



CONSTITUTION

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, comprises the Constitution of Waverley Borough Council (“Waverley”, “the 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 Council’s decision-making;
- (c) help councillors represent their constituents effectively;
- (d) enable decisions to be taken efficiently and effectively;
- (e) create an effective way of holding decision-makers to public account;
- (f) ensure that no one will review or scrutinise an Executive decision in which they were directly involved;
- (g) ensure that those responsible for decision-making are clearly identifiable and that they explain the reasons for decisions; and
- (h) provide a way for the Council to improve its services continually.

1.4 Interpretation and review of the Constitution

- (a) 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.
- (b) 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

- (a) **Composition.** The Council comprises 50 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 Boundary Commission for England and approved by the Secretary of State.
- (b) **Eligibility.** Only registered voters of Waverley Borough area or those living or working in the Borough will be eligible under the law to hold the office of councillor. The eligibility criteria for a person to be qualified to be elected and be a councillor are set out in Section 79 of the Local Government Act 1972.

2.2 Election and terms of councillors

The regular election of councillors will normally be held on the first Thursday in May every four years. The term 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. By-elections will be held for vacancies as they arise.

2.3 Roles and functions of all councillors

(a) Key roles

In accordance with the Waverley Code of Conduct, the Member/Officer Protocol, and the Members' Planning Code of Good Practice, and maintaining the highest standards of conduct and ethics, all councillors will:

- (i) collectively be the ultimate policymakers and oversee a number of strategic and corporate management functions
- (ii) represent their communities and bring their views into the Council's decision-making process
- (iii) deal with individual casework and act if appropriate as an advocate for constituents in resolving concerns or grievances
- (iv) balance different interests identified within the ward and represent the ward as a whole
- (v) be involved in decision-making
- (vi) be available to represent the Council on other bodies.

(b) Rights and duties

- (i) Councillors shall have such rights of access to such documents, information, land, and buildings of the Council as are necessary for them to discharge their functions properly and in accordance with the law.
- (ii) Councillors must not make public information which is confidential or exempt without the consent of the Council or divulge information that is given in confidence to anyone other than another councillor or an 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 must always observe the Waverley Members’ Code of Conduct and the Member/Officer Protocol set out at Part 5 of this Constitution.

2.5 Allowances

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

Article 3 – Citizens and the Council

3.1 Citizens' rights

Citizens of Waverley Borough are the people registered as electors, together with all other people living or working in the Borough. Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution.

(a) Voting and petitions

Citizens on the electoral roll for the borough have the right to:

- (i) vote at elections
- (ii) petition to request a referendum for a Mayoral form of Executive
- (iii) petition the Council on matters of local concern.

(b) Information

Citizens have the right to:

- (i) attend meetings of the Council, the Executive and Committees where decisions are being discussed, except where confidential or exempt information is likely to be discussed, and the meeting is therefore held in private;
- (ii) find out from the Executive's Forward Plan of Decisions, what decisions are to be discussed by the Executive and when;
- (iii) see public reports and background papers, and any record of decisions made by the Council, Leader, Portfolio Holders, the Executive and Committees, except where confidential or exempt information is likely to be disclosed, and the report or record is therefore in private;
- (iv) a copy, on making a written request, of all types of recorded information held by the Council, subject to a range of exemptions under the Freedom of Information Act 2000;
- (v) on making a written request and upon payment of a fee, a copy of any personal data held about him or her, under the Data Protection Act 2018;
- (vi) inspect the following documents:
 - The Constitution
 - The Register of Councillors' Interests
 - The Council's accounts as part of the annual audit and to make their views known to the external auditor
 - The pay and remuneration policies for chief and senior staff officers.
- (vii) contact their local Councillor about any matters of concern to them.

(c) Participation

Citizens have the right to participate in the Council's business by:

- (i) Signing a petition:
 - To request a referendum to replace the Council's political management model.
 - To request the establishment of a parish council or similar Community Governance Review.
 - on matters of local concern in accordance with the Council's Petition Scheme.
- (ii) Asking questions or addressing meetings of the Council, Executive and Committees, in accordance with the arrangements set out in the Procedure Rules in Part 4 of this Constitution.
- (iii) Making representations to the Licensing Committee or its Sub-Committees as applicants or objectors in respect of individual applications;
- (iv) Making representations at a Planning Committee in accordance with the Council's (non-statutory) Scheme for Public Speaking at Planning Committees;
- (v) Reporting on the proceedings at all open meetings of the Council by filming, photographing, audio-recording, using social media, and providing written commentaries during a meeting and oral commentaries outside of a meeting.
- (vi) Initiating a Community Right to Buy, Community Right to Build, Community Right to Bid, Community Right to Challenge, or participate in Neighbourhood Planning, as identified by the Localism Act 2011.
- (vii) Standing for election as a councillor if they live or work in the Council's area, in line with guidance from the Electoral Commission.

(d) Complaints

Citizens have the right to complain to:

- (i) the Council itself under its complaints procedure;
- (ii) the Local Government and Social Care Ombudsman or the Local Government Housing Ombudsman, after using the Council's own complaints procedures, if they think that the Council has not followed its procedures properly
- (iii) the Information Commissioner, after using the Council's own complaints procedures, if they think that the Council has not properly answered a Freedom of Information request or a Data Protection Subject Access Request
- (iv) the Council's Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Members' Code of Conduct.

3.2 Citizen's responsibilities

Citizens must not be violent, abusive or use threatening behaviour to councillors or officers and must not wilfully harm things owned by the Council, councillors or officers. Anyone causing a disturbance at a meeting will be removed from the meeting.

Article 4 – The Full Council

4.1 Definitions

(a) Policy Framework

By law, the Council must have a Policy Framework comprising a list of plans and strategies which are relevant to the Council's functions and are required by law to be decided by the Full Council, usually on the recommendation of the Executive, supplemented by other plans and strategies that the Council wishes to add. The Policy Framework comprises:

- (i) The Council's Corporate Strategy
- (ii) The Waverley Community Safety Strategy (Crime and Disorder Reduction Strategy)
- (iii) Plans and strategies which together comprise the Waverley Borough Development Plan, including Local Plan Parts 1 and 2
- (iv) The plans and strategies that comprise the Housing Investment Programme and Strategy
- (v) The Statement of Licensing Policy
- (vi) The Statement of Gambling Policy
- (vii) The Climate Emergency Strategy
- (viii) Any other plan or strategy (whether statutory or non-statutory) in respect of which the Council from time to time determines that the decision on its adoption or approval should be taken by Full Council rather than the Executive.

(b) Budget

The Budget Framework includes the allocation of financial resources to different services and projects, the setting of virement limits (that is, the transfer of funds between budget headings), proposed contingency funds and other provisions and reserves, council tax setting and other local taxation matters, setting council house rent levels, and decisions relating to the Council's treasury management activities including investments, borrowing limits and the control of capital expenditure.

The Budget Framework is set out in the following:

- General Fund Budget
- Medium Term Financial Plan
- Housing Revenue Account Business Plan
- Capital Strategy, including Treasury Management Strategy, Prudential Indicators and Asset Investment Strategy

(c) Housing Land Transfer

Housing Land Transfer means to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

4.2 Functions of the Full Council

- (a) While most decisions can be taken by the Executive, by law the functions of budget and council tax setting, the policy framework, planning and licensing,

elections, staffing, bylaws, and local legislation can only be carried out by Full Council or one of its committees, sub-committees, joint committees or an officer.

- (b) Part 3 of this Constitution sets out in:
 - Table 1 – the functions reserved to Full Council
 - Table 2 – the functions delegated to Committees
 - Appendix 4 – the functions delegated to officers

4.3 Council meetings

There are five types of Council meeting:

- (a) the annual meeting (at which the Mayor is elected)
- (b) ordinary meetings (on dates agreed annually)
- (c) budget/council tax meetings
- (d) extraordinary meetings (to deal with urgent or special business)
- (e) informal meetings.

Meetings 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 the tables in Part 3 of this Constitution setting out the responsibilities for Council's functions which are not the responsibility of the Leader/Executive.

Article 5 – Chairing the Council

5.1 Election of Mayor and Deputy Mayor

- (a) The Mayor and Deputy Mayor will be elected by the Council annually from amongst the councillors.
- (b) Neither they Mayor nor the Deputy Mayor may be members of the Executive.

5.2 Period of Office

- (a) The Mayor will, unless they resign or are disqualified, continue in office until a successor becomes entitled to act as Mayor.
- (b) The Deputy Mayor will, unless they resign or are disqualified, hold office until immediately after the election of a Mayor at the next Annual Meeting of the Council.
- (c) During their terms of office, the Mayor and Deputy Mayor will continue to be members of the Council notwithstanding the provisions of the Local Government Act 1972 relating to the retirement of councillors.

5.3 Role and function of the Mayor

The Mayor, and in their absence the Deputy Mayor, will have the following roles and functions:

- (a) to attend such civic and ceremonial functions as the Council and they determine appropriate.
- (b) in accordance with legislation and Procedure Rules, 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 a forum for the debate of matters of concern to the local community and the place at which members who are not on the Executive or hold Committee chairs are able to hold the Executive and Committee chairmen to account
- (d) to promote public involvement in the Council's activities
- (e) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary
- (f) to be the conscience of the Council
- (g) to assume any role in resolving disputes given to the Chair under the Executive Procedure Rules.

Article 6 – Overview and Scrutiny

6.1 Overview and Scrutiny

- (a) The Council will establish one or more Overview and Scrutiny committees, to discharge the Overview and Scrutiny functions conferred by Section 9F of the Local Government Act 2000 (as amended).
- (b) One of the Overview and Scrutiny Committees will be designated as the Council's Crime and Disorder Committee for the purpose of Section 19 of the Police and Justice Act 2006.
- (c) The Overview and Scrutiny Committees currently established, their areas of responsibility and terms of reference are set out in Part 3 of this Constitution.
- (d) Overview and Scrutiny Committees will decide their own work programme and working arrangements subject to any directions by the Council and/or inclusion of matters referred by the Leader/Executive/Portfolio Holders.

6.2 Proceedings of Overview and Scrutiny Committees

- (a) The guiding principle of the overview and scrutiny function is that the process should make a positive contribution to the work of the Council. The work will be informed by the following principles:
 - (i) Provides a constructive 'critical friend' challenge
 - (ii) Amplifies the voices and concerns of the public
 - (iii) Is led by independent people who take responsibility for their role, and
 - (iv) Drives improvement in public services.
- (b) Overview and Scrutiny Committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution. Overview and Scrutiny Committees may authorise Waverley media releases on their work, the content of which is to be agreed jointly by the appropriate Overview and Scrutiny Committee Chair and Vice-Chair.

Article 7 – The Leader, the Deputy Leader and the Executive

7.1 Appointment of the Leader

- (a) The Leader will be a councillor elected to the position of Leader by the Council.
- (b) The Leader will hold office for a four-year term from the first annual meeting of the Council following the Borough Council elections, expiring on the day of the annual meeting following the next Borough Council elections, unless at an earlier date
 - (i) they resign from office; or
 - (ii) they are removed from office by way of resolution by a simple majority of the Council;
 - (iii) they are no longer a councillor; or
 - (iv) they are disqualified from being a councillor under Section 34 of the Localism Act 2011.
- (c) If the current Leader is re-elected, they will remain Leader until the date of the next Annual Council Meeting.
- (d) If there is a vacancy in the position of Leader, the Leader will be elected at the first meeting of the Council following such vacancy for a term of office expiring on the day of the annual meeting following the next Borough Council elections, subject to (i) to (iv) above.

7.2 Role of the Leader

- (a) The Leader will carry out all the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution, unless otherwise delegated by them. All delegations by the Leader will be set out in Part 3 of this Constitution.
- (b) The role of the Leader is to:
 - (i) provide strong political and community leadership;
 - (ii) identify and promote the Council's core values and strategic objectives, develop and implement the Council's Corporate Strategy and other plans and strategies that deliver this strategy;
 - (iii) lead the development of local, regional and national policy and strategic partnerships to drive forward the Council's strategic objectives and policies;
 - (iv) maintain effective working relationships of councillors with the Chief Executive, Statutory Chief Officers, and all employees of the council;
 - (v) chair the Executive and oversee the preparation of business for its consideration;
 - (vi) appoint the Deputy Leader and other members of the Executive.
- (c) Only the Leader will exercise the following functions:
 - (i) appoint up to nine other councillors to the Executive.
 - (ii) appoint the Deputy Leader from among the Executive members.

- (iii) allocate or re-allocate areas of responsibility (portfolios) to Executive members.
- (d) The Leader may at any time remove members from the Executive or change Executive members' areas of responsibility.
- (e) The Leader shall report to the next appropriate meeting of the Full Council on all appointments and changes to the Executive.

7.3 The Deputy Leader

- (a) The Leader shall appoint one of the Executive members to be the Deputy Leader. The Deputy Leader will normally hold office until the end of the Leader's term of office unless before that day that person:
 - (i) is removed from office by the Leader; or
 - (ii) is disqualified from being a councillor under Section 34 of the Localism Act 2011; or
 - (iii) resigns as Deputy Leader; or
 - (iv) ceases to be a councillor.

In the event of any of the above occurring, the Leader will appoint another member of the Executive as Deputy Leader at the earliest opportunity.

- (b) The Deputy Leader will be Vice-Chair of the Executive and if, for any reason, the Leader is unable to act, or the office of the Leader is vacant, the Deputy Leader must act in their place and shall be entitled to exercise all functions reserved to the Leader until such time as the Leader is able to act or until a new Leader is elected by the Council.
- (c) If for any reason the Leader is unable to act, or the office of the Leader is vacant, and the Deputy Leader is unable to act or the office of Deputy Leader is vacant, the remaining members of the Executive must either act collectively in the Leader's place or they must arrange for a member of the Executive to act in the place of the Leader.

7.4 Other Executive members

- (a) Other Executive members will be appointed by the Leader and will be allocated specific portfolios of responsibility by the Leader. They shall hold office until the end of the term of office of the Leader unless before that day:
 - (i) they are removed from office by the Leader; or
 - (ii) they are disqualified from being a councillor under Section 34 of the Localism Act 2011; or
 - (iii) they resign from office; or
 - (iv) they cease to be a councillor.
- (b) The Mayor and Deputy Mayor of the Council may not be members of the Executive.
- (c) The role of the Portfolio Holder is

- (i) to be accountable for those services within their portfolio areas, taking the lead publicly in relation to the Executive's activities in those areas both inside and outside the Council;
- (ii) to take the lead on discussions at Executive meetings on their portfolio areas;
- (iii) to present any Executive recommendations on matters within their portfolio areas to Council;
- (iv) to respond to issues raised by the Overview and Scrutiny committees on their portfolio areas.

7.5 The Executive

(a) Role

The Executive will carry out all of the Council's functions which are within the policy framework and budget set by the Council and are not the responsibility of any other part of the local authority, whether by law or under this Constitution, as delegated by the Leader.

(b) Form and composition

The Executive will consist of the Leader and Deputy Leader, who shall act as the Chair and Vice-Chair respectively, together with up to eight other councillors appointed by the Leader.

Members of the Executive may not also be members of an Overview and Scrutiny Committee.

(c) Proceedings of the Executive

Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution. All decision-taking meetings will be open to the public in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution, except when confidential or exempt information is being considered.

Article 8 – Regulatory and other Committees

8.1 Regulatory and Other Committees

- (a) The Council has established committees to discharge some of its non-executive functions. These committees are listed below, and their responsibilities and terms of reference are set out in Part 3 of this Constitution.
- (b) The Committees will follow the Council's Procedure Rules set out in Part 4 of this Constitution, unless specified otherwise.
- (c) Regulatory and Other Committees:
 - (i) Audit and Risk Committee
 - (ii) Standards and General Purposes Committee
 - (iii) Planning Committee
 - (iv) Licensing and Regulatory Committee
 - (v) Licensing (General Purposes) Sub-Committee
 - (vi) Licensing Act 2003 Sub-Committees (A, B and C)
 - (vii) Appeals Panel

Article 9– Area Committees and forums

9.1 Area committees

- (a) The Council may appoint area committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making.
- (b) The Council will consult with relevant Parish and Town Councils and the chairs of relevant parish meetings when considering whether and how to establish area committees.

Article 10 – Joint arrangements

10.1 Arrangements to Promote Well-Being

The Council or the Leader/Executive, in order to promote the economic, social or environmental well-being of the Borough, may:

- (a) enter into arrangement or agreements with any person or body;
- (b) co-operate with, 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.

10.2 Joint arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Leader/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. The Leader/Executive may appoint members of the Executive to a joint committee where the joint committee exercises executive functions.
- (c) Details of any joint arrangements which have been established, including delegations to joint committees, are set out in Part 3 of this Constitution.

10.3 Access to Information

- (a) The Access to Information Procedure Rules in Part 4 of this Constitution apply.
- (b) If all the members of a joint committee are members of the Executive in each of the participating authorities, then its access to information regime is the same as that applied to the Executive.
- (c) If the joint committee contains members who are not on the Executive of any participating authority, then the access to information rules in Part VA of the Local Government Act 1972 will apply.

10.4 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 Leader/Executive may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council.

10.5 Contracting out

The Council (for functions which are not executive functions) and the Leader/Executive (for executive functions) may contract out to another body or organisation functions which may be exercised by an Officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision-making

Article 11 – Officers

11.1 Management structure

(a) General

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

(b) Chief Executive

In collaboration with Guildford Borough Council, the Council will engage a Joint Chief Executive who will have the following functions and responsibilities

Leadership of the Council's Service

- To be responsible to councillors for the efficient leadership and management of the Council's paid service

Financial Management and Provision of Best Value Service

- To be accountable for ensuring that the Council's services are provided and monitored in a cost-effective manner, achieving best value from expenditure.
- To exercise the Council's responsibilities to maintain an adequate and effective system of internal audit of the accounting records and control systems.
- To suspend a member of staff from the workplace for up to 48 hours to enable investigations to be undertaken.

Working in Partnership with Councillors

- To establish and maintain effective and enduring operational processes and relationships with councillors to ensure that the political decision-making process takes place in an informed and integrated manner.

Managing Change

- To manage the development and promotion of forward strategic process to enable the Council to deliver its aims and objectives, whilst ensuring that all opportunities are identified to modernise and improve local government within Waverley.

The Joint Chief Executive, together with the Joint Strategic Directors, shall comprise the Council's Joint Corporate Management Board.

(c) Joint Strategic Directors

- (i) In collaboration with Guildford Borough Council, the Council will engage three Joint Strategic Directors, as follows:
- Joint Strategic Director – Community Wellbeing
 - Joint Strategic Director - Place
 - Joint Strategic Director – Transformation & Governance

- (ii) In addition to their roles in managing their respective services, the Joint Strategic Directors will have the following over-arching functions and responsibilities:
- To ensure the direction and operation of those services is co-ordinated with each other and meets the expectations of the Executive and the Management Board without detracting from the ability of the Joint Executive Heads of Service to manage their own service or detract from their accountability for its service delivery and performance.
 - To communicate effectively with the Leader, relevant Portfolio Holder(s), the Joint Chief Executive, other Joint Strategic Directors (within and outside Management Team meetings) and the allocated Joint Executive Heads of Service to ensure timely and accurate knowledge and understanding across the Council of its policies, objectives, direction, and current operational and contextual issues and challenges.
 - To represent the service views of the services they have responsibility for and in turn act corporately in managing or guiding the delivery of the Council's policies and objectives.
 - To support the Head of Paid Service as necessary.
 - To liaise with the relevant Portfolio Holder(s) and work with them in the delivery of the key service area

(d) Executive Heads of Service

In collaboration with Guildford Borough Council, the Council will engage such Executive Heads of Service as identified in the Management Structure at Part 7 of this Constitution, to have the following over-arching functions and responsibilities:

- As part of the Joint Management Team of the Council, to ensure corporate working across services and to help lead the Council in delivering services to citizens living and working in the borough area.
- To promote a culture of continuous improvement and develop the capacity and ability of the organisation to develop.
- To maintain effective partnerships to assist the Council in delivering the needs and role of the community it serves.

(e) Statutory Chief Officers

The Council will designate the following Statutory Chief Officers

Post	Designation
Joint Chief Executive	Head of Paid Service
Joint Executive Head of Legal and Democratic Services	Monitoring Officer
Joint Executive Head of Finance	S151 Chief Finance Officer

Such posts will have the functions described in Article 11.2–11.4 below.

f) Structure

The Head of Paid Service will determine and publicise a description of the overall management structure of the Council and deployment of officers. This is set out at Part 7 of this Constitution.

11.2 Functions of the Head of Paid Service

- (a) Discharge of functions by the Council.** The Head of Paid Service will report to full Council on the way the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) Restrictions on functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if they are a qualified accountant.

11.3 Functions of the Monitoring Officer

The list of functions below reflects the statutory duties and powers 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 councillors, staff and the public and is available on the Council's website.
- (b) Contributing to Corporate Management.** The Monitoring Officer will contribute to the corporate management of the Council, in particular through the provision of professional legal and ethical advice
- (c) Ensuring lawfulness and fairness of decision-making.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Leader/Executive if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (d) Supporting the Standards and General Purposes Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards and General Purposes Committee.
- (e) Conduct of Councillors.** The Monitoring Officer will ensure compliance with the Council's responsibilities and arrangements for dealing with allegations of misconduct by councillors and co-opted members as set out in Part 5 of this Constitution.
- (f) Advice on Budget and Policy Framework.** The Monitoring Officer will advise whether executive decisions are in accordance with the budget and policy framework.

- (g) **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.
- (h) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

11.4 Functions of the Chief Finance Officer

- (a) **Ensuring lawfulness and financial prudence of decision-making.** After consulting with the Monitoring Officer, the Chief Finance Officer will report to the full Council, or to the Leader/Executive in relation to an executive function, and the Council's external auditor if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Chief Finance 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 the elected mayor and will support and advise councillors and officers in their respective roles.
- (e) **Give financial information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.
- (f) **Determining accounting records and control systems.** The Chief Finance Officer will determine the Council's accounting records (including the form of accounts and supporting records) and the accounting control systems.
- (g) **Calculating the Council Tax.** In connection with the calculations to set the council tax, the Chief Finance Officer will report on:
 - (i) the robustness of the estimates made for the purpose of the calculations; and
 - (ii) the adequacy of financial reserves.

11.5 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer

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.

11.6 Conduct

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

11.7 Employment

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

Article 12 – Decision making

12.1 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 Part 3 of this Constitution.

12.2 Principles of decision-making

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

- (a) proportionality (i.e., the action must be proportionate to the desired outcome)
- (b) respect for human rights
- (c) a presumption in favour of openness
- (d) clarity of aims and desired outcomes
- (e) that members are fully and effectively supported and advised by officers in exercising both executive and non-executive functions
- (f) that decisions are only taken after the proper consideration of written reports which comply with the principles of the Access to Information legislation
- (g) that relevant matters are fully considered in decision-making, and nothing irrelevant is taken into account
- (h) that the Council's constitution is fully complied with
- (i) that decisions are recorded by officers and published, together with the reasons and relevant background papers

12.3 Types of decision

- (a) **Decisions reserved to full Council.** Decisions relating to the functions listed in Table 1 of Part 3 of this Constitution will be made by the Full Council and not delegated.
- (b) **Key Decisions:**
 - (i) A 'key decision' means an executive decision that is likely to result in the local authority incurring expenditure or making savings of above £200,000 and/or
 - (ii) be significant in terms of its effects on communities living or working in an area comprising two or more wards.
 - (iii) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules and Access to Information Procedure Rules set out in Part 4 of this Constitution.

12.4 Decision making

All decision making must comply with the relevant Articles and Procedure Rules set out in this Constitution.

12.5 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.

12.6 Mandatory Training

To facilitate good quality decision-making, councillors are encouraged to attend all relevant training sessions provided by the Council. However, the following training is deemed to be mandatory and councillors who have not undertaken the required training will not be able to take part in the decision-making process:

Type of decision	Decision	Training required
Planning	Determination of planning applications and any other related consent applications	Annually – all members of the Planning Committees
Licensing	Determination of applications for licenses under the Licensing Act 2003 and Gambling Act 2005; determination of Hackney Carriage and Private Hire licenses	All members of the Licensing and Regulatory Committee
Standards	Hearing and determination of complaints of member misconduct	All members of the Standards and General Purposes Committee
Equalities	All decisions	All councillors

Article 13 – Finance, contracts and legal matters

13.1 Financial Management

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

13.2 Contracts

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

13.3 Legal proceedings

- (a) The Borough Solicitor 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;
- (b) If time permits and there is a significant change of circumstances from when the Council took a decision, the Borough Solicitor will report to the Executive on the cost involved; and
- (c) Where a case of urgency arises and the Borough Solicitor considers that such action is necessary to protect the Council's interests, the Borough Solicitor is authorised to institute, defend, or participate in any legal proceedings.

13.4 Authentication of documents

- (a) Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Borough Solicitor or other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.
- (b) Any contract with the values set out in Contract Procurement Rules entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made under the common seal of the Council attested by at least one officer.

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 Borough Solicitor. 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 that in the opinion of the Borough Solicitor should be sealed. The affixing of the Common Seal will be attested by the Borough Solicitor or the Executive Head of Legal and Democratic Services.

Article 14 – Review and revision of the Constitution

14.1 Duty to monitor and review the Constitution

- (a) The Monitoring Officer and the Standards and General Purposes Committee will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.
- (b) The Audit Committee will monitor and review the Constitution in respect of financial procedures and contract procurement rules.

14.2 Changes to the Constitution

- (a) Any councillor, committee, or the Leader/Executive may submit proposals for changes to this Constitution to the Council, through the Monitoring Officer, for consideration.
- (b) Apart from the following exceptions, changes to the Constitution will only be approved by the Full Council after consideration of any recommendations or representations made by the Standards and General Purposes Committee, Audit and Risk Committee or Executive, as necessary.
 - (i) the Monitoring Officer may generally update the Constitution to correct errors, or to reflect changes in legislation, or make amendments consequential upon changes to operational arrangements, without prior report, subject to consultation with the Executive Portfolio Holder with responsibility for governance and prompt report of the changes to the Council.
 - (ii) the Leader/Executive in respect of amendments to Part 3 relating to executive functions.

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 Procedure 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 is 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, with a maximum of the duration of that meeting.
- (c) Rules capable of suspension.** The following Council Procedure Rules may be suspended in accordance with Article 15.1:
14.4 and 14.5 Content and length of speeches

15.2 Interpretation

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

15.3 Publication

- (a)** The Monitoring Officer will ensure that where a councillor so wishes a printed copy of this Constitution is provided to them following their election to the Council.
- (b)** The Monitoring Officer will ensure that an up-to-date copy of the Constitution is available for viewing on the Council's website.
- (c)** The Monitoring Officer will ensure that a copy of the Constitution is available for inspection at Council Offices and can be purchased on payment of a reasonable fee.

Schedule 1: Description of Executive Arrangements

The following parts of this Constitution constitute the executive arrangements:

1. Article 6 (Overview and Scrutiny Committees) and the Overview and Scrutiny Procedure Rules set out in Part 4
2. Article 7 (The Leader, Deputy Leader, and Executive) and the Executive Procedure Rules set out in Part 4
3. Article 9 (Area Committees)
4. Article 10 (Joint Arrangements)
5. Article 12 (Decision Making) and the Access to Information Procedure Rules set out in Part 4