

Part 2
**Articles of the
Constitution**

Article 1 – The Constitution

1.01 Powers of the Council

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

1.02 The Constitution

This Constitution, and all its appendices, is the Constitution of St Albans City and District Council.

1.03 Purpose of the Constitution

The purpose of the Constitution is to:

1. enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations
2. support the active involvement of citizens in the process of local authority decision making;
3. help councillors represent their constituents more effectively;
4. enable decisions to be taken efficiently and effectively;
5. create a powerful and effective means of holding decision-makers to public account;
6. ensure that no one will review or scrutinise a decision in which they were directly involved;
7. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
8. provide a means of improving the delivery of services to the community.

1.04 Interpretation and Review of the Constitution

1. 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.
2. The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

Article 2 – Members of The Council

2.01 Composition and eligibility

- (a) **Composition.** The Council will comprise 58 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 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.

2.02 Election and terms of councillors

Election and terms. The ordinary election of a third (or as near as may be) of all councillors will be held on the first Thursday in May in each year beginning in 2002, except that in 2005 and every fourth

year after there will be no regular election. The terms of office of councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

2.03 Roles and functions of all councillors

(a) **Key roles.** All councillors are community leaders and have an overriding responsibility for the good governance of the District as a whole.

All councillors will:

- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (ii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
- (iii) deal with individual casework and act as an advocate for constituents in resolving particular 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; and
- (vii) 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

2.04 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.

2.05 Allowances

All Councillors including the Mayor and the Deputy Mayor, will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution and as amended from time to time.

Article 3 – Citizens and The Council

3.01 Citizens' rights

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 area have the right to vote for an elected Mayor form of Constitution. Citizens also have the right to sign a petition to request a referendum for an elected Mayor form of Constitution.
- (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 Cabinet;
 - (iii) find out from the forward plan what key decisions will be taken by the Cabinet and when;
 - (iv) see reports and background papers, and any records of decisions made by the Council and the Cabinet; and
 - (v) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation.** Citizens have the right to participate in Council and Committee meetings in accordance with Rules 10, 22 and 23 of the Council's Rules of Procedure.
- (d) **Complaints.** Citizens have the right to complain to:
 - (i) the Council itself and its officers under its complaints scheme;
 - (ii) the Ombudsman after using the Council's own complaints scheme;
 - (iii) the Standards Board for England about a breach of the Members' Code of Conduct.

3.02 Citizens' responsibilities

Citizens must not be violent, abusing or threatening to councillors or officers and must not wilfully harm things owned by the Council, councillors or officers.

Article 4 – The Full Council

4.01 Meanings

- (a) **Policy Framework.** The policy framework means the following plans and strategies:-
 - (i) those required to be adopted by Full Council under Statutory Regulations:
 - Community Plan;
 - Crime and Disorder Reduction/Community Safety Strategy;
 - Development Plan documents;

(ii) those which should be adopted under the policy framework ODPM guidance:

- Council's Corporate Plan;
- Food Law Enforcement Service Plan;
- The plan and strategy which comprise the Housing Investment Programme;
- Local Agenda 21 Strategy;

other plans and strategies to be adopted by the Council.

- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, including treasury management/investment strategies and prudential indicators, the control of its capital expenditure and the setting of virement limits.
- (c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

4.02 Functions of the full Council

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (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 the policy framework or contrary to or not wholly in accordance with the budget;
- (d) **electing the Leader;**
- (e) **appointing the Mayor and Deputy Mayor;**
- (f) agreeing and/or amending the terms of reference for committees and other bodies, deciding on their composition and making appointments to them;
- (g) appointing representatives to outside bodies unless the appointment is a Cabinet function or has been delegated by the Council;
- (h) adopting an allowances scheme under Article 2.05;
- (i) changing the name of the area, conferring the title of Honorary Alderman or Freedom of the City and District.
- (j) confirming the appointment of the Chief Executive/Head of Paid Service;

- (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 which the Council decides should be undertaken by itself rather than the Cabinet; and
- (m) all other matters which, by law, must be reserved to Council.

4.03 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.

4.04 Responsibility for functions

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the executive.

Article 5 – Chairing The Council

5.01 Role and function of the Mayor

- (i) The Mayor and Deputy Mayor will be elected by the Council annually.
- (ii) The Mayor and in his/her absence, the Deputy Mayor, will have the following roles and functions:
 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 in the Cabinet or hold Committee chairs are able to hold the Cabinet and Committee Chairmen to account;
 4. to promote public involvement in the Council's activities;
 5. to be the conscience of the Council;
 6. to attend such civic and ceremonial functions as the Council and he/she determines appropriate; and
 7. to encourage and support the voluntary sector within the District.

Article 6 – Overview and Scrutiny Committees

6.01 Terms of reference

The Council will appoint the Overview and Scrutiny Committees set out below and their Chairs and Vice-Chairs to discharge the functions conferred by section 21 of the Local Government Act 2000 or regulations made under section 32 of the Local Government Act 2000 in relation to the matters listed below.

- (a) Internal Performance Overview and Scrutiny Committee. Membership – such number of Councillors as the Council shall from time to time determine, and whatever co-opted non-voting members the Committee may from time to time determine.

Terms of reference – to perform the Overview and Scrutiny role in relation to:

1. Performance Planning / Management
2. Consultation Co-ordination, Public Relations and Press
3. Resource Management – including Finance, Council Tax, Budget and managed property
4. Human Resources, including Health and Safety, Training and Equalities
5. Electoral / Democratic Matters
6. Concessionary Fares
7. Information and Communication, E-government
8. One Stop Shop / Customer Services
9. Member Training and Development
10. Partnerships
11. Procurement

- (b) Public Services Overview and Scrutiny Committee. Membership – such number of Councillors as the Council shall from time to time determine, and whatever co-opted non-voting members the Committee may from time to time determine.

Terms of reference – to perform the Overview and Scrutiny role in relation to:

1. Council-wide service delivery and performance issues
2. Financial Support to the Community
3. Homelessness, Housing Allocation, Housing Strategy, Tenant Services
4. Poverty / Deprivation, Asylum Seekers and Refugees, Social Inclusion
5. Consumer Protection, Environmental Protection, Licensing and Markets
6. **Waste Management – including refuse collection, recycling and street cleaning**
7. Cemeteries, Parks and Green Spaces. Commons, **Closed Churchyards**
8. Public Conveniences
9. Leisure and Recreation
10. **Environment and Sustainability**
11. Emergency Planning
12. **Community Leadership / Public Services delivered in partnership**
13. **Community Safety (annually, in line with the Crime and Disorder Act 2006 as amended and the Crime and Disorder Regulations 2009), and to act as the “crime and disorder committee” in connection with this legislation**
14. **Young People**
15. Transport, Highways, Car Parks and **Car Parking**
16. Planning and Building Control, **Local Development Framework, District Vision**
17. **Tourism, Museums and Cultural Policy**

6.02 General role

Within their terms of reference, Overview and Scrutiny Committees will:

- i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- ii) make reports and/or recommendations to the full Council and/or the Cabinet and/or any joint committee in connection with the discharge of any functions;
- iii) consider any matter directly affecting the District or its inhabitants; and
- iv) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Cabinet.

6.03 Specific functions

(a) Policy development and review.

An important role for Overview and Scrutiny Committees is to undertake deliberative research into how Council policies can be developed and improved. Policy reviews can range from visionary or 'big picture' reviews of significant service areas such as housing to focussed issues such as review of grants made to voluntary organisations.

Role of Overview and Scrutiny Committees:

- i) To assist the Council and Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;
- ii) Conduct research, community and other consultation in the analysis of policy proposals and possible options;
- iii) Consider and implement mechanisms to encourage and enhance community participation in the development of policy proposals;
- iv) Question members of the Cabinet, committees and Council officers about their views on issues and proposals affecting the area; and
- v) 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.

Tasks: Overview and Scrutiny Committees will be able to:

- Select significant issues to investigate
- Undertake pre-investigation project planning: drawing up terms of reference, plan for research methods to be used, timescales, officer support and reporting mechanisms.
- Involve partners, the public and outside experts: this can take the form of presenting orally or in writing evidence around the topic under investigation.
- Report findings and make recommendations to the appropriate body (Cabinet, full Council and/or a joint committee)
- Follow up on action agreed to ensure that Overview and Scrutiny committee decisions have been implemented.

The focus of a policy development and review exercise could be on:

- Whether the intended policy outcomes have been achieved
- Whether services have been taken up by the intended client group
- Processes used in service delivery
- Assessing whether service provision is addressing the needs of the community
- How satisfied customers are with current service provision

- Whether resources are allocated effectively for the service

The policy development and review function could be discharged in a number of ways including:

- Meetings of the relevant whole Overview and Scrutiny Committee
- Sub-groups of the relevant Overview and Scrutiny Committee
- Policy development panels comprised of a selection of Overview and Scrutiny members, as well as other co-opted members such as external experts, members of the community and possibly the relevant Portfolio Holder.

(b) **Scrutiny.** Overview and Scrutiny Committees may:

- i) review and scrutinise the decisions made by and performance of the Cabinet and/or committees and council officers both in relation to individual decisions and over time;
- ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- iii) question members of the Cabinet and/or committees and Council officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- iv) make recommendations to the Cabinet and/or appropriate committee and/or Council arising from the outcome of the scrutiny process
- v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance;
- vi) question and gather evidence from any person (with their consent);
- vii) exercise overall responsibility for the finances made available to them;
- viii) exercise overall responsibility for the work programme of the officers employed to support their work.

(c) **Annual Report**

Overview and Scrutiny Committees must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

6.04 Proceedings of Overview and Scrutiny Committees

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

Article 7 – The Executive

7.01 Role

The Cabinet will exercise all of the local authority's functions which are not the responsibility of any other part of the local authority, and which are allocated to the Cabinet by the Leader.

7.02 Form and Composition

The Cabinet will consist of the Leader together with at least 2, but not more than 9, Councillors appointed to the Cabinet by the Leader.

7.03 Leader

The Leader will be a Councillor elected to that position by the Council. The Leader will hold office until:

- (a) he/she resigns from the office; or
- (b) he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) he/she is no longer a Councillor; or
- (d) he/she is removed from office by resolution of the Council provided that notice of any motion which could have the effect of removing him/her from office is delivered to the office of the Chief Executive not later than 9 days or 7 working days before the date of the meeting signed by at least 2 Councillors.

If the serving Leader ceases to be Leader for one of the above reasons, the Council will elect a new Leader.

7.04 Role of the Leader

The Leader will carry out the following roles:

- Lead and chair the Cabinet;
- Provide political leadership;
- Provide community leadership;
- Exercise Cabinet functions within the specified areas for which he or she has defined responsibility;
- In the name of the Cabinet, propose the general budget and policy plans to the Council.

7.05 Deputy Leader

The Leader will nominate one Member of the Cabinet as his/her deputy. The Deputy Leader will act as the Leader if the post of Leader is vacant or if for any reason the Leader is unable to act. The Deputy Leader will hold office until the end of the Leader's term of office unless removed by the Leader or for any of the reasons set out in 7.03(a) to (c) above.

If neither the Leader nor Deputy Leader is able to act or both positions are vacant the Cabinet must act in the Leader's place or arrange for a Member of the Cabinet to act in his/her place.

7.06 Other Cabinet members

- (a) Only Councillors may be appointed to the Cabinet by the Leader. The number of Members he/she is appointing to Cabinet, their names and portfolios will be notified by the Leader to the Council. There may be no co-optees and no deputies or substitutes for Cabinet members. Neither the Mayor nor Deputy Mayor of the Council may be appointed to the Cabinet and members of the Cabinet (including the Leader) may not be members of an overview and scrutiny committee or the Audit Committee.

- (b) The Cabinet members will hold office until the Leader’s term of office expires, unless removed by the Leader or for any of the reasons set out in Article 7.03(a) to (c) above.

In the event of a Councillor ceasing to occupy the post of Cabinet Member for any of the reasons set out above during the course of the Municipal Year, the Leader (or the Deputy Leader in the absence of the Leader) is authorised to make arrangements for an existing Cabinet Member to cover the relevant portfolio’s responsibilities on an interim basis. The Leader is also authorised to appoint a replacement, to specify his/her remaining period of office and will notify all Councillors at the following meeting of the Council.

7.07 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.

7.08 Responsibility for functions

The Leader will maintain a list in Part 3 of this Constitution setting out which individual members of the Cabinet, committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular Cabinet functions.

Article 8 – Regulatory and other Committees

8.01 Regulatory and other committees

The Council will appoint the Committees set out in Column 2 of the table entitled “2. Responsibility for Council Functions”, included in Part 3 of this Constitution to discharge the functions described in column 1 of that table.

Article 9 – The Standards Committee

9.01 Standards Committee

The Annual Council Meeting will establish a Standards Committee and appoint its Members.

9.02 Composition

(a) Political Balance

The Standards Committee does not have to comply with the political balance rules in section 15 of the 1989 Act.

(b) Membership. The Standards Committee will be composed of:

- Five District Councillors other than the leader;
- Four persons who are not a councillor or an officer of the Council or any other body having a standards committee (independent members);
- Three members of parish councils in the District (Parish members).

(c) Independent members. Independent members will be entitled to vote at meetings.

(d) Parish members. Parish members will be entitled to vote at meetings.

- (e) **Appointment of chair.** To be appointed by the Standards Committee from amongst the independent members at its first meeting in each municipal year.

9.03 **Role and Function**

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by councillors and co-opted members;
- (b) assisting councillors and co-opted members to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising, training or arranging to train councillors and co-opted members on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct;
- (g) dealing with allegations made to the Standards Committee that a member or co-opted member or former member or co-opted member of the District Council has failed or may have failed to comply with the Council's Code of Conduct;
- (h) dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter which is referred by an ethical standards officer to the Monitoring Officer;
- (i) the exercise of (a) to (h) above in relation to the Town and Parish councils in the District and the members, co-opted members or former members or co-opted members of those Councils;
- (j) monitoring and reporting to the Council annually on the operation of the Council's executive arrangements with particular regard to transparency and accountability;
- (k) exercising overview of complaints handling and Ombudsman investigations;
- (l) responsibility for the grant and supervision of exemptions from political restriction under section 3A of the Local Government and Housing Act 1989.

9.04 **Validity of proceedings and Quorum**

The following provisions are contained in regulations:

- (a) The functions conferred by the Act upon a standards committee or sub-committee may be exercisable by a meeting of the committee or sub-committee.
- (b) A meeting of a standards committee or sub-committee shall not be quorate unless at least three members of the committee or sub-committee are present for its duration, and
 - (1) where the meeting consists of three or four members of the committee or sub-committee, at least one independent member is present for its duration, or
 - (2) where the meeting consists of more than four members of the committee or sub-committee, at least two independent members are present for its duration.

- (c) When matters relating to a Parish Council are being discussed at least one of the Parish Members shall be present.

Article 10 – Area Committees and Forums

10.01 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 more efficient, transparent and accountable decision making.
- (b) The Council will consult with relevant parish and town councils when considering whether and how to establish or retain area committees.

Article 11 – Joint Arrangements

11.01 Arrangements to promote well being

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

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body.

11.02 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 advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Cabinet may appoint members to a joint committee from outside the Cabinet in the following circumstances:
- 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 Cabinet may appoint to the joint committee any councillor who is a member for a Ward which is wholly or partly contained within the area.
 - the joint committee is between the County Council and the District Council only and relates to functions of the executive of the County Council.

In these cases 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 the Council’s Scheme of Delegation in Part 3 of this Constitution.

11.03 Access to information

- (a) The Access to Information Rules in Part 4 of this Constitution apply.
- (b) If all the members of a joint committee are members of the Cabinet in each of the participating authorities then its access to information regime is the same as that applied to the Cabinet.
- (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.

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

11.05 Contracting out

The Cabinet 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

12.01 Management structure

- (a) **General.** The full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Executive.** The full Council will engage a person for the post of Chief Executive who will be responsible for effective management of the Council; to provide advice to Chair of Cabinet, the Executive, Group Leaders, the Council and where appropriate individual Members on identification and development of key strategic policy objectives and priorities; to inspire and lead senior management team and Council staff in delivering the Council’s vision, etc; to act as an ambassador of the Council; and to carry out the statutory responsibilities of the Head of Paid Service.
- (c) **Head of Paid Service, Monitoring Officer and Chief Finance Officer.** The Council will designate the following posts as shown:

Chief Executive	Head of Paid Service
Head of Legal, Democratic and Regulatory Services	Monitoring Officer
Chief Finance Officer	Section 151 Officer

Such posts will have the functions described in Article 12.02–12.04 below.

- (d) **Structure.** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

12.02 Functions of the Chief Executive

- (a) **Discharge of functions by the Council.** The Chief Executive 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) **Restrictions on functions.** The Chief Executive may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

12.03 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 Chief Executive and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to an executive function if he or 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 until the report has been considered.
- (c) **Supporting the Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- (d) **Receiving reports.** The Monitoring Officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals.
- (e) **Conducting investigations.** The Monitoring Officer will conduct investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the Standards Committee.
- (f) **Proper officer for access to information.** The Monitoring Officer as proper officer will ensure that executive decisions, with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (g) **Advising whether executive decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- (h) **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. This will include providing advice to the Mayor at Council meetings.
- (i) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Chief Executive.

12.04 Functions of the Chief Finance Officer

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Chief Executive and the Monitoring Officer, the Chief Finance Officer will report to the full Council or to the Cabinet 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 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 appropriate 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) **Giving financial information.** The Chief Finance Officer will provide appropriate financial information to the media, members of the public and the community.

12.05 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 the opinion of those officers sufficient to allow their duties to be performed.

12.06 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.

12.07 Employment

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

Article 13 – Decision Making

13.01 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.

13.02 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) due consultation and the taking of professional advice from officers;
- (c) respect for human rights by the application of the Human Rights Act at an early stage of decision-making
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes; and
- (f) an explanation of what options were considered in arriving at the decision, and the reason for that decision.

13.03 **Types of decision**

- (a) Decisions reserved to full Council.

Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated.

- (b) Key decisions.

- (i) A key decision shall be defined as one which

- (a) will result in expenditure or savings which are significant in relation to the budget of the service concerned; OR
- (b) has a significant impact on people living or working in two or more wards. (subject to further ODPM regulations and guidance)

- (ii) Wherever practicable, a decision which has a significant impact on people living in a single ward will be treated by the Council as a key decision.

- (iii) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

13.04 **Decision making by the full Council**

Subject to Article 13.08, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

13.05 **Decision making by the Cabinet**

Subject to Article 13.08, the Cabinet will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.

13.06 **Decision making by Overview and Scrutiny Committees**

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

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

Subject to Article 13.08, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

13.08 **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

14.01 **Financial management**

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

14.02 **Contracts**

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

14.03 **Legal proceedings**

The Head of Legal, Democratic and Regulatory 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 he/she considers that such action is necessary to protect the Council's interests.

14.04 **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 Head of Legal, Democratic and Regulatory 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.
- (b) Any contract with a value exceeding £25,000 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.

14.05 **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, Democratic and Regulatory 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, Democratic and Regulatory Services should be sealed. The affixing of the Common Seal will be attested by the Head of Legal, Democratic and Regulatory Services or some other person authorised by him/her.

Article 15 – Review and Revision of the Constitution

15.01 **Duty to monitor and review the constitution**

The Cabinet in conjunction with the Monitoring Officer will monitor and review the operation of the Constitution every three years to ensure that the aims and principles of the Constitution are given full effect and will present a report to the Council.

15.02 Protocol for monitoring and review of constitution by Monitoring Officer

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:

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

15.03 Changes to the Constitution

- (a) Approval. Factual changes to the Constitution which flow automatically from decisions made by Council will be implemented by the Monitoring Officer, in consultation with the Mayor and appropriate Portfolio Holder(s). Other changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Cabinet and/or the Monitoring Officer. Unless the Council decides otherwise, a vote at Council to change the Constitution should be passed by a simple majority of those present and voting.
- (b) Change from a leader and cabinet form of executive to alternative arrangements, or vice versa. The Council will take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

Article 16 – Suspension

Interpretation and Publication of the Constitution

16.01 Suspension of the Constitution

- (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those rules and the law.
- (b) **Procedure to suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- (c) **Rules capable of suspension.** The following Rules may be suspended collectively or individually in accordance with Article 16.01: by a two-thirds majority of those voting, with the exception of Rules 16.6 and 17.2:

The Council's Procedure Rules, set out in Part 4.

16.02 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.

16.03 Publication

- (a) The Head of Legal, Democratic and Regulatory Services 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 Head of Legal, Democratic and Regulatory Services will ensure that copies are available for inspection at District Council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Head of Legal, Democratic and Regulatory Services will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.