

PART 1

Articles of the Constitution

CONTENTS

<u>ARTICLE 1 – THE CONSTITUTION</u>	<u>2</u>
<u>ARTICLE 2 – MEMBERS OF THE COUNCIL</u>	<u>3</u>
<u>ARTICLE 3 – CITIZENS AND THE COUNCIL.....</u>	<u>5</u>
<u>ARTICLE 4 – THE COUNCIL.....</u>	<u>6</u>
<u>ARTICLE 5 – CHAIRING THE COUNCIL</u>	<u>8</u>
<u>ARTICLE 6 – THE CABINET</u>	<u>9</u>
<u>ARTICLE 7 – OVERVIEW AND SCRUTINY COMMITTEE AND JOINT SCRUTINY COMMITTEE.....</u>	<u>12</u>
<u>ARTICLE 8 – REGULATORY AND OTHER COMMITTEES</u>	<u>13</u>
<u>ARTICLE 9 - THE BABERGH AND MID SUFFOLK JOINT STANDARDS COMMITTEES</u>	<u>13</u>
<u>ARTICLE 10 - JOINT ARRANGEMENTS AND WORKING GROUPS</u>	<u>14</u>
<u>ARTICLE 11 - OFFICERS.....</u>	<u>16</u>
<u>ARTICLE 12 - PRINCIPLES OF DECISION MAKING.....</u>	<u>17</u>
<u>ARTICLE 13 - FINANCE, CONTRACTS AND LEGAL MATTERS.....</u>	<u>21</u>
<u>ARTICLE 14 – REVIEW AND REVISION OF THE CONSTITUTION</u>	<u>22</u>
<u>ARTICLE 15 – SUSPENSION OF THE CONSTITUTION, INTERPRETATION AND PUBLICATION</u>	<u>23</u>

ARTICLE 1 – THE CONSTITUTION

Powers of the Council

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

The Constitution

1.2 This is the Constitution, and all its appendices, of Mid Suffolk District Council.

Purpose of the Constitution

1.3 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) help Councillors represent their constituents effectively;
- (d) enable decisions to be taken efficiently and effectively;
- (e) create a powerful and effective means of holding decision-makers to public account;
- (f) ensure that no one will review or scrutinise a decision in which they were directly involved;
- (g) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- (h) provide a means of improving the delivery of services to the community.

Interpretation and Review of the Constitution

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

1.5 The Council may call upon the Monitoring Officer to provide an interpretation of any aspect of the Constitution from time to time.

1.6 The Procedural Rules provide mechanisms for interpreting and operating the Constitution.

1.7 In the Constitution the words 'Cabinet' and 'Executive' may be used interchangeably.

1.8 The Council will monitor and evaluate the operation of the Constitution as set out in [Article 14](#).

ARTICLE 2 – MEMBERS OF THE COUNCIL

Composition

- 2.1 The Council will comprise 34 Councillors. One or more Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.

Election and Terms of Councillors

- 2.2 **Election and term.** The regular election of Councillors will be held on the first Thursday in May every four years. 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 with the exception of the Leader who will hold office in accordance with the statutory provisions until the next scheduled election. Provision for the resignation or removal of the Leader at other times are set out in [Article 4](#).

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.

(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 staff entitled to know it.
- (iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 3 of this Constitution.

Conduct

- 2.4 Councillors will at all times observe the Members' Code of Conduct and the Protocol on Member/Officer Relations which are set out in [Part 4](#) of this Constitution.

Allowances

- 2.5 Councillors will be entitled to receive allowances in accordance with the Members' [Allowances Scheme](#) which is available on the Council's website.

ARTICLE 3 – CITIZENS AND THE COUNCIL

Citizens' rights

- 3.1 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 3 of this Constitution:
- (a) **Voting and Petitions.** Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for a governance model of an elected mayor.
 - (b) **Information.** Citizens have the right to:
 - (i) attend meetings of the Council and its Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) see reports and background papers, and any records of decisions made by the Council and the Cabinet; and
 - (iii) 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 and contribute to investigations by Scrutiny Committees. (Link to [Questions by the Public](#) at Council Meetings)
 - (d) **Complaints.** Citizens have the right to complain to:
 - (i) the Council under its [complaints scheme](#);
 - (ii) the Ombudsman after using the Council's own complaints scheme;

Citizens' responsibilities

- 3.2 Citizens must not be violent, abusive or threatening to Councillors or staff and must not wilfully harm things owned by the Council, Councillors or staff.

ARTICLE 4 – THE COUNCIL

4.1 The Full Council (the meeting to which all Councillors are summonsed) is responsible for approving the budget and policy framework, and any other matters which only Full Council can decide. This article defines those functions that are reserved for decision by Full Council, which are as follows:

- (a) Adopting or amending the Constitution;
- (b) Approving or amending the policy framework as set out below;
- (c) Electing the Leader of the Council;
- (d) Receiving any resignation by the Leader of the Council;
- (e) Removal of the Leader of the Council;
- (f) Appointment of the Chairman of the Council;
- (g) Receiving and resignation from the Chairman;
- (h) Adopting the Members [Allowance Scheme](#);
- (i) Appointing to outside bodies unless the main purpose of the body relates to executive functions or where the Council has delegated the power to appoint to an officer;
- (j) Approving the terms of reference of its committees (but not any Cabinet committees);
- (k) Determining the political balance of the Council and the allocation of seats on its committees;
- (l) Changing the name of its area;
- (m) Making, amending or revoking bylaws or opposing the making of local legislation or personal bills;
- (n) Approving the appointment or dismissal of the Statutory Officers;
- (o) All local choice functions set out in Part 2 of this Constitution.

4.2 Major Policy Framework

- (a) The major policy framework includes the following plans and strategies:-
 - (i) The Corporate Plan (The Joint Strategic Plan);
 - (ii) The Local Plan;
 - (iii) Crime and Disorder Reduction Strategy;
 - (iv) Enforcement Policy;
 - (v) Asset Strategy;
 - (vi) Statement of Licensing Policy under Licensing Act 2003;
 - (vii) Statement of Principles under Gambling Act 2005;
 - (viii) Health and Wellbeing Strategy;
 - (ix) Pay Policy Statement;
 - (x) Medium Term Finance Strategy;
 - (xi) Homes and Housing Strategy;
 - (xii) Homelessness Reduction and Rough Sleeping Strategy
 - (xiii) Capital Strategy;
 - (xiv) Community Strategy;
 - (xv) Environment Strategy;
 - (xvi) Economic Development Strategy (Open for Business).

- (b) Any plan or strategy that has to be submitted to the Secretary of State or a Minister of the Crown that is required to be approved by the Council.
- (c) Those other plans and strategies which the Council has determined should be adopted by the Council as part of the policy framework.
- (d) Plans and Strategies which are drafted and adopted by Cabinet but which would be referred to Full Council for comment before adoption:-
 - (i) HRA Business Plan
 - (ii) Equality and Diversity Policy
 - (iii) Human Resources/People Strategy
 - (iv) ICT Strategy

4.3 Removal of Chairman of Council

At any meeting of the Council a Member may propose that “the meeting has no confidence in the Chairman”. The motion shall after debate be put and if carried by a majority of at least two thirds of the members present, the Chairman shall consider his or her position, and report his or her decision to the Council as soon as possible.

4.4 Budget

Full Council is responsible for determining and setting the Council’s Medium Term Financial Strategy and Annual Budget.

4.5 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 and others required by law.

4.6 Functions of the Council

The remit of the Council is based on the division of functions as contained in the Local Authorities (Functions and Responsibilities) England Regulations 2000 (as amended). Reference to any Statutes referred to in this article shall include any amendment or re-enactment of the Statute. Full details of the Council’s Functions are to be found in [Part 2](#) of the Constitution

ARTICLE 5 – CHAIRING THE COUNCIL

Role and Function of the Chairman

- 5.1 The Chairman and Vice-Chairman will be elected by the Council annually; but neither shall be a member of the Cabinet. The Chairman will have the following roles and responsibilities:-
- (a) the Chairman of the Council will be impartial and not act in a party political way when carrying out that role; particularly when exercising a casting vote in the event of deadlock at a Council Meeting.
 - (b) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
 - (c) 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;
 - (d) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community;
 - (e) to promote public involvement in the Council's activities;
 - (f) to be the conscience of the Council;
 - (g) to attend such civic and ceremonial functions as the Council and he/she determines appropriate.

ARTICLE 6 – THE CABINET

Role

- 6.1 The Leader and Cabinet will carry out all of the Council's executive functions and those which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

Form and Composition

- 6.2.1 The Cabinet will be chaired by the Leader. It will comprise the Leader and no fewer than two and up to nine other Councillors appointed to the Cabinet by the Leader, one of whom shall be designated Deputy Leader.
- 6.2.2 The Leader may assign specific responsibilities to one or more members of their Cabinet. Where they do so these Cabinet members will be known as Portfolio Holders.
- 6.2.3 Only Councillors shall be appointed to the Cabinet. There shall be no co-optees, no deputies and no substitutes for Cabinet members.
- 6.2.4 The Leader and Cabinet Members must not be members of any Overview and Scrutiny Committee or Joint Audit and Standards Committee.
- 6.2.5 The Chairman and Vice-Chairman of the Council must not be members of the Cabinet.

The Leader

- 6.3.1 The Leader will be a Councillor elected to the position by the Council at its first annual meeting following the district's local government elections. The Leader will hold office until
- a) The next post-election annual meeting of the Council; or
 - b) He/she resigns from the office of Leader; or
 - c) He/she is removed from office by ordinary resolution on notice of the Council;
or
 - d) He/she is no longer a Councillor.
- 6.3.2 When a vacancy arises in the office of the Leader for whatever reason, the Council shall fill the vacancy at the next ordinary meeting of the Council, or at a special or extraordinary meeting summoned for the purpose. The Councillor appointed to fill the vacancy shall hold office for the remainder of the original term, subject to the rules on earlier termination in 6.3.1 above.

- 6.3.3 The Leader shall appoint another member of the Cabinet as Deputy Leader to act when the Leader is unable to act or the office of Leader is vacant. The Leader may, if he or she thinks fit, remove the Deputy Leader from office. Where there is a vacancy in the office of Deputy Leader, the Leader must appoint another person to be Deputy Leader. Unless he or she is removed by the Leader, resigns as Deputy Leader or ceases to be a member of the Council, the Deputy Leader shall hold office until the end of the Leader's original term of office.
- 6.3.4 The Leader remains a member of the Council during his or her term of office as Leader and any enactment that provides for him or her to retire earlier as a Councillor does not apply.

Other Cabinet Members and Portfolio Holders

- 6.4.1 The Leader will usually announce the Cabinet Members, Portfolio Holders and the general scope of each portfolio at the annual meeting of the Council. Re-appointments, appointments and the removal of Portfolio Holders announced in this way will take immediate effect. If the announcement is not made at the annual meeting, the Leader will give written notice to the Monitoring Officer of the Portfolio Holders as soon as practicable after the annual meeting and the re-appointments, appointments and removals made in this way will take effect two working days after receipt of the notice by the Monitoring Officer.
- 6.4.2 The Leader may also appoint (or reshuffle) Portfolio Holders to fill any vacancy or increase the size of the Cabinet (up to the maximum number set out in 6.2.1 above) by giving written notice to the Monitoring Officer. These appointments shall take effect two working days after receipt of the notice by the Monitoring Officer. The Leader may also change the scope of any portfolio by giving notice to the Monitoring Officer and to the portfolio holders affected by any changes.
- 6.4.3 Portfolio Holders shall hold office until:-
- a) they resign from office; or
 - b) they are no longer Councillors; or
 - c) they are removed by means of the Leader's notification at or as soon as practicable after the next annual meeting; or
 - d) they are removed from office by the Leader giving written notice of the removal to the Monitoring Officer. The removal will take effect two working days after receipt of the notice by the Monitoring Officer.
- 6.4.4 The Leader may delegate executive powers directly to an individual Portfolio Holder rather than such decisions being made by Cabinet. Any granting or removal of such delegated authority to a Portfolio Holder will only take effect once written notice has been provided to the Monitoring Officer.
- 6.4.5 If for any reason the Leader is unable to act or the office of Leader is vacant, and the Deputy Leader is unable to act or the office of Deputy Leader is vacant, the Cabinet must act in the Leader's place or must arrange for a Cabinet Member to act in his/her place.

Functions of the Cabinet

6.5.1 The Cabinet has the following functions:-

- a) to make 'key decisions' as defined in [Article 12.7](#) and published in the Forthcoming Decisions List;
- b) to formulate the budget and policy framework for submission to Council in accordance with the budget and policy framework procedure rules in Part 4 of the Constitution;
- c) to implement the approved budget and policy framework;
- d) to determine recommendations and other matters referred to it by committees, sub-committees or Council;
- e) carry out all of the functions which by law the Cabinet must carry out or has chosen to carry out and which have not been delegated elsewhere.

6.5.2 The Cabinet may carry out its functions:-

- a) itself;
- b) by delegating power to an officer, who shall exercise that power in accordance with the scheme of delegation to officers contained in [Part 2](#) of the Constitution;
- c) by delegating power to a joint committee or another local authority.
- d) by delegating power to a Sub-Committee of the Cabinet.
- e) by delegating to a Cabinet Member.

Meetings of the Cabinet

6.6 The Cabinet will hold public meetings as frequently as is required for the effective discharge of its functions on dates and at times agreed by the Leader. Meetings will be conducted in accordance with the Cabinet Procedure Rules set out in [Part 4](#) of the Constitution.

ARTICLE 7 – OVERVIEW AND SCRUTINY COMMITTEE AND JOINT SCRUTINY COMMITTEE

Introduction

- 7.1.1 Effective overview and scrutiny is essential to enhance the accountability and transparency of the decision-making process. The Council has appointed its own Overview and Scrutiny Committee to discharge the functions conferred by section 9F of the Local Government Act 2000 and any regulations made thereunder.
- 7.1.2 In accordance with section 9FA of the above Act they may appoint one or more sub-committees to carry out any of their functions. They will seek to improve the delivery of policies and services by:
- (a) review and scrutinise decisions made or actions taken in connection with the discharge of any of the Councils functions;
 - (b) holding the Cabinet to account for its actions;
 - (c) advising on the development and implementation of new policy and corporate projects;
 - (d) testing whether existing policies and practices are effective and efficient and suggesting how they might be improved; and
 - (e) ensuring the rigour and objectivity of performance management and service reviews;
 - (f) overseeing the performance of services by considering a range of information such as performance indicators, inspection reports and action plan monitoring.
 - (g) make reports and/or recommendations to the Council and/or Cabinet in connection with the discharge of any of the Councils functions.
 - (h) exercise the right to call-in for reconsideration decisions made but not yet implemented by Cabinet.

The Overview and Scrutiny Committee

- 7.2.1 The Council will appoint an Overview and Scrutiny Committee of up to 8 members, or as many as Council determines from time to time, and it will be politically balanced. No member of the Cabinet may be a member of the Overview and Scrutiny Committee.
- 7.2.2 The Council has also agreed to meet as required as a Babergh and Mid Suffolk Joint Scrutiny Committee in order to scrutinize matters which affect both councils.
- 7.2.3 The Terms of Reference, Procedural Rules and Call-In provisions of the Overview and Scrutiny Committee are set out in [Part 2](#) of this Constitution.

ARTICLE 8 – REGULATORY AND OTHER COMMITTEES

- 8.1 The Council will appoint Committees set out in [Part 2](#) of this Constitution to discharge the functions described in their Terms of Reference.
- 8.2 The Council has Regulatory Committees which deal with Planning related and Licensing related matters. These are quasi-judicial functions.

The Council has other Committees to discharge its functions. The Constitution in [Part 2](#) describes these functions and the Terms of Reference of these Committees.

ARTICLE 9 - THE BABERGH AND MID SUFFOLK JOINT STANDARDS COMMITTEES

- 9.1 In accordance with the requirements of the Localism Act 2011 the Council has adopted a Code of Conduct for Members together with arrangements for dealing with any complaint of a breach of the Code including the appointment of an Independent Person.
- 9.2 The Code of Conduct for Members is set out in [Part 4](#) of this Constitution.
- 9.3 Babergh, Mid Suffolk and Suffolk County Council have agreed to establish a Committee known as the Suffolk Joint Standards Board.
- 9.4 The Membership and Terms of Reference are set out in [Part 2](#) of this Constitution.

ARTICLE 10 - JOINT ARRANGEMENTS AND WORKING GROUPS

Arrangements to promote well-being

- 10.1 The Council, in order to promote the economic, social or environmental well-being 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.

Subject in all cases to compliance with any relevant statutory provisions.

Joint arrangements

- 10.2.1 The Council may establish or continue to operate joint arrangements with one or more Local Authorities and/or their executives to exercise 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.
- 10.2.2 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 such other local authorities.
- 10.2.3 Except as set out in 10.2.4 below, the Cabinet may only appoint Cabinet Members to a joint committee and those Members need not reflect the political balance of the Council as a whole.
- 10.2.4 The Cabinet may appoint Members to a joint committee from outside the Cabinet in any of the following cases:-
- a) Where the joint committee has functions for only part of the area of the Council, and that area is smaller than two-fifths of the Council 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 that part of the area of the Council;
 - b) The joint committee is discharging a function in relation to five or more authorities;
 - c) The function which the joint committee is discharging is one which is required by statute to be discharged by a joint committee;
 - d) The political balance requirements do not apply to such appointments.
- 10.2.5 Details of any joint arrangements including any delegations to joint Committees will be found in the Council's scheme of delegations in [Part 2](#) of this Constitution.

Access to information

- 10.3.1 The Access to Information Rules in [Part 3](#) of this Constitution apply.
- 10.3.2 If all the members of a joint committee are members of the Cabinet in each of the participating authorities then the Access to Information regime of the joint committee will be the same as that applied to executives.
- 10.3.3 If the joint committee contains members who are not on the Cabinet in any participating authority then the Access to Information Rules in Part VA of the Local Government Act 1972 shall apply.

Delegation to and from other local authorities

- 10.4.1 The Council may delegate non-executive functions to another local authority or in certain circumstance to the executive of another authority.
- 10.4.2 The Cabinet may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.
- 10.4.3 The decision whether or not to accept such a delegation from another Local Authority shall be reserved to the full Council.

Contracting out

- 10.5 The Council (in respect of functions which are not the responsibility of the Cabinet) and the Cabinet (in respect of 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 11 - OFFICERS

Management Structure

- (a) **General.** The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The Council will engage persons for the following posts, who will be designated as statutory chief officers and will have the functions described in [Part 2](#).
- (i) Head of Paid Service
 - (ii) Monitoring Officer
 - (iii) Chief Finance Officer

Such appointments will be undertaken on behalf of the Council.

Proper Officers

- 11.1 The Council will appoint "proper officers" as required by legislation. [Part 2](#) of the Councils Constitution contains a list of the proper officers appointed.

Management Scheme of Officer Delegation

- 11.2 The Council's Monitoring Officer will keep an appropriate up to date Management Scheme of Officer Delegation. Including a list keeping copies of authorisations granted to other officers who have been authorised to act under another officers delegated powers.
- 11.3 Any officer referred to by his/her title/post throughout this Constitution will automatically succeed his/her successor in title/post.

Pay Policy Statement

- 11.4 The Council is required by the Localism Act 2011 to annually approve and publish a pay policy statement that sets out:
- (a) the remuneration of its chief officers
 - (b) the remuneration of its lowest paid employees, and
 - (c) the relationship between –
 - (i) the remuneration of its chief officers and
 - (ii) the remuneration of its employers who are not chief officers.

ARTICLE 12 - PRINCIPLES OF DECISION MAKING

12.1 All decisions of the Authority, including the Council, its Committees, the Cabinet and those operating under delegated powers shall have regard to the following principles of good practice:

- (a) consideration of options, where relevant;
- (b) having regard to due consultation;
- (c) consideration of professional advice from officers;
- (d) clarity of aims and desired outcomes;
- (e) the action proposed being proportionate to the desired outcome;
- (f) having respect and regard for human rights;
- (g) presumption of openness;
- (h) only relevant matters taken into account;
- (i) due weight to all material considerations;
- (j) proper procedures being followed; and
- (k) the law.

Responsibility for decision-making

12.2.1 The separation of powers between the Council and the Cabinet is fundamental to the operation of executive arrangements.

12.2.2 Government regulations set out the decisions which the Council must make itself or that it can delegate to Committees or Officers. Any other decisions are for the Cabinet to take. These arrangements shall be reflected in the arrangements set out in [Part 2](#) of this Constitution.

Delegation

12.3.1 Unless the Council specifically allocates that function to the Cabinet as a whole:

- (a) the Leader or the Cabinet can delegate any executive functions to a cabinet committee, a cabinet portfolio holder or to an officer;
- (b) a Cabinet committee may delegate to an officer;
- (c) a Cabinet member may delegate to an officer.

12.3.2 The Council may delegate many, but not all, of its functions to a committee, sub-committee or an officer. Unless there is any legal provision to the contrary, a committee may delegate to a sub-committee or an officer and a sub-committee may delegate to an officer.

12.3.3 Where functions have been delegated:

- (a) this shall not prevent the body or person making the delegation from exercising that function; nor
- (b) prevent the person or body authorised to exercise that function from referring it to the delegator or other person or body with the required authority for a decision.

Natural justice/human rights etc

12.4 Any decision maker 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.

RECORDS OF DECISIONS

Minutes

12.5 As soon as is reasonably practicable after a meeting, whether held in public or private, the Proper Officer shall ensure that a written record is produced in respect of every decision made at that meeting.

Form of minutes

- 12.6
- (a) The name of each Councillor present shall be recorded in the minutes.
 - (b) Decisions taken at a meeting may, unless there is exceptional urgency, only be taken on the basis of a written report, setting out key legal, financial, service and corporate implications.
 - (c) Minutes of meetings shall comprise:
 - (i) a record of any conflict of interest declared by any member of the decision-making body which made the decision;
 - (ii) a note of any relevant dispensation granted by the Monitoring Officer or Audit and Standards Committee;
 - (iii) a record of a Councillor's vote where so requested under the Procedure Rules;
 - (iv) the decisions taken, either in full or by reference to a full recommendation in another document;
 - (v) a reference to the report or other documentation upon which the decisions of the meeting were taken;
 - (vi) a record of any advice or information which is relevant to the decision taken;
 - (vii) in the case of an Overview and Scrutiny Committee, a summary of such evidence presented to it as is necessary for the effective undertaking of the Committee's work;
 - (viii) any other matter required under this Constitution to be included.

TYPES OF DECISION

Officer Decisions

12.7 Officer decisions taken under the scheme of officer delegations shall be recorded in accordance with the provisions in [Part 2](#) of the Constitution.

Decisions reserved to full Council.

12.8 A list of the Council (that is, non-executive) functions is set out in [Part 2](#) of the Constitution. The functions reserved to Council can be delegated to Council committees or to officers but they cannot be delegated to the Cabinet.

Key Decisions

12.9.1 A 'key decision' is an executive decision which is likely to:

- (a) result in the Council spending, or saving a significant amount compared with the Budget for the service or function the decision relates to; or
- (b) have a 'significant' effect on communities living or working in an area made up of two or more wards.

12.9.2 When assessing whether or not a decision is a key decision Councillors must consider all the circumstances of the case. However, a decision which results in a significant amount spent or saved will generally be considered to be a key decision if:

- (a) the amount spent is £150,000 or more of revenue or capital expenditure;
- (b) savings of £150,000 or more per annum;
- (c) where a decision makes a commitment for spending over a period of time, it is the total commitment that must be considered to see if it is a key decision.

12.9.3 A key decision which is considered to have a 'significant' effect on communities should usually be of a strategic rather than operational nature and have an outcome which will have an effect upon a significant number of people living or working in the area and impact upon:

- (a) the amenity of the community or;
- (b) quality of service provided by the Council.

Decision Making by full Council

12.10 The Council will follow the Council's Procedure Rules set out in [Part 3](#), Section 3 of this Constitution when considering any decision.

Decision making by the Cabinet

12.11 The Cabinet will follow the Cabinet Procedure Rules set out in [Part 3](#), Section 3 of this Constitution when considering any decision.

Decision making by other committees and sub-committees

12.12 Committees and sub committees will follow those parts of the Council procedures rules set out in [Part 3](#), Section 3 as applicable to them.

ARTICLE 13 - FINANCE, CONTRACTS AND LEGAL MATTERS

Financial management

13.1 The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in [Part 3](#) of this Constitution.

Contracts

13.2 Every contract made by the Council will comply with Contract Standing Orders set out in [Part 3](#) of this Constitution.

Legal proceedings

13.3 The Assistant Director - Law and Governance is authorised to institute, defend or participate in any legal proceedings in any case (and to appoint anyone qualified to act in legal proceedings or to instruct counsel) where such action is necessary to give effect to decisions of the Council or in any case where the Assistant Director - Law and Governance considers that such action is necessary to protect the Council's interests.

Authentication of documents

13.4 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Assistant Director - Law and Governance or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Common Seal of the Council

13.5 The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer. 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 Assistant Director - Law and Governance should be sealed. The affixing of the Common Seal will be attested by the Assistant Director - Law and Governance or some other person authorised by him/her. A record of every sealing must be made and consecutively numbered in a register maintained by the Assistant Director - Law and Governance or some other person authorised by him/her.

ARTICLE 14 – REVIEW AND REVISION OF THE CONSTITUTION

Duty to Monitor and Review the Constitution

- 14.1 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 and to bring forward any recommendations that are necessary.
- 14.2 The Chief Finance Officer shall be responsible for keeping under review the Financial Regulations set out in the Constitution and shall make any necessary amendments and revisions as are required from time to time. If revisions are made they should be reported to Council for approval.

Changes to the Constitution

- 14.3 Changes to the Constitution shall only be approved at a meeting of the Council after consideration of the proposal by the Monitoring Officer unless in the reasonable opinion of the Monitoring Officer a change is:
- (a) a legislative requirement;
 - (b) a minor variation which is of a non-substantive nature;
 - (c) required to be made to remove any inconsistency or ambiguity; or
 - (d) required to be made so as to put into effect any decision of the Council or its Committees, or to implement any decision of the Leader in relation to the delegation of executive functions to any officers.

in which case the Monitoring Officer may make such a change and to publicise such changes on the Council's website.

- 14.4 Any such change made by the Monitoring Officer shall come into force with immediate effect but shall be referred to full Council as soon as is reasonably possible and shall continue to have effect only if full Council agree.
- 14.5 Other changes to the Constitution shall come into effect at such a date as the Council may stipulate.
- 14.6 The Council should review the Constitution at least annually.

ARTICLE 15 – SUSPENSION OF THE CONSTITUTION, INTERPRETATION AND PUBLICATION

Suspension of the Constitution

- 15.1 (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.

Interpretation

- 15.2 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.

Publication

- 15.3 (a) The Monitoring Officer will give details of the website address for 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 and will provide a hard copy if so request by the elected member.
- (b) The Monitoring Officer 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 Monitoring Officer will ensure that the Constitution is published on the Council's website.
- (d) The Monitoring Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.