b) **Eligibility.** Only registered electors of the borough or those living, working or owning property in the borough will be eligible to hold the office of Councillor.

2 **Election and terms of Councillors**

Election and terms. The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2002. 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.

3 **Roles and functions of all Councillors**

- (a) **Key roles.** All Councillors will:
 - (i) collectively be the ultimate policy-makers and carry out strategic and corporate management functions;
 - (ii) contribute to the good governance of the area and actively encourage participation and public involvement in decision making;
 - (iii) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
 - (iv) balance different interests identified within the Ward and represent the Ward as a whole;
 - (v) balance the interests of the Ward and the Borough more generally (a balance that Executive Members in particular must be seen to achieve);
 - (vi) participate in the governance and management of the Council;
 - (vii) be available to represent the Council on other bodies; and
 - (viii) maintain the highest standards of conduct and ethics.

(b) Rights and duties

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public information which is confidential or exempt without the consent of either the full Council or the Monitoring Officer, 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.

4 Conduct

Councillors will at all times observe the Members’ Code of Conduct and the Members’ Protocols set out in Part 5 of this Constitution.

5 Allowances

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

Article 3 – Members of the Public and the Council

1 **Members of the public's rights**

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

- (a) **Voting.** Residents on the electoral roll for the area have the right to vote.
- (b) **Information.** Members of the public have the right to:
 - (i) attend meetings of the Council and its Committees/Sub-Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) attend all meetings of the Executive, except where confidential or exempt information is likely to be disclosed;
 - (iii) find out from the Forward Plan what Key Decisions will be taken by the Executive and when;
 - (iv) see reports and background papers, and any records of decisions made by the Council and the Executive; and
 - (v) inspect the Council's accounts and make their views known to the external auditor.

They will also have rights under the Freedom of Information Act 2000, the provisions of which applied to local authorities from December 2002.

- (c) **Participation.** Members of the public have the right to participate in the Council's question time, speak at meetings of the Executive and Overview & Scrutiny and other Committees, and contribute to investigations by Overview and Scrutiny Committees.
- (d) **Complaints.** Members of the public have the right to complain to:
 - (i) the Council itself under its complaints scheme (or the separate Social Services procedure);
 - (ii) the Ombudsman (who will only investigate after the Council's own complaints procedure has been exhausted);
 - (iii) the Standards Board for England about a breach of the Members' Code of Conduct.

- (e) **Petitions.** Residents on the electoral roll for the area have the right to sign a petition to request a referendum for an elected Mayor form of Constitution.

2 **Citizens' responsibilities**

Members of the public must not be violent, abusive or threatening to Councillors or staff and must not wilfully harm property owned by the Council, Councillors or staff.

Article 4 – The Full Council

1 Meanings

(a) **Policy Framework.** The policy framework means the following plans and strategies:

(i) those required by law to be adopted by the Council:

- Children and Young People’s Plan;
- Community Plan (Community Strategy);
- Community Safety and Substance Misuse Strategy
- Early Years Development Plan;
- Education Development Plan;
- Local Transport Plan (Local Implementation Plan);
- Plans and strategies which together comprise the Local Development Framework;
- Sustainable Community Strategy;
- Youth Justice Plan.

(ii) such other plans and strategies which the Council have decided should be adopted by the Council meeting as a matter of local choice including:

- Corporate Plan;
- Capital Strategy;
- Corporate Asset Management Plan;
- Customer Strategy;
- Equality and Diversity Strategy;
- Gambling Policy Statement;
- Licensing Policy Statement;
- Any other plan or strategy that must be approved by the authority and submitted to the Secretary of State or a Minister of the Crown for approval.

(b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council tax base, setting the Council tax and decisions relating to the control of the Council’s borrowing requirement, the control of its capital expenditure and the setting of virement limits.

2 Functions of the full Council

Only the Council will exercise the following functions:

- (a) Adopting and changing the Constitution except and insofar as this function has been delegated to the Chief Executive;
- (b) approving or adopting the policy framework and the budget;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter 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/not wholly in accordance with the budget;
- (d) appointing the Leader following an election (or following the removal, incapacity or resignation of the Leader);
- (e) agreeing and/or amending the terms of reference for Committees discharging any non-executive function, determining their composition and making appointments to them;
- (f) confirming the appointment of the Head of the Paid Service;
- (g) appointing the Returning Officer and Electoral Registration Officer;
- (h) submitting proposals to the Secretary of State under the representation of the people Act 2000;
- (i) making any decisions in respect of electoral arrangements for authority;
- (j) agreeing the cycle of Council and Committee meetings;
- (k) appointing representatives to those outside bodies to which the Executive does not make appointments (as specified in Part 3 of this Constitution);
- (l) adopting a Members' allowances scheme (as set out in Part 6 of this constitution) in accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003;
- (m) changing the name of the Borough, conferring the freedom of the borough;
- (n) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (o) considering appropriate matters referred to it by the Overview & Scrutiny Committees
- (p) 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; and

(q) all other matters which, by law, must be reserved to Council.

3 Council meetings

There are three types of Council meeting:

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

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

4 Responsibility for functions

The Council will maintain the arrangements in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Executive.

Article 5 – Chairing the Council (The Role and Function of the Mayor)

1 The Mayor

The Mayor will be elected by the Council annually from the Membership of the Council. Unless he or she resigns or becomes disqualified, The Mayor shall continue in office until his or her successor becomes entitled to act as Mayor. In an election year, the Mayor will continue in office until his or her successor is elected at the Annual Meeting.

2 The Deputy Mayor

The Deputy Mayor will be appointed at the Annual Meeting of Council and in the absence of the Mayor may discharge the role and function of the Mayor, subject to any limitations placed by Council.

3 Role and function of the Mayor

The Mayor and, in his or her absence, the Deputy Mayor will have the following roles and functions:

3.1 Ceremonial role

The Mayor is the First Citizen of the Borough, and acts as an ambassador on behalf of the Borough. As a symbol of the Council and its area, the Mayor gives encouragement and shows appreciation for the many groups and organisations who also serve the residents of the Borough. The Mayor will attend such civic and ceremonial functions as the Council and he or she determines appropriate. The Mayor will act in a non-partisan manner and in the interests of the whole Council.

3.2 Chairing the Council Meeting (Applies to the Deputy Mayor only if the Council so resolve)

The Mayor will have the following responsibilities:

- (a) To uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (b) 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;

- (c) To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and a place at which non-Executive Members are able to hold the Executive to account; and
- (d) To promote public involvement in the Council's activities.

Article 6 – Overview and Scrutiny Committees

1 Terms of reference

The Council will appoint the Overview and Scrutiny Committees set out in the left hand column of the table below to discharge the functions conferred by section 21 of the Local Government Act 2000, Chapter 2 of Part 5 of the Local Government and Public Improvement in Health Act 2007 and sections 19-22 of the Police and Justice Act 2006 in relation to the matters set out in the right hand column of the same table. With regard to the Health Scrutiny function, these powers are conferred by the Health and Social Care Act 2001, Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 and Directions on Joint Health Scrutiny Committees and any other such functions as may from time to time be allocated.

<p style="text-align: center;">Committee</p>	<p>Scope [Precise Terms of Reference are set out in the Overview and Scrutiny Procedure Rules in Part 4 of this Constitution]</p>
<p>Finance and Performance Overview & Scrutiny Committee [membership to include non-voting co-opted advisers]</p>	<p>Matters relating to the Council's budget, the management of its budget, capital, revenue borrowing and assets and its audit arrangements; personnel strategies and policies; and cross-cutting functions. Lead responsibility for the review of performance and outcomes (including the performance of partnership working); and scrutiny of partnerships and the voluntary sector. Consistent and effective operation of overview and scrutiny in Richmond.</p>
<p>Education and Children's Services Overview & Scrutiny Committee [membership to include voting Church and Parent Governor representatives and non voting co-opted advisers]</p>	<p>Matters relating to the provision, planning and management of education, training, and learning in Richmond upon Thames and the provision of social care services for children and young people.</p>

<p>Environment, Sustainability and Community Overview & Scrutiny Committee [membership to include non-voting co-opted advisers]</p>	<p>Matters relating to the physical environment of Richmond upon Thames; the provision, planning and management of the built and natural environment, including parks, open spaces, allotments, cemeteries and pitches; environmental services; transport services for client groups, concessionary fares. Scrutiny of the work of the community safety partnership and the partners who comprise it, insofar as their activities relate to the partnership itself in accordance with sections 19 and 21 of the Police and Justice Act 2006. Matters relating to sporting and cultural provision and facilities</p>
<p>Health, Housing & Social Care Overview & Scrutiny Committee [membership to include non-voting co-opted advisers]</p>	<p>Matters relating to the provision, planning and management/operation of adult health and social care services, and children’s health services, including all services which impact on the health of local people, health outcomes and how health can be improved. Matters relating to the provision, planning and management/operation of housing for residents of Richmond upon Thames; allocations, homelessness, rough sleepers and asylum seekers.</p>

2 General role

Overview and Scrutiny Committees’ work programmes will include a combination of

- (a) matters referred by the Executive
- (b) consideration of proposed Executive decisions
- (c) analysis/review of policy issues identified by the Committees themselves.

Within their terms of reference and their remit as a ‘critical friend’, Overview and Scrutiny Committees will:

- (i) consider the Forward Plan and comment as appropriate to the Executive on Key Decisions;
- (ii) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council’s functions;
- (iii) make reports and/or recommendations to the full Council and/or the Executive/Executive Members in connection with the discharge of any functions;
- (iv) consider any matter affecting the area or its inhabitants; and
- (v) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive.

3 Specific functions

- (a) **Community Safety:** the Environment, Sustainability and Community Overview and Scrutiny Committee shall scrutinise the work of the community safety partnership and the partners who comprise it, insofar as their activities relate to the partnership itself in accordance with sections 19 and 21 of the Police and Justice Act 2006 by:
- (i) reviewing or scrutinising decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions
 - (ii) make reports or recommendations to the local authority with respect to the discharge of those functions
 - (iii) make recommendations to the executive and/or council assembly with respect to any matter which is a local crime and disorder matter in relation to a member of the authority,
 - (iv) consider any crime and disorder matters referred by any member of the council
- (b) **Policy development and review.** Overview and Scrutiny Committees may:
- (i) assist the Council and the Executive in the development of the budget and policy framework by in-depth analysis of policy issues;
 - (ii) commission task groups to aid in policy review and development;
 - (iii) conduct research, community and other consultation in the analysis of policy issues and possible options;
 - (iv) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
 - (v) question Members of the Executive and appropriate/responsible officers about their views on issues and proposals affecting the area; and
 - (vi) liaise with other external organisations and/or partners operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by partnership working.
- (c) **Scrutiny.** Overview and Scrutiny Committees may:
- (i) commission task groups to examine policy issues in greater depth;
 - (ii) review and scrutinise the decisions made by and performance of the Executive and Council officers in relation to individual decisions;
 - (iii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
 - (iv) consider referrals from any member of crime and disorder matters or other matters affecting the ward of the member in respect of any of the functions of the committees;
 - (v) question Members of the Executive and appropriate/responsible officers about their decisions and performance, whether generally in

- comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (vi) make recommendations, to the Executive, Council and/or other stakeholders, arising from the outcome of the scrutiny process;
 - (vii) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance; and
 - (viii) question and gather evidence from any person (with their consent).
- (d) **Finance.** There is a budget available to enable Overview and Scrutiny to commission research, meet the expenses of witnesses and undertake other activities such as site visits.
- (e) **Annual report.** The Chairmen of the Overview and Scrutiny Committees will provide a joint report annually to full Council on the workings of the Overview & Scrutiny function, and make recommendations for future work programmes and amended working methods if appropriate.

4 **Proceedings of Overview and Scrutiny Committees**

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

Article 7 – The Executive

1 Role

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

The Council resolved on 1 December 2009 to adopt the new Leader and Cabinet executive model for the London Borough of Richmond upon Thames as described under the Local Government and Public Involvement in Health Act 2007, for implementation after the 2010 elections.

2 Form and composition

The Executive will consist of the Executive Leader together with between 3 and 9 Councillors appointed to the Executive by the Leader.

NB: Assistant Cabinet Members and Champions may be appointed to support the relevant Cabinet Member(s) or represent the concerns of particular groups in the Borough but **do not have any Executive or decision-making authority.**

3 Leader

The Leader will be a Councillor elected to the position of Leader by the Council. The Leader will hold office until:

- (a) he/she resigns from the office; or
- (b) he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) he/she is no longer a Councillor; or
- (d) the expiry date of his/her fixed term of office as Leader, which is the date of the post-election annual meeting which follows his/her election as Leader (e.g. for a Leader elected at the Annual Council in May 2010, the period of election will continue to the Annual Meeting in May 2014); or
- (e) he/she is removed from office by resolution of the Council, on 5 working days notice of motion signed by 20% of the total number of Councillors and delivered to the Proper Officer.

In the event of the Leader being removed from office by resolution of the Council, the new Leader may be appointed at the same or a subsequent meeting.

4 Other Cabinet Members

The Leader must appoint one of the Executive as Deputy Leader, who will hold office until the end of the Leader's term of office, unless:

- (a) he/she resigns from the office; or
- (b) he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) he/she is no longer a Councillor; or
- (d) he/she is removed from office by the Leader

Where a vacancy occurs, the Leader must appoint another Deputy Leader.

If for any reason the Leader is unable to act or the office of Leader becomes vacant (and pending the election of a new Leader) the Deputy Leader shall discharge all roles and functions of the Leader.

If, for any reason, both the Leader and Deputy Leader are unable to act or both offices become vacant, the Executive shall act in the Leader's place or arrange for another Member of the Executive to act in his/her place.

The Leader appoints the other members of the Executive or Cabinet.

Other Cabinet Members shall hold office until:

- (a) they resign from office; or
- (b) they are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (c) they are no longer Councillors; or
- (d) they are removed from office on the expiry date of their appointed term of office, save that the Leader may remove the Cabinet Member from office at an earlier date if he/she so decides.

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 Responsibility for functions

The Head of Paid Service on behalf of the Leader will maintain a list in Part 3 of this Constitution setting out the allocation of responsibility for the exercise of particular Executive functions to individual members of the Executive, Committees of the Executive, officers or joint arrangements (in accordance with Section 15(2) of the Local Government Act 2000).

Article 8 – Regulatory and other Committees

1 Regulatory and other Committees

The Council will appoint Regulatory and other Committees (which may establish sub-committees) to determine those functions which are not within the remit of the Executive including the determination of applications or the direct regulation of a person where sufficient discretion exists. The responsibilities and Terms of Reference of these Committees are set out in Part 3 of this Constitution.

2 Proceedings

Proceedings of these Committees and sub-committees shall take place in accordance with the Procedure Rules set out in Part 4.

Article 9 – The Standards Committee

1 Standards Committee

The Council meeting will establish a Standards Committee.

2 Composition

The Standards Committee will be composed of five Councillors, not more than one of whom may be a Member of the Executive, and six people who are not Councillors or officers of the Council or any other body having a Standards Committee (the independent members). The independent members will be entitled to vote at meetings, and will be appointed in accordance with Regulations. The Chair of the Standards Committee will be an independent member. When investigating a complaint against a Member, the Committee will be chaired by an independent member. The quorum of the Committee will be three Members of the Committee, including at least two independent members, subject to the provisos contained in the Relevant Authorities (Standards Committee) Regulations 2001.

3 Substitutions

No member of the authority who is not appointed to the Standards Committee will be allowed to sit on the Committee or any of its sub-committees as a substitute member. Any member of the Standards Committee may act as a substitute member for any of the Standards sub-committees' members, so long as the quorum is adhered to and there is no risk of bias.

4 Role and Function

- (a) The Standards Committee will have the following roles and functions:
- (b) promoting and maintaining high standards of conduct by Councillors, co-opted members and church and parent governor representatives;
- (c) assisting the Councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct and associated local protocols;
- (d) advising the Council on the adoption or revision of the Members' Code of Conduct and associated local protocols;
- (e) monitoring and reviewing the operation of the Members' Code of Conduct and associated local protocols;
- (f) developing for recommendation to the Council local protocols to supplement the Members' Code of Conduct;
- (g) enforcing local protocols and applying sanctions in respect of breaches as appropriate;

- (h) advising, training or arranging to train Councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct and associated local protocols;
- (i) granting dispensations to Councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct and associated local protocols;
- (j) undertaking the local assessment of complaints against members of the Authority and where necessary applying appropriate sanctions, in accordance with all statutory requirements.
- (k) keeping under review, amending and making additional provisions to the Protocol on Member/Officer relations;
- (l) monitoring the Officers' Code of Conduct to ensure consistent application and enforcement Council-wide;
- (m) maintaining a general overview of probity matters arising from Ombudsman reports, Monitoring Officer reports and Audit Commission reports.

Article 10 – Area Committees and Forums

1 **Area Committees**

The Council may choose to appoint Area Committees, as it sees fit and will keep under review any consultative forums, established as required to ensure improved service delivery in the context of its community leadership role and in order to aid transparent and accountable decision-making.

Article 11 – Joint Arrangements

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 functions of that person or body.

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 (such as joint scrutiny of NHS organisations), 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 appoint Executive Members only to a joint Committee and those Members need not reflect the political composition of the local authority as a whole.
- (d) The Executive may appoint Members to a joint Committee from outside the Executive 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 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 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.

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.

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.
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

5 Contracting out

The Council or the Executive 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 12 – Officers/Staff

1 Management structure

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

Post	Functions and areas of responsibility
Chief Executive (and Head of Paid Service)	Overall corporate management and operational responsibility (including overall management responsibility for all staff). Provision of professional advice to all parties in the decision making process. Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions. Representing the Council on partnership and external bodies (as required by statute or the Council)
Director of Education, Children's and Cultural Services	To work with the Chief Executive and colleague Directors on the strategic management and co-ordination of Council-wide initiatives and projects; to develop cross service policies; and to take overall responsibility for the direction and performance of the services for which he/she is responsible. To perform the statutory responsibilities of the Chief Education Officer.
Director of Adult and Community Services	To work with the Chief Executive and colleague Directors on the strategic management and co-ordination of Council-wide initiatives and projects; to develop cross service policies; and to take overall responsibility for the direction and performance of the services for which he/she is responsible. To perform the statutory responsibilities of the Director of Social Services.
Director of Environment	To work with the Chief Executive and colleague Directors on the strategic management and co-ordination of Council-wide initiatives and projects; to develop cross service policies; and to take overall responsibility for the direction and performance of the services for which he/she is responsible.
Director of Finance and Corporate Services	To work with the Chief Executive and colleague Directors on the strategic and financial management of the Council, and the co-ordination of Council-wide initiatives and projects; to develop cross service policies and financial planning and control systems; and to take overall responsibility for the direction and performance of the services for which he/she is responsible.

- (c) **Head of Paid Service, Monitoring Officer and Chief Finance Officer.** The Council will designate the following posts as shown (the Deputy Monitoring Officer and the Deputy Chief Finance Officer being appointed by the Monitoring Officer and the Chief Finance Officer respectively, not the Council):

Post	Designation
Chief Executive	Head of Paid Service
Head of Legal Services (Assistant Head of Legal Services)	Monitoring Officer (Deputy Monitoring Officer)
Director of Finance and Corporate Services (Assistant Director of Finance)	Chief Finance Officer (Deputy Chief Finance Officer)

Such posts will have the functions described in Article 12.02–12.04 below.

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

2 **Functions of the Head of Paid Service**

- (a) **Discharge of functions by the Council.** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of staff required for the discharge of functions and the organisation of staff.
- (b) **Maintaining the Constitution.** The Head of Paid Service will maintain an up-to-date version of the Constitution (in accordance with Article 15) and will ensure that it is widely available for consultation by Members, staff and the public.
- (c) **Proper Officer for access to information.** The Head of Paid Service 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.
- (d) **Advising whether Executive decisions are within the budget and policy framework.** The Head of Paid Service will advise whether decisions of the Executive are in accordance with the budget and policy framework.
- (e) **Providing advice.** The Head of Paid Service 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.

- (f) **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.

3 **Functions of the Monitoring Officer**

- (a) **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council 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.
- (b) **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.
- (c) **Receiving Complaints.** The Monitoring Officer will receive any complaints that a Member of the Authority has breached the Members' Code of Conduct and ensure that the complaint is considered by the Standards Initial Assessment Sub-Committee.
- (d) **Conducting investigations.** The Monitoring Officer will conduct investigations into matters referred by the Standards Initial Assessment Sub-Committee or the Standards Review Sub-Committee, and make reports or recommendations in respect of them to the Standards Committee (or relevant sub-committee).
- (e) **Advising whether Executive decisions are within the budget and policy framework.** With the Head of Paid Service and the Chief Finance Officer, the Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.
- (f) **Providing advice.** The Monitoring Officer, with the Head of Paid Service and 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.
- (g) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

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 members of the public and the community.

5 **Conduct**

Staff will comply with the Officers' Code of Conduct set out in Part 5 of this Constitution.

6 **Employment**

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

Article 13 – Decision Making

1 Responsibility for decision making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions, including those executive functions allocated by the Council in accordance with Section 15(2) of the Local Government Act 2000. This record is set out in Part 3 of this Constitution.

2 Principles of decision making

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

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) due consideration to the interests of residents and other stakeholders;
- (d) due process;
- (e) in accordance with legislative requirements;
- (f) respect for human rights;
- (g) a presumption in favour of openness;
- (h) clarity of aims and desired outcomes; and
- (i) integrity and a high standard of propriety.

A record of what options were considered and giving the reasons for the decision will be prepared (in accordance with the requirements of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000).

3 Types of decision

- (a) Decisions reserved to full Council. Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated.
- (b) Key Decisions.
 - (i) An executive decision which is likely
 - To result in significant expenditure or savings of £200,000; or
 - To be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the local authority.
 - (ii) A decision taker may only make a Key Decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

4 Decision making by the full Council

Subject to Article 13, paragraph 8, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

5 Decision making by the Executive

Subject to Article 13, paragraph 8, the Executive will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.

6 Decision making by Overview and Scrutiny Committees

Overview and Scrutiny Committees will follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

7 Decision making by other Committees established by the Council

Subject to Article 13, paragraph 8, other Council Committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

8 Decision making by Council bodies acting as tribunals

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

9 Decision making in the period following Local Elections

Should an urgent Executive or non-Executive matter arise in the period following the Borough Council elections and before the Annual Council meeting, the Head of Paid Service shall have delegated authority to take or authorise all necessary steps to deal with the matter sufficiently to protect the Council's and the public's interests, provided that she or he shall first consult the Chief Finance Officer and/or the Monitoring Officer and the Mayor (or in his/her absence the Deputy Mayor).

10 Urgent decision making

In the event that any matters arise in circumstances rendering it impossible for the Executive or Council to give instructions within sufficient time in the normal conduct of their business for such matters to be properly dealt with, the Head of Paid Service shall have delegated authority to take or authorise all necessary steps to deal with the matters sufficiently to protect the Council's and the public's interests, provided that she or he shall first consult the Chief Finance Officer and/or the Monitoring Officer and, if possible, either the Leader (or in his/her absence, one of the Deputy Leaders) (in respect of Executive functions) and the Mayor (or in his/her absence, the

Deputy Mayor or Chair of the relevant Committee) (in respect of Non-Executive functions).

Article 14 – Finance, Contracts and Legal Matters

1 Financial management

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

2 Contracts

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

3 Legal proceedings

The Head of Legal Services 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 Head of Legal Services considers that such action is necessary to protect the Council's interests.

4 Authentication of documents

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

Any contract with a value exceeding £50,000 entered into on behalf of the local authority in the course of the discharge of an Executive function shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made under the Common Seal of the Council attested by at least one officer.

5 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal Services. 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 Head of Legal Services should be sealed. The affixing of the Common Seal will be attested by the Head of Legal Services or some other person authorised by him/her.

Article 15 – Review and Revision of the Constitution

1 Duty to monitor and review the Constitution

The Head of Paid Service will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

Protocol for monitoring and review of Constitution by the Head of Paid Service

A key role for the Head of Paid Service 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 Head of Paid Service or his/her nominee may:

- (a) observe meetings of different parts of the Member and officer structure;
- (b) undertake an audit trail of a sample of decisions;
- (c) record and analyse issues raised with him/her by Members, staff, the public and other relevant stakeholders; and
- (d) compare practices in this authority with those in other comparable authorities, or national examples of best practice.

2 Changes to the Constitution

Proposed changes to the Constitution (including to the executive arrangements which underlie it) will only be approved by the full Council after consideration of a report by the Head of Paid Service, save that authority is delegated to the Head of Paid Service to make any consequential amendments which are required as a result of legislative change or decisions of the Council.

Article 16 – Suspension, Interpretation and Publication of the Constitution

1 Suspension of the Constitution

- (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.
- (b) **Procedure to suspend.** A motion to suspend any rules will not be moved without notice unless at least two-thirds of the whole number of Councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- (c) **Rules capable of suspension.** The following Rules may be suspended in accordance with this Article, paragraphs 1 and 2:
- Council Procedure Rules
 - Access to Information Procedure Rules
 - Budget and Policy Framework Procedure Rules
 - Executive Procedure Rules
 - Overview and Scrutiny Procedure Rules
 - Financial Procedure Rules
 - Contracts Procedure Rules [may also be suspended by the Cabinet in accordance with Part 3 of this Constitution]
 - Officer Employment Procedure Rules.

2 Interpretation

The ruling of the Mayor, on the advice of the Head of Paid Service, as to the construction or application of this Constitution or as to any proceedings of the Council shall be final. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

3 Publication

- (a) Upon delivery of that individual's declaration of acceptance of office on the Member first being elected to the Council, a councillor may request a printed copy of the Constitution from the Head of Democratic Services.
- (b) The Head of Democratic Services will ensure that copies are available for inspection at the Town Hall and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Head of Democratic Services shall ensure that an up-to-date version of the Constitution is available on the Council's website. Consequently the Constitution will be accessible via all local libraries.

Schedule 1: Description of Executive Arrangements

The following parts of this Constitution constitute the Executive arrangements:

1. Article 6 (Overview and Scrutiny Committees) and the Overview and Scrutiny Procedure Rules;
2. Article 7 (The Executive) and the Executive Procedure Rules;
3. Article 10 (Area Committees and Forums);
4. Article 11 (Joint arrangements);
5. Article 13 (Decision making) and the Access to Information Procedure Rules;
6. Part 3 (Responsibility for Functions and Scheme of Delegation).