

# Articles of the Constitution

## 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 is the Constitution of Chorley Borough Council for the purposes of Section 37 of the Local Government Act 2000.

### 1.03 Purpose of the Constitution

The purpose of this Constitution is to:

- (a) enable the Council to provide clear leadership to the local community in partnership with citizens, businesses, the Local Strategic Partnership and other organisations;
- (b) support the active involvement of citizens in the process of local authority decision-making;
- (c) help Councillors represent their constituents more effectively;
- (d) enable decisions to be taken efficiently and effectively;
- (e) create a powerful and effective means of holding decision-makers to public account;
- (f) ensure high standards in reviewing and scrutinising decisions;
- (g) ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for significant decisions; and
- (h) provide a means of improving the delivery of services to the community.

### 1.04 Application and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will seek to choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 13.

## Article 2 – Members of the Council

### 2.01 Composition and Eligibility

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

The Council has 47 elected members, otherwise called Councillors. One or more Councillors are elected by the voters of each ward. Wards are specified in a scheme drawn up by the Local Government Boundary Commission for England of the Electoral Commission and approved by the Commission.

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

In order to be eligible to be a Councillor a person must on the day of his or her nomination and the day of the election be aged 18 and:

- i) be a registered elector for Chorley Borough or;
- ii) have occupied land or premises in the Borough for the previous 12 months or;
- iii) have had his principal or only place of work in the Borough for the previous 12 months or;
- iv) have lived in the Borough for the preceding 12 months

### 2.02 Election and Terms of Office of Councillors

Three in every four years a Council election will take place. Every fourth year after that there will be no ordinary election. At each ordinary election one third (or as near as possible) of the seats on the Council are available to be filled. A Councillor who is elected at an ordinary election holds office for four years starting on the fourth day after his or her election. If a Councillor dies, retires or is disqualified then a by election may be held. A Councillor elected at a by election holds office until the date when the Councillor who he or she has replaced would normally have retired.

### 2.03 Roles and functions of all Councillors

All Councillors will:

- i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- ii) contribute to the good governance of the Borough and actively encourage community participation and citizen contributions to decision-making;
- iii) represent their communities and act as the advocates of those communities in the Council's decision-making processes;
- iv) deal with individual casework and assist constituents in resolving particular concerns or problems;
- v) respond to constituents' enquiries and representations, fairly and impartially;
- vi) participate in the governance and management of the Council;
- vii) be available to represent the Council on other bodies; and
- viii) maintain the highest standards of conduct and ethics.
- ix) have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.

2.04 Conduct

Councillors shall at all times observe the [Members' Code of Conduct](#) and the Protocol on Member/Officer Relations set out in Appendix 6 and Appendix 8 to this Constitution.

2.05 Allowances

Councillors are entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Appendix 9 to this Constitution.

## **Article 3 – Citizens and The Council**

### 3.01 Citizens' rights

Citizens have the following rights:

#### **(a) Voting**

Citizens on the electoral roll for the Borough of Chorley may vote in Council elections

#### **(b) Information**

Citizens of Chorley may:

- 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 Cabinet; except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private
- iii) find out what key decisions will be taken by the Executive and when;
- iv) see reports and background papers, and any records of decisions made by the Council and the Executive; and
- v) during the annual audit of the Council's accounts, inspect the Council's accounts and make their views known to the external auditor.
- vi) request access to other information held by the Council in accordance with Freedom of Information and Data Protection legislation

More information about Citizens rights to information and a description of the information which is "confidential" and "exempt" is contained in Appendix 5 to this Constitution

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

- i) Citizens have the right to participate at Council meetings, meetings of the Executive Cabinet and meetings of the Overview and Scrutiny Committee by asking questions in accordance with the Council's procedures.
- ii) Applicants for planning permission and objectors to those applications may speak at Development Control Committee in accordance with Council procedures
- iii) The Overview and Scrutiny Committee and its Task Groups may invite members of the public to express views, give evidence or make comments in relation to matters being considered.
- iv) Citizens may participate by asking their Ward Councillor to deal with a matter on their behalf
- v) Citizens have the right to request the Overview and Scrutiny Committee to review specific service functions where they feel dissatisfied with current arrangements after all other avenues have been explored. Details are contained in the Overview and Scrutiny Information and Guidance document.

(d) **Complaints.** Citizens may complain to:

- i) the Council itself under its complaints scheme;
- ii) the Ombudsman after using the Council's own complaints scheme;
- iii) the Information Commissioner after using the Council's own review procedures in relation to an information request.
- iv) the Governance Committee about a breach of the Members' Code of Conduct.

Citizens' rights to information and to participate (including certain limitations with regard to exempt or confidential information) are explained in more detail in the Access to Information Procedure Rules in [Appendix 5](#) to this Constitution.

(e) **Petitions**

Citizens have the right to petition the Council and the details of how petitions will be dealt with, including electronic petitions is set out in the Council's Petitions Scheme.

(f) **Mayoral Petitions**

Voters on the electoral register for Chorley may sign a petition to request a referendum for an elected Mayor form of governance.

(g) **Respect**

Citizens have the right to be treated with respect by Councillors and by Council Officers

3.02 Citizens' responsibilities

Citizens must treat with respect Councillors and Council Officers and property owned by the Council, Councillors and Council Officers.

## Article 4 – The Full Council

### 4.01 Meanings

#### (a) Policy Framework

This means the following plans and strategies:

- The Corporate Strategy;
- The Community Safety Strategy;
- The Licensing Authority Policy Statement;
- Development Plan documents;
- Plans and alterations, which together comprise the Development Plan and
- Any other plan or strategy (whether statutory or non-statutory) in respect of which the Council determines that the decision on its adoption or approval should be taken by it rather than the Executive.

#### (b) Budget

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

### 4.02 Functions of the full Council

The Council will usually delegate those functions for which it is responsible to Committee or Officers. The following functions may though only be exercised by the full Council:

- (a) adopting and changing the Constitution;
- (b) approving or adopting any document forming part of the policy framework or the budget;
- (c) approving, for public consultation draft proposals for a new or amended Development Plan;
  - i. approval of development plan documents which are to be submitted to the Secretary of State for Independent Examination;
  - ii. making an agreement to prepare one or more joint development plan documents;
  - iii. making agreements to establish or extend the remit of a Joint Committee to act as the local planning authority or making a request to the Secretary of State to revoke an order constituting such a joint committee;
- (g) approving any plan or strategy which requires approval by the Secretary of State before it is submitted to him;
- (h) adopting the Gambling Act Policy and/or making a decision not to issue a Casino Licence;

- (i) making decisions on executive functions which are contrary to the policy framework or contrary to/or not wholly in accordance with the budget. This is subject to urgency provisions set out in Appendix 5 to this Constitution;
- (j) appointing and removing the Executive Leader of the Council;
- (k) establishing Committees of the Council, agreeing and/or amending their terms of reference and their composition and making appointments to or removing members from them;
- (l) adopting, amending or revoking a Members' Allowances Scheme;
- (m) changing the name of the district or conferring the title of Honorary Alderman or the freedom of the Borough;
- (n) confirming the appointment of the Chief Executive who is the head of the Council's paid service;
- (o) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills
- (p) adopting a Code of Conduct for Members
- (q) authorising a third party to exercise a function of the Council where:
  - i. the function is not the responsibility of the Executive
  - ii. the authorisation is permitted under Section 70 of the Deregulation and Contracting Out Act 1994,
- (r) all other matters which, by law, must be reserved to the full Council.

#### 4.03 Responsibility for functions

The functions described in Article 4.02 may only be exercised by the full Council. The Council has delegated other powers and details are set out Appendix 2 to this Constitution The arrangements do not prevent the full Council from exercising any of the delegated functions itself if it so wishes.

#### 4.04 Meetings of the Council

There are four types of Council meeting:

- (a) Annual Meetings;
- (b) Ordinary Meetings;
- (c) Extraordinary Meetings and
- (d) Special Meetings.

Every meeting of the Council shall be conducted in accordance with the Council Procedure Rules in [Appendix 3](#) to this Constitution.

## Article 5 – The Mayor

### 5.01 Political Neutrality

The Mayor, when acting in that capacity, will support the tradition of political neutrality expected of the holder of the Office

### 5.02 Role and functions of the Mayor

The Mayor has the following roles and functions:

- (a) **First Citizen.** The Mayor has precedence in and is the first citizen of the Borough.
- (b) **Promotion of the Council.** The Mayor shall promote the Borough and the Council as a whole and act as a focal point for the community.
- (c) **Ceremonial matters.** The Council is responsible for determining the civic and ceremonial duties which the Mayor is to carry out.
- (d) **Chair of the Council.** The Mayor presides over meetings of the Council.

The Deputy Mayor acts in place of the Mayor in his absence.

### 5.03 Election of the Mayor

The Council will elect the Mayor annually, at each Annual Meeting of the Council.

### 5.04 Chairing the Council

When chairing meetings of the Council, the Mayor will:

- (a) uphold and promote the purposes of this Constitution and interpret its provisions and give rulings on points of order as and when necessary;
- (b) conduct the meetings of the Council in such a way that its business can be carried out efficiently and with regard to the rights of all Councillors and the interests of the community; and
- (c) ensure that the Council meeting can be a forum for the debate of matters of concern to the local community and a place at which Councillors are able to hold the Executive and Committee Chairs to account.

## Article 6 – Overview and Scrutiny

### 6.01 The Overview and Scrutiny Framework

The Council has established and appointed an overarching Overview and Scrutiny Committee which leads and co-ordinates the Council's overview and scrutiny functions. The Committee undertakes Scrutiny reviews itself but also appoints task and finish groups to undertake individual scrutiny reviews.

The Committee and the task and finish groups are intended to play an important role in ensuring that all the services of the Council are efficient and effective and meet the needs of the local community.

### 6.02 The Committee

The Committee has an overall responsibility for all scrutiny work, including that undertaken by the "task and finish groups".

The Committee may exercise the full range of overview and scrutiny powers and functions including the ["call-in" of executive decisions](#). It may consider any topic appropriate for scrutiny but will normally focus on:

- Holding the Executive to account
- Performance, resources, capacity and corporate governance matters
- Appointing "task and finish" groups to undertake detailed scrutiny reviews
- Consideration of recommendations from the task and finish groups
- Making recommendations to the Executive and/or the Council flowing from its own work and that of the task and finish groups
- Setting and monitoring the annual scrutiny work programmes
- Selection of inquiry topics and approval of project outlines and plans
- Issues raised by the public through Members of the Council under the Councillor Call for Action procedure as set out in the Overview and Scrutiny Information and Guidance document.

### 6.03 Task and Finish Groups

Each "task and finish" group will be appointed by the Overview and Scrutiny Committee to undertake a review into a particular matter. The membership of the "task and finish" group will normally include Councillors who are members of the Overview and Scrutiny Committee but all members other than Executive Members are eligible and encouraged to participate in a task and finish group.

Once a task and finish group has completed its investigation it will prepare a report which will be submitted to the Overview and Scrutiny Committee.

### 6.04 General role

Within its terms of reference, the Overview and Scrutiny Committee may:

- i. review and scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;

- ii. make reports and recommendations to the full Council, its Committees or Sub-Committees, the Executive or any Council Officers, in relations to the Council's functions;
- iii. consider any matter affecting the Borough or its residents;
- iv. review decisions made or planned to be made by the Executive before they are implemented; and
- v. undertake the scrutiny of crime and disorder in the Borough through scrutiny of the local Community Safety Partnership.

#### 6.05 Specific functions

##### (a) **Policy development and review**

The Overview and Scrutiny Committee may:

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

Under the Local Government Involvement in Health Act 2007:

- vi) Crime and disorder scrutiny

At least one meeting a year of the Council's Overview and Scrutiny Committee should be dedicated to the review and scrutiny of decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions through the Safer Chorley and South Ribble Partnership – Responsible Authorities Group.

##### (b) **Scrutiny**

The Overview and Scrutiny Committee may:

- i) review and scrutinise decisions made by and performance of the Executive, Committees, Sub-Committees and Officers, both in relation to particular decisions and over time;
- ii) review and scrutinise the performance of the Council in relation to its policy objectives and performance targets and to particular service areas or may appoint a group from within its membership to do this;
- iii) question members of the Executive, members of Committees or Sub-Committees and Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time or in relation to particular decisions, initiatives or projects;
- iv) make recommendations to the Executive, any Committee or Sub-Committee, the Council or any Officer arising from the outcome of the scrutiny process;

- v) review and scrutinise the performance of other persons, bodies or partnerships providing services to residents of the Borough or undertaking activities in the Borough which affect the economic, social or environmental well-being of the Borough or its residents;
- vi) request reports from such persons or bodies about their activities and performance and invite them to address the Overview and Scrutiny Committee or a Task and Finish Group; and
- vii) question and gather evidence from any person.

(c) **Finance**

The Overview and Scrutiny Committee shall exercise overall responsibility for any finances made available to it or to an Overview and Scrutiny Task Group.

(d) **Periodic Reports**

The Overview and Scrutiny Committee shall report periodically to the full Council on its workings and its future and ongoing work programmes and working methods and those of the Task and Finish Groups.

6.06 Proceedings of Overview and Scrutiny Committee

The Overview and Scrutiny Committee shall conduct its proceedings in accordance with the [Overview and Scrutiny Procedure Rules](#) set out in Appendix 5 to this Constitution.

## Article 7 – The Executive

### 7.01 Role of the Executive

All of the Council's functions are exercised by the Executive arm of the Council unless the law makes specific provision to the contrary. Where the law provides the Council with a choice, this Constitution determines whether a function may be exercised by the Executive.

### 7.02 Form and Composition

The Executive Cabinet consists of an Executive Leader and a Deputy Executive Leader together with between two and eight other Councillors appointed as members of the Executive by the Executive Leader. The Executive Leader is also Leader of the Executive Cabinet. The Mayor and the Deputy Mayor may not be appointed as Executive Members.

In the event of the Executive Leader being unable to discharge his/her duties as Leader due to absence, the Deputy Executive Leader shall assume those duties until the Leader is able to resume his/her duties or full Council appoints a new Executive Leader.

### 7.03 Executive Leader

The Executive Leader is a Councillor who is elected to the position by the Council for a term of four years at its Annual Meeting. The Executive Leader holds office for that term or until he or she:

- (a) resigns from office;
- (b) is suspended from being a Councillor under Part III of the Local Government Act 2000; or
- (c) ceases to be a Councillor;
- (d) is removed from the office by resolution of the Council.

If the Executive Leader is suspended from being a Councillor the Council may reappoint him as Executive Leader at the end of the suspension.

If the Office of Executive Leader becomes vacant, the Council shall fill the vacancy as soon as reasonably practicable and the person elected shall hold office in accordance with the provisions of this Article.

### 7.04 Other Executive Members

The other Executive Members are appointed each year by the Executive Leader. Every Executive Member holds office until he or she:

- (a) resigns from office;
- (b) is suspended from being a Councillor under Part III of the Local Government Act 2000;
- (c) ceases to be a Councillor;
- (d) is removed from the office by the Executive Leader who must give written notice to the Chief Executive of any such removal.

Any vacancy in the office of an Executive Member (other than the Executive Leader), may be filled by the Executive Leader. The person appointed then holds office in accordance with the provisions of this Article. Written notice of any such appointment by the Executive Leader must be given to the Chief Executive.

If there are fewer than two Executive Members (excluding the Executive Leader) then the Executive Leader must fill those vacancies as soon as practicable to ensure that there are at least two such Members.

#### 7.05 Proceedings of the Executive

The Executive Cabinet may make procedure rules to govern its meetings and decision making processes. Those rules (if any) appear at Appendix 5 to this Constitution.

#### 7.06 Responsibility for Functions

The functions of the Executive do not all have to be discharged by the full Executive Cabinet.

(a) The Executive Leader can allocate any of the functions of the Executive among:

- i) the Executive Cabinet itself;
- ii) particular Executive Members including the Executive Leader and Deputy Executive Leader positions;
- iii) Committees of the Executive;
- iv) Council Officers.

(b) In the case of functions that have not been allocated by the Council, the Executive Leader may:

- i) exercise them himself or herself; or
- ii) arrange for them to be discharged by:
  - the Executive Cabinet;
  - one or more other Executive Members;
  - Committees of the Executive;
  - Council Officers.

(c) Functions which are dischargeable by the Executive Cabinet may then be delegated by it to Committees of the Executive, Executive Members individually or to Council Officers.

(d) Functions which are dischargeable by Committees of the Executive or by individual Executive Members may then be delegated by those Committees or Executive Members to Council Officers.

The functions of the Executive which have been delegated are set out in Appendix 2 part D of the Constitution.

#### 7.07 Members Responsible and Council Champions

The Executive Leader may also appoint such number of other Councillors as he/she may think fit to assist the Council and the Executive Members. These Councillors, known as Member Responsible and Council Champions, are, however, not members of the Executive and may be members of the Overview and Scrutiny Committee.

Each such Member holds office until he or she:

(a) resigns from office;

- (b) is suspended from being a Councillor under Part III of the Local Government Act 2000;
- (c) ceases to be a Councillor; or
- (d) is removed from the office by the Executive Leader who must give written notification to the Chief Executive of such removal;

whichever first occurs.

The specific responsibilities of Member Responsible/Council Champions are set out in Part F of Appendix 2 to this Constitution.

#### 7.08 Scheme of Delegation

The Executive Leader has responsibility for the Scheme of Delegation to Executive Members and the scheme of Delegation to Officers. Any changes to those delegations, must be the subject of a formal Executive Leader decision and reported to the next meeting of the Council as a Constitutional change. The carrying out of all delegated powers by individual members of the Cabinet or by officers of the Council must be in accordance with Council Procedure Rules and Financial Regulations.

## **Article 8 – Regulatory and other Committees**

### **8.01 Appointment of Committees**

The Council has appointed the Committees set out in Appendix 2 to this Constitution to discharge the functions described in that Appendix.

### **8.02 Membership of Governance Committee**

Members of the Executive shall not be eligible to be appointed to the Governance Committee. The Chair and Vice Chair of the Overview and Scrutiny Committee shall not be eligible to be Chair or Vice Chair the Governance Committee.

**Article 9 – Officers**

9.01 Management structure

- (a) **General.** The Council may employ such staff (sometimes referred to as Officers) as are necessary for it to carry out its functions.
- (b) **Responsibility for Appointment etc.** All staff are engaged under contracts of employment with the Council. The Chief Executive is responsible for the appointment, dismissal and disciplinary action in respect of most staff. In the case of Chief Officers that responsibility rests with the Council and will usually be exercised through a Committee.
- (c) **Council Committees in respect of Staff.** The Council's will appoint ad hoc Committees for the appointment of Chief Officers. It will also appoint Committees with delegated powers for the purpose of disciplinary action in relation to and dismissals of Chief Officers. The terms of employment of Council staff may provide for an opportunity to appeal to a panel of Members in certain circumstances.
- (d) **Chief Officers.** The holders of the following senior posts are designated as Chief Officers,

Chief Executive Deputy Chief Executive and Director (Early Intervention and Support) Director (Policy and Governance) Director (Customer and Digital) Director (Business, Development and Growth)
---

- (e) **Statutory Officers.** The Council is required to designate Officers for certain specific statutory purposes. The Council has designated Officers as shown below:

Chief Executive	<ul style="list-style-type: none"> <li>• Head of Paid Service (Local Government and Housing Act 1989, Section 4)</li> <li>• Officer with responsibility for the administration of the Council's financial affairs (Local Government Act 1972, Section 151) (normally referred to as an authority's "Chief Finance Officer")</li> </ul>
Head of Legal, Democratic and HR Services	<ul style="list-style-type: none"> <li>• Monitoring Officer (Local Government and Housing Act 1989, Section 5)</li> </ul>

These officers have the functions described in Article 10.02–10.04 below.

- (f) **Deputies to Statutory Officers.** In the event the Chief Executive being unable to act as head of paid service the Council has appointed a Deputy Chief Executive to act in that position, and if he is unable to act, the Director (Policy and Governance).

The Chief Finance Officer and Monitoring Officer will, in accordance with the law, appoint their own deputies.

- (g) **Proper Officers.** Legislation allocates various functions, powers and responsibilities to officers of the Council. The Council is able to choose the particular officers who will have those functions, powers and responsibilities. The mechanism to do that is for the Council to appoint the particular officers as “Proper Officers” for specific purposes or to specific statutory positions. The appointments the Council has made are set out in [Appendix 10](#) to this Constitution.
- (h) **Structure.** The Chief Executive will determine and publicise a description of the overall management structure and this will be set out in Appendix 11 of this Constitution.

#### 9.02 Functions of the Chief Executive as Head of Paid Service

- (a) The statutory functions of the Chief Executive as Head of Paid Service are to report to the Council on:
  - (i) the manner in which the discharge of the Council’s functions is co-ordinated;
  - (ii) the number and grade of staff required for the discharge of the Council’s functions; and
  - (iii) the organisation and proper management of those staff.
- (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.

#### 9.03 Functions of the Monitoring Officer

- (a) **Ensuring Lawfulness and Proper Administration.** The statutory functions of the Monitoring Officer are to report to the Council on:
  - i) unlawful actions, proposals, decisions or omissions; and
  - ii) findings of maladministration or injustice following an “Ombudsman” investigation.
- (b) **Ethics and Standards.** The Monitoring Officer:
  - i) advises and supports the Governance Committee in respect of Member Conduct;
  - ii) conducts or arranges investigations into matters that are specifically referred to him or her for that purpose by the public, other Councillors and the Governance Committee.
- (c) **Restrictions on posts.** The Monitoring Officer cannot be the chief finance officer or the head of paid service.

#### 9.04 Functions of the Chief Finance Officer

The functions of the Chief Executive as Chief Finance Officer are:

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

The Chief Finance Officer will report to the Council on proposals, decisions or actions which he or she considers:

- i) will involve incurring unlawful expenditure; or
- ii) are unlawful and will cause a loss or deficiency; or
- iii) if the Council is about to enter an item of account unlawfully.

(b) Responsibility for the administration of the financial affairs of the Council.

(c) To advise the Council on the robustness of its budget and the adequacy of its reserves.

9.05 Duty to provide sufficient resources to the monitoring officer and chief financial officer

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

9.06 Conduct

Officers shall comply with the [Officers' Code of Conduct](#) and the [Protocol on Officer/Member Relations](#) set out in Appendices 7 and 8 respectively of this Constitution.

9.07 Employment

The recruitment, selection and dismissal of all officers or staff shall be conducted in accordance with the [Officer Employment Procedure Rules](#) set out in Appendix 3 to this Constitution.

## Article 10 – Decision-making

### 10.01 Responsibility for Decision-making

[Appendix 2](#) to this Constitution gives details of which persons or bodies within the Council's organisation have responsibility for particular types of decisions.

### 10.02 Principles of decision making

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

- a) Decisions will only be made which are within the Council's legal powers;
- b) Decisions will be made only in accordance with powers which have been allocated to the decision maker by law or which have been appropriately delegated under this Constitution;
- c) Decisions should be made having regard only to relevant factors and without regard to irrelevant factors;
- d) The process of decision making should reflect the highest standards of probity;
- e) Decisions should be made openly unless there are strong reasons to the contrary;
- f) Decisions which impact on individuals should be made only after consultation with those affected has been attempted;
- g) Decisions will be made with respect for individual human rights and any infringement of those rights will be proportionate to the aim to be achieved;
- h) Decisions will be taken following due consideration of any matters required by law;
- i) Decisions will be taken only after consideration has been given as to whether it is appropriate to seek legal, financial or technical advice;
- j) Decisions will be made with clarity of aims and desired outcomes.
- k) Decisions will be made having regard to the risks involved in taking or in not taking the decision
- l) If the Council, is acting as a kind of tribunal or in a quasi-judicial manner or the Council will respect the requirements of natural justice.

### 10.03 Decision-making by the full Council

The Council Procedure Rules set out in [Appendix 3](#) to this Constitution lay down the procedures to be followed by the Council when considering any matter.

### 10.04 Decision-making by the Executive

Any Executive Procedure Rules adopted by the Executive will be set out in [Appendix 5](#) to this Constitution. These will lay down the procedures to be followed by the Executive and any body or person exercising functions on its behalf, when considering any matter.

The Rules will contain some additional requirements with regard to certain significant or important decisions. These are described as “key decisions”. A key decision means a decision that is likely:

- (a) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the local authority’s budget for the service or function to which the decision relates; or
- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the Borough.

The Council may adopt a more detailed definition of a “key decision” and, if so, it will be set out in Appendix 5.

#### 10.05 Decision-making by Committees and Sub-committees of the Council

Some of the Council Procedure Rules set out in [Appendix 3](#) to this Constitution also apply to Committees and Sub-committees of the Council. These Rules are specifically identified in the Council Procedure Rules.

#### 10.06 Decision-making by Overview and Scrutiny Committee

The Overview and Scrutiny Procedure Rules set out in [Appendix 5](#) to this Constitution lay down additional procedures to be followed by the Overview and Scrutiny Committee when considering any matter.

## **Article 11 – Finance, Contracts and Legal Matters**

### 11.01 Financial Administration and Management

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in [Appendix 4](#) to this Constitution.

### 11.02 Contracts

Every contract made by the Council shall comply with the Contracts Procedure Rules set out in [Appendix 3](#) to this Constitution.

### 11.03 Legal Proceedings

The Head of Legal Democratic and HR 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 he considers that such action is necessary to protect the Council's interests.

### 11.04 Authentication of Documents

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

### 11.05 Common Seal of the Council

The Common Seal of the Council shall be kept in a safe place in the custody of the Head of Legal, Democratic and HR Services. A decision of the Council, or of any part of it, or any delegated authority will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents, which, in the opinion of the Head of Legal Democratic and HR Services, should be sealed. The affixing of the Common Seal will be attested by the Chief Executive, the Head of Legal, Democratic or HR Services or any Director.

## **Article 12– Review and Revision of the Constitution**

### 12.01 Maintaining the Constitution

The Chief Executive has responsibility to maintain an up-to-date version of this Constitution, incorporating all alterations and amendments, and to ensure that it is available for consultation by Councillors, staff and the public.

### 12.02 Monitoring and Review

The Chief Executive and the Monitoring Officer will monitor and review the operation of this Constitution and may from time to time make recommendations to the Council for amendments or revisions to it.

### 12.03 Amendments and Alterations Generally

The Monitoring Officer shall have authority to make amendments to the Constitution which are required to comply with the law, reflect decisions of the Council or are minor in nature. All other changes to the Constitution will require the approval of the full Council.

### 12.04 Amendments and Alterations Generally

The Council shall not consider taking any decision which would require an amendment to be made to the Constitution, unless the Chief Executive and the Monitoring Officer have both either:

- (a) recommended the alteration, amendment or new Constitution; or
- (b) have been given an opportunity to consider and advise the Council on it.

## Article 13 – Suspension and Interpretation of the Constitution

### 13.01 Suspension of the Constitution

#### (a) Limits of Suspension

- i) The Articles of this Constitution may not be suspended.
- ii) Any of the Rules contained in [Appendix 5](#) to this Constitution may be suspended by the Council or the relevant Committee or Sub-committee, or the Executive in the case of Executive Procedure Rules, but only to the extent permitted by the law and subject to any limitation or requirement provided for within the Rules themselves.

Any suspension may be either generally, for the remainder of a meeting, or for one or more particular items of business.

- (b) **Other Procedure Rules.** Other Procedure Rules may specify circumstances in which they can be suspended. Those Rules cannot otherwise be suspended.

### 13.02 Interpretation

- (a) The Interpretation Act 1978 shall apply for the interpretation of this Constitution (including its Appendices) as it applies for the interpretation of an Act of Parliament. The effect of this provision is to incorporate a number of specific rules of interpretation laid down in that Act. These include such rules as:
  - i) that the singular includes the plural and vice versa;
  - ii) gender inclusivity; and
  - iii) that references to replaced or amended legislative provisions are to be construed as references to the replacement or amended provisions.
- (b) The ruling of the Mayor as to the interpretation of this Constitution shall not be challenged at any meeting of the Council.

## Article 14 – Appendices to the Constitution

### 14.01 Executive Arrangements

Some of the provisions of this Constitution constitute executive arrangements by the Council under Section 10 of the Local Government Act 2000. The provisions concerned are listed in [Appendix 1](#).

### 14.02 Responsibility for Functions

[Appendix 2](#) specifies which bodies and persons have responsibility for the exercise of various functions.

### 14.03 Standing Orders

[Appendix 3](#) sets out the Standing Orders that have been made by the Council which govern proceedings at certain meetings, contain rules required by law relating to the employment of staff and set out how the Council will award contracts.

### 14.04 Financial Procedure Rules

[Appendix 4](#) contains Financial Procedure Rules, in the form of Financial Regulations made by the Council.

### 14.05 Other Procedure Rules

[Appendix 5](#) contains Procedure Rules to be observed with regard to various other matters.

### 14.06 Members' Code of Conduct

[Appendix 6](#) contains the Council's Code of Conduct for Members under Section 51 of the Local Government Act 2000.

### 14.07 Officers' Code of Conduct

[Appendix 7](#) contains the Council's Code of Conduct for Officers.

### 14.08 Protocol on Member-Officer Relations

[Appendix 8](#) contain the Council's protocol on member-officer relations

### 14.09 Members' Allowances Scheme

[Appendix 9](#) contains the Council's Members' Allowances Scheme.

### 14.10 Proper Officer and Other Officer Appointments

Some legal provisions require the Council to appoint "proper officers". [Appendix 10](#) contains details of the appointments the Council has made.

### 14.11 Officers' Management Structure

[Appendix 11](#) contains a description of the officer-level management structure