

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 Copeland Borough Council.

1.03 Purpose of the Constitution

The purpose of the Constitution is to:

1. Enable the Council to provide clear leadership to the community in partnership with Citizens, business and other organisations, through our Mission Statement and Core Values:-

MISSION STATEMENT

Copeland Borough Council – leading the transformation of West Cumbria to a prosperous future.

CORE VALUES

We will show **leadership** – shaping the local agenda; working in partnership; providing clear direction through our policies and plans towards the achievement of that agenda; and ensuring that we represent the interests of the local community at all times.

We will continue to work to **transform** Copeland to ensure a **prosperous** future. This will be evidenced by a strong and varied local economy; good quality of life; equal opportunity and neighbourhood renewal. Many of these outcomes will take longer than the five year timeframe of this plan, but we can set the direction and route over that period.

1.04 Interpretation and Review of the Constitution

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

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

ARTICLE 2 – MEMBERS OF THE COUNCIL

- (a) **Composition.** The Council will comprise of 51 members (otherwise called Councillors). One or more members will be elected by the electors of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- (b) **Eligibility.** Only registered voters of the Borough or those living or working there will be eligible to hold the office of councillor.

2.01 Election and terms of councillors

ELECTION OF THE WHOLE COUNCIL EVERY FOUR YEARS.

Election and terms. The regular election of councillors will be held on the first Thursday in May every four years beginning in 1999. 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.

2.02 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) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
 - (iii) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
 - (iv) balance different interests identified within the ward or electoral division and represent the ward or electoral division as a whole;
 - (v) be involved in decision-making;
 - (vi) be available to represent the Council on other bodies;
 - (vii) respond to constituents' enquiries and representations, fairly and impartially;
 - (viii) participate in the governance and management of the Council;
 - (IX) maintain the highest standards of conduct and ethics.

(X) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;

(XI) effectively represent the interests of their ward and of individual constituents;

(b) Rights and duties

(i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.

(ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.

(iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.

2.03 Conduct

Councillors will at all times observe the Copeland Borough Council Code of Conduct for Members set out in this Constitution.

Officers at all times observe the Copeland Borough Council Code of Conduct for Employees set out in this Constitution.

ARTICLE 3 – CITIZENS AND THE COUNCIL

3.01 Citizens Rights

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

- (a) **Voting and petitions.** Citizens on the register of electors for the area have the right to vote and 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 Executive, committees and Panels 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 Executive and when;
 - (iii) see reports and background papers, and any records of decisions made by the Council and the Executive; and
 - (iv) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation.** Citizens have the right to ask questions at meetings of the Council and contribute to investigations by overview and scrutiny committees.
- (d) **Complaints.** Citizens have the right to complain to:
 - (i) the Council itself under its Complaints Procedure or its Confidential Reporting Code;
 - (ii) the Ombudsman after using the Council's own Complaints Procedure;
 - (iii) the Standards Board for England about a breach of the Councillor's Code of Conduct.
 - (iv) To request a Community Call for Action through its Ward Councillor

3.02 Citizens' responsibilities

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

ARTICLE 4 – THE FULL COUNCIL

4.01 The Full Council will be the forum at which all Members of the Council discuss and decide the Council's policy framework and budget, which are reserved for approval and/or variation by full council alone, as follows: -

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

- Best Value Performance Plan;
- Appointments to Outside Bodies
- Community Strategy;
- Crime and Disorder Reduction Strategy;
- Plans and strategies which together comprise the Development Plan;
- Council's Corporate Plan;
- The plan and strategy which comprise the Housing Investment Programme;
- Local Agenda 21 Strategy;

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

4.02 **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 and the budget.

(c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;

(d) appointing the leader of the Executive;

(e) agreeing and/or amending the terms of reference for committees and panels, deciding on their composition and making appointments to them;

(f) appointing representatives to outside bodies;

(g) adopting an allowances scheme under Article 2.06;

(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, and proper officers

(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 3 of this Constitution which the Council decides should be undertaken by itself rather than the executive; and

(l) determination of planning applications where the Council is the applicant.

(m) election of Mayor and Deputy Mayor

(n) approval of/and transactions over £100,000 in value.

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

4.03 **Council Meetings**

There are three types of Council meeting:

(a) the Annual Meeting;

(b) ordinary meeting;

(c) extraordinary meetings.

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

4.04 **Responsibility for functions**

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

ARTICLE 5 – CHAIRMANSHIP OF THE COUNCIL

5.01 Role and function of the mayor

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

CEREMONIAL ROLE

The Mayor is First Citizen of the Borough, and will carry out the majority of civic ceremonial duties in the Borough.

The Mayoralty is a symbol of the authority, and of the Borough, a symbol of an open society and an expression of social cohesion.

The Mayor will be elected by the Council annually. The Mayor will have the following responsibilities:

- 1 to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- 2 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;
- 3 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;
4. to promote public involvement in the Council's activities;
- 5 to be the conscience of the Council; and
- 6 to attend such civic and ceremonial functions as the Council and he/she determines appropriate.

5.02 Nomination of Members for Election as Mayor

The political group(s) having a majority on the Council has the right to make a nomination of a Member for election to the Mayoralty for 2 consecutive years in three.

The political group(s) in a minority on the Council has the right to make a nomination of a Member for election to the Mayoralty every third year in three.

Nominations for appointment to the Deputy Mayoralty in each year will be made by the group entitled under this Article to nominate to the Mayoralty in the next following municipal year.

The Deputy Mayor will be appointed to the Mayoralty in the following year including in years when there has been a change in political control of the majority on the Council.

Where more than one nomination is made for election of a Member as Deputy Mayor, voting shall be by ballot in accordance with the provisions of General Standing Order 12.

ARTICLE 6 –OVERVIEW AND SCRUTINY COMMITTEES

6.01 OVERVIEW AND SCRUTINY COMMITTEES

The Council will appoint four Overview and Scrutiny Committees (9 Members each) to exercise the overview and scrutiny functions conferred on the Council by Section 21 of the Local Government Act 2000.

6.02 DUTIES OF OVERVIEW AND SCRUTINY COMMITTEES

The Overview and Scrutiny Committees will:

- (i) approve an annual overview and scrutiny Work Plan for functions within the Committee's remit;
- (ii) receive requests from the Executive and/or the Council for Scrutiny examinations and to allocate them priority in the Committee's Work Plan;
- (iii) receive requests from members of the public and other councillors and consider whether they should be included in the Committee's work plan;
- (iv) scrutinise decisions of the Executive on matters falling within a Committee's subject area and report to the Executive and Council on the outcome of the scrutiny;
- (v) conduct scrutiny examinations into Executive decisions following call-in for reconsideration of decisions of the Executive made but not yet implemented, in accordance with the call-in procedure set out in Part 4E (14) of this Constitution;
- (vi) conduct scrutiny investigations into outside bodies in the Borough as appropriate or requested by the Executive and/or the Council.
- (vii) assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues within the Committee's remit, and in particular by responding to consultations by the Executive on policy and budget issues in accordance with Part 4C of this Constitution (Policy & Budget Procedure Rules);
- (viii) conduct research and community and other consultation in the analysis of policy issues and possible options;
- (ix) consider and advise policies to encourage and enhance community participation in the development of policy options;

- (x) contribute to the development, implementation and monitoring of the Community Strategy for West Cumbria, in particular (but not exclusively) through the appointment of one member of each of the Economic Well Being, Environmental Well Being and Social Well Being Overview and Scrutiny Committees to serve on the equivalent Wellbeing Group within the West Cumbria Partnership;
- (xi) at the Committee's discretion, summons and question members of the Executive and/or committees and/or chief officers about their views on issues and proposals arising from decisions made or otherwise affecting the area;
- (xii) respond to consultations on key policy issues and/or options for service delivery arising from Best Value Service Reviews and report to the Executive thereon;
- (xiii) Investigate Community Calls for action and make appropriate recommendations following such investigations.

6.03 TERMS OF REFERENCE OF OVERVIEW AND SCRUTINY COMMITTEES

The Overview and Scrutiny Committees will monitor the work and provide input to the following areas:

Overview and Scrutiny Management Committee

Working with the Local Strategic Partnership to develop our Community Plan

Performance Management

Monitoring services for customer-friendly practice

Our Comprehensive Performance Assessment (CPA)

Financial/human resources issues within the Council, including monitoring of the budgetary process.

IT & Communication issues including IEG

Electoral issues

Public relations issues

Reviewing executive decisions

Setting, co-ordinating and reviewing overview and scrutiny work plans

Cross Cutting scrutiny

Overview and Scrutiny Committee – Children, young People and Healthy Communities

Better achievement for children & young people from vulnerable groups

Reduce risk taking behaviour in young people

Tackle discrimination & bullying

Reducing Homelessness

Participation in leisure services

- Tackle premature mortality
- Reduce smoking
- Combat obesity through sport & healthy activity
- Support older & disabled people living independently
- Affordable Warmth
- Choice & standards in health & social care

Overview and Scrutiny Committee – Economic Development and Enterprise

- Increase employment & economic activity
- Improve skill levels
- Increase enterprise
- Improve economic infrastructure
- Balanced housing markets
- Housing regeneration

Overview and Scrutiny Committee – Safer and Stronger Communities

- Reduce crime, fear of crime & offending
- Reduce domestic violence
- Reduce first time entrants to youth justice
- Reduce fire related deaths
- Reduce deaths & serious injuries in 16-20 age group
- Empower local people in local decision-making
- Reduce waste to landfill & increase recycling
- Improve quality of local environment through clean streets
- Contribute to climate change through energy efficiency
- Increase use of sustainable transport

ARTICLE 7 – THE EXECUTIVE

The Role of the Executive

LEADER WITH EXECUTIVE

7.01 Role

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

7.02 Form and composition

The executive will consist of:

- The Leader; together with
- At least 1 but not more than 9 Councillors

appointed by the Leader.

7.03 Leader

The Leader will be a Councillor elected to the position 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 by resolution of the Council; or
- (e) the Annual Meeting of the Council in the year following the next district council elections.

-In the event of the Leader resigning or being removed from office or being otherwise unable to perform his/her duties, the Portfolio Holder specified by the Leader as Deputy Leader will undertake the Leader's duties until such time as the Council appoints a new Leader, or until the Council determines otherwise.

7.04 **Other executive members**

Only Councillors may be appointed to the Executive. There may be no co-optees and no deputies or substitutes for Executive members. Neither the Mayor or Deputy Mayor of the Council may be appointed to the Executive and Members of the Executive (including the Leader) may not be members of an Overview and Scrutiny committee.

Members of the Executive may sit on committees or panels carrying out non-executive functions, but not on an Overview and Scrutiny Committee, and may not chair the Standards Committee.

Other Executive members shall hold office until:

- (a) they resign from office; or
- (b) they are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (c) they are no longer Councillors; or
- (d) they are removed from office by the Leader..

7.05 **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.

7.06 **Responsibility for functions**

The Council will maintain a list reproduced as an Appendix to this Constitution setting out which individual members of the Executive, committees of the Executive, officers or joint arrangements are responsible for the exercise of particular executive functions.

ARTICLE 8 – REGULATORY AND OTHER COMMITTEES

The Council will appoint the following regulatory committees to carry out non-executive functions under the Local Government Act 2000, with terms of reference as set out in the Scheme of Delegations in Part 3 of the Constitution:

Planning Panel	11 Members
Appeals Panel	7 Members
Personnel Panel	7 Members
Licensing Committee	12 Members
Taxi and General Licensing Panel	7 Members
Member Training and Development Panel	7 Members
Audit Committee	7 Members
Local Plan Working Party	7 Members
Transport Working Group	7 Members
Budget Working Party	8 Members
Nuclear Working Group	7 Members
Joint Consultative and Safety Panel	7 Members
Parish review Working Party	7 Members

ARTICLE 9 – THE STANDARDS COMMITTEE

9.01 Standards Committee

The Council will establish a Standards Committee.

9.02 Composition

POLITICAL BALANCE

Standards Committees do not have to comply with the political balance rules in section 15 of the Local Government Act 1989 (duty to allocate seats to political groups).

Membership. The Standards Committee will be composed of:

- five councillors other than the leader;
- two persons who are not councillors or officers of the council or any other body having a standards committee (independent members);
- one member of a parish council wholly or mainly in the Council's area (a parish member) to be nominated by the Cumbria Association of Local Councils.

Independent members. Independent members are entitled to vote at meetings;

Parish members. Parish members must be present when matters relating to those parish councils or their members are being considered. Parish members are entitled to vote at meetings.

Chairing the Committee. The Committee will be chaired by an independent Member.

9.03 Terms of Reference

The Standards Committee will have the following terms of reference:

- (a) promoting and maintaining high standards of conduct by the mayor, councillors, co-opted members;
- (b) assisting councillors to observe the Council's Code of Conduct;

- (c) advising the Council on the adoption or revision of the Council's Code of Conduct;
- (d) monitoring the operation of the Council's Code of Conduct;
- (e) advising, training or arranging to train councillors on matters relating to the Council's Code of Conduct;
- (f) granting dispensations to councillors from requirements relating to personal and prejudicial interests set out in the Members' Code of Conduct, in accordance with regulations made by the Secretary of State;
- (g) dealing with any reports from a case tribunal or interim case tribunal, and any report from the monitoring officer on any matter and determining issues arising from such reports, in accordance with regulations made by the Secretary of State;
- (h) the exercise of (a) to (g) above in relation to parish councils wholly or partly in the Borough and the members of those parish Councils.
- (i) Overseeing the Council's constitution
- (j) Overseeing the Council's Complaints Procedure and issues relating to investigations by the Local Government Ombudsman

ARTICLE 10 – OFFICERS

10.01 Management Structure

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

Chief Executive (Head of Paid Service)
Corporate Director – Economic Prosperity & Sustainability
Corporate Director – Quality of Life
Head of Customer Services
Head of Finance & Business Development
Head of Legal & Democratic Services
Head of Leisure & Environmental Services
Head of Nuclear Policy and Sustainability
Head of Policy and Performance
Head of Regeneration

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

Head of Paid Service - Chief Executive
Monitoring Officer - Head of Legal & Democratic Services
Section 151 Officer (Chief Financial Officer) - Head of Finance & Business Development

10.02 Functions of the Chief Executive as Head of Paid Service

- (a) **Discharge of functions by the Council.** The Chief Executive will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Restrictions on functions.** The Chief Executive may not be the Monitoring Officer but may hold the post of Chief Financial Officer if a member of a specified accountancy body.

10.03 Functions of the Head of Legal and Democratic Services as Monitoring Officer

- (a) **Maintaining the Constitution.** The Head of Legal and Democratic Services will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision-making.** After consulting with the Chief Executive and the Head of Finance and Business Development, the Head of Finance and Business Development will report to the full Council (or to the Executive in relation to an executive function) if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the Standards Committee.** The Head of Legal and Democratic Services will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- (d) **Receiving reports.** The Head of Legal and Democratic Services will receive and act on reports made by ethical standards officers and decisions of the case tribunals in cases of alleged breaches of the Council's Code of Conduct.
- (e) **Conducting investigations.** The Head of Legal and Democratic Services will conduct investigations into matters referred by ethical standards officers and/or the Standards Board for England, and make reports or recommendations in respect of them to the Standards Committee.
- (f) **Proper officer for access to information.** The Head of Legal and Democratic Services will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (g) **Advising whether executive decisions are within the budget and policy framework.**
The Head of Legal and Democratic Services in consultation with the Head of Finance and Business Development will advise whether decisions of the executive are in accordance with the budget and policy framework.
- (h) **Providing advice.** The Head of Legal and Democratic Services will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.

- (i) **Restrictions on posts.** The Head of Legal and Democratic Services cannot be the Chief Financial Officer or the Head of Paid Service.

10.04 **Functions of the Head of Finance and Business Development as Chief Financial Officer**

- (a) **Ensuring lawfulness and financial prudence of decision-making.** After consulting with the Chief Executive and the Head of Legal and Democratic Services, the Head of Finance and Business Development 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, or if there is or is likely to be an unbalanced budget.
- (b) **Administration of financial affairs.** The Head of Finance and Business Development will have responsibility for the proper administration of the financial affairs of the Council, and will take the responsibilities imposed by the Accountancy Audit Regulations 1996 relating to accounting records and control systems (including internal audit) and the statement of accounts. The Head of Finance and Business Development as the responsible Financial Officer must by virtue of Section 113 of the Local Government Finance Act 1988 in England and Wales be a member of a specified accountancy body.
- (c) **Providing advice.** The Head of Finance and Business Development will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.
- (d) **Give financial information.** The Head of Finance and Business Development will provide financial information to the media, members of the public and the community.

10.05 **Duty to provide sufficient resources to the Head of Legal and Democratic Services as Monitoring Officer and the Head of Finance and Business Development as Chief Financial Officer**

The Council will provide the Head of Legal and Democratic Services and the Head of Finance and Business Development with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

10.06 **Conduct**

Officers will comply with any Officers' Code of Conduct and Protocol on Officer/Member Relations as may from time to time be determined by the Council.

10.07 **Employment**

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

ARTICLE 11 – DECISION MAKING

11.01 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 3 of this Constitution.

11.02 Principles of Decision Making

All decisions of the Council, whether by the full assembly, the Executive, a committee or an officer under delegated powers will be made in accordance with the following principles:-

- (a) Lawfulness and reasonableness
- (b) Proportionality (i.e. the action must be proportionate to the desired outcome).
- (c) Due consultation and the taking into account of professional advice from officers
- (d) Respect for human rights set out in the European Convention on Human Rights as applied to UK law by the Human Rights Act 1998 (see below)
- (e) A presumption in favour of openness
- (f) Clarity of aims and desired outcomes
- (g) A clear written record of options considered and reasons for decisions.

11.03 Human Rights

In implementing and interpreting the provisions of this constitution, the Council will take all reasonable steps to secure the protection of the human rights of individuals, as codified by the European Convention on Human Rights and the Human Rights Act 1998, and specifically in accordance with the following principles:-

- (a) Proportionality.
- (b) Protection against discrimination on grounds of sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

- (c) In hearings, equality of arms, i.e. that neither party is substantially disadvantaged in relation to the other.
- (d) Access of individuals to a court or tribunal.
- (e) Independence and impartiality of tribunals.
- (f) Rights of individuals to be present at hearings.
- (g) Access of individuals to documentary evidence.
- (h) Hearings to be public other than in certain specified circumstances.
- (i) Right of individuals to participate in proceedings.
- (j) Right to knowledge of and opportunity to comment on matters before the decision-maker.
- (k) Hearings within a reasonable time.
- (l) Reasons for decisions to be given.
- (m) Enforcement of legally binding decisions.
- (n) Right to legal assistance if otherwise unable to participate.
- (o) Availability of appeal arrangements.

11.04 **Types of decision**

- (a) Decisions reserved to full Council Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated.
- (b) Key decisions
 - (i) Key decisions are defined as a decision which affects communities in one or more ward or electoral divisions, or decisions in relation to an executive function which would result in the local authority incurring expenditure 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, as may be defined from time to time by the Council.
 - (ii) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

11.05 Decision making by the full Council

Meetings of the Council will follow the Council Procedures Rules (General Standing Orders) set out in Part 4 of this Constitution when considering any matter.

11.06 Decision making by the Executive

Meetings of the Executive will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.

11.07 Decision making by Overview and Scrutiny Committees

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

11.08 Decision making by other committees and sub-committees established by the Council

Other Council committees and sub-committees and Panels will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

11.09 Decision making by Council bodies acting as tribunals

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

ARTICLE 12 – FINANCE, CONTRACTS AND LEGAL MATTERS

12.01 Financial management

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

12.02 Contracts

Every contract made by the Council will comply with the Contract Standing Orders set out in Part 4 of this Constitution.

12.03 Legal Proceedings

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

12.04 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 Head of Legal & Democratic Services or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

12.05 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal & Democratic Services. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the chief legal officer should be sealed. The affixing of the Common Seal will be attested by the Head of Legal & Democratic Services or some other person authorised by him/her.

ARTICLE 13: REVIEW AND REVISION OF THE CONSTITUTION

13.01 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.

Protocol for monitoring and review of constitution by monitoring officer

A key role for the monitoring officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1.

In undertaking this task the monitoring officer may:

1. observe meetings of different parts of the member and officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
4. compare practices in this authority with those in other comparable authorities, or national examples of best practice.

13.02 Changes to the Constitution

- (a) **Approval.** Changes to the Constitution will be approved by the full Council after consideration of the proposal by the monitoring officer.
- (b) **Changes proposed by Members.** Any Member may propose an amendment to the Constitution provided that:-
 - i Such a change is lawful, and
 - ii the proposal is supported by at least 10 other Members signing the proposal. Any such amendment must be approved by Full Council.
- (c) **Change within a mayoral form of executive.** Unless the change relates only to the operation of overview and scrutiny committees, any resolution of the full Council to approve a change will have no effect without the written consent of the mayor.

- (d) **Change from a mayoral form of executive to another form of executive or to alternative arrangements, or from alternative arrangements to a mayoral form of executive.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and must hold a binding referendum. The change will not take effect until the end of the mayor's term of office.

- (e) **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.

ARTICLE 14 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

14.01 Suspension of the Constitution

- (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.
- (b) **Procedure to suspend.** A motion to suspend any rules will not be moved without notice unless at least 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, taking account of the purposes of the Constitution set out in Article 1.
- (c) **Rules capable of suspension.** The following Rules may be suspended in accordance with Article 16.01:
 - (i) Council Procedure Rules (General Standing Orders) Nos 1, 2, 4, 5, 10, 11, 12.1 to 12.8 and 12.22 to 12.25, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 27 and 28 are not capable of being suspended.
 - (ii) Any of the other Council Procedures Rules (General Standing Orders) may be suspended provided that either:
 - * Notice has been included in the agenda for the meeting of the intention to move such suspension;
or
 - * At least half of the Members of the Council are present.

14.02 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.

14.03 Publication

- (a) The Head of Legal and Democratic Services will give a printed copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.

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