

Part 1B

Articles of the Constitution

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Article 1 – The Constitution

1.1 Powers of the Council

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

1.2 The Constitution

This constitution, and all its appendices, is the constitution of the Rugby Borough Council.

1.3 Purpose of the Constitution

The purpose of the constitution is to:

- (a) enable the council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- (b) support the active involvement of citizens in the process of local authority decision-making;
- (c) enable decisions to be taken efficiently and effectively;
- (d) promote high standards of conduct by councillors and officers and provide a means of holding decision-makers to public account;
- (e) ensure that no one will review or scrutinise a decision in which they were directly involved; and
- (f) ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions.

Article 2 – Members of the Council

2.1 Composition and eligibility

(a) Composition

The Council will comprise 42 members, otherwise called councillors. One or three councillors will be elected by the voters of each ward.

(b) Eligibility

Only registered voters of the borough or those living or working there will be eligible to hold the office of councillor.

2.2 Election and terms of councillors

The ordinary election of a third (or as near as may be) of all councillors will normally be held on the first Thursday in May each year, except that in 2017 and every fourth year thereafter there will be no regular election. The terms of office of councillors will normally be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

2.3 Roles and functions of all councillors

(a) Key roles

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 area and actively encourage community participation and citizen involvement in decision making;
- (iii) effectively represent the interests of their ward and of individual constituents;
- (iv) respond to constituents' enquiries and representations, fairly and impartially;
- (v) participate in the governance and management of the council; and
- (vi) maintain the highest standards of conduct and ethics in the conduct of council business.

(b) Rights and duties

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public information which is confidential or exempt.
- (iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Standing Orders in Part 3D 10.3 and 10.4 of this constitution.

2.4 Conduct

Councillors will at all times observe the Members' Code of Conduct and the Protocol on Councillor/Officer Relations set out in Parts 4 of this constitution.

2.5 Allowances

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 5 of this constitution.

Article 3 – Citizens and the council

3.1 Citizens' rights

Citizens have the rights set out below. Their rights to information and to participate are explained in more detail in the Access to Information Standing Orders in Part 3 of this constitution.

(a) Voting and petitions

Citizens on the borough's electoral roll have the right to vote. They may also sign a petition to request a referendum for an elected mayor form of constitution.

(b) Information

Citizens have the right to:

- (i) attend meetings of the Council, the Cabinet and committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (ii) find out from the Forward Plan what key decisions will be taken by the Cabinet and officers and when;
- (iii) see reports and background papers, and any records of decisions made by the Council and the Cabinet; and
- (iv) inspect the council's accounts and make their views known to the external auditor.

(c) Participation

Citizens have the right to participate in the Council's question time where provided for in Part 3A of this constitution and, where appropriate, participate in committees' question times and contribute to investigations by committees.

(d) Complaints

Citizens have the right to complain to:

- (i) the council itself under its complaints scheme;
- (ii) the Ombudsman after using the council's own complaints scheme.

3.2 Citizens' responsibilities

Citizens must not be violent, abusing or threatening to councillors or officers and must not willfully harm things owned by the council, councillors or officers.

Article 4 – The Full Council

4.1 Meanings

- (a) The **Policy Framework** means the following plans and strategies:
- (i) Those required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and any regulations under Section 32 of the Local Government Act 2000:
 - Community Strategy
 - Crime and Disorder Reduction Strategy
 - Local Development Framework
 - (ii) Those other plans and strategies which Chapter 2 of the former Department for the Environment Transport and the Regions Guidance recommends should be adopted by the Council as part of the Policy Framework:
 - Corporate Strategy
 - Food Service Plan
 - Housing Strategy
 - Sustainable Community Strategy
 - (iii) Any other plans and strategies which the Council may decide from time to time to adopt as part of its Policy Framework. A full list of the plans and strategies adopted by the Council as part of the Policy Framework is set out in Part 3 of this constitution.
- (b) The **budget** includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.
- (c) **Housing Land Transfer** means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.
- (d) **Executive functions** means those functions which by law must be the responsibility of the Cabinet.
- (e) **Non-executive functions** means those functions which by law must not be the responsibility of the Cabinet.

- (f) **Local choice functions** means those functions which the council may decide to exercise itself or delegate to any part of the Council including the Cabinet. A list of local choice functions is included in Part 2 of this constitution.

4.2 Functions of the full Council

Only the Council will exercise the following functions:

- (a) Adopting and changing the constitution.
- (b) Approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any housing land transfer.
- (c) Subject to the urgency procedure contained in the Access to Information Standing Orders in Part 3 of this constitution, making executive decisions which are contrary to the policy framework or executive decisions which are contrary to or not wholly in accordance with the budget.
- (d) Appointing the Leader.
- (e) In relation to functions which are not the responsibility of the Cabinet, agreeing and/or amending the terms of reference of committees, deciding on their composition and making appointments to them.
- (f) Appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council.
- (g) Adopting an allowances scheme under Article 2.5.
- (h) Changing the name of the area, conferring the title of honorary alderman or freedom of the borough.
- (i) Confirming the appointment of the Head of Paid Service.
- (j) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal bills.
- (k) All local choice functions set out in Part 2 of this constitution which the Council decides should be undertaken by itself rather than the Cabinet or any other person.
- (l) Those matters relating to elections and electoral registrations set out in Part 2 of this constitution.
- (m) All other matters which, by law, must be reserved to Council.

The responsibilities of full Council may change from time to time and are set out in detail in Part 2 of this constitution.

4.3 Council meetings

There are three types of Council meeting:

- The annual meeting
- Ordinary meetings
- Extraordinary meetings

These meetings will be conducted in accordance with the Council Standing Orders in Part 3 of this constitution.

Article 5 – Chairing the Council

5.1 Role and function of the Mayor

The Mayor will be elected by the Council annually. The Mayor and, in his or her absence, the Deputy Mayor, will have the following roles and functions:

- (a) To uphold and promote the purposes of the constitution, and to interpret the constitution when necessary.
- (b) To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community.
- (c) To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which councillors who are not on the Cabinet are able to hold the Cabinet 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 or she determines appropriate.

Article 6 – Overview and scrutiny committees

6.1 Terms of reference

The Council shall appoint overview and scrutiny committees which, collectively, will cover all the functions of the council.

The Council has appointed two overview and scrutiny committees called Brooke Overview and Scrutiny Committee and Whittle Overview and Scrutiny Committee. They have no fixed terms of reference and their chairmen and vice-chairmen jointly have responsibility for determining an overview and scrutiny work programme and for allocating work to the committees – including the determination of call-ins and motions referred by Council –

on the basis of workload and officer guidance. In any instances where the chairmen and vice-chairmen are unable to come to a consensual agreement, the Executive Director will decide where the work should be placed, based on capacity and best fit.

The Council may from time to time change the number and terms of reference of the committees.

6.2 Form and composition

- (a) The membership of each overview and scrutiny committee shall reflect the political composition of the Council.
- (b) The two overview and scrutiny committees shall each comprise nine non-executive councillors.

6.3 General role

Within their terms of reference, overview and scrutiny committees will:

- (a) review and scrutinise decisions made or actions taken in connection with the discharge of any of the council's functions;
- (b) make reports and/or recommendations to the Cabinet and/or the full Council and/or any policy, joint or area committee in connection with the discharge of any functions;
- (c) consider any matter affecting the area or its inhabitants;
- (d) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Cabinet or area committees; and
- (e) consider matters referred to them in accordance with the protocol on the Councillor Call for Action.

6.4 Specific functions

(a) Policy development and review

Scrutiny committees may:

- (i) assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;
- (ii) conduct research, community and other consultation in the analysis of 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 Cabinet, Executive Director, service heads and other senior managers, about their views on issues and proposals affecting the area; 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.

(b) Scrutiny

Scrutiny committees may:

- (i) review and scrutinise the decisions made by and the performance of the Cabinet and council officers both in relation to individual decisions and over time;
- (ii) review and scrutinise the performance of the council in relation to its policy objectives, performance targets or particular service areas;
- (iii) question members of the Cabinet and the Executive Director, service heads, and anyone reporting direct to a head of service, 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 Cabinet or Council arising from the outcome of the scrutiny process;
- (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee and local people about their activities and performance; and
- (vi) question and gather evidence from any person (with their consent).

(c) Finance

Overview and scrutiny committees may exercise overall responsibility for the finances made available to them.

(d) Annual report

Overview and scrutiny committees must, if so required by the full Council, report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

6.5 Proceedings of overview and scrutiny committees

Overview and scrutiny committees will conduct their proceedings in accordance with the Council Standing Orders set out in Part 3 of this constitution and the Overview and Scrutiny Standing Orders set out in Part 3 of this constitution respectively.

Article 7 – The Cabinet

7.1 Role

The Cabinet 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.

7.2 Form and composition

The Cabinet will consist of the Leader together with at least two, but no more than nine, councillors including a Deputy Leader appointed to the Cabinet by the Leader.

7.3 The Leader

The Leader will be a councillor elected to the position of Leader by the Council. The Leader will hold office until the day of the first post-election annual meeting following his or her election as Leader unless:

- he or she resigns from the office or otherwise ceases to be a councillor before the next election; or
- he or she is removed from office by resolution of the Council or in the event of a change in the overall political control of the council.

7.4 Other Cabinet members

Other Cabinet members must be members of the Council appointed to the Cabinet by the Leader. They hold office until:

- they resign from office; or
- they are no longer councillors; or
- they are removed from office by the Leader, who must give written notice of any removal to the Monitoring Officer. The removal will take effect two clear working days after receipt of the notice by the Monitoring Officer.

7.5 Deputy Leader

7.5.1 The Leader will appoint a Cabinet member to the position of Deputy Leader. The Deputy Leader will hold office until the Leader leaves office unless:

- he or she resigns from office;
- he or she is no longer a councillor; or
- he or she is removed from office by the Leader, who must give the Monitoring Officer written notice of any removal. The removal will take effect two clear working days after receipt of the notice by the Monitoring Officer.

- 7.5.2 If the office of Deputy Leader becomes vacant, the Leader must appoint a new Deputy Leader.
- 7.5.3 If the Leader is unable to act or the office of Leader is vacant, the Deputy Leader must act in his or her place. If the Deputy Leader is unable to act or the office is vacant, the Cabinet must act in the Leader's place or arrange for a member of the Cabinet to do so.

7.6 Proceedings of the Cabinet

Proceedings of the Cabinet shall take place in accordance with the Cabinet Standing Orders set out in Part 3 of this constitution.

Article 8 – Regulatory committees

8.1 Regulatory committees

- 8.1.1 The Council will appoint the committees set out in Part 2 of this constitution. The seats on the committees will be allocated proportionately to the representation of political groups and individual councillors on the Council and shall not include any members of the Cabinet.
- 8.1.2 The responsibilities of the committees are set out in Part 2 of this constitution. The Council may change their responsibilities from time to time.
- 8.1.3 The committees will conduct their proceedings in accordance with the Council Standing Orders set out in Part 3 of this constitution.

Article 9 – The Audit and Ethics Committee

9.1 Audit and Ethics Committee

The Council will establish an Audit and Ethics Committee. The Audit and Ethics Committee will conduct its proceedings in accordance with the Council Standing Orders set out in Part 3 of the constitution.

9.2 Composition

(a) Membership

The Audit and Ethics Committee will be composed of:

- (i) four councillors who are independent of the executive and scrutiny functions; and
- (ii) two persons who are not councillors or officers of the council or any other body having an audit committee (independent members).

- (b) **Voting rights.** Independent members will be entitled to vote at meetings.
- (c) **Chairing the committee.** The independent members of the committee will act as Chairman and Vice-Chairman of the committee.
- (d) **Rights of independent members.** Independent members shall have the same rights and duties under this constitution as are enjoyed by borough councillors.
- (e) **Substitute members.** Where an elected member of the committee is unable to attend a meeting, he or she can nominate a named substitute elected member to attend.

Named substitute elected members, reflecting the political composition of the committee, will be independent of the executive and scrutiny functions and appointed by full Council. They will be required to undertake relevant training and have the same powers and duties as the ordinary member.

9.3 Roles and purposes of the committee

The Audit and Ethics Committee will have the following roles and purposes:

- (a) To provide independent assurance of the adequacy of the risk management framework and the associated internal control environment.
- (b) To provide independent scrutiny of the council's financial and non-financial performance, to the extent that it affects the council's exposure to risk and weakens the control environment.
- (c) To oversee the financial reporting process.
- (d) To review and approve the council's Annual Statement of Accounts.
- (e) To review and approve the council's Annual Governance Statement.
- (f) To oversee exemptions as defined in Contract Standing Orders in Part 3F 3.3 of this constitution.
- (g) Management of the Member Code of Conduct.
- (h) To act as the panel that will advise Council in relation to the dismissal of the Head of Paid Service, the Monitoring Officer or the Chief Financial Officer.

9.4 Terms of reference

The responsibilities of the committees are set out in Part 2 of this constitution. The Council may change their responsibilities from time to time.

The committees will conduct their proceedings in accordance with the Council Standing Orders set out in Part 3 of this constitution.

Article 10 – Area committees and forums

10.1 Area committees

The Council may appoint area committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making. The Council will consult with relevant parish councils and the chairmen of relevant parish meetings when considering whether and how to establish area committees.

10.2 Form, composition and function

- (a) **Area committees.** The Council may appoint area committees as may from time to time be set out in Part 2 of this constitution.
- (b) **Delegations.** The Council and the Cabinet will include details of the delegations to area committees in Part 2 of this constitution, including the functions delegated showing which are the responsibility of the Cabinet and which are not, the composition and membership of the committees, budgets and any limitations on delegation.

10.3 Conflicts of interest – membership of area committees and overview and scrutiny committees

- (a) **Conflict of interest.** If an overview and scrutiny committee is scrutinising specific decisions or proposals in relation to the business of the area committee of which the councillor concerned is a member, then the councillor may not speak or vote at the overview and scrutiny committee meeting unless a dispensation to do so is given by the Audit and Ethics Committee.
- (b) **General policy reviews.** Where the overview and scrutiny committee is reviewing policy generally the member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

10.4 Area committees – access to information

Area committees will comply with the access to information standing orders in Part 3 of this constitution.

Agendas and notices for area committee meetings which deal with both functions of the Cabinet and functions which are not the responsibility of the Cabinet will state clearly which items are which.

10.5 Cabinet members on area committees

A member of the Cabinet may serve on an area committee if otherwise eligible to do so as a councillor.

Article 11 – Joint arrangements

11.1 Arrangements to promote wellbeing

The Cabinet, in order to promote the economic, social or environmental wellbeing of its area, may:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body.

11.2 Joint arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions in any of the participating authorities or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Cabinet may appoint members to a joint committee from outside the Cabinet 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 Cabinet may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area. The political balance requirements do not apply to such appointments.
- (e) Details of any joint arrangements including any delegations to joint committees will be found in Part 2 of this constitution.

11.3 Access to information

- (a) If all the members of a joint committee are members of the Executive in each of the participating authorities, then its access to information regime is the same as that applied to the executives by regulations under sections 22 and 105 of the Local Government Act 2000.
- (b) If the joint committee contains members who are not on the executive of any participating authority, then the access to information rules in Part VA of the Local Government Act 1972 will apply.

11.4 Delegation to and from other local authorities

- (a) The Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.
- (b) The Cabinet may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the full Council meeting.

11.5 Contracting out

The Council (for functions which are not executive functions) and the Cabinet (for executive functions) may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

Article 12 – Officers

12.1 Management structure

- (a) **General.** The full Council may employ such staff (referred to as officers) as it considers necessary to carry out its functions. The appointment of officers cannot be the responsibility of the Cabinet.
- (b) **Chief Officers.** The full Council will be responsible for confirming the appointment of directors in accordance with the Officer Employment Standing Orders in Part 3 of this constitution.

- (c) **Head of Paid Service, Monitoring Officer and Chief Financial Officer.**
The Council will designate the following posts as shown:

Post	Designation
Executive Director	Head of Paid Service
Legal, Democratic and Electoral Services Manager	Monitoring Officer
Head of Corporate Resources	Chief Financial Officer

Such posts will have the functions described in Articles 12.2–12.4 below.

12.2 Functions of the Head of Paid Service

- (a) **Corporate management.** The Head of Paid Service will be responsible for the corporate management of the council, and for ensuring the coordination of services and the provision of appropriate professional advice.
- (b) **Structure.** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the council showing the management structure and deployment of officers. This is set out at Part 6 of this constitution.
- (c) **Appointment of staff.** The appointment of officers below the Chief Officer level is the responsibility of the Head of Paid Service or their nominee.
- (d) **Discharge of functions by the Council.** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is coordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (e) **Proper officer for access to information.** The Head of Paid Service will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (f) **Restrictions on functions.** The Head of Paid Service must not be the Monitoring Officer but may hold the post of Chief Financial Officer if a qualified accountant.

12.3 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 widely available for consultation by councillors, staff and the public. The Monitoring Officer is authorised to amend the constitution to correct errors or to comply with any legal requirement or to reflect changes to the

council's structure. He or she will inform Council of any material changes made at the earliest opportunity.

- (b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Chief Financial Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to an executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission 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 Audit and Ethics Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Audit and Ethics Committee.
- (d) **Receiving reports.** The Monitoring Officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals.
- (e) **Conducting investigations.** The Monitoring Officer will conduct investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the Audit and Ethics Committee.
- (f) **Advising whether cabinet decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- (g) **Providing advice.** The Monitoring Officer will provide advice to all councillors on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues.
- (h) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Financial Officer or the Head of Paid Service.
- (i) **Contributing to corporate management.** The Monitoring Officer will contribute to the corporate management of the council, in particular through the provision of advice on legal, constitutional, procedural and probity issues.

12.4 Functions of the Chief Financial Officer

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Financial Officer will report to the full Council or to the Cabinet in relation to an executive function and the council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause

a loss or deficiency or if the council is about to enter an item of account unlawfully.

- (b) **Administration of financial affairs.** The Chief Financial Officer will have responsibility for the administration of the financial affairs of the council.
- (c) **Contributing to corporate management.** The Chief Financial Officer will contribute to the corporate management of the council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Chief Financial Officer will provide advice on financial matters, financial propriety, and the budget framework.
- (e) **Giving financial information.** The Chief Financial Officer will provide financial information to the media, members of the public and the community.

12.5 Further responsibilities of chief officers

Further information about the responsibilities of chief officers in relation to financial matters are set out in Part 3 of this constitution.

12.6 Duty to provide sufficient resources to the Monitoring Officer and Chief Financial Officer

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

12.7 Conduct

Officers will comply with the Code of Conduct for Officers and the Protocol on Councillor/Officer Relations set out in Part 4 of this constitution.

12.8 Employment

The recruitment, selection and dismissal of officers will comply with the Officer Employment Standing Orders set out in Part 3 of this constitution.

Article 13 – Decision Making

13.1 Responsibility for decision making

The council will issue and keep up to date a record of what part of the council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 2 of this constitution.

13.2 Principles of decision making

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

- (a) Decisions will be made after due consultation with appropriate organisations and people both inside and outside the council and the taking of professional advice from officers.
- (b) All decisions will be made with respect for human rights.
- (c) There will be openness in all decision taking unless there are compelling reasons why a particular decision must be taken in private.
- (d) Decisions will be made with a clear understanding of the aims to be achieved and the desired outcome.
- (e) Decisions taken, and the actions flowing from those decisions, will be proportional to the desired outcome.
- (f) When making decisions, the decision maker will explain what options were considered and give the reasons for the decision.
- (g) All decisions will be lawful.

13.3 Decisions reserved to full Council

Decisions relating to the functions listed in Article 4.2 (except those referred to in Article 4.2 (e), (f) and (k)) will be made by the full Council and not delegated.

13.4 Key decisions

A key decision means a decision made in the exercise of **an executive function** by any person (including officers) or body which meets one or more of the following conditions:

- (a) **The decision is likely to result in the council incurring expenditure or the making of savings in excess of £50,000. Excluded from this are all loans to banks or other financial institutions made in accordance with the Treasury Management Strategy.**

Officers' delegated powers to make executive decisions are subject to the key decision/call-in regime where it is likely the council would incur expenditure or make savings above the threshold of £20,000.

In relation to letting contracts the key decision is the proposal to let a contract for a particular type of work. The subsequent decision to award the contract to a specific contractor will not be a key decision provided the

value of the contract does not vary above the estimated amount by more than 10 per cent or £50,000, whichever is the lower.

OR

(b) The decision is likely to be significant in terms of its effects on communities living or working in any ward in the borough

In considering whether a decision is likely to be significant, a decision-maker will need to consider the strategic nature of the decision and whether the outcome will have an impact, for better or worse on the amenity of the community or quality of service provided by the council to a significant number of people living or working in the locality affected.

In making this decision consultation should be undertaken with members whose wards might be affected.

OR

(c) The consideration by the Cabinet of any matters which involve proposals or decisions:

- (i) to change any plan or strategy or to include any new plan or strategy in the policy framework: or
- (ii) for the annual budget: or
- (iii) which would otherwise be contrary to or not in accordance with the policy framework or budget.

A decision-taker may only make a key decision in accordance with the requirements of the Access to Information Standing Orders set out in Part 3 of this constitution.

13.5 Decision making by the full Council, council bodies, councillors or officers

The full Council, Cabinet, committees, other council bodies and officers will follow the appropriate standing orders set out in Part 3 of this constitution when considering any matter. The Council, any council body, a councillor or an officer acting as a tribunal or in a quasi-judicial manner, or determining or considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person, will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

Article 14 – Finance, contracts and legal matters

14.1 Financial management

The management of the council's financial affairs will be conducted in accordance with the Financial Standing Orders set out in Part 3 of this constitution.

14.2 Contracts

Every contract made by the council will comply with the Contracts Standing Orders set out in Part 3 of this constitution.

Any contract with a value exceeding £50,000 entered into on behalf of the local authority shall be made in writing. Such contracts must be made under common seal of the Council attested by the Legal, Democratic and Electoral Services Manager.

14.3 Legal proceedings

The Legal, Democratic and Electoral Services Manager is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Executive Director considers that such action is necessary to protect the council's interests.

14.4 Authentication of documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Legal, Democratic and Electoral Services Manager 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.

14.5 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Legal, Democratic and Electoral Services Manager. A decision of the Council, or any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision.

The Common Seal will be affixed to those documents which in the opinion of the Legal, Democratic and Electoral Services Manager should be sealed. The affixing of the Common Seal will be attested by the Legal, Democratic and Electoral Services Manager or some other person authorised by him or her.

Article 15 – Review and revision of the Constitution

15.1 Duty to monitor and review the Constitution

The Monitoring Officer will monitor and review the operation of the constitution to ensure that the aims and principles of the constitution are given full effect. The full Council may request the Monitoring Officer to prepare a report on the operation of the constitution for its consideration.

15.2 Changes to the Constitution

- (a) **Approval.** Changes to the constitution, except where changes are proposed by Audit and Ethics Committee, will only be approved by the full Council after consideration of the proposal by the Monitoring Officer.
- (b) **Change from a leader and cabinet form of executive to other arrangements.** The Council must take reasonable steps to consult with the local electors and other interested persons in the area when drawing up such proposals.

Article 16 – Suspension, interpretation and publication of the Constitution

16.1 Suspension of the Constitution

- (a) **Limit to suspension.** The Articles of this constitution may not be suspended. The Standing Orders set out in Part 3 may be suspended by the full Council to the extent permitted within those Standing Orders and the law.
- (b) **Procedure to suspend.** A motion to suspend any standing orders will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved.

16.2 Interpretation

The ruling of the Mayor as to the construction or application of this constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this constitution contained in Article 1.

16.3 Publication

- (a) The Monitoring Officer will give printed extracts of this constitution to each councillor of the authority upon delivery to him or her of that individual's declaration of acceptance of office on the councillor first being elected to the Council.

- (b) The Monitoring Officer will ensure that the constitution is published on the council's website and that copies are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Monitoring Officer will ensure that the summary of the constitution is made widely available within the area and is updated as necessary.

Summary of executive arrangements

The following parts of this constitution constitute the executive arrangements:

- (a) Article 6 (Overview and scrutiny committees) and the Overview and Scrutiny Standing Orders
- (b) Article 7 (The Cabinet) and the Cabinet Standing Orders
- (c) Article 10 (Area Committees and Forums)
- (d) Article 11 (Joint arrangements)
- (e) Article 13 (Decision making) and the Access to Information Standing Orders
- (f) Part 2 (Responsibility for Functions)