

# PART 2

## ARTICLES

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# Article 1 – The Constitution

## 1.01 Powers of the Council

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

## 1.02 The Constitution

This Constitution, and all its appendices, is the Constitution of the London Borough of Islington.

## 1.03 Purpose of the Constitution

The Constitution is based on the following principles

Principle	What it means
Enhancing service performance	Making sure that decision-making leads to improvements in the quality of services to local people
Accountability	Ensuring mechanisms for those responsible for decisions to be held to account for them
Transparency	Having streamlined and simplified clear decision-making and accountabilities
Community representation	Enabling Councillors to represent local communities effectively
Increasing community involvement and engagement	Including and involving the public in the decisions that affect their lives and enabling the development of effective partnership working with other public, private and voluntary bodies
Corporate working	Encouraging a partnership approach between the Executive and scrutiny, officers and members and better corporate working on cross cutting issues

## **1.04 Interpretation and Review of the Constitution**

The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

## **1.05 Amendment of the Constitution**

Subject to Article 15.04, the Constitution may only be amended by the Council.

## **Article 2 – Members of the Council**

### **2.01 Composition and eligibility**

- (a) Composition** The Council comprises 48 members, (known as Councillors). Every Councillor 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** People can hold office as Councillors if they are on the electoral register or if they have lived, worked or occupied property in the Borough for 12 months prior to their election. There are legal rules preventing certain people from becoming Councillors (for instance if they are employees of the Council or have been adjudged bankrupt).

### **2.02 Election and terms of Councillors**

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.

### **2.03 Roles and functions of all Councillors**

#### **(a) Key roles**

All Councillors will maintain the highest standards of conduct and ethics, in accordance with the General Principles of Conduct laid down by the Secretary of State and the Council's Code of Conduct for Councillors. They will have the opportunity to perform the following roles:

- (i) Be responsible for the good governance of the local authority;
- (ii) Develop Council policy;
- (iii) Collectively be the ultimate decision-makers in respect of overall Council strategies and revenue and capital budgets;
- (iv) Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- (v) Represent constituents' interests (both individuals and local groups) and bring their views into the Council's decision-making process;
- (vi) Scrutinise proposals and decisions and monitor how Council policy is being implemented;
- (vii) To represent the community and work for the good of the Borough with local, regional and national organisations;
- (viii) Be available to represent the Council on other bodies.

(b) **Rights and duties**

- (i) Councillors will have such rights of access to documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law;
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it except with the consent of the person providing the information or as required by law;
- (iii) For these purposes, "confidential" and "exempt" information is defined in the Access to Information Rules contained in Part 4 of this Constitution.

## **2.04 Conduct**

Councillors will at all times observe Islington's Local Code of Conduct for Members set out in Part 5 of this Constitution.

## **2.05 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 – Residents and the Council**

### **3.01 Residents' rights**

Residents have the following rights. Their rights to information and to participate in meetings 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**

Residents have the right to:

- (i) Attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (ii) Attend meetings of the Executive at which formal decisions are being made except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (iii) Find out from the Forward Plan what decisions will be taken by the Executive and when and what key decisions will be taken by officers and when;
- (iv) See reports and background papers, and any records of decisions made by the Council and the Executive except where confidential or exempt information is likely to be disclosed; and
- (v) Inspect the Council's accounts and make their views known to the external auditor.

#### **(c) Participation**

The Council is committed to helping people to contribute to making decisions about local services, and will therefore support a wide range of consultation fora to hear residents' views. The Council also wants to develop new and innovative ways of working with local people and communities, particularly hard to reach groups such as young people and minority ethnic communities. In particular, individual residents have the following rights:

- (i) The right to ask questions relating to decisions being made by the Executive at its public meetings;
- (ii) The right to be asked to contribute to the work of the Overview Committee and its review committees;

- (iii) The right to attend as part of a deputation to the Executive in accordance with the Access to Information Procedure Rules contained in Part 4 of this Constitution;
- (iv) The right to participate in any public session at full Council meetings, in accordance with the Access to Information Procedure Rules and Council Procedure Rules contained in Part 4 of this Constitution;
- (v) The right to attend and participate in Area Committees, in accordance with the Access to Information Procedure Rules contained in Part 4 of this Constitution;
- (vi) The right in certain circumstances to be consulted about and make representations on planning and licensing decisions.

**(d) Making representations and complaints**

Residents have the right to:

- (i) Make representations to their ward Councillors and/or to members of the Executive;
- (ii) Make a formal complaint about any Council service to the Council itself under its complaints scheme;
- (iii) Complain to the Ombudsman after using the Council's complaints scheme;
- (iv) Complain to the Standards Board for England about a breach of the Councillor's Code of Conduct.

**(e) Petitions**

People on the electoral roll for the Council's area can sign a petition to request a referendum for an elected mayor form of Constitution.

Residents may also present petitions on other matters to the Council, or Area Committees/Sub-Committees. Such petitions will then be treated in accordance with the procedural rules governing the meeting at which the petition is taken.

## **3.02 Residents' responsibilities**

There are a number of ways that Islington residents can contribute to a flourishing democratic local authority which this Constitution is intended to support:

- (i) Assisting the Council with the compilation of the electoral register by responding to the annual canvass conducted in the Autumn every year;



- (ii) Exercising their right to vote in local, regional, national and European elections;
- (iii) Respecting and valuing the diversity of communities and their views within a densely populated urban area such as Islington;
- (iv) Meeting their obligations in relation to the Council, such as paying their Council Tax, ensuring their child attends school, etc.

## **Article 4 – The Council**

### **4.01 Meanings**

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

The policy framework means the following plans and strategies

- Best Value Performance Plan
- Children and Young People's Plan
- Community Strategy
- Crime and Disorder Reduction Strategy
- Education Development Plan
- Plans and alterations which together comprise the Development Plan
- Youth Justice Plan
- Council's Corporate Plan
- Licensing Policy

Such other plans as are from time to time agreed by the Council as forming the policy framework and which are then added to this list.

#### **(b) Budget**

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

#### **(c) Housing Land Transfer**

Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

### **4.02 Functions of the full Council**

- (a) Adopting and changing the Constitution;
- (b) Approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) Subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about the discharge of an Executive function 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;
- (d) Electing the Leader of the Council and appointing Members of the Executive;

- (e) Agreeing and/or amending the terms of reference for committees (other than committees or sub-committees of the Executive), deciding on their composition and making appointments to them;
- (f) Appointing representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Council;
- (g) Adopting an allowances scheme under Article 2.05;
- (h) Changing the name of the area;
- (i) Appointing the Head of Paid Service;
- (j) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (k) All other functions which the Council lawfully decides should be undertaken by itself rather than the Executive and which are set out in Part 3 of this Constitution; and
- (l) All other matters which, by law, must be reserved to Council.

### **4.03 Council meetings**

Council meetings will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution. Council meetings will be chaired by the Mayor (or deputy where appropriate).

### **4.04 Responsibility and Delegation of functions**

Part 3 of this Constitution sets out which bodies or officers are responsible for which functions, whether executive or non-executive.

## **Article 5 –The Mayor**

**5.01** The Council will elect the Mayor annually. The Mayor and in his or her absence the Deputy 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 the place at which members who are not on the Executive are able to hold the Executive to account;
- (d) To promote public involvement in the Council's activities;
- (e) To be the conscience of the Council;

- (f) To attend such civic and ceremonial functions as the Council and he/she determines appropriate; and
- (g) To take decisions (in the absence of the Chair of the Overview Committee) about whether a matter is so urgent as to allow the Executive to take a decision in respect of it even though it is not contained in the Forward Plan and 5 clear days notice of the decision have not been given or that decision concerns a plan or strategy forming part of the Policy and Budgetary Framework and would be contrary to or in the case of the Budget, not wholly in accordance with that Framework.

## **Article 6 - Overview**

### **6.01 Overview Committee**

The Council will appoint an Overview Committee and at least 3 review committees to discharge the functions conferred by section 21 of the Local Government Act 2000.

### **6.02 General Role of the Overview Committee**

Within its terms of reference, and in accordance with the Scrutiny Procedure Rules contained in Part 4 of this Constitution, the Overview Committee will:

- (a) Co-ordinate the work of the review committees, drawing up an annual work programme and agreeing work programmes with them, following consultation with the chairs of those committees;
- (b) Review decisions the Executive has taken but which have not yet been implemented and which have been referred to it (call-in);
- (c) Produce an annual report for Council on the operation of Overview in Islington;
- (d) Contribute to the development and review of policy;
- (e) Ensure scrutiny of the policy framework and budget;
- (f) Review matters referred by the Executive for pre-decision scrutiny;
- (g) Consider decisions the Executive is planning to take from the forward plan;
- (h) Commission research, community and other consultation in the analysis of policy issues;
- (i) Question members of the Executive and officers and, where appropriate, external partners.

### **6.03 Review Committees**

There will be 3 review committees covering the following functions of the Council:

Regeneration  
Sustainability  
Performance

Review committees will also receive reports from the Executive on the outcome of Best Value Reviews in their respective areas.

### **Officers**

Within the Scrutiny and Democratic Services Section there will be officers whose primary role is to support the work of the Overview and review committees and the Area

Committees. In addition, Departments will appoint lead officers to assist the Overview Committee and review committees in specific aspects of their work programmes.

#### **6.04 Proceedings of the Overview Committee and Review Committees**

The Overview Committee and review committees will conduct their proceedings in accordance with the Scrutiny Procedure Rules set out in Part 4 of this Constitution

## **Article 7 – The Executive**

### **7.01 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.

### **7.02 Form and Composition**

The Executive will consist of the Executive Leader together with 7, or such other number (being not fewer than 2 or more than 9) as the Council may determine, Councillors appointed to the Executive by the Council.

### **7.03 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) He/she leaves the political group of which they were a member; or
- (e) He/she is removed from office in the manner described in 7.05 below; or
- (f) The end of the municipal year in which he/she is elected to the position of Leader.

### **7.04 Other Executive Members**

Other Executive Members shall be appointed by the Council and 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 leave the political group of which they were a member; or
- (e) They are removed from office in the manner described in 7.05 below; or

- (f) Until the end of the municipal year in which he/she is elected to the position of Executive member.

### **7.05 Votes of No Confidence**

A member of the Executive (including the Leader) shall cease to hold office as an Executive member if a vote of no confidence, of which notice appears on the agenda, is carried at a meeting of the full Council by a majority of the members of the whole Council.

### **7.06 Vacancies in the Executive**

If at any time a person shall, by virtue of Article 7.03 or 7.04 or 7.05 above, cease to be a member of the Executive, the responsibilities of that member shall be carried out by the Executive collectively until such time as the Council shall have appointed a replacement or, where appropriate, re-appointed the member concerned.

In the event of all members of the Executive having been removed or disqualified from office, Executive functions shall in the interim be carried out by the Chief Executive.

### **7.07 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.

### **7.08 Responsibility and Delegation of Functions**

- (a) The Executive may delegate its functions to a committee or sub-committee of the Executive, an individual Executive member, an area committee, or officers.
- (b) The Proper Officer will maintain a list in Part 3 of this Constitution setting out which bodies or officers are responsible for the exercise of particular Executive functions.



## **Article 8 – Planning, Licensing and Other Non-Executive Functions**

### **8.01 Corporate Services Committee**

There will be a Corporate Services Committee which will have responsibility for all those functions of the Council which other than those relating to licensing matters and which are not the responsibility of the Executive as a matter of law or under this constitution.

### **8.02 Corporate Services Sub-Committees**

The Corporate Services Committee will appoint a number of sub-committees whose terms of reference are set out in Part 3 of this Constitution. Those sub-committees are as follows:

- (a) A Personnel Sub-Committee whose functions shall include the terms and conditions of employment; approval of changes to employees terms and conditions; the appointment of chief officers; and health and safety at work matters.
- (b) A Pensions Sub-Committee whose functions shall include all matters relating to the Local Government Pension Fund, but not the allocation of Council resources to that Fund, which shall be the responsibility of the Executive.

### **8.03 Licensing Committee**

There will be a Licensing Committee which will exercise all licensing functions as defined by the Licensing Act 2003. It will review the licensing policy and also determine public entertainment licenses where they are heard in conjunction with licensing applications under the Licensing Act 2003 and both applications relate to the same premises.

### **8.04 Composition of Licensing Committee**

The Licensing Committee shall comprise no more than fifteen members of the Council, with a quorum of four.

### **8.05 Licensing Sub-Committees**

The Licensing Committee will appoint a number of Sub-Committees to determine applications for licences in respect of licensed premises, entertainments and late night refreshment premises.

### **8.06 Composition and quorum of Licensing Sub-Committees**

- (i) The Sub-Committees shall comprise three members of the Council, with a quorum of three.

- (ii) Substitutes may attend meetings where one of the members of the Sub-Committee is unable to attend or is disqualified from hearing an application by virtue of being the ward member for the area to which the application relates. Where a substitute is required, s/he will be drawn on a strict rota basis) from the balance of the majority and minority party members of the Licensing Committee respectively. Where no minority party members are available, those places shall be filled by majority party members.
- (iii) Chair and Vice-Chair  
Each Sub-Committee shall appoint its own Chair and Vice-Chair. Where both of these are disqualified from membership by virtue of being a ward councillor, then the Sub-Committee shall elect one of its members to be Chair for that meeting.

## **8.07 Licensing Regulatory Committee**

There will be a Licensing Regulatory Committee which shall have responsibility for all licensing matters under the relevant legislation other than licensing functions arising out of the Licensing Act 2003. These shall include:

- (i) the setting and reviewing of policy in relation to the public control functions, the determination and revocation of licenses, the designation of streets as licensed streets, and the rules of management for licensed premises.
- (ii) the setting of fees and charges for licenses.

## **8.07 Proceedings**

Proceedings of these Committees and Sub-Committees shall take place in accordance with the Committee Procedure Rules in Part 4.

## **Article 9 - The Standards Committee**

### **9.01 Standards Committee**

The Council will establish a Standards Committee.

### **9.02 Composition**

The Standards Committee is composed of five members, including two Councillors, one from each of the main political parties represented on the Council and three independent members, none of whom are Councillors or officers or close friends or relatives of members or officers of the Council. The independent members will be entitled to vote at meetings.

The Chair of the Committee shall be selected from the independent members and shall have a casting vote in the event of a vote being tied.

In order for a meeting of the Standards Committee to be quorate, there must be an independent member present.

### **9.03 Role and Function**

The Standards Committee will have the following roles and functions:

- (a) To advise the Council on a local Code of Conduct for members and to promote, develop and maintain high standards of conduct by members and co-opted members of the Council;
- (b) To monitor and update the Code of Conduct as necessary;
- (c) To be responsible for the implementation of the Code of Conduct and for providing or organising training for members on ethical conduct;
- (d) To consider any report from the Monitoring Officer on any matter which is referred to her by an Ethical Standards Officer of the Standards Board for England under sections 60 or 64 of the Local Government Act 2000;
- (e) To consider and respond to national reviews and consultations on standards related issues.
- (f) To grant dispensations to Councillors and co-opted members allowing them to vote in circumstances when they would not otherwise be entitled to.

### **9.04 Procedure**

The Standards Committee will follow the Committee Procedure Rules set out in Part 4 but may also develop its own protocol if it sees fit.

## Article 10 – Area Committees

**10.01** There will be four Area Committees covering the following areas:

Area Committee North:	Hillrise, Tollington, Junction and St. George's
Area Committee South:	Bunhill, Clerkenwell, Canonbury and St. Peter's
Area Committee East:	Highbury West, Highbury East, Mildmay and Finsbury Park
Area Committee West:	Holloway, Caledonian, St. Mary's and Barnsbury

### 10.02 Functions

Area Committees will have the following roles and functions:

- To act as a focal point for community engagement, capacity building and outreach work into the community;
- To consider and submit observations on any matters referred to it by the Council, Executive or by a review committee, or any other matter having a direct link with each area;
- To contribute to the scrutiny activities of the Council through seeking and representing local views on scrutiny topics where appropriate;
- To monitor the quality of services which are the responsibility of the Council;
- To act as a consultative forum for best value reviews where appropriate;
- To build and develop partnerships in the area;
- To support the Council's sustainability agenda;
- To be involved with the development of area based Section 106 strategies;
- To determine planning applications, planning briefs and other planning matters relating to their area;
- To widen participation and involvement in local democracy using information technology.
- To determine traffic and transportation systems, including controlled parking zones.

### 10.03 Sub-Committees

Each Area Committee will establish a sub-committee to deal with planning applications. Each Sub-Committee shall comprise 6 members of the Area Committee with a quorum of 3, and with the other 6 members being substitutes. The Vice Chair of the Area Committee

will be Chair of the Planning Sub-Committee. The quorum of Area Sub-Committees shall be 3.

#### **10.04 Meetings**

Meetings of Area Committees will usually be held at a venue normally located within the area. Individual Committees will decide whether they wish to move around within their respective areas in order to maximise attendance. Meetings of the Area Committees and their sub-committees will be open to the public, subject to any confidentiality requirements.

#### **10.05 Membership proportionality**

The provisions of regulation 16A of the Local Government (Committees and Political Groups) Regulations 1990 shall apply to Area Committees and therefore the proportionality rules contained in Section 15 of the Local Government and Housing Act 1989 do not apply. Area Committees shall comprise the elected members for the wards which they respectively cover. The membership of any sub-committee established by an Area Committee shall be in proportion to the make up of the main committee.

#### **10.06 Meeting Protocols**

The proceedings of the Area Committees shall be governed by the Committee Procedure Rules but Area Committees may establish their own protocols.

## **Article 11 – Joint Arrangements**

### **11.01 Joint Arrangements**

- (a) The Council may establish joint arrangements with one or more local authority and/or their Executives to exercise functions which are not Executive functions in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of a joint committee or board with these other local authorities. The Council may, where the legislation allows, also establish other joint arrangements with, for example, health service organisations. These other arrangements are called “boards” in this Constitution;
- (b) The Executive may establish joint arrangements with one or more local authorities or other organisations to exercise functions which are Executive functions or to advise the Executive. Such arrangements may involve the appointment of joint committees or boards with these other local authorities or bodies. The Executive may, where the legislation allows, also establish other joint arrangements with, for example, health service organisations;
- (c) Except as set out in paragraph (d) and (e) below, the Executive may only appoint Executive members to a joint committee or board under paragraph (b) above 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 if 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 of a ward which is wholly or partly contained within the area;
- (e) The Executive may appoint non-executive members to joint boards established under the NHS and Local Authorities Bodies Partnership Arrangements Regulations 2001.
- (f) Details of any joint arrangements including any delegations to joint committees or boards are set out in Part 3 of this Constitution.

### **11.02 Access to Information**

- (a) If all the members of a joint committee or board are members of the Executive in each of the participating authorities then the access to information rules relating to the Executive as set out in Rules 1-11 and 18-21 of the Access to Information Rules in Part 4 of this Constitution will apply;
- (b) If the joint committee or board contains members who are not on the Executive of any participating authority then the access to information rules as set out in paragraphs 1-11 of the Access to Information Rules in Part 4 of this Constitution and Part VA of the Local Government Act 1972 will apply.

### **11.03 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, in certain circumstances, the Executive of another local authority;
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council.

### **11.04 Delegation to and from other organisations**

- (a) The Council may delegate non-Executive functions to other organisations or boards where legislation allows;
- (b) The Executive may delegate Executive functions to other organisations or boards where legislation allows;
- (c) The decision whether or not to accept such a delegation from another organisation or board shall be reserved to the Council.

## **Article 12 – Officers**

“Officers” means all employees and staff engaged by the Council to carry out its functions. This covers those engaged under short term, agency or other non-employed situations as well as those employed on a permanent basis.

### **12.01 Management Structure**

#### **(a) General**

The Council may engage such officers as it considers necessary to carry out its functions.

#### **(b) Chief Officers**

The Council will engage persons for the following posts, who will be designated chief officers:

Chief Executive  
Deputy Chief Executive  
Director of Adult Social Services  
Director of Childrens Services  
Director of Customer Focus  
Director of Environment and Regeneration

Director of Finance Director of Law and Public Services

Director of Public Health

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

The Council will designate the following posts as shown:

Head of Paid Service - Chief Executive  
Monitoring Officer - Director of Law and Public Services  
Chief Finance Officer – Director of Finance

#### **(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 officers. This is set out at Part 7 of this Constitution.

### **12.02 Functions of the Chief Executive/Head of Paid Service**

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

The Head of Paid Service may report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers. He/she may also report direct to Council on other matters which he/she considers should be brought to its attention.



(b) **Restrictions on functions**

The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

## **12.03 Functions of the Monitoring Officer**

(a) **Maintaining the Constitution**

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is available to members, staff and the public.

(b) **Ensuring lawfulness and fairness of decision-making**

After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Executive in relation to an Executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

(c) **Supporting the Standards Committee**

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

(d) **Receiving reports**

The Monitoring Officer will receive and act on reports made by Ethical Standards Officers and decisions of the case tribunals.

(e) **Conducting investigations**

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 and may insofar as is lawful, delegate such investigations to a suitable person.

(f) **Proper Officer**

References to the Proper Officer in this Constitution are references to the Monitoring Officer unless there is an express reference to any other officer. The Monitoring Officer is responsible for ensuring that the provisions of the Constitution are complied with.

(g) **Advising whether Executive decisions are within the budget and policy framework**

The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.

(h) **Providing advice**

The Monitoring Officer will be responsible for providing advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework to all Councillors

(i) **Restrictions on posts**

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

## **12.04 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 as required by Section 151 of the Local Government Act 1972 and Section 112 of the Local Government Finance Act 1988, including the provision of financial information both internally and externally as required.

(c) **Advising whether Executive decisions are within the budget and policy framework**

The Chief Finance Officer will advise whether decisions of the Executive are in accordance with the budget framework.

(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 issues to all Councillors and will support and advise Councillors and officers in their respective roles.

## **12.05 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer**

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

## **12.06 Other statutory officers**

- (a) The Council must employ a Director of Children's Services and a Director of Adult Social Services;
- (b) The Director of Children's Services shall be appointed for the purposes of Section 18 of the Children Act 2004. The authority is required to provide adequate staff to assist the Director in the exercise of those functions;

## **12.07 Conduct**

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

## **12.08 Appointment and Dismissal of Staff**

The appointment and dismissal of staff shall be governed by the provisions of the Officer Employment Procedure Rules contained in Part 4 of this Constitution as supplemented, where appropriate, by the Council's personnel policies and procedures.

## **Article 13 – Decision Making**

### **13.01 Responsibility for decision making**

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

### **13.02 Principles of decision making**

All decisions of the Council will be made in accordance with the requirements of the Code of Conduct for Members and in light of the principles contained in Article 1.

### **13.03 Types of decision**

#### **(a) Decisions reserved to full Council**

Decisions relating to the functions listed in Article 4.02 (a) – (j) will be made by the full Council and not delegated.

#### **(b) Key decisions**

- (i) A key decision is an Executive decision which in the view of the Proper Officer 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. A decision is significant for these purposes if,
    - in relation to contracts for the supply of goods, works or services, it involves expenditure or the making of savings of an amount in excess of £1m for capital expenditure or £500,000 for revenue expenditure or
    - in relation to any other matter, it involves expenditure or the making of savings of an amount in excess of £500,000 for capital expenditure or £200,000 for revenue expenditure;
    - or, where expenditure or savings are less than the amounts specified above, they constitute more than 50% of the budget attributable to the service in question;
    - or in respect of a disposal of land by the Council, the estimated purchase price exceeds £1 million, or
  - (b) To be significant in terms of its effect 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 and the Access to Information Rules set out in Part 4.

### **13.04 Decision making**

Subject to Article 12.05, the Council, the Executive (including sub groups and individual members of the Executive), the Overview Committee and review committees and other Committees and sub-committees established by the Council will follow the Rules relating to that body set out in Part 4 of this Constitution when considering any matter.

### **13.05 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 of any person will follow a proper procedure which accords in so far as is possible with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

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

### **14.01 Financial management**

The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in Part 5 of this Constitution and any guidance issued by the Chief Finance Officer.

### **14.02 Contracts**

Every contract made by the Council will comply with the Procurement Code set out in Part 5 of this Constitution.

### **14.03 Legal proceedings**

The Director of Law and Public 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 Director of Law and Public Services and/or the Chief Executive considers that such action is necessary to protect the Council's interests.

### **14.04 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 Director of Law and Public 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.

### **14.05 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Director of Law and Public 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 added to those documents which in the opinion of the Director of Law and Public Services should be sealed or are required by the provisions of the Procurement Code to be sealed. The adding of the Common Seal will be witnessed by the Chief Executive or Director of Law and Public Services or some other person authorised by him/her.

## **Article 15 - Review, amendment, suspension and publication of the Constitution**

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

- (a) The Council will have responsibility for monitoring and reviewing the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

Subject to (d) and Article 15.04 below, changes to the Constitution will only be effective if approved by the full Council.

- (b) Amendments to the Constitution will only be considered by the Council following consultation with the Whips of the two main parties, and having received the advice of the Director of Law and Public Services.
- (c) **Change from a Leader and Executive form of Executive to alternative arrangements, or vice versa**

The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and shall comply with any statutory requirements in relation to such changes.

- (d) **Protocols**

The protocols and other documents in Part 5 of the Constitution may be amended by the body that created them without Council approval except for the Code of Conduct for Members which is reserved to Council.

### **15.02 Suspension of the Constitution**

The Articles of this Constitution may not be suspended. Other rules and protocols may be suspended by the body to which they apply (or if no such body by the Council) to the extent permitted within those rules and the law.

### **15.03 Publication**

- (a) The Proper Officer will give a printed copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council;
- (b) The Proper Officer will ensure that copies are available for inspection at Council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee;
- (c) The Proper Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary;
- (d) The Proper Officer shall ensure that a record is kept of any changes to this constitution which shall be re-issued in up to date form as soon as practicable after any substantial changes have been made to it.

- (e) The Proper Officer shall ensure that an up-to-date version of the Constitution is available on the Council's website.

#### **15.04 Minor and Consequential Amendments**

The Proper Officer shall be authorised to make any minor or consequential amendments necessary from time to time.