

# PART 2

# ARTICLES

## 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, community 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).
- (c) **Maternity, Paternity and Sickness** During an agreed period of maternity or paternity leave, and during sickness leave, where the latter is confirmed by a doctor's certificate, Members will not be required to attend committee meetings and their absence will therefore not be recorded and the '6 month rule' in Section 85 of the Local Government Act 1972 will not apply. Further detail of the Member Maternity, Paternity and Sickness Policy is set out in the Members' Allowance Scheme, Part 7 of the Constitution.

### 2.02 Election and terms of office 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 contained in legislation, the rules about disclosure of interests 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 Code of Conduct for Members set out in Part 6 of this Constitution.

## **2.05 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 7 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 or a committee of 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 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) to ask questions relating to decisions being made by the Executive at its public meetings;
- (ii) to be asked to contribute to the work of the Policy and Performance Scrutiny Committee and its review committees;

- (iii) 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) 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) to attend any public ward partnership sessions.

**(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 under the Council's complaints scheme;
- (iii) complain to the Ombudsman having exhausted the Council's complaints scheme;
- (iv) complain to the council's Monitoring Officer about a breach of the Councillors' 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.

As well as Residents, those who work or study in Islington may also present petitions on other matters under the Council's procedural rules.

### **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:

- Crime and Disorder Reduction Partnership Strategy (M)
- Development Plan Documents (M)
- Council's Corporate Plan
- Licensing and Gambling Policies (M)
- A plan or strategy for the control of the authority's borrowing investments or capital expenditure (M)

Such other plans as are from time to time agreed by the Council or required by statute to form the policy framework and which are then added to this list. Those marked mandatory (M) in the list are required by legislation to be included as part of the policy framework.

#### **(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, 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 for consent to such a disposal where approval is required under sections 32 or 43 of the Housing Act 1985.

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

There are certain functions that by law, or under this Constitution, can only be exercised by the Council itself. A list of the functions which can only be exercised by the Council is set out at Table 1 in Part 3 of this Constitution and includes:

- (a) Approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (b) Electing the Leader of the Council;
- (c) 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;

- (d) Appointing representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Council;
- (e) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (f) 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.

### **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 the specific responsibilities of committees, external bodies and officers and includes executive or non-executive functions. The terms of reference of bodies referred to in this Constitution are set out in Part 5 of this Constitution.

## 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 (in the case of the Deputy Mayor only if chosen by the meeting) 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 Policy and Performance Scrutiny Committee) about whether a matter is so urgent as to allow the Executive to take a decision in respect of it even though:
  - (i) it is not contained in the Forward Plan and 5 clear days notice of the decision have not been given; or
  - (ii) that decision concerns a plan or strategy forming part of the budget or policy framework and would be contrary to or in the case of the budget, not wholly in accordance with that framework.

## **Article 6 – Overview and Scrutiny**

### **6.01 Policy and Performance Scrutiny Committee**

The Council will appoint a Policy and Performance Scrutiny Committee and at least three Review Committees to discharge the functions conferred by section 21 of the Local Government Act 2000.

### **6.02 General role of the Policy and Performance Scrutiny Committee**

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

- (a) Co-ordinate the work of the Scrutiny Committees, drawing up an annual work programme and agreeing work programmes with them, following consultation with the chairs of those committees;
- (b) Receive requests from the Executive or the Leader of the Executive for scrutiny involvement in policy development and review and key decisions before they are made.
- (c) 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)
- (e) Ensure scrutiny of the policy framework and budget;
- (f)
- (g) Monitor the Executive's 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;
- (j) Respond to matters raised as Councillor Calls for Action.

### **6.03 Scrutiny Committees**

There will be four Scrutiny Committees covering the following functions of the Council:

Environment and Regeneration;  
Housing;  
Children's Services  
Health and Care.

## **Officers**

Within the Democratic Services Section, the Democratic Services Manager is designated the Scrutiny Officer with the role of providing support and guidance on the work of the Overview and Scrutiny Committees and to the members of those committees and promoting the role of the Policy and Performance Scrutiny Committee and the Scrutiny Committees. In addition, departments will appoint lead officers to assist the Policy and Performance Scrutiny Committee and Scrutiny Committees in specific aspects of their work programmes.

### **6.04 Proceedings of the Policy and Performance Scrutiny Committee and scrutiny committees**

The Policy and Performance Scrutiny Committee and Scrutiny 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 Leader together with, such other number of councillors (being not fewer than 2 or more than 9) as the Leader may determine.

### **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 is removed from office in the manner described in 7.07 below; or
- (e) The commencement of the annual meeting of the Council following the next ordinary Council elections after his or her election.

### **7.04 The Deputy Leader**

- (a) The Leader shall appoint a Deputy Leader.
- (b) The Deputy Leader, unless he or she is removed by the Leader, resigns as Deputy Leader or ceases to be a councillor, shall hold office until the end of the term of office of the Leader in accordance with 7.03.
- (c) The Deputy Leader shall act in the place of the Leader if for any reason he/she is unable to act or if the office of Leader is vacant.
- (d) In the event that the post of Deputy Leader becomes vacant, the Leader shall appoint a new Deputy Leader.

### **7.05 Other Executive members**

Other Executive members shall be appointed by the Leader 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 are removed from office by the Leader; or
- (e) Until the annual meeting following their appointment to the position of Executive member.

### **7.06 Notification of appointment and removal of Members of the Executive**

If the Leader appoints or removes a member of the Executive he/she shall either:

- (a) report the appointment or removal to the Council; or
- (b) notify the Proper Officer of the appointment or removal.

And no appointment shall be effective until either (a) or (b) has been complied with. The Proper Officer shall as soon as practicable report any appointment or removal notified to him/her to the Council.

### **7.07 Votes of no confidence**

The Leader shall cease to hold office as the Leader if a vote of no confidence, of which notice appears on the agenda, is carried at a meeting of the full Council attended by at least 75% (36) of the members of the Council in accordance with procedure Rule 20.2.

### **7.08 Vacancies in the Executive**

- (a) If at any time the office of Leader shall be vacant 7.04 (c) shall apply until such time as the Council shall appoint a new Leader. If the office of Deputy Leader is also vacant all responsibilities of the Executive shall be carried out by the Executive collectively until such time as a Leader shall be appointed by the Council.
- (b) If at any time an Executive member other than the Leader or Deputy Leader shall, by virtue of Article 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 Leader shall have appointed a replacement or, where appropriate, re-appointed the member concerned.
- (c) In the event of there being no Leader appointed and insufficient members of the Executive appointed to achieve a quorum, in so far as lawful, all Executive functions shall in the interim be carried out by the Chief Executive.
- (d) The responsibilities and powers of the Deputy Leader may not be carried out by any other member of the Executive in their absence or if the post is vacant.

## **7.09 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.

## **7.10 Responsibility and delegation of functions**

- (a) The functions of the Executive may be exercised by the Leader or the Leader may delegate functions to the Executive as a whole, a committee or sub-committee of the Executive, an individual Executive member, or officers or to another authority or to a joint committee.
- (b) The Proper Officer will maintain a list in Part 3 of this Constitution setting out which individuals or bodies are responsible for the exercise of particular Executive functions.
- (c) The Executive may delegate functions for which it is responsible to a committee of the Executive or to an officer.
- (d) The Executive has established a Voluntary and Community Sector Committee to oversee the Council's engagement with the Islington community and voluntary sector and to ensure value for money and fairness in the allocation of council resources to the sector and consider the management, use and disposal of council owned buildings occupied by voluntary and community sector organisations.



## **Article 8 –Non-Executive Functions**

### **8.01 Audit Committee**

There will be an Audit Committee which will have responsibility for audit and governance matters (other than those which are the responsibility of the Standards Committee) and for all other functions of the Council (other than those relating to licensing and planning matters) and which are not the responsibility of the Executive as a matter of law or under this constitution other than those which are reserved to the Council itself. The detailed terms of reference for the Committee are in Part 5 of this Constitution.

### **8.02 Audit Committee Sub-Committees**

The Audit 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 of staff; the appointment of the Chief Executive (subject to confirmation by Council), Corporate Directors and Service Directors, in each case unless direct assimilation without competition applies under the applicable organisational change procedures; health and safety at work matters, and the making of recommendations to Council on the appointment of the Independent Person under the Localism Act 2011.

The Audit Committee may decide to appoint different members to this sub-committee in order to deal with appointments to different posts.

- (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 in accordance with the budget and the Financial Regulations.

### **8.03 Audit Committee (Advisory)**

There will be an Audit Committee (Advisory) which will consist of the members of the Audit Committee and two independent members.

- (a) The Audit Committee and the Audit Committee (Advisory) shall be scheduled to meet at the same time.
- (b) The Independent Members shall be able to participate in discussion of and vote on all advisory matters considered at the meeting of the Committees.

### **8.04 Licensing Committee**

There will be a Licensing Committee which will exercise the following:

- all licensing functions as defined by the Licensing Act 2003. It will review the licensing policy and also determine all applications under the Licensing Act 2003;

- all licensing functions under the Gambling Act 2005, except for the approval of the statement of licensing policy and the decision whether to allow casinos;
- all licensing functions under the schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended including setting of fees for licence applications and sex establishment policy.

## **8.05 Composition of Licensing Committee**

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

## **8.06 Licensing Sub-Committees**

The Licensing Committee will appoint a number of sub-committees to determine applications in respect of the Licensing Act 2003, schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended and under the Gambling Act 2005.

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

- (a) The sub-committees shall comprise three members of the Council, with a quorum of three.
- (b) 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, he/she will be drawn on a strict rota basis from the balance of the members of the Licensing Committee belonging to party group of the absent member. Where no members from the same party group are available, those places shall be filled by any other Licensing Committee member.
- (c) Chair and Vice-Chair  
Each sub-committee shall appoint its own Chair and Vice-Chair. Where both of these are absent or are disqualified from hearing an application by virtue of being a ward councillor, then the sub-committee shall elect one of its members to be Chair for that meeting or that part of the meeting.

## **8.08 Licensing Regulatory Committee**

There will be a Licensing Regulatory Committee with a quorum of 3 which shall have responsibility for all licensing matters under the relevant legislation other than licensing functions arising out of the Licensing Act 2003, schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended and the Gambling Act 2005. These shall include:

- (a) The determination of applications for street trading, track betting and special treatment licences where there are unresolved objections to those applications;
- (b) The designation of streets as licensed streets;
- (c) The revocation of licences (except on the ground of non payment of fees);

- (d) The setting and review of policy in relation to the matters coming within the remit of the committee;
- (e) The setting of fees and charges for licences within the remit of the committee.

### **8.09 Planning Committee**

There will be a Planning Committee which shall have responsibility for planning matters under the relevant legislation. The Planning Committee will appoint 2 Planning Sub-Committees.

### **8.10 Health and Wellbeing Board**

There will be a Health and Wellbeing Board (HWBB) which will discharge the council's obligations pursuant to the Health and Social Care Act 2012 for its area to promote an integrated approach by health and social services for advancing the health and wellbeing of local residents. The HWBB must seek to secure the best possible health outcomes for all local people and reducing health inequalities, based upon the joint strategic needs assessment and joint health and wellbeing strategy.

### **8.10 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 shall comprise four members.

(Independent Persons have been appointed by the council under the Localism Act 2011. Although not members of the Committee the Independent Persons are invited to attend meetings of the committee as observers.)

### **9.03 Role and function**

The terms of reference of the Standards Committee are set out in Part 5 of this Constitution. In summary the Standards Committee will have the following roles and functions:

- (a) advising the Council on the adoption or revision of the Islington Members' Code of Conduct;
- (b) considering whether complaints of breach of the code should be investigated and hearing complaints which have been investigated;
- (c) granting dispensations to councillors and co-opted members from requirements relating to interests set out in the Islington Members' Code of Conduct;
- (d) agreeing procedures for investigation of complaints.

## Article 10 – Ward Partnerships

- 10.1 The Council is committed to strengthening the role of ward councillors in influencing decisions and services within their wards.
- 10.2 The Council has set up 15 Ward Partnerships, one for each ward, other than Bunhill and Clerkenwell which have a joint partnership.
- 10.3 The core membership of each Ward Partnership is the 3 ward councillors. Ward Partnerships may choose to involve other agencies providing services in the area of the Ward Partnership in their activities. Each Ward Partnership has an allocated Link Officer who will facilitate meetings of the Ward Partnership and communication between the Ward Partnership and council departments.
- 10.4 The Ward Partnerships do not have power to take decisions on behalf of the Council as they are not formal bodies. Their purpose is to provide an opportunity for councillors collectively to discuss and influence Islington Council services, decisions and practices, as they affect the area covered by the Ward Partnership.
- 10.5 The Ward Partnerships have the following specific roles. To:
  - (a) Identify issues of concern within their ward(s), make suggestions (seeking further information if necessary) about actions to address these issues and monitoring the implementation of any actions agreed by the relevant body;
  - (b) Make recommendations to the Voluntary and Community Sector Committee about the allocation of the Local Initiatives Fund;
  - (c) Review the Ward Improvement Plans at least annually and input into the development of the Community Infrastructure Levy plan.
- 10.6 The Ward Partnerships may expand their remit beyond purely council matters to encompass consideration of wider priorities for the area, better co-ordination of services and engagement with partners, residents and other forums.
- 10.7 The convening of a Ward Partnership meeting will be with the agreement of the majority of members in the ward. The issues for discussion at each meeting are determined by the relevant ward councillors.
- 10.8 The frequency and location of meetings is determined by the Ward Partnership itself but the Council will publish a schedule of meetings which are being held in public. Meetings will not be held at the same time as council meetings are scheduled to take place.
- 10.9 At least once a year there will be a meeting of the Ward Partnership in public to give local people and service providers an opportunity to come together to discuss local issues.

# 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. The Executive may appoint non-executive councillors to a joint committee in other circumstances permitted by legislation.
- (e) The Executive may appoint non-executive members to joint boards established under the NHS and Local Authorities Bodies Partnership Arrangements Regulations 2001 and to other Boards which are not joint committees..
- (f) Where both executive and non-executive functions are delegated to a joint committee, appointments to the joint committee will be made by the Council.
- (g) 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 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 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;
- Corporate Director of Housing;
- Corporate Director of People;
- Corporate Director of Environment and Regeneration;
- Corporate Director of Resources;
- Director of Public Health;
- Director of Law and Governance;
- Director of Finance and Property

Where the Executive has agreed to vary these roles, the Proper Officer shall be authorised to make the necessary consequential amendments to this article.

If there is no Chief Executive in post, references to the Chief Executive in this Constitution are to be taken as references to the Head of Paid Service.

#### **(c) Chief Executive, Monitoring Officer and Chief Finance Officer**

The Council will designate the following posts as shown:

- Head of Paid Service – Chief Executive
- Chief Finance Officer – Corporate Director of Resources
- Monitoring Officer – Director of Law and Governance

#### **(d) Structure**

The Chief Executive 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 8 of this Constitution.

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

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

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

**(c) Role in relation to Local Government Elections**

To act as the Returning Officer for local government elections.

**(d) Role in relation to politically restricted posts**

To grant exemptions under section 3 of the Local Government and Housing Act 1989 from political restriction to holders of posts under the Council and to give directions as to inclusion of specified posts in the list maintained by the Council under section 2(2) of that Act.

**(e) Role in relation to emergency procedures in an election year**

The Chief Executive may, during the period between the election and the Annual Meeting of the Council, in consultation with the Mayor, appoint the number of members necessary to make the membership of the Licensing Committee up to 10.

## **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 Chief Executive 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 and Audit Committees**

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

**(d) Conducting investigations**

The Monitoring Officer will consider and conduct investigations into complaints alleging breaches of the Members' Code of Conduct in accordance with the council's procedures for dealing with such allegations.

(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 is the responsibility of the Monitoring Officer.

(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) **Freedom of Information**

The Monitoring Officer is the 'qualified person' for the purposes of determining whether disclosure of particular information under the Freedom of Information Act 2000 would be likely to prejudice the effective conduct of public affairs.

(j) **Restrictions on posts**

The Monitoring Officer cannot be the Chief Finance Officer or the Chief Executive.

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

(a) **Ensuring lawfulness and financial prudence of decision-making**

After consulting with the Chief Executive, the Corporate Director of Resources 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 111 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 appoint a Director of Children's Services and a Director of Adult Social Services, a Director of Public Health and a Scrutiny Officer.
- (b) The Corporate Director of People 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 Corporate Director in the exercise of those functions.
- (c) The Director of Adult Social Care shall be appointed for the purposes of Section 6 of the Local Authority Social Services Act 1970. The authority is required to provide adequate staff to assist the Director in the exercise of those functions.
- (d) The Director of Public Health shall be appointed for the purposes of s73A of the National Health Service Act 2006, including the responsibility to write an annual report on the health of the local population
- (e) The Democratic Services Manager shall be appointed for the purposes of section 31 of the Local Democracy, Economic Development and Construction Act 2009 as the Council's Scrutiny Officer.

### **12.07 Delegation to Officers**

Powers are delegated to Chief Officers in Part 3 – Responsibility for Functions, paragraph 8.

### **12.08 Conduct**

Officers will comply with the Member/officer relations protocol set out in Part 6 of this Constitution.

### **12.09 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 the table at 7.1 in Part 3 will be made by the full Council and not delegated.

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

(i) A key decision is an executive decision (other than a decision which relates to the placement of an individual, be that an adult or child) which in the view of the Proper Officer is likely:

(a) To be financially significant, and/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.

A decision is deemed to be financially significant if:

- 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 respect of a disposal of land by the Council, the proposed receipt (or reasonable pre-sale estimate in the case of an auction sale) exceeds £1.5 million and the Executive has not already agreed in principle to disposal of the land;
- in respect of the acquisition of land or property, the proposed expenditure (or reasonable estimate prior to entering into the contract) exceeds £500,000.

(ii) A key decision must be included in the Forward Plan and 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.

### (c) **Recordable Decisions**

Those officer decisions, which if not delegated by the constitution or at a member meeting would be required to be taken by the Council, a committee or the Executive, and which fall within the following criteria:

- i. Decisions to grant a licence or a permission;
- ii. Decisions which affects the rights of an individual
- iii. Decisions likely to result in the local authority incurring expenditure of an amount in excess of £500,000 for capital expenditure or £250,000 for revenue expenditure including by award of a contract;
- iv. Decision specifically delegated to an officer at a Council or Committee meeting.

and decisions by an Executive member or an officer which are or the following non key decisions:

- a) Decisions likely to result in the local authority incurring expenditure, obtaining a receipt or making savings of an amount in excess of £500,000 for capital expenditure or £250,000 for revenue expenditure;
- b) Decisions that would have a significant impact on communities in a single ward
- c) Decisions that would or would be likely to conflict with or result in a change or departure from any decision or policy agreed by the Executive
- d) Decisions that would result in the setting up of a company or entering into a partnership arrangement with any other body
- e) Major individual service reorganisation decisions likely to involve 20 or more redundancies
- f) Decisions to waive the procurement rules in respect of contracts over the value of £100,000.
- g) Any decision specifically delegated to an officer at an Executive meeting
- h) Urgent decisions on matters that are otherwise reserved to the Executive

A decision which relates to the placement of an individual, be that an adult or child, is not a recordable decision.

## **13.04 Decision making**

Subject to Article 15.02, the Council, the Executive (including sub groups and individual members of the Executive), the Policy and Performance Scrutiny 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) 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 6 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 Rules set out in Part 6 of this Constitution.

### **14.03 Legal proceedings**

The Director of Law and Governance (and other officers authorised by him or her in accordance with Appendix 3.4) is authorised to institute, defend, participate in, conduct or settle 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 Governance 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 Governance 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 Governance. 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 Governance should be sealed or are required by the provisions of the Procurement Rules to be sealed. The adding of the Common Seal will be witnessed by the Chief Executive or Director of Law and Governance 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 (e) 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 Governance.
- (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 6 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.

- (e) The Leader may make changes to this Constitution where necessary to give effect to arrangements made by him or her. The Leader shall as soon as practicable either:
  - (i) report the change to the Council; or
  - (ii) notify the Proper Officer of the change

and no change shall be effective until either (a) or (b) has been complied with. The Proper Officer shall as soon as practicable report any change notified to him/her to the Council.

## **15.02 Suspension of the Constitution**

The Articles of this Constitution may not be suspended; other parts of the Constitution may be suspended by the Council on notice where it would be lawful to do so. Procedural rules governing the conduct of meetings may be suspended without notice in accordance with the provisions of the procedural rules concerned. In such cases, suspension shall only be for the duration of the meeting.



### **15.03 Publication**

- (a) The Proper Officer will offer 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 the Town Hall 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 and amendments required by legislation, from time to time.

