

## 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 the South Bucks District 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 residents, businesses and other organisations;
- (b) support the active involvement of citizens in the process of local authority decision-making;
- (c) enable Councillors to 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 14.

## Article 2 - Members of The Council

### 2.1 Composition and eligibility

- (a) **Composition.** The Council will comprise 40 members, otherwise called 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 or Electoral Commission 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

**Election and terms.** The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2003. 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

- (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 officer entitled to know it.
  - (iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

## 2.4 Conduct

Councillors will at all times observe the Members' Code of Conduct and the Protocol on Member/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 - Residents 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:

- \* To vote if their name appears on the electoral role for the District.
- \* To attend meetings of the Council, its Committees and the Cabinet, except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private.
- \* To inspect the Cabinet's Forward Plans to ascertain when key decisions are likely to be made.
- \* To have access to agendas, reports and background papers in relation to meetings which are open to the public, except where confidential or exempt information is being discussed.
- \* To inspect the Council's accounts at the designated times and make views known to the external auditor.

Participation - in addition may from time to time:

- \* Be consulted about the Council's plans and strategies, including the Community Plan, Best Value Performance Plan, the Community Safety Partnership Strategy and the Local Development Plan.
- \* Be invited to contribute to the work of the Overview and Scrutiny Committee.
- \* Petition to request a referendum of a mayoral form of executive, if their name is on the Electoral Role.
- \* Inspect this Constitution and obtain a copy on payment of an appropriate charge.
- \* Petition the Council on a matter - see Petition Scheme in Part 5 of this Constitution.

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

- \* Complain to the Council about any of its services in accordance with the complaints procedure, which shall be freely available to them on request.
- \* 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.
- \* Complain to the Council's Monitoring Officer if they consider that a Councillor has not followed the Council's Code of Conduct for Members.

### 3.2 Responsibilities of the Public

Members of the Public also have responsibilities. They must not be violent, abusive or threatening to Officers of the Council or to Councillors. They must not wilfully harm or damage things owned by the Council, Councillors or Officers. They must obey the procedural directions of the Chairman of any Committee or Council or Cabinet meeting, if attending that meeting.

## Article 4 - The Full Council

### 4.1 Meanings

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

- Sustainable Community Strategy;
- Corporate Plan;
- Plans and strategies which together comprise the Development Plan;
- Asset Management Plan
- Housing Strategies and policies;
- Statement of Principles under the Gambling Act 2005;
- Licensing Policy - under the Licensing Act 2003;
- Taxi and Private Hire Licensing Policy;

and any other plans and/or strategies which the Council may from time to time decide should be adopted or approved by the Council.

(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.

### 4.2 Functions of the full Council

Only the Council will exercise the following functions:

- (a) approving, adopting or amending this Constitution;
- (b) approving, adopting or amending the Policy Framework or the Budget;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the Policy Framework or the Budget where the decision maker is minded to make it in a manner which would be contrary to/or not wholly in accordance with the Policy Framework and/or the Budget;
- (d) appointing the Leader;
- (e) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
- (g) adopting an allowances scheme under Article 2.5;
- (h) changing the name of the District or conferring the title of honorary alderman,
- (i) confirming the appointment of the Head of Paid Service;

- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (k) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than The Cabinet; and
- (l) 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;

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

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

The Council will maintain Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Cabinet - which may include, subject to any statutory limitations and/or requirements - the allocation of specific functions to individual members - which may be made subject to the requirements for prior consultation - but must include arrangements in accordance with para 19.3 of the Access to Information Procedure Rules for notification of a decision by an individual member to and recording of decisions by the proper officer.

## Article 5 - Chairing the Council

### 5.1 Role and function of the Chairman

The Chairman of Council and in his/her absence, the Vice-Chairman will have the following roles and functions:

#### **CHAIRING THE COUNCIL MEETING**

The Chairman will be elected by the Council annually at the Annual Meeting in May. The Chairman will have the following responsibilities:

- (1) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (2) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- (3) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold the Cabinet members and Committee Chairmen to account; and
- (4) to promote public involvement in the Council's activities.

#### **CEREMONIAL ROLE**

The Chairman will act as the Council's first citizen, promote the Council as a whole and attend such civic and ceremonial functions as the Council and he/she may decide.

## Article 6 - Overview and Scrutiny Committee

### 6.1 Appointment and Terms of Reference

The Council will appoint the Overview and Scrutiny Committee to discharge the functions conferred by Section 21 of the Local Government Act 2000 and regulations under Section 32 of that Act.

The Overview and Scrutiny Committee will consist of a Chairman and one Vice-Chairmen and will in total comprise eight Councillors appointed by the Council in accordance with the political balance rules.

The Overview and Scrutiny Committee will have the following functions:

- a. To review and scrutinise the decisions made by and the performance of the Cabinet and the Council (including the Farnham Park Trust), both in relation to individual decisions and over a period of time.
- b. To review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and individual service areas and/or as required in relation to responses to/evidence for the Comprehensive Area Assessment.
- c. To undertake value for money reviews of services or key partnerships, which may be at the request of the Cabinet or Council or identified as part of the Committee's own work programme.
- d. To review and/or scrutinise the performance of other public bodies in the area as appropriate including participation in joint scrutiny arrangements or work across Bucks with other local authorities/partners - and to invite input from others as necessary.
- e. To have the right to question and gather evidence from any member of the Cabinet and Senior Officers (defined as Business Unit Head and above) about their decisions, performance and any other matter which is properly the remit of the Committee.
- f. If appropriate to co-opt individuals from outside the Council to attend the Committee for particular purposes, although these individuals will not have voting rights.
- g. To make recommendations to the Cabinet and/or Council arising from the scrutiny process.
- h. To have the power to make reports or recommendations to the Cabinet and/or the Council on any matter which affects the Authority's area or the inhabitants of that area.
- i. If requested to do so by the Council or the Cabinet, consider other issues including policy development.
- j. To receive and investigate non-excluded local government matters as referred to in Section 21A (1)(c) of the Local Government Act 2000 (as amended) raised by a member of the Council who is not a member of the Overview and Scrutiny Committee.

- k. To exercise the function of the Council's Crime and Disorder Committee as required by the Police and Justice Act 2006 and to receive and investigate matters concerning any local crime and disorder matter as defined by Section 19(11) of the Police and Justice Act 2006 - which are raised by a member of the Council who is not a member of the Overview and Scrutiny Committee.
- l. To respond to petitions in particular re hearing evidence from senior officers.

The Overview and Scrutiny Committee will exercise overall responsibility for the finances relevant to its work which are made available to it and will be required to prepare and submit an annual report to full Council on its work programme for the previous year, any recommendations which have not already been progressed/acted upon and its projected work programme. The Committee will have responsibility for devising a forward work programme and informing the Council of its contents from time to time as it sees fit.

- 6.2 The Overview and Scrutiny Committee will conduct its proceedings in accordance with the Overview and Scrutiny procedure rules set out in Part 4 of this Constitution and relevant legislation including but not limited to the Local Government Act 2000 as amended and the Police and Justice Act 2006 as amended.

## Article 7 - The Cabinet

### 7.1 Role

The Cabinet will be responsible for the discharge of the Executive Functions defined in Part 3 of this Constitution and in accordance with the Executive Procedure Rules in Part 4 of this Constitution.

The Cabinet will either discharge those functions collectively or by delegating them to an individual Cabinet member or by delegation to an Officer of the Council. These delegations shall be exercised in accordance with Article 12 on Decision Making.

Individual Cabinet Members may only have delegated to them decisions within their defined portfolio which are not otherwise delegated to Officers or reserved to the full Council or Cabinet.

### 7.2 Form and Composition

The Cabinet will consist of the Leader together with at least three but no more than seven other Councillors. Within these parameters the Council may from time to time amend the precise form and composition of the Cabinet and its current form is set out in the Executive Procedure Rules at Part 4 of this Constitution.

### 7.3 The Leader

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 up to the annual general meeting after the elections due in May 2011 and thereafter appointments will be for a term of four years ending on the day of the post-election annual general meeting unless he/she:

- i. resigns from the office of Leader; or,
- ii. resigns from the Council; or,
- iii. is suspended from being a Councillor under Part 3 of the Local Government Act 2000;
- iv. is removed from office by a resolution of the Council; or
- v. is otherwise disqualified from holding the office of Councillor.

### 7.4 Cabinet Members

The Leader shall appoint from the general body of Councillors the members of the Cabinet. The Leader shall also appoint from within the approved Cabinet members a Deputy Leader who shall take on, on a temporary basis, the duties of Leader if the Leader is unable to carry out those duties from time to time.

Members of the Cabinet shall hold office for a term of four years unless they:

- i. resign from the office of Cabinet member; or,
- ii. resign from the Council; or,
- iii. are suspended from being a Councillor under Part 3 of the Local Government Act 2000; or,
- iv. 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 with details of their replacement) or
- v. are otherwise disqualified from holding the office of Councillor.

#### **7.5 Policy Advisory Groups (PAGs)**

Following nominations from the Group Leaders, each Cabinet Member will set up and chair a Policy Advisory Group (PAG) appointed to advise the Cabinet Member individually on particular issues and matters of current interest. PAGs are advisory only and the decision rests with the Portfolio Holder. These Groups will support the Cabinet Member and involve other members in the work of the Cabinet and provide opportunities for members to acquire experience of executive decision making.

PAG meetings will be called by the Cabinet Member as required, and the Cabinet Member will approve the agenda for the meeting.

PAG meetings maybe attended by any member of the Council, who may speak with the consent of the Chairman, but will not be open to the public. The proceedings and role of PAGs shall be in accordance with Executive Procedure Rules set out in Part 4 and the Protocol for the Operation of PAGs in Part 5 of this Constitution.

#### **7.6 Temporary Replacements**

Where the Leader ceases to hold office other than by the normal expiry of their term of appointment, the Council shall appoint a replacement to hold office until the date of the next post election Annual Meeting of the Council.

Where a member of the Cabinet ceases to hold office other than by the normal expiry of their term of appointment, the Leader shall appoint a replacement to hold office until the end of the current term of office of Cabinet members.

#### **7.7 Proceedings of the Cabinet**

Proceedings of the Cabinet shall take place in accordance with the Executive procedure rules set out in Part 4 of this Constitution.

The Cabinet is responsible for the Executive Functions as defined in this Constitution and will ensure that they maintain, review and update as necessary the proper arrangements for the discharge of those functions - which may include, subject to any statutory limitations and/or requirements - the allocation of specific functions to the Cabinet (being a meeting of all members of the Executive), to individual members of the Executive (including the Leader), to an officer, to another authority or to a Joint Committee - and may be made subject to the requirements for prior consultation or not (ie. without prior consultation with a PAG) - but must include arrangements in accordance with para 19.3 of the Access to Information Procedure Rules for notification of a decision by an individual member to and recording of decisions by the proper officer.

## 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 Cabinet or any individual Cabinet member.

The Council will appoint the committees set out in Part 3 of this Constitution (Responsibility for Council Functions) to discharge the functions described there.

## Article 9 - The Standards Committee

### 9.1 Standards Committee

The Council will establish a Standards Committee.

### 9.2 Composition

The Standards Committee shall be composed of six District Councillors, three representatives of Town and Parish Councils (to be appointed by the South Bucks Association of Local Councils) who are not also District Councillors, and three independent members, in order to maintain at least 25% of the Standards Committee as independent members.

Independent and Parish members will be entitled to full voting rights at meetings and a Parish member must be present when a matter relating to any Parish or Town Council or its Members is being considered. When such a matter relates to a specific Parish or Town Council, the member attending and voting should not be a Member of that Town or Parish Council.

### 9.3 Remit

The Remit of the Committee will be as follows:

- a. To develop and then subsequently review on a regular basis the Code of Conduct for Members and also for Officers.
- b. To monitor the effect of implementation of the Codes of Conduct.
- c. To receive any references from Standards for England and deal with them as necessary.
- d. To receive complaints and thereafter consider, review, investigate, conduct hearings and impose sanctions as may be required.
- e. To promote on an active basis the highest standards of ethical conduct by Councillors and Officers.
- f. To provide training and guidance to Councillors, including assisting Parishes to train their own Councillors, on all aspects of Codes of Conduct and adherence to ethical standards for Councillors.
- g. To consider the withdrawal of allowances, wholly or in part, in the event of any member being suspended.
- h. To consider and grant dispensations for District and Parish Councillors of South Bucks.
- i. To consider applications to grant exemptions from the political restrictions of officers of the Council and to determine applications to add posts to the list of restricted posts.

## 9.4 Proceedings

The Standards Committee will conduct its business in accordance with the Council Procedure Rules set out in Part 4 of this Constitution.

## Article 10 - Officers

### 10.1 Management Structure

The appointment of the Head of Paid Service and Strategic Directors together with any Political Assistant posts which may from time to time exist, shall be the responsibility of the Appointments Panel set up by the Council to carry out these tasks. In the case of the Head of Paid Service, the recommendation must be made to the full Council which will make the appointment.

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

### 10.2 The Council has responsibility for designating the following statutory posts:

- a. Head of Paid Service
- b. Chief Finance Officer
- c. Monitoring Officer

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

- a. Head of Paid Service will be the Chief Executive.
- b. Chief Finance Officer will be the Director of Resources.
- c. Monitoring Officer will be the Head of Legal Services.

### 10.3 The Head of Paid Service will determine and publicise the description of the overall departmental Officer structure of the Council, showing the management arrangements and the deployment of Officers. The management structure is shown at Part 7 of this Constitution.

### 10.4 Duties of the Head of Paid Service

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

The Head of Paid Service shall not also hold the role of Monitoring Officer.

## 10.5 Duties of the Monitoring Officer

The Monitoring Officer will have the responsibility to:

- a. Maintain and amend the Constitution as necessary, subject to the approval of the Council under the provisions of Article 14.
- b. After consultation with the Head of Paid Service and the Chief Finance Officer, will report to the full Council or to the Cabinet (the latter 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 proposal or decision being implemented if implementation has not already occurred, until the Monitoring Officer's report has been considered.
- c. Will provide support to the Standards Committee in order to contribute to the promotion and maintenance of high standards of conduct.
- d. Receive and act upon complaints received and referred by the Standards Committee - and decisions/reports of Standards for England and/or the First Tier Tribunal (Local Government Standards for England)- and to conduct or cause to be conducted investigations into allegations and arrange and hold hearings of the Standards Committee as required.
- e. Will ensure that decisions of the Cabinet or of individual members of the Cabinet, 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 Rules set out in Part 4 of this Constitution.
- f. Will advise whether decisions of Cabinet or individual members of Cabinet are within the approved budget and policy framework of the Council and will carry out this role in consultation with the Head of Paid Service and the Chief Finance Officer as necessary.
- g. Will provide advice to all Councillors on the scope and powers and authority to take decisions, maladministration issues, financial impropriety, probity and budget policy framework matters.
- h. The Monitoring Officer cannot be the Head of Paid Service or the Chief Finance Officer.

## 10.6 Duties of the Chief Finance Officer

- a. Will report to the full Council or to the Cabinet (the latter in relation to an Executive function) and the Council's Auditor if he/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. This report will follow consultation with the Head of Paid Service and the Monitoring Officer.
- b. Will have responsibility for the administration of the financial affairs of the Council.
- c. Will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

- d. 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 also support and advise Councillors and Officers in their respective roles.
- e. Will provide financial information to the media, members of the public and the community.

#### **10.7 Duty to Provide Sufficient Resources**

The Council will provide the 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.

#### **10.8 Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

#### **10.9 Employment**

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

## Article 11 - Joint Arrangements

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

The Waste Committee for Bucks has been designated as a Joint Committee under S. 102 of the Local Government Act 1972 for the purpose of discharging relevant functions.

The Shared Services Joint Committee has been designated as a Joint Committee under S. 102 of the Local Government Act 1972 for the purpose of discharging relevant functions.

The Evreham Sports Centre Management Committee has been designated as a Joint Committee under S. 102 of the Local Government Act 1972 for the purpose of discharging relevant functions.

## Article 12 - Decision Making

### 12.1 Principles of Decision making

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

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

- (i) that the decision is within the powers of the Council;
- (ii) that all relevant matters were fully taken into account in reaching decisions;
- (iii) proportionality - that in any decision the action was proportionate to the desired outcome;
- (iv) that Council Procedure Rules, Financial Procedure Rules, Contracts Procedure Rules and Access to Information Rules were complied with;
- (v) that the decision has taken into account the provisions of the Human Rights Act;
- (vi) that the decision was taken with due consultation with and the appropriate professional advice from all relevant officers;
- (vii) that any member concerned considered whether he/she had any declarable interest in the particular item and if necessary made a declaration of interest;
- (viii) that the current scheme of delegation had been complied with;
- (ix) that the decision was taken in an open and transparent manner;
- (x) that the decision is clear in terms of its aims and desired outcomes;
- (xi) that the decision was taken in accordance with Council's aims and strategies;
- (xii) that the decision was 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 full Council. Decisions relating to the functions listed in Article 4.2 will be made by the full Council and not delegated.
- (b) Key decisions
- (c) All other decisions taken by the Council or on its behalf and not included in (a) or (b) above.

### **12.3 "Key Decision"**

Key decision is defined by Regulation 8 of the Local Government Access to Information (England) Regulations 2000 to comprise any decision which is likely to:

- (i) result in expenditure or the making of savings which are significant, having regard to the budget for the function or service to which the decision relates; or
- (ii) be significant in its effect on persons living or working in an area comprising two or more wards in the District.

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 Decision making by the full Council**

Subject to Article 12.8, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### **12.5 Decision making by the Cabinet**

Subject to Article 12.8, the Cabinet will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### **12.6 Decision making by Overview and Scrutiny Committee**

The Overview and Scrutiny Committee will follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

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

Subject to Article 12.8, 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.

### **12.8 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 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 Contracts Procedures Rules set out in Part 4 of this Constitution.

### **13.3 Legal proceedings**

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

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

Any contract with a value exceeding £10,000 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 Contracts 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 Head of Legal Services. A decision of the Council or one of its Committees or the Cabinet 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 Head of Legal Services should be sealed. The affixing of the Common Seal will be attested by the Chairman of the Council or some other Councillor authorised by him/her and by the Director of Resources or some other officer authorised by him/her.

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

## Article 14 - Review and Revision of the Constitution

### 14.1 Duty to monitor and review the constitution

The Chief Executive will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

The Chief Executive should be aware of the strengths and weaknesses of the Constitution adopted by the Council and should 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 Chief Executive may:

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

### 14.2 Changes to the Constitution

- (a) **Approval.** Changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Cabinet taking into account advice from the Chief Executive.
- (b) **Change from a leader and cabinet form of executive to alternative arrangements, or vice versa.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals. If the change proposed is to a Mayoral form of Executive, it can only be implemented after being approved in a local referendum.

## 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 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.

### 15.2 Interpretation

The ruling of the Chairman of 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 give a printed copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.
- (b) The Chief Executive 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.

## Schedule 1: Description of Cabinet Arrangements

The following parts of this Constitution constitute the Cabinet arrangements:

1. Article 6 - Overview and Scrutiny Committee, and the Overview and Scrutiny Procedure Rules;
2. Article 7 -The Cabinet, and the Executive Procedure Rules;
3. Article 11 - Joint arrangements
4. Article 12 - Decision Making, and the Access to Information Procedure Rules;
5. Part 3 - Responsibility for Functions.