

## THE ARTICLES OF CONSTITUTION

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## **ARTICLE 1 - THE CONSTITUTION**

### **1.1 Powers of the Council**

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

### **1.2 The Constitution**

This Constitution and all its appendices are the Constitution of the Redditch Borough Council.

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

The purpose of the Constitution is to:

- a. enable the Council to provide clear leadership to the community in partnership with citizens, businesses, and other organisations;
- b. support the active involvement of citizens in the process of local authority decision-making;
- c. help Councillors represent their constituents more effectively;
- d. enable decisions to be taken efficiently and effectively;
- e. create a powerful and effective means of holding decision-makers to public account;
- f. ensure 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.

### **1.4 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 15.

## **ARTICLE 2 - MEMBERS OF THE COUNCIL**

### **2.1 Composition and eligibility**

The Council will comprise 29 Members, otherwise called Councillors. Two or three Councillors will be elected by the voters of each ward in accordance with the scheme drawn up by the Electoral Commission and approved by the Secretary of State. Only registered voters of the Borough, or those living or working or owning property in the Borough, will be eligible to hold the office of Councillor.

### **2.2 Election and terms of Councillors**

The regular election of Councillors will usually be held on the first Thursday in May each year, in three out of every four years. The Borough operates a system of 'election by thirds' which means one third of the membership of the Council is elected at each round of Borough Council elections (in the fourth year, County Council elections take place). 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.

### **2.3 Roles and functions of all Councillors**

All Councillors will:

- a. collectively be the ultimate policy makers and carry out a number of strategic and corporate management functions;
- b. represent their communities and bring their views into the Council's decision-making process, in other words become the advocate for their communities;
- c. deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- d. balance different interests identified within their ward and represent the ward as a whole;
- e. contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- f. participate in the governance and management of the Council;
- g. maintain the highest standards of conduct and ethics; and
- h. be available to represent the Council on other bodies

The roles and responsibilities of Councillors are set out in more detail in Part 28 of this Constitution.

### **2.4 Councillors' Rights and Duties**

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.

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 another member of this Council or officer entitled to know it and any information so divulged to a councillor or officer is to be strictly on a confidential basis

For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 8 of this Constitution.

### **2.5 Conduct**

Councillors will at all times observe the Members' Code of Conduct, the Gifts and Hospitality Code, the Protocol on Member-Officer Relations set out in Parts 19, 20 and 21 of this Constitution.

### **2.6 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 18 of this Constitution.

## **ARTICLE 3 – CITIZENS AND THE COUNCIL**

### **3.1 Citizens' rights**

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Procedure Rules in Part 8 of this Constitution:

- a. **Voting and petitions** Citizens on the electoral register for the area have the right to vote and sign a petition to request a referendum for an Elected Mayor form of Constitution.

Further rights are afforded by the Council's Petitions Protocol.

- 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) attend meetings of the Executive Committee, except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (iii) find out from the Forward Plan what key decisions will be taken by the Executive and when;
  - (iv) see reports and background papers, and any minutes of decisions made by the Council and the Executive (other than those comprising confidential or exempt information); and
  - (v) inspect the Council's accounts and make their views known to the external auditor.
- c. **Participation**
  - (i) Citizens may be invited to contribute to investigations undertaken by the Overview and Scrutiny Committee or by any of its Task and Finish Groups.
  - (ii) Citizens who attend any meeting of the Council are entitled to take a copy of the Agenda and associated reports available in the public gallery.

- (iii) Citizens may be entitled to address committee meetings but only where public participation has been agreed by the Council and on the terms relevant to such meetings.
  - (iv) Citizens may record meetings of the Council, Committees and other meetings open to the public and in accordance with the law and the Council's protocol.
  - (v) Citizens may be invited from time to time to contribute to other community forums.
- d. **Complaints** Citizens have the right to complain to:
- (i) the Council itself under its formal complaints process;
  - (ii) the Commissioner for Local Administration after using the Council's own complaints process;
  - (iii) the Standards Committee about a breach of the Councillor's Code of Conduct.

### 3.2 Citizens' responsibilities

Citizens may not disrupt or cause undue disturbance at meetings. Citizens must not be violent, abusive, or threatening to Councillors or officers and must not willfully harm things owned by the Council, Councillors, or officers.

## **ARTICLE 4 – THE FULL COUNCIL**

### **4.1 Meanings**

"Policy Framework"

The policy framework means the following plans and strategies:-

- Annual Performance Plan;
- Climate Change Strategy
- Community Safety Partnership Plan
- Council Plan;
- Plans and strategies which together comprise the Local Development Framework;
- Development Plan;
- Emergency Plan;
- Enforcement Policy;
- Food Law Enforcement Service Plan;
- The plan and strategy which comprise the Housing Investment Programme;
- Local Transport Plan;
- Procurement Strategy;
- Single Equalities Scheme;
- Sustainable Community Strategy.

"Budget"

The budget includes the allocation of financial resources to different services and projects, the medium-term financial plan, proposed contingency funds, setting the Council tax, decisions relating to the control of the Council's borrowing requirements, the control of its capital expenditure and the setting of virement limits.

### **4.2 Functions of the full Council**

Only the Council will exercise the following functions:

- a. adopting and changing the Constitution;
- b. approving or adopting the Budget and the Policy Framework and any application to the Secretary of State in respect of any Housing Land Transfer;

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- c. subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 8 of this Constitution, making decisions about any matter in the discharge of an Executive function which could have been (but was not) covered by the Budget and Policy Framework or 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 or removing from office:-
  - (i) the Leader;
  - (ii) the Mayor or Deputy Mayor;
- e. confirming the appointment of the Chief Executive, Monitoring Officer and Section 151 Officer;
- f. agreeing and/or amending the terms of reference for the Council's committees, sub-committees, etc., deciding on their composition and, subject to Article 8.3, making appointments to them;
- g. the appointment and revocation of appointments of representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Council;
- h. adopting an allowances scheme;
- j. changing the name of the area or conferring the title of Honorary Alderman or Freeman of the Borough;
- k. making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- l. all local choice functions set out in Part 3 of this Constitution (Responsibilities for Functions) which the Council decides should be undertaken by itself rather than the Executive; and
- m. all other matters which, by law, must be reserved to Council.



### 4.3 Council meetings

There are three types of Council meeting:

- a. the annual meeting;
- b. ordinary meetings;
- c. extraordinary meetings, including the Council Tax-setting meeting of the Council

and they will be conducted in accordance with the Council Procedure Rules in Part 7 of this Constitution.

### 4.4 Responsibility for functions

The Council will maintain the tables in Parts 3 - 6 of this Constitution setting out:

- a. those functions which are the responsibility of the Council;
- b. those functions which are the responsibility of the Council and which it has delegated to committees or officers.

## **ARTICLE 5 – CHAIRING THE COUNCIL**

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

The Mayor and Deputy Mayor of the Council will be elected by the Council annually and neither the Mayor nor the Deputy Mayor will be a member of the Executive. The Mayor, and in his/her absence the Deputy Mayor, will have the following roles and functions:

- a. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- b. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- c. to ensure that the Council meeting is the forum for the debate of matters of concern to the local community and the place at which members who are not on the Executive or do not hold committee chair positions are able to hold the Executive and Committee Chairs to account;
- d. to promote public involvement in the Council's activities;
- e. to be the conscience of the Council; and
- f. to attend such civic and ceremonial functions as the Council and he/she determines appropriate.

The roles and responsibilities of the Mayor and Deputy Mayor are set out in more detail in Part 28 of this Constitution.

## **ARTICLE 6 – OVERVIEW AND SCRUTINY**

### **6.1 Discharge of overview and scrutiny functions**

The Council will appoint an Overview and Scrutiny Committee to discharge the functions conferred by:

- a. section 21 of the Local Government Act 2000 or any regulations made under section 32 of the Local Government Act 2000;
- b. sections 119, 236 and 237 of the Local Government and Public Involvement in Health Act 2007; and
- c. section 19 of the Police and Justice Act 2006 and the Crime and Disorder (Overview & Scrutiny) Regulations 2009.

For this latter purpose the Overview and Scrutiny Committee appoints a separate Crime and Disorder Scrutiny Panel.

### **6.2 Composition**

The Overview and Scrutiny Committee will be composed of the number of Councillors determined at each Annual Council meeting, none of whom shall be members of the Executive Committee.

The Chair and Vice-Chair of the Overview and Scrutiny Committee must not be a member of the controlling political group.

### **6.3 Terms of reference**

The general terms of reference of the Overview and Scrutiny Committee will be to perform all overview and scrutiny functions on behalf of the Council in relation to any matter affecting the Borough and its inhabitants.

### **6.4 General roles of the Overview and Scrutiny Committee**

The Overview and Scrutiny Committee will:

- a. make reports and/or recommendations to the full Council and/or the Executive in connection with the discharge of any functions;
- b. consider any matter affecting the area or its inhabitants;
- c. review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;

- d. exercise the right to call-in for reconsideration, decisions made ('resolved') but not yet implemented by the Executive (which right shall not arise before the Executive has made a decision).

## **6.5 Specific functions of the Overview and Scrutiny Committee**

The Overview and Scrutiny Committee may:

- a. assist the Council and the Executive in the development of the Council's Budget and Policy Framework by in-depth analysis of policy issues;
- b. conduct research, community consultation 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 chief officers;
- 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 performance of the Council in relation to its policy objectives and/or particular service areas;
- g. question members of the Executive and other committees and chief officers about their decisions whether generally in comparison with service plans and targets over a period of time, or in relation to particular decision, initiatives or projects;
- h. make recommendations to the Executive and/or the Council arising from the outcome of the overview and scrutiny process;
- i. 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 or its Task Groups and local people about their activities and performance;
- j. question and gather evidence from any person (with their consent);
- k. review and scrutinise the decisions made by the Executive Committee (but not decisions of regulatory committees) and Council Officers;
- l. receive and consider relevant petitions (other than petitions relating to regulatory matters) under the approved Petitions Protocol;
- m. assist the Council and the Executive in the development of the Budget; and
- n. receive and consider Councillor Calls for Action.

**6.6 Functions of the Overview and Scrutiny Committee exercised via the Crime and Disorder Scrutiny Panel**

The Crime and Disorder Scrutiny Panel will

- a. receive and consider Councillor Calls for Action in relation to crime and disorder matters; and
- b. review and/or scrutinise decisions made, or other action taken, in connection with the discharge by the Council of its crime and disorder functions.

**6.7 Finance.**

The Chair of the Overview & Scrutiny Committee will advise Officers in the exercise of their delegated responsibility for finances made available to the Committee.

**6.8 Officers.**

The Head of Legal, Equalities and Democratic Services will, in consultation with the Committee Chair, exercise overall responsibility for the work programme of any officers specifically employed to support the work of the Committee.

**6.9 Proceedings of the Overview and Scrutiny Committee**

The Overview and Scrutiny Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 11 of this Constitution.

**6.10 Annual Report**

The Overview and Scrutiny Committee will contribute to an annual report to the Council on its workings, together with recommendations for future work programmes and amended working methods if appropriate.

## **ARTICLE 7 – THE LEADER OF THE COUNCIL AND THE EXECUTIVE COMMITTEE**

### **7.1 Role**

The Council has adopted the 'Leader and Cabinet' Executive (England) governance model for its executive arrangements. In Redditch the Cabinet is referred to as the Executive Committee.

The Leader of the Council (*'Strong Leader'*) is responsible for the discharge of such functions as are the responsibility of the Executive of the Council. This means all functions which by law must be the responsibility of the Executive or which are not the responsibility of any other part of the Council whether by law or under this Constitution ('executive functions').

The Leader may make such arrangements as s/he thinks fit from time to time for the delegation and discharge of executive functions.

### **7.2 Composition of the Executive Committee**

- a) The Leader of the Council is responsible for the appointment of the Executive Committee which will consist of the Leader and not less than 2 nor more than 9 other Councillors, as the Leader shall determine. The Leader may change the size of Executive Committee (within the above parameters) and appointments to it at any time.
- b) One of the members of the Executive Committee will be designated by the Leader as Deputy Leader, to hold office until the end of the Leader's term of office, unless the Deputy Leader resigns, ceases to be a member, is disqualified, or is removed by the Leader at any time.
- c) If for any reason the Leader is unable to act, or the office of Leader is vacant, the Deputy Leader must act in the Leader's place. If the Deputy Leader is unable to act or the office is vacant, the Executive Committee must arrange for another member of the Executive Committee to do so.
- d) The Executive Committee is not a normal Committee of the Council. Its composition is not required to be in accordance with the political balance of the Council.

- e) The Executive Committee collectively, individual members of the Committee or Officers will be responsible for the discharge of such functions of the executive as are allocated by the Leader of the Council from time to time. The Leader will maintain a List in Parts 3 – 6 of this Constitution (Scheme of Delegation) setting out which Executive Committee members, officers or joint or local arrangements are responsible for the exercise of particular Executive functions.

### 7.3 Leader / Opposition Leader

#### A. Executive Leader (*“Strong Leader”*)

The Leader will be a Councillor elected to the position of Leader by the Council at its annual meeting. The Leader will be elected for an initial four year term, starting on the day of his/her election as Leader and ending on the day of the post-election annual meeting, subject to annual review at each Annual Council Meeting. The Leader will otherwise hold office until:

- a) s/he resigns from the office of Leader; or
- b) s/he is suspended from being a member of the Council under Part III of the Local Government Act 2000 (although s/he will resume office at the end of the period of suspension); or
- c) s/he is disqualified from being or remaining a Councillor; or
- d) s/he is no longer a member of the Council for any reason; or
- e) s/he is removed from office by a resolution of the full Council during the Leader's term of office (and in which case Council will elect a new Leader at that or a subsequent meeting).

#### B. Opposition Leader

The Opposition Leader shall automatically, by dint of office, be the Leader of the largest Minority Group.

### 7.4 Other Executive members

Other Executive members shall hold office until:

- a. they resign from office; or
- b. they are no longer Councillors; or
- c. they are removed from office by the Leader who must give written notice of any removal to the proper officer. The removal will take effect two working days after receipt of the notice by the proper officer.

### 7.5 Proceedings of the Executive Committee

The proceedings of the Executive shall be in accordance with the Executive Procedure Rules set out in Part 10 of this Constitution.

### 7.6 Responsibility for functions

All Executive decisions will be taken by the Executive acting collectively except:

- a. when the Executive has made a decision in principle it may delegate to the Leader, or to the relevant Portfolio Holder, authority to finalise outstanding details in agreement with the appropriate Head of Service;
- b. when a decision regarding an Executive function requires attention as a matter of such urgency that formal reporting to Executive is not possible, the Leader may take that decision in consultation with the relevant Portfolio Holder(s), the Chief Executive, the Section 151 Officer and the Monitoring Officer (and, if a Key Decision, the Chair of the Overview and Scrutiny Committee); such decisions to be subject to report to the next available meeting of the Executive Committee.
- c. when the Leader requests the Overview and Scrutiny Committee and the Audit, Standards and Governance Committee to consider including issues within their work programme;
- d. when the Executive has arranged for an Executive function to be discharged by an Executive Sub-Committee or an officer or by way of joint or local arrangements.

A list will be maintained in Parts 3 - 6 of this Constitution (Scheme of Delegation) setting out which Executive Sub-Committee, officers or joint or local arrangements are responsible for the exercise of particular Executive functions.



## **ARTICLE 8 - REGULATORY AND OTHER COMMITTEES**

### **8.1 Regulatory and other Committees**

The Council will appoint the committees set out in Part 4 of this Constitution (Committees) to discharge the functions described in that Table.

### **8.2 Proceedings of Regulatory and Other Committees**

Unless otherwise specifically provided for in Part 4 of this Constitution (Committees), in Parts 11, 12 and 13 (Overview and Scrutiny Procedure Rules, Audit, Standards and Governance Procedure Rules and Planning Committee Procedure Rules) or elsewhere in this Constitution, regulatory and other committees will conduct their proceedings in accordance with the Council Procedure Rules in this Constitution.

### **8.3 Appointment of Seats on Regulatory and other Committees**

When the Council allocates seats on a regulatory or other committee to a political group, the appointment of Councillors to those seats shall be at the discretion of the Leader of the appropriate political group who shall confirm in writing to the Chief Executive the appointment or removal of any member of that group to any regulatory or other committee.

### **8.4 Qualifications for sitting on Regulatory and other Committees**

Only those Councillors who have undertaken appropriate training may sit on relevant committees, sub-committees or panels.

## **ARTICLE 9 - AREA COMMITTEES**

The Council may establish Area Committees which may take the form of:

- (i) consultative forums; or
- (ii) decision-making bodies to which either Executive functions or non-Executive functions may be delegated in which case the Area Committee must operate in accordance with the Council's Constitution including the Access to Information Rules.

However, no such Area Committees are currently appointed.

### **Local Strategic Partnership**

The Council participates in the Local Strategic Partnership. This involves working alongside professionals from the County Council and other public bodies in order to improve outcomes for the community.

### **Feckenham Parish Council**

The Council also has a role to support the work of the only Parish Council in its area including advice and support regarding ethical standards and Code of Conduct and electoral matters.

## ARTICLE 10 - THE AUDIT, STANDARDS AND GOVERNANCE COMMITTEE

### 10.1 Audit, Standards and Governance Committee

The Council will establish a Standards Committee to discharge the functions conferred by the Localism Act 2011. Currently this function carried out by the Audit, Standards and Governance Committee. The Committee may establish Sub-Committees to carry out some or all of its functions and it is for the Committee to determine the composition, size and terms of reference of its sub-committees.

### 10.2 Composition

- a. **Membership.** The Standards Committee will comprise the number of Borough Councillors as decided at its Annual meeting. The Committee also includes 1 Independent non-voting Member for the purpose of Audit and Governance and 1 Parish Representative, who may not also be a Borough Councillor, for the purpose of Standards.
- b. **Appointment of the Parish Member.** The Parish Member shall be appointed by the Council in accordance with such process as the Council shall from time to time determine.
- c. **Voting.** Borough Councillors will be entitled to vote at meetings.
- d. **Parish member.** At least one Parish Member must be present when matters relating to Feckenham Parish Council are being considered.
- d. **Parish Councils.** The Audit, Governance and Standards Committee may establish a sub-committee to exercise the function of dealing with complaints about Borough or Parish Councillors.
- e. **Chairing the Committee.** The Standards Committee is chaired by a Borough Councillor.
- f. **Substitutes.** The use of substitutes is not encouraged.

However, Borough Councillors who are unable to attend a meeting of the Audit, Governance and Standards Committee or a sub-committee may appoint a nominated, trained Borough Councillor to attend the meeting as his/her substitute and who may attend, participate in and vote at the Audit, Governance and Standards Committee and sub-committee meetings in the absence of the Borough Councillor.

### **10.3 General Role**

The Audit, Governance and Standards Committee will have the following roles and functions:

#### Audit and Governance Internal and External Audit

- a. To review and monitor the annual audit plans of both the internal and external auditors.
- b. To receive and comment upon the external auditors' reports.
- c. To monitor the adequacy and effectiveness of the Council's system of internal control by ensuring that an adequate and effective system of internal financial controls is maintained, that financial procedures are regularly reviewed.
- d. To consider, monitor and review the Council's overall corporate governance arrangements.
- e. To enhance the profile, status and authority of the internal audit function which will demonstrate its independence.
- f. To focus audit resources by agreeing, and periodically reviewing, audit plans and monitoring delivery of the audit service.
- g. To receive and consider such internal audit reports that the Chair and/or Deputy Chief Executive considers necessary.

#### Risk

- h. To consider, monitor and review the effectiveness of the Council's risk strategies, policies and management arrangements and seek assurances that action is being taken to address identified risk related issues.

#### Finance and Value for Money

- i. To consider and approve the Council's Annual Statements of Accounts.
- j. To consider any report from the Internal Audit Manager in pursuance of Financial Regulations.
- k. To ensure good stewardship of the Council's resources and assist the Council to achieve value for money in the provision of its services.

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- l. To keep under review, and make recommendations on, proposed amendments to Financial Regulations.
- m. To consider and make recommendations if appropriate on, the Annual Governance Statement.

### Standards

- n. To promote and maintain high standards of conduct by Councillors and any co-opted members of Council bodies;
- o. To assist the Councillors and co-opted members to observe the Members' Code of Conduct;
- p. To advise the Council on the adoption or revision of the Members' Code of Conduct;
- q. To monitor the operation of the Members' Code of Conduct;
- r. To advise, train or arrange to train Councillors and co-opted members on matters relating to the Members' Code of Conduct;
- s. To grant dispensations to Councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct;
- t. To deal with any report from the Monitoring Officer following an investigation into a complaint concerning the Members' Code of Conduct;
- u. To consider and determine allegations that a Councillor or co-opted Councillor may have failed to follow the Code of Conduct and where a breach of the Code is established making recommendations as to any sanctions to the appropriate person or body.
- v. The exercise of u – v above in relation to the Parish Councils in the Council's area and the members of those parish Councils;
- w. To monitor, and review the operation of the Protocols on Member-Officer and Member-Member relations.

## **ARTICLE 11 - JOINT ARRANGEMENTS**

### **11.1 Arrangements to promote well-being**

The Council or the Executive, in order to promote the economic, social or environmental well-being of its area, may, where legally permissible:

- 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;
- c. exercise on behalf of that person or body any functions of that person or body.

### **11.2 Joint arrangements**

- a. The Council may establish joint arrangements with one or more local authorities in order to exercise functions which are not Executive functions in any of the participating authorities, or in order to advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- b. The Executive may establish joint arrangements with one or more local authorities to exercise functions which are Executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- c. Except as set out below, the 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, where 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. In such circumstances the political balance requirements do not apply to such appointments.

- e. Details of any joint arrangements including any delegations to joint committees will be found in Part 6 of this Constitution.

### 11.3 Access to information

- a. The Access to Information Rules in Part 8 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 Rules in Part V of the Local Government Act 1972 will apply.

### 11.4 Delegation to and from other local authorities

- a. The Council may delegate non-Executive functions to another local authority or, in certain circumstances, the Executive of another local authority.
- b. The Executive may delegate Executive functions to another local authority or, in certain circumstances, the Executive of another local authority.
- 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 Executive may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under Section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

## **ARTICLE 12 - OFFICERS**

### **12.1 Management structure**

The full Council may engage officers as it considers necessary to carry out its functions.

The Council will designate the Chief Executive as Head of Paid Service and will designate officers as Monitoring Officer and Section 151 Officer. These posts will have the functions described in Articles 12.2 – 12.4 below. All three of these statutory Officers are provided under the shared services arrangements with Bromsgrove District Council.

The Chief Executive will determine, publicise and keep up to date a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 17 of this Constitution and is available on the Council's website.

### **12.2 Functions of the Head of Paid Service**

- a. The Head of Paid Service 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. The Head of Paid Service may not be the Monitoring Officer but may hold the post of Section 151 Officer if a qualified accountant.

### **12.3 Functions of the Monitoring Officer**

- a. **Maintaining the Constitution** The Monitoring Officer will maintain an up to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- b. **Ensuring lawfulness and fairness of decision making** After consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report to the full Council, or to the Executive in relation to an Executive function, if he/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 proposals or decision being implemented until the report has been considered.



- c. **Supporting High Standards** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Audit, Governance and Standards Committee. This includes dealing with complaints about Members.
- d. **Proper Officer for access to information** The Monitoring Officer 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.
- e. **Advising whether Executive decisions are within the Budget and Policy Framework** The Monitoring Officer will advise whether decisions of the Executive are in accordance with the Budget and Policy Framework.
- f. **Providing advice** The Monitoring Officer 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.
- g. **Restrictions on post** The Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service.

### 12.4 Functions of the Section 151 Officer

- a. **Ensuring lawfulness and financial prudence of decision making** After consulting with the Head of Paid Service and the Monitoring Officer, the Section 151 Officer 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.
- b. **Administration of financial affairs** The Section 151 Officer will have responsibility for the administration of the financial affairs of the Council.
- c. **Contributing to Corporate Management** The Section 151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- d. **Providing advice** The Section 151 Officer 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.

- e. **Give financial information** The Section 151 Officer will provide financial information to the media, members of the public and the community.

### **12.5 Duty to provide sufficient resources to the Monitoring Officer and Section 151 Officer**

The Council will provide the Monitoring Officer and Section 151 Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

### **12.6 Conduct**

Officers will comply with any Officers' Code of Conduct and the Protocol on Member-Officer Relations set out in Parts 21 and 22 of this Constitution.

### **12.7 Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 16 of this Constitution.

## **ARTICLE 13 - DECISION MAKING**

### **13.1 Responsibility for decision-making**

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Parts 3 - 6 of this Constitution.

### **13.2 Principles of decision-making**

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

- a. proportionality (in other words the action must be proportionate to the proposed outcome);
- b. due consultation and the taking of professional advice from officers;
- c. respect for human rights;
- d. a presumption in favour of openness;
- e. clarity of aims and desired outcomes;
- f. due regard for the Council's environmental objectives;
- g. due regard for the Council's duties in relation to crime and disorder;
- h. clear explanations of the options considered and the reasons for the decision reached.

### **13.3 Types of decision**

- a. Decisions relating to the functions listed in Article 4.2 will be made by the full Council and not delegated.
- b. 'Key Decisions' are those Executive decisions which are likely to:
  1. (i) result in any variation to the approved budget (capital and revenue) and/or Policy Framework for any service or function which requires the approval of the Council; or
  - (ii) result in expenditure or savings amounting in total to £50,000 or more;

OR

2. be significant in terms of their effect on a community or communities living or working in an area comprising one or more Wards in the Council's area, even where there may not be any financial implications; OR
3. Any proposal to cease to provide a Council service (other than a temporary cessation of service of not more than 6 months).

### **13.4 Decision making by the full Council**

Subject to Article 13.8, each Council meeting will follow the Council Procedure Rules set out in Part 7 of this Constitution when considering any matter.

### **13.5 Decision-making by the Executive Committee**

Subject to Article 13.8, the Executive will follow the Executive Procedure Rules set out in Part 10 of this Constitution when considering any matter.

### **13.6 Decision-making by the Overview and Scrutiny Committee**

The Overview and Committee will follow the Overview and Scrutiny Procedures Rules set out in Part 11 of this Constitution when considering any matter.

### **13.7 Decision making by other Committees and Sub-Committees established by the Council**

Subject to Article 13.8 other Council committees and sub-committees will follow those parts of the Council Procedure Rules set out in Part 7 of this Constitution as apply to them or such other Procedure Rules or elsewhere in this Constitution or as otherwise agreed by the Council.

### **13.8 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 14 - FINANCE, CONTRACTS AND LEGAL MATTERS**

### **14.1 Financial management**

The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in Part 11 of this Constitution.

### **14.2 Contracts**

Every contract made by the Council will comply with the Contract Procedure Rules and Procurement Code set out in Part 12 of this Constitution.

### **14.3 Legal proceedings**

The Chief Executive and the Head of Legal, Equalities and Democratic Services are authorised to institute, defend or participate in any legal proceedings or action in any case where such action is necessary to give effect to decisions of the Council or in any case where they consider that such action is necessary to protect the Council's interests.

### **14.4 Authentication of documents**

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

### **14.5 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal, Equalities and 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 Head of Legal, Equalities and Democratic Services should be sealed. The affixing of the Common Seal will be attested by the Head of Legal, Equalities and Democratic Services or some other person authorised by him/her.

## **ARTICLE 15 - REVIEW AND REVISION OF THE CONSTITUTION**

### **15.1 Duty to Monitor and Review the Constitution**

- a. 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.
- b. 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:
  - (i) observe meetings of different parts of the Member and Officer structure;
  - (ii) undertake an audit trail of a sample of decision;
  - (iii) record and analyse issues raised with him/her by Councillors, officers, the public and other relevant stakeholders; and
  - (iv) compare practices in the Council with those in other comparable authorities, or national examples of best practice.

### **15.2 Changes to the Constitution**

- a. Changes to the Constitution shall not be approved unless approved by a majority of the number of Councillors present, save that the Monitoring Officer may amend Part 17 of the Constitution (Management Arrangements) but only to the extent that such changes reflect either changes to the corporate structure which have been agreed by Council or a change in staffing arrangements.
- b. The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals for a change from a 'Leader and Cabinet' (= 'Executive Committee') form of government to alternative arrangements, or vice versa or as otherwise prescribed by statutory requirement.

## **ARTICLE 16 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION**

### **16.1 Suspension of the Constitution**

The Articles of this Constitution may not be suspended.

### **16.2 Suspension of Rules**

The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law:

- (i) Council Procedure Rules
- (ii) Overview and Scrutiny Procedure Rules
- (i) Audit, Governance and Standards Committee Procedure Rules
- (ii) Executive Procedure Rules
- (iii) Officer Employment Procedure Rules
- (iv) Financial Regulations
- (v) Contracts Procedure Rules
- (ix) Budget and Policy Framework Procedure Rules
- (x) Planning Committee Procedure Rules.

### **16.3 Procedure for Suspension of Rules**

A motion to suspend any Rules will not be moved without notice unless approved by a majority of the number of Councillors 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. The advice of the Chief Executive and/or Monitoring Officer, or their representatives, shall be considered before any decision to suspend Rules may be taken.

### **16.4 Interpretation**

Reference in any provision of this Constitution to the appointment of a person or a Member to an office shall be taken to include the removal of that person or Member from that office (subject to compliance with the Officer Employment Procedure Rules or other provision whether statutory or otherwise relating to the employment of staff).

**16.5 Mayor's Ruling**

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

**16.6 Publication**

The Chief Executive will make available a copy of this Constitution to each Councillor upon delivery to him/her of that individual's Declaration of Acceptance of Office on the Councillor first being elected to the Council. Full hard copies will be provided in each Members' Room and on request

The Chief Executive will ensure that copies are available for inspection at Council offices, libraries and other appropriate locations.

The Chief Executive will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.