

## **PART 2 - ARTICLES OF THE CONSTITUTION**

### **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 Selby District Council.

#### **1.3 Purpose of the Constitution**

The purpose of the Constitution is to:

- (a) Regulate and guide the proper conduct and better operation of the Council's business;
- (b) Enable the Council to provide clear leadership in partnership with the community, businesses and other organisations;
- (c) Support the active involvement of the community in the process of council decision-making;
- (d) Help councillors represent their constituents more effectively;
- (e) Enable decisions to be taken efficiently and effectively.
- (f) Create a powerful and effective means of holding decision-makers to public account;
- (g) Ensure that no councillor will review or scrutinise a decision in which they were directly involved;
- (h) Ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions;
- (i) Provide a means of improving the delivery of services to the community and
- (j) Ensure the highest standard of conduct from councillors and Council employees.

#### **1.4 Interpretation and review of the Constitution**

The Constitution is subject to and must be interpreted in accordance with legislation.

Any reference in this Constitution to particular statutory provisions, or subsidiary legislation, shall include any subsequent statutory provisions or subsidiary legislation, which either replicates or substantially replicates any of those particular statutory provisions or subsidiary legislation.

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 14.

Where the provisions of this Constitution require interpretation, such interpretation will be undertaken by the Monitoring Officer and/or in their absence their Deputy Monitoring Officer.

## Article 2 – Councillors

### 2.1 Composition and eligibility

- (a) **Composition** - The Council comprises 31 members, otherwise called councillors representing 19 wards.

One or more councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the relevant authorities and approved by the Secretary of State.

- (b) **Eligibility** - Only registered voters of the district or those living or working there will be eligible to hold the office of councillor.

### 2.2 Election and terms of councillors

The regular election of councillors will be held on the first Thursday in May every 4 years beginning in 2011, unless the date of the election is changed, by Order. 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 ordinary election.

### 2.3 Roles and functions of all councillors

**The Council has developed role descriptions for the following posts:**

- **The Leader of the Council**
- **Executive Member**
- **Chair of the Overview and Scrutiny Committee**
- **Chair of the Policy Review Committee**
- **Chair of the Audit and Governance Committee**

- (a) Generally however, all councillors will:
- (i) collectively determine the policies of the Council as set out in the policy framework;
  - (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) contribute to the good governance of the area and actively encourage community participation and involvement in decision-making;
  - (iv) effectively represent the interests of their ward and of individual constituents;

- (v) respond (fairly and impartially) to constituents' enquiries and representations;
- (vi) participate in the governance of the Council;
- (vii) be available to represent the Council on other bodies;
- (viii) maintain the highest standards of conduct and ethics; and
- (ix) champion the causes which best relate to the issues and sustainability of the community and campaign for the improvement of the quality of life of the community in terms of the social, economic and environmental interests of the area.

**(b) Rights and duties**

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

**2.4 Conduct**

Councillors will at all times observe the Code of Conduct for Councillors and the Protocol on Councillor/Officer Relations set out in Part 5 of this Constitution.

**2.5 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution.

## **Article 3 – The Public and the Council**

### **3.1 The rights of the public**

In general, the public has the following rights to information and to participation, which are explained in more detail in Part 4 of this Constitution in the Access to Information Procedure Rules:

- (a) To vote if their name appears on the electoral roll for the District.
- (b) To attend meetings of the Council, its committees and the Executive, and to film or record those meetings except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private.
- (c) To inspect the Executive's Forward Plan to ascertain when key decisions are likely to be made.
- (d) To have access to agendas, reports, minutes and background papers in relation to meetings which are open to the public, except where confidential or exempt information is being discussed.
- (e) To inspect the Council's accounts at the designated times and make views known to the external auditor.

In addition the public may from time to time:

- (a) Be consulted about the Council's plans and strategies, particularly those contained in the policy framework.
- (b) Participate in the Council's Question Time (see section 10 of the Council Procedure Rules Part 4 in this Constitution).
- (c) Be invited to contribute to the work of the Overview and Scrutiny Committees.
- (d) Comment on the State of the Area Address given by the Council Leader.
- (e) Petition the Council in accordance with any statutory or local provisions which may be in force at the time.
- (f) Petition to request a referendum for a mayoral form of executive, if their name is on the electoral roll.
- (g) Participate by way of public speaking at the Planning Committee.
- (h) Inspect this Constitution and obtain a copy on payment of an appropriate charge.

From time to time members of the public may think the Council has made a mistake or has caused some injustice. They have the right to:

- (a) Complain to the Council about any of its services in accordance with the complaints procedure, which shall be freely available to them on request.
- (b) Complain to the Local Government Ombudsman if they think the Council is responsible for maladministration or injustice, but only after they have followed the Council's complaints procedure.
- (c) Complain to the Council's Monitoring Officer if they consider that a councillor has not followed the Council's Code of Conduct for Councillors.

### **3.2 Responsibilities of the public**

Members of the public also have responsibilities. They must not be violent, abusive or threatening to councillors or to officers of the Council. They must not wilfully harm or damage things owned by the Council, councillors or officers. They must obey the procedural directions of the Chair of any committee or Council or Executive meeting, if attending that meeting.

## Article 4 – The Council

### 4.1 Meanings

- (a) **Policy Framework.** The policy framework means the following plans and strategies:
- Council Plan
  - Asset Management Strategy
  - Statement of Licensing Policy (Gambling)
  - Licensing Act 2003 Policy (Alcohol)
  - Plans and strategies which together comprise the Development Plan.
- (b) **Budget.** The budget includes the allocation of financial resources to different functions, services and projects, established or proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's investments, borrowing requirement, the control of its capital or revenue expenditure and the setting of virement limits.
- (c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

### 4.2 Functions of the Council

Only the Council will exercise the following functions:

- (a) Electing the Chairman and appointing the Vice-Chairman of the Council.
- (b) Approving, adopting or amending this Constitution unless this has been delegated.
- (c) Approving, adopting or amending the Policy Framework or the Budget and any application to the Secretary of State in respect of any Housing Land Transfer.
- (d) Subject to the urgency procedure contained in the Executive 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 Executive is minded to make it in a manner which would be contrary to/or not wholly in accordance with the Policy Framework and/or the budget.

- (e) Electing the Leader of the Council.
- (f) Agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them including the Chair and Vice-Chair save that the Chief Executive has delegated authority to make amendments or changes, after consultation with the relevant Group Leader, provided such changes preserve the proper political balance of the committee.
- (g) Appointing representatives to outside bodies unless the appointment is to a body exercising an Executive function or has been delegated by the Council.
- (h) Adopting a Members' Allowances Scheme under Article 2.5.
- (i) Changing the name of the District.
- (j) Conferring the title of Honorary Alderman or freedom of the district.
- (k) Confirming the appointment of the Head of Paid Service or the dismissal of the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer.
- (l) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills.
- (m) Any local choice functions which the Council decides should be undertaken by itself rather than the Executive.
- (n) Adopting the Council's Codes of Conduct.
- (o) All other matters which, by law, must be reserved to the Council.

#### **4.3 Council meetings**

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings.

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



#### **4.4 Responsibility for functions**

Except where expressly prohibited by legislation the Council may delegate its functions.

The Council will maintain Part 3 of this Constitution setting out how it has delegated the responsibilities for the Council's functions.

## **Article 5 – Chairing the Council**

### **5.1 Role and function of the Chairman**

The Chairman of the Council, elected at the Annual Meeting of the Council, acts as Chair of the Council.

The Chairman will have the following responsibilities:

- (a) to act as the Council's first citizen;
- (b) to promote the Council as a whole and act as a focal point for the community;
- (c) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (d) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of all councillors and the interests of the whole community;
- (e) to ensure that the Council meeting is a forum to debate matters of concern to the local community and the place at which councillors who are not on the Executive are able to hold the Executive Members and committee and sub-committee Chairs to account;
- (f) to promote public involvement in the Council's activities; and
- (g) to attend such civic and ceremonial functions as the Council and they determine appropriate.

### **5.2 Role and Function of Vice Chairman of Council**

The Vice-Chair of Council, elected at the Annual Meeting of the Council, will have the following responsibilities:

- (a) in the absence of the Chairman, 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 in the interests of the whole community; and
- (b) to attend such civic and ceremonial functions as the Council or Chairman determine appropriate

## **Article 6 - Overview and Scrutiny Committees**

### **6.1 Appointment and Purpose**

The Council will appoint three committees to support its Overview and Scrutiny activities. Only the Policy Review Committee and the Scrutiny Committee will discharge the Council's statutory overview and scrutiny functions. The three Committees shall be:

1. The Policy Review Committee (to contribute to the development of new Council policy and review the effectiveness of existing Council policy);
2. The Scrutiny Committee (to scrutinise decisions and performance and help hold the Leader and Executive to account); and
3. The Audit and Governance Committee (to scrutinise and monitor the Council's control systems, procedures and risk management systems).

Each of the three Committees will comprise a Chair and Vice Chair appointed by the Council and no more than five other councillors appointed by the Council in accordance with the political balance rules. No Executive Member shall be a member of any of the three Committees nor any sub-committees undertaking overview and scrutiny functions.

### **6.2 General roles**

Within their individual terms of reference, overview and scrutiny committees may:

- (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any functions;
- (b) make reports and/or recommendations to the Council and/or the Executive in connection with the discharge of any functions;
- (c) consider any matter affecting the area or its inhabitants; and
- (d) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive and/or any policy committee

In pursuance of their individual annual work programme and allocated budget they may also:

- (a) assist the Council and the Executive in the development of the budget and policy framework by in-depth analysis of policy issues;
- (b) conduct research, community and other consultation in the analysis of policy issues and possible options;

- (c) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (d) question Members of the Executive and senior officers ( Head of Service and above) about their views on issues and proposals affecting the area; and
- (e) 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;
- (f) review and scrutinise the decisions made by the Executive and council officers both in relation to individual decisions and over time;
- (g) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (h) question Members of the Executive and senior 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;
- (i) make recommendations to the Executive and/or appropriate committees or the Council arising from the outcome of the scrutiny process;
- (j) 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
- (k) question and gather evidence from any person (with their consent).

**Finance** - Overview and scrutiny committees shall exercise overall responsibility for the finances made available to them.

**Annual Report and Work Programme** - Each overview and scrutiny committee shall prepare an Annual Report reviewing its past work and an Annual Work Programme making clear recommendations about its work for the year ahead.

**Officers** - Overview and scrutiny committees may exercise overall responsibility for the work of the officers employed to support the Committees in delivering their annual work programmes.

### **6.3 Proceedings of overview and scrutiny committees**

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

## **Article 7 - The Executive**

### **7.1 Role**

The Executive will exercise all of the local authority's functions which are not the responsibility of any other part of the local authority, by law or under this Constitution.

The Executive shall discharge those functions in accordance with the Executive Procedure Rules in Part 4 of this Constitution.

### **7.2 Form and composition**

The Executive will comply with the Leader and Cabinet Executive (England) model.

The Executive will consist of the Leader together with at least two but no more than nine other councillors appointed to the Executive by the Leader. The Leader may from time to time amend the precise form and composition of the Executive and may also allocate areas of responsibility and decision-making powers to the Executive and to individual Executive Members.

### **7.3 Leader of the Executive**

The Leader shall be a councillor elected to that office by a simple majority of the Council.

The Leader will hold office for a term of four years unless they:

- (a) resign from the office of Leader; or
- (b) are no longer a councillor; or
- (c) are suspended from being a councillor under Part III of the Local Government Act 2000; or
- (d) are removed from office by a resolution of the Council tabled as a motion in accordance with Rule 13 of the Council Procedure Rules;
- (e) are otherwise disqualified from holding the office of councillor.

### **7.4 Executive Members**

The Leader of the Council shall appoint from the general body of councillors the Members of the Executive. Neither the Chairman nor the Vice Chairman may be appointed to the Executive. The Leader shall also appoint one of the Executive Members as Deputy Leader who shall take on, on a temporary basis, the duties of Leader if the Leader is unable to act or the office of Leader is vacant.

Members of the Executive, other than the Leader, but including the Deputy Leader, shall normally hold office for a term of 2 years unless they:

- (a) resign from the office of Executive Member; or
- (b) are no longer a councillor; or
- (c) are suspended from being a councillor under Part III of the Local Government Act 2000; or
- (d) are removed from office by written notice to that effect from the Leader, who shall immediately give notice of the removal to the Chief Executive and also report the reasons for the removal to the next meeting of the Council - the removal will take effect on the date the notice is given to the Chief Executive; or
- (e) are otherwise disqualified from holding the office of councillor.

#### **7.5 Term of Office of replacement Leader or Executive Member**

Where the Leader or a Member of the Executive ceases to hold office other than by the normal expiry of their term of appointment, any replacement shall be elected or appointed (as necessary) to hold office subject to the rules under paragraph 7.4 (a) (b) (c) and (e).

#### **7.6 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.

The Leader is responsible for the Executive functions as defined in this Constitution and will ensure that proper arrangements (maintained, reviewed and updated as necessary) are in place for the discharge of those functions.

#### **7.7 Delegation of Executive functions to the Chief Executive**

If neither the Leader nor the Deputy Leader can act the Executive functions shall devolve to the Chief Executive for a month or until the next meeting of the Council at which a new Leader is elected, whichever is the shorter. If the Council meeting fails to elect a new Leader then the powers devolved to the Chief Executive will continue for another month on the same terms.

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

### **8.1 Regulatory and other committees**

These committees are appointed to carry out functions that are reserved to the Council and their duties shall not be delegated to the Executive or any individual Executive Member.

The Council will appoint the following regulatory and other committees. The responsibility for Council functions assigned to each committee is set out in Part 3 of this Constitution:

Planning Committee  
Licensing Committee & Licensing Sub-Committee

### **8.2 Other Committees**

The Council will appoint an Employment Committee with the membership and responsibilities set out in Part 3 of this Constitution.



## **Article 9 - Standards Arrangements**

### **9.1 Standards Arrangements**

The Council has adopted a local Code of Conduct and Standards Arrangements. A copy of the code of conduct and the Standards Arrangements are attached to this Constitution at Part 5.

## **Article 10 - Officers**

### **10.1 Management structure**

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

The appointment of the Head of Paid Service the Officer with responsibilities under Section 5 of the Local Government and Housing Act 1989 (the Monitoring Officer) and any other Chief Officer shall be the responsibility of the Employment Committee set up by the Council to make such appointments. The appointment of the Head of Paid Service and the designation of the s151 Officer and the Monitoring Officer will be approved by Council.

In the case of all other staff, the responsibility for appointment cannot be undertaken by the councillors and falls to the Head of Paid Service or their nominee.

### **10.2 Chief Officers**

For the purposes of this Constitution the following posts will be described as Chief Officers:

- Chief Executive
- Director of Corporate Services & Commissioning
- Director of Economic Regeneration & Place

### **10.3 Statutory Posts**

The Council has responsibility for designating the following statutory posts:

- (a) Head of Paid Service
- (b) Chief Finance Officer (Section 151 responsibilities)
- (c) Monitoring Officer (Section 5 responsibilities)

The Council has decided to designate the following officers as taking those designated appointments:

- (a) The Head of Paid Service is the Chief Executive
- (b) The Chief Finance Officer is the Chief Finance Officer (s151) Selby District Council/Assistant Director Strategic Resources North Yorkshire County Council

- (c) The Monitoring Officer is the Solicitor to the Council.

#### **10.4 'Proper Officer' appointments**

The existing 'Proper Officer' appointments are as follows:

The Chief Executive, the Chief Officers, the Solicitor to the Council and the Chief Finance Officer are authorised by the Council to exercise/undertake/carry out on its behalf the powers/duties granted or imposed by those Acts of Parliament, Statutory Instruments and Orders set out from time to time in the Scheme of Officer Delegation (see Part 3) including all such designations of Proper Officer under any enactment.

The 'Proper Officer' in relation to the Public Health Act 1936 means 'all consultants in public health medicine, either properly appointed or working in a locum capacity to the Health Authority responsible for the area of Selby District'.

The Chief Executive shall be the Proper Officer in relation to all access to information and associated legislation except that in the case of a joint report, each Chief Officer shall be regarded as the Proper Officer for the part of the report which he/she has prepared.

#### **10.5 Duties of the Head of Paid Service**

The Head of Paid Service will determine the overall officer structure of the Council, showing the management arrangements and the deployment of officers. The current management structure is shown at Part 7 of this Constitution.

The Head of Paid Service will report to the 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 those functions and the organisation of officers.

The Head of Paid Service shall not also hold the role of Monitoring Officer but may hold the role of Chief Finance Officer if the Head of Paid Service is also a qualified accountant.

#### **10.6 Duties of the Monitoring Officer**

The Monitoring Officer will have the following responsibilities:

- (a) to maintain and amend the Constitution as necessary after consultation with the Head of Paid Service subject to the approval of the Council under the provisions of Article 14 or within the extent of their delegated powers;

- (b) after consultation with the Head of Paid Service and the Chief Finance Officer, to report to the Council or to the Executive (the latter in relation to an Executive function) if they consider 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 if implementation has not already occurred, until the Monitoring Officer's report has been considered;
- (c) to provide support to the Council in order to contribute to the promotion and maintenance of high standards of conduct;
- (d) to deal with complaints and allegations of breaches of the Councillor Code of Conduct in accordance with the arrangements adopted from time to time by the Council;
- (e) to ensure that decisions of the Executive, together with the reasons for those decisions, and the relevant officer reports and background papers, are made publicly available in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution;
- (f) to advise whether decisions of the Executive are within the approved budget and policy framework of the Council and to carry out this role in consultation with the Head of Paid Service and the Chief Finance Officer as necessary;
- (g) to provide advice to all councillors on the scope and powers and authority to take decisions, maladministration issues, financial impropriety, probity and budget and policy framework matters;
- (h) to undertake responsibilities under Section 5 of the Local Government and Housing Act 1989;
- (i) to maintain a Register of Interests for District, Town and Parish Councillors in accordance with the requirements of the Localism Act 2011 and subsequent legislation and regulations, including dealing with matters relating to sensitive interests; and
- (j) to deal with applications for dispensations from the rules relating to councillor and co-optee interests in accordance with the delegations set out in Part 3 of this Constitution.

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

### **10.7 Duties of the Chief Finance Officer**

The Chief Finance Officer shall have the following responsibilities:

- (a) to report to the Council or to the Executive (the latter in relation to an Executive function) and the Council's Auditor if they consider 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. This report will follow consultation with the Head of Paid Service and the Monitoring Officer. Where a report relates specifically to the Head of Paid Service, the Chief Finance Officer shall first consult the Leader of the Council. Where a report relates specifically to the Monitoring Officer, the Chief Finance Officer shall first consult the Head of Paid Service.
- (b) to administer the financial affairs of the Council.
- (c) to contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) to 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 to support and advise councillors and officers in their respective roles.
- (e) to provide financial information to the media, members of the public and the community.
- (f) to undertake responsibilities under Section 151 of the Local Government Act 1972.

#### **10.8 Duty to provide sufficient resources**

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

#### **10.9 Conduct**

All officers will comply with the Employees' Code of Conduct and the Protocol on Councillor/Officer Relations set out in Part 5 of this Constitution.

#### **10.10 Employment**

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

#### **10.11 Attendance at Meetings**

The Chief Executive, Head of Paid Service, Chief Finance Officer and Monitoring Officer shall be entitled to attend any meeting of the Council or its committees or sub-committees necessary for the proper conduct of their responsibilities.



## **Article 11 – Joint Arrangements**

### **11.1 Joint Committees**

The Local Government Act 2000 and regulations made thereunder enable local authorities to make use of joint arrangements with other authorities and delegate functions to other local authorities.

The Council has the following joint committee arrangements:

- North Yorkshire Building Control Partnership
- North Yorkshire Police, Fire and Crime Panel.

### **11.2 Future joint arrangements**

- (a) The Council may establish further 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 Executive may establish further 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 Executive may only appoint Executive Members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Executive may appoint members to a joint committee from outside the Executive in the following circumstances:
  - (i) the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Executive may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area;
  - (ii) the joint committee is between a county council and a single district council and relates to functions of the Executive of the county council. In such cases, the Executive of the county council may appoint to the joint committee any councillor who is a member for an electoral division which is wholly or partly contained within the area.

In both of these cases the political balance requirements do not apply to such appointments.

Details of any further joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegation in Part 3 of this Constitution.

### **11.3 Access to information**

- (a) The Access to Information Procedure Rules in Part 4 of this Constitution apply.
- (b) 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 Executive.
- (c) If the joint committee contains members who are not on the Executive of any participating authority then the Access to Information Procedure 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 in local authorities with executive forms of constitution to another local authority or, in certain circumstances, to the Executive of another local authority.
- (b) The Executive 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 Council meeting.

### **11.5 Contracting out**

The Council (for functions which are not executive functions) and/or the Executive (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 – Decision-Making**

### **12.1 Principles of decision-making**

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

In the general public interest, and specifically to guard against the possibility of successful legal challenge to decisions made by the Council or by the Executive, it is necessary to demonstrate:

- (a) that the decision is within the powers of the Council;
- (b) that all relevant matters have been fully taken into account in reaching a decision;
- (c) That all relevant Rules and particularly the Council Procedure Rules, Financial Procedure Rules, Contract Procedure Rules and Access to Information Procedure Rules have been complied with;
- (d) that the decision has taken into account the provisions of the Human Rights Act;
- (e) that the decision is taken after due consultation with, and the appropriate professional advice from, all relevant officers;
- (f) that any councillor concerned has considered whether he/she has any declarable interest in the particular item and if necessary made a declaration of interest;
- (g) that the current scheme of delegation has been complied with;
- (h) that the decision has been taken in an open and transparent manner;
- (i) that the decision is clear in terms of its aims and desired outcomes;
- (j) that the decision has been taken in accordance with the Council's aims and strategies; and
- (k) that the decision is properly recorded and published within the appropriate timescale, together with declarations of interest and background papers.

### **12.2 Types of decision**

- (a) Decisions reserved to the Council.

Decisions relating to the functions listed in Article 4.2 will be made by the Council unless these decisions have been delegated through this Constitution.

- (b) Key decisions.
- (c) Administrative or operational decisions
- (d) All other decisions taken by the Council or on its behalf and not included in (a) (b) or (c) above.

### **12.3 Key decisions**

A key decision is one which is financially significant for the service or function concerned because it relates to expenditure or savings of more than £150,000 or which will have a significant impact on people who live and work in an area covering two or more district wards.

Key decisions will only be taken in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution (but subject to the requirements of the Access to Information Procedure Rules, the Budget and Policy Framework Procedure Rules and the Overview and Scrutiny Procedure Rules).

### **12.4 Administrative or Operational Decisions:**

An administrative or operational decision is one in relation to a Council or Executive function which is not a Key decision and which;

- is within an approved budget; and
- is expenditure of less than £50,001; and
- is not in conflict with the Budget and Policy Framework or other approved policies approved by the Council; and
- does not raise new issues of policy or otherwise affect the rights of an individual outside the confines of existing policy.

### **12.5 Decision-making by the Council**

The Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### **12.6 Decision-making by the Executive**

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

### **12.7 Decision-making by the Overview and Scrutiny Committees and their sub-committees**

The Overview and Scrutiny Committees and their sub-committees will follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

**12.8 Decision-making by other committees and sub-committees established by the Council**

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

**12.9 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 13 – Finance, Contracts and Legal Matters**

### **13.1 Financial management**

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

### **13.2 Contracts**

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

### **13.3 Legal proceedings**

The Solicitor to the Council is authorised to institute, defend, settle or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council, ensure the implementation of Council policy or to protect the Council's interests including issuing instructions to Counsel.

### **13.4 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 Solicitor to the Council or other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract with a value exceeding £25,000 entered into on behalf of the Council in the course of the discharge of an executive function shall be made in writing and where it meets or exceeds the financial limits in the Contract Procedure Rules which require contracts to be under seal, shall be made under the Common Seal of the Council.

### **13.5 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Solicitor to the Council. A decision of the Council or one of its committees or the Executive or in accordance with the Scheme of Delegation 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 Solicitor to the Council should be sealed. The affixing of the Common Seal will be attested by the Chief Executive or some other officer authorised by them.

An entry of every sealing of a document shall be made and consecutively numbered in a book to be provided for this purpose and be signed by the person(s) who shall have attested the sealing.

## **Article 14 - Review and Revision of the Constitution**

### **14.1 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 Monitoring Officer should be aware of the strengths and weaknesses of the Constitution adopted by the Council and should make recommendations on 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:

- (a) observe meetings of different parts of the councillor and officer structure;
- (b) undertake an audit trail of a sample of decisions;
- (c) record and analyse issues raised with them by councillors, officers, the public and other relevant stakeholders; and
- (d) compare practices in the Council with those in other comparable authorities, or national examples of best practice.

### **14.2 Changes to the Constitution**

- (a) **Approval** - Changes to the Constitution will only be approved by the Council after consideration of the proposal by the Executive taking into account advice from the Chief Executive or the Monitoring Officer but subject to any delegation to the Monitoring Officer to make minor amendments.
- (b) **Change in Governance Arrangements** - The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals. If the change proposed is to a Mayoral form of Executive, it can only be implemented after being approved in a local referendum.

### **14.3 Operative date**

In the absence of an operative date being specified by the Council, all changes to the Constitution will be effective from the date of the next Council meeting following the date of the decision to effect the change.

## **Article 15 – Suspension, Interpretation and Publication of the Constitution**

### **15.1 Suspension of the Constitution**

- (a) **Limit to suspension** - The Articles of this Constitution may not be suspended. The Rules set out in Part 4 of this Constitution may be suspended by the Council to the extent permitted within those rules and the law.
- (b) **Procedure to suspend** - A motion to suspend any rules moved without notice shall not be valid 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 Council Procedure Rules may be suspended in accordance with the provisions contained in those Rules.

### **15.2 Interpretation**

The ruling of the Chairman of the Council 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.

### **15.3 Publication**

- (a) The Chief Executive will make available a copy of this Constitution to each councillor upon delivery to them of that individual's declaration of acceptance of office on the councillor first being elected to the Council.
- (b) The Chief Executive will ensure that copies are available for inspection at the Council's offices,<sup>1</sup> its website, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.

### **Schedule 1: Description 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 Procedure Rules.
- (b) Article 7 - The Executive, and the Executive Procedure Rules.

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<sup>1</sup> Access to buildings will be subject to compliance with Covid-19 guidance. The Constitution is available on the Council's website.

- (c) Article 11 - Joint arrangements.
- (d) Article 12 - Decision-making, and the Access to Information Procedure Rules.
- (e) Part 3 - Responsibility for Functions.