

## Section 1

### Part 1: Summary, Explanation

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## Summary and Explanation

### **The Council's Constitution**

The Council of the City of Carlisle has agreed a new constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into 16 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

### **What's in the Constitution?**

Article 1 of the Constitution commits the Council to providing clear leadership to the community in partnership with citizens, businesses and other organisations and ensuring that local people are clear about how decisions are made and who is responsible for them. Articles 2 – 16 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2).
- Citizens and the Council (Article 3).
- The Council meeting (Article 4).
- Chairing the Council (Article 5).
- Overview and scrutiny of decisions (Article 6).
- The Executive (Article 7).
- Regulatory and other committees (Article 8).
- The Standards Committee (Article 9).
- Area committees (Article 10).
- Joint arrangements (Article 11).
- Officers (Article 12).
- Decision making (Article 13).
- Finance, contracts and legal matters (Article 14).
- Review and revision of the Constitution (Article 15).
- Suspension, interpretation and publication of the Constitution (Article 16).

## **How the Council operates**

The Council is composed of 39 councillors with one-third elected three years in four. Councillors are democratically accountable to residents of their ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them on the code of conduct.

All councillors meet together as the Council. Meetings of the Council are normally open to the public. Here councillors decide the Council's overall policies and set the budget each year. The Council appoints the leader and he/she in turn appoints members of the executive and delegates powers and responsibilities to them. The Council also appoints committees such as the Licensing Committee and the Development Control Committee to carry out certain functions. The Council is also responsible for holding the executive to account for its actions and it does this by questioning members of the executive, by allowing the public to do the same and by holding "state of the City of Carlisle" debates. It also appoints overview and scrutiny committees to review the decisions of the executive and assist with the formulation of policy.

## **HOW DECISIONS ARE MADE**

### **THE EXECUTIVE**

The executive is the part of the Council which is responsible for most day-to-day decisions. The executive is made up of the leader, who is appointed by the Council, with at least two but not more than nine other Councillors whom he/she appoints to the executive. When major decisions are to be discussed or made, these are published in the executives' forward plan in so far as they can be anticipated. If these major decisions are to be discussed with Council officers present at a meeting of the executive, this will generally be open for the public to attend except where personal or confidential matters are being discussed. The executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

### **OVERVIEW AND SCRUTINY**

There are overview and scrutiny committees who support the work of the executive and the Council as a whole. They allow citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the executive and the Council as a whole on its policies, budget and service delivery. Overview and scrutiny committees also monitor the decisions of the executive. They can 'call-in' a decision

which has been made by the executive but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the executive reconsider the decision. They may also be consulted by the executive or the Council on forthcoming decisions and the development of policy.

## **AREA COMMITTEES**

In order to give local citizens a greater say in Council affairs, area committees can be created if the Council decides. No such committees have yet been established but if they are they will involve councillors for particular areas and will be held in public.

## **The Council's Staff**

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between officers and members of the Council.

## **Citizens' Rights**

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights.

Where members of the public use specific Council services, for example as a Council tenant, they have additional rights. These are not covered in this Constitution.

Citizens have the right to:

- vote at local elections if they are registered;
- contact their local councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of executive;
- participate in the Council's question time and contribute to investigations by the overview and scrutiny committees;
- find out, from the executive's forward plan, what major decisions are to be discussed by the executive or decided by the executive or officers, and when;
- attend meetings of the executive where key decisions are being discussed or decided;

- see reports and background papers, and any record of decisions made by the Council and executive;
- complain to the Council about the way in which it delivers its services or it has dealt with individuals;
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- complain to the Council's Standards Committee if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact Democratic Services at the Civic Centre, Carlisle, CA3 8QG on telephone number 01228 817000.

Your rights as a citizen to inspect agendas and reports and attend meetings are also set out in the Access to Information Procedure Rules in Section 3 of this Constitution.

**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 the Council of the City of Carlisle.

### **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.
9. enable the Council to meet the aims set out in its Community Strategy to provide a better quality of life for all the citizens of Carlisle.

### **1.04 Interpretation and Review of the Constitution**

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

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

## **Article 2 – Members of The Council**

### **2.01 Composition and eligibility**

- (a) **Composition.** The Council will comprise 39 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 or occupying land 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 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. be the advocate of and for their communities;
  - (iii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
  - (iv) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
  - (v) balance different interests identified within the ward or electoral division and represent the ward or electoral division as a whole;
  - (vi) be involved in decision-making;
  - (vii) be available to represent the Council on other bodies; and
  - (viii) 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 Section 3 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 Section 7 of this Constitution.

2.05 **Allowances**

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Section 8 of this Constitution.

## **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 Section 3 of this Constitution:

- (a) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for 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 executive when key decisions are being considered;
  - (iii) find out from the forward plan what key decisions will be taken by the executive and when;
  - (iv) see reports and background papers (except those dealing with exempt or confidential information) and any records of decisions made by the Council and the executive; 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 the Council's question time and contribute to investigations by overview and scrutiny committees.
- (d) **Complaints.** Citizens have the right to complain to:
  - (i) the Council itself under its complaints scheme;
  - (ii) the Ombudsman after using the Council's own complaints scheme;
  - (iii) the Council about a breach of the Councillor's 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:

- Crime & Disorder Reduction Strategy
- Licensing Authority Policy Statement
- Plans and alterations which together comprise the Development Plan
- Sustainable Community Strategy
- Local Environment (Climate Change) Strategy
- Corporate Plan
- Food Law Enforcement Service Plan
- The Strategy and Plan which together comprise the Housing Investment Programme
- Discretionary Rate Relief Policy
- Economic Development
- Homelessness

NB: Legislation may require other policies, plans and strategies to be approved or adopted by the full 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 Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits. For the avoidance of doubt the Budget includes the Council's Medium Term Financial Plan (including the Corporate Charging Policy); the Localisation of Council Tax Support Scheme; Capital Strategy; Asset Management Plan and Treasury Management Strategy Statement, Investment Strategy and Minimum Revenue Provision Strategy (one document).

(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 for the inclusion of disposals in a disposals programme and for consent to such disposals in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Section 3 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) appointing and removing 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 2.05;
- (h) changing the name of the area or the name of a parish, conferring the title of honorary alderman or freedom of the borough
- (i) confirming the appointment of the head of paid service and other chief officers;
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (k) representing the views of the local community on matters of significance;
- (l) all local choice functions set out in Section 2(a) of this Constitution which the Council decides should be undertaken by itself rather than the executive; and
- (m) all the functions and powers set out in the following paragraphs of Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) in so far as they fall within the powers and duties of the Council:
  - Paragraph D. The following functions relating to elections:
    - Duty to appoint an Electoral Registration Officer.
    - Functions in relation to Parishes and Parish Councils.
    - Power to dissolve small Parish Councils.

- Power to make Orders for grouping Parishes, dissolving groups and separating Parishes from groups.
- Duty to appoint Returning Officer for Local Government Elections.
- Duty to divide constituency into polling districts.
- Power to divide electoral divisions into polling districts at Local Government Elections.
- Power to pay expenses properly incurred by Electoral Registration Officers.
- Power to make temporary appointments to Parish Councils.
- Power to submit proposals to the Secretary of State for an Order under Section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.
- Paragraph EA. All functions relating to changing governance arrangements.
- Paragraph EB. All functions relating to community governance.
- Paragraph H. All the functions relating to pensions etc.
- Paragraph I. The following miscellaneous functions:-
  - Power to make standing orders under Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972.
  - Power to make standing orders as to contracts under Section 135 of the Local Government Act 1972.
  - The duty to make arrangements for the proper administration of the Council's financial affairs under Section 151 of the Local Government Act 1972.
  - The power to appoint officers for particular purposes (appointment of "proper officers") under Section 270(3) of the Local Government Act 1972.
  - The duty to designate an officer as the head of the authority's paid service, and to provide staff etc under Section 4(1) of the Local Government and Housing Act 1989.
  - The duty to designate an officer as monitoring officer, and to provide staff, etc under Section 5(1) of the Local Government and Housing Act 1989 and to provide staff etc to a person nominated by the monitoring officer under Sections 82A(4) and (5) of the Local Government Act 2000.
  - The power to make payments or provide other benefits in cases of maladministration etc under the provisions of Section 92 of the Local Government Act 2000.

- (n) approving, for the purposes of public consultation, draft proposals associated with the preparation of alterations to, or the replacement of, a development plan, together with any actions referred to in paragraph (4C) of the Local Authorities (Functions and Responsibilities) (Amendment) (No.2) (England) Regulations 2005.
- (o) considering any report or recommendation submitted by an overview and scrutiny committee and setting out any policy review study areas, areas for performance review and any other areas of work to be undertaken by any overview and scrutiny committee.
- (p) Making a request under Section 14A(1) of the Local Government Act 1992 for single member electoral areas.
- (q) The following functions under the Local Government and Public Involvement in Health Act 2007 :
  - passing a resolution to change a scheme for elections under Section 32(1), 37(1) or 39(1) of the Act;
  - making an order giving effect to recommendations made in a community governance review under Section 86 of the Act;
  - the duty to make a change in governance arrangements under paragraph 3 or 8 of Schedule 4 to the Act.
- (r) all other matters which are not the responsibility of the executive and have not been delegated by the Council or 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 Section 3 of this Constitution.

#### **4.04 Responsibility for functions**

The Council will maintain the tables in Section 2(a) 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**

The Mayor and in his/her absence, the deputy mayor will have the following roles and functions:

#### **CEREMONIAL ROLE**

1. To carry out all civic and ceremonial duties on behalf of the Council.
2. To act as an ambassador representing the Council in its relations with the public and other bodies and organisations.

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

The Mayor will be elected by the Council annually. The Mayor 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 executive or hold committee chairs are able to hold the executive and committee chairmen to account;
4. to promote public involvement in the Council's activities;
5. to be the conscience of the Council; and
6. to attend such civic and ceremonial functions as the Council and he/she determines appropriate

## Article 6 – Overview and Scrutiny Committees

### 6.01 Terms of reference

The Council will appoint the overview and scrutiny committees (which will be called Overview and Scrutiny Panels) set out in the left hand column of the table below to discharge the functions conferred by section 21 of the Local Government Act 2000 in relation to the matters set out in the right hand column of the same table.

| Panel                                      | Scope   |
|--|---|
| Health and Wellbeing Scrutiny Panel        | <p>To fulfil all the functions of an overview and scrutiny committee as they relate to Community Activities, Health and Wellbeing and Culture and Recreation as more particularly described in the Table appearing at the end of the Overview and Scrutiny Procedure Rules set out in Section 3 of this Constitution.</p> <p>To fulfil all the functions and have all the powers and responsibilities of a Crime and Disorder Committee under the provisions of section 19 of the Police and Justice Act 2006 and any relevant regulations or guidance.</p> |
| Business and Transformation Scrutiny Panel | <p>To fulfil all the functions of an overview and scrutiny committee as they relate to Corporate Resources, Finance and Best Value as more particularly described in the Table appearing at the end of the Overview and Scrutiny Procedure Rules set out in Section 3 of this Constitution.</p>   |
| Economic Growth Scrutiny Panel             | <p>To fulfil all the functions of an overview and scrutiny committee as they relate to Economic Development and Regeneration and Infrastructure Environment and Transport as more particularly described in</p>   |



|  |  |
|--|--|
|  | the Table appearing at the end of the Overview and Scrutiny Procedure Rules set out in Section 3 of this Constitution. |
|--|--|

## 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 executive and/or any joint or area committee in connection with the discharge of any functions;
- (iii) consider any matter affecting the area or its inhabitants; and
- (iv) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the executive and/or any area committees.

## 6.03 Specific functions

- (a) **Policy development and review.** Overview and scrutiny committees may:
  - (i) assist the Council and the executive 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 issues and possible options;
  - (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
  - (iv) question members of the executive and committees and chief officers about their views on issues and proposals affecting the area;
  - (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; and
  - (vi) carry out Best Value Reviews of the Council's services within their areas of responsibility and make recommendations to the executive and the Council.
- (b) **Scrutiny.** Overview and scrutiny committees may:
  - (i) review and scrutinise the decisions made by and performance of the executive 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 executive and/or committees and chief 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 executive 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; and
- (vi) question and gather evidence from any person (with their consent).

(c) **Scrutiny of Crime and Disorder matters**

The Health and Wellbeing Scrutiny Panel will be the Council's Crime and Disorder Committee under the provisions of section 19 of the Police and Justice Act 2006 and shall be responsible for carrying out all the functions and have all the powers of a crime and disorder committee under the said Act and any related regulations or guidance.

- (d) **Finance.** Overview and scrutiny committees may exercise overall responsibility for the finances made available to them.
- (e) **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.
- (f) **Officers.** Overview and scrutiny committees may exercise overall responsibility for the work programme of the officers employed to support their work.

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 executive will carry out all of 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.

### **7.02 Form and composition**

The executive will consist of the executive leader together with at least 2, but not more than 9, councillors appointed to the executive by the executive leader. The leader must appoint one of the members of the executive as Deputy Leader.

### **7.03 Leader**

The leader will be a councillor elected to the position of leader by the Council and, from May 2011, must be appointed for a four year term (or for up to the end of his/her term of office as a member, whichever is the shorter). 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

### **7.04 Appointment of the Executive and Scheme of Delegation**

The Leader will :

- (a) determine the size of the executive and appoint between 2 and 9 members of the Council to be members of the executive in addition to himself/herself';
- (b) allocate any areas of responsibility (Portfolios) to them;
- (c) determine the Scheme of Delegation for the discharge of the executive functions of the Council; and
- (d) report to the Council on all appointments and changes to the Executive.

Such decisions will only take effect from the day of receipt by the proper officer of such decisions in writing.

Executive members may not include the Chairman or Vice-Chairman of the Council or any member of the Council's Overview and Scrutiny Panels.

#### **7.05 Appointment of Deputy Leader**

The Leader will appoint one of the members of the executive as deputy leader to hold office until the end of his/her term of office as leader (unless the person resigns as deputy leader, ceases or is suspended from being a councillor or is disqualified or removed from office by the leader). The leader may, if he/she thinks fit, remove the deputy leader from office but must then appoint another person in his/her place.

Such decisions will only take effect from the day of receipt by the proper officer of such decisions in writing.

#### **7.06 Absent Leader**

If, for any reason, the leader is unable to act or the office of leader is vacant, the deputy leader must act in his/her place. If the deputy leader is unable to act or the office is vacant, the executive must act in the leader's place or arrange for a member of the executive to do so.

#### **7.07 Removal of the Leader**

Subject to Section 3, paragraph 12.2 of the Constitution, Council may decide, by way of resolution by a simple majority to remove the leader from office and for a new leader to be elected.

#### **7.08 Interim and/or replacement Leader arrangements/term of office**

Where the leader is removed or departs from office mid-term, his/her appointment of executive members and deputy leader survive his/her departure.

The deputy leader will take over the functions of leader until such time as a new leader is elected, and the executive remains in post and continues to meet and function until such time as the new leader appoints a new executive.

The newly elected leader will automatically hold office, once elected, for the balance of his/her term of office as a councillor.

#### **7.09 Other executive members**

Other executive members shall hold office until :

- (a) they resign from office; or
- (b) they are no longer councillors; or

(c) they are removed from office by the leader who must give written notice of any removal to the proper officer. The removal will take effect two working days after receipt of the notice by the proper officer.

#### **7.10 Proceedings of the executive**

Proceedings of the executive shall take place in accordance with the Executive Procedure Rules set out in Section 3 of this Constitution.

#### **7.11 Responsibility for functions**

The leader will maintain a list in Section 2 of this Constitution setting out which individual members of the executive, committees of the executive, officers or joint arrangements are responsible for the exercise of particular executive functions.

**Article 8 – Regulatory and other committees**

**8.01Regulatory and other committees**

The Council will appoint the committees set out in the left hand column of the table  
Responsibility for Council Functions in Section 2(a) of this Constitution to discharge the  
functions described in column 3 of that table.

## **Article 9 - The Standards Committee**

### **9.01 Standards Committee**

The Council meeting will establish a Standards Committee.

### **9.02 Composition**

- (a) **Membership.** The Standards Committee will be composed of seven Members of the City Council other than the Leader;
- (b) **Independent Person.** The Independent Person will attend the Committee in an advisory capacity but will not be entitled to vote at meetings;
- (c) **Parish members.** If Parish Members are co-opted on to the Committee (subject to a maximum of three) - at least one Parish Member must be present when matters relating to parish councils or their members are being considered, Parish Members are not entitled to vote at meetings;
- (d) **Chairing the Committee.** An elected district member must chair the committee.

### **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) determining any allegations of a breach of such protocols by members in accordance with procedures adopted by the Committee
- (c) assisting the councillors and co-opted members to observe the Members' Code of Conduct;
- (d) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (e) monitoring the operation of the Members' Code of Conduct;
- (f) advising, training or arranging to train councillors and co-opted members on matters relating to the Members' Code of Conduct;

- (g) granting dispensations to councillors and co-opted members from requirements relating to interests where not otherwise delegated to the Monitoring Officer;
- (h) the exercise of (a) to (f) above in relation to the parish councils wholly or mainly in its area and the members of those parish councils;
- (i) overview of the whistle blowing policy;
- (j) overview of complaints handling and Ombudsman investigations;
- (k) overview of Employee Register of Interests and Gifts and Hospitality;
- (l) overview of member/officer protocol;
- (m) power to shortlist and interview candidates and make recommendations to Council regarding appointment of Independent Persons, and to make any appropriate recommendations with regard to Parish Members;
- (n) To determine the Arrangements and Guidance for dealing with any Code of Conduct matters.



## Article 10 – Area Committees and Forums

### 10.01 Area committees

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.

The Council will consult with relevant parish and town councils and the chairmen of relevant parish meetings when considering whether and how to establish area committees.

### 10.02 Form, composition and function

- (a) **Table of area committees.** If the Council decides to appoint area committees then details will be set out in the first column of the table below, composed as will be set out in the second column of that table and with the terms of reference as will be set out in the third column.

| Name of Committee | Composition | Terms of Reference |
|-------------------|-------------|--------------------|
|                   |             |                    |
|                   |             |                    |
|                   |             |                    |
|                   |             |                    |
|                   |             |                    |

- (b) **Delegations.** The Council and the executive will include details of the delegations to area committees in Section 2(a) of this Constitution, including the functions delegated showing which are the responsibility of the executive and which are not, the composition and membership of the committees, budgets and any limitations on delegation.

#### 10.03 **Conflicts of interest – membership of area committees and overview and scrutiny committees**

- (a) **Conflict of interest.** If an overview and scrutiny committee is scrutinising specific decisions or proposals in relation to the business of the area committee of which the councillor concerned is a member, then the councillor may not speak or vote at the overview and scrutiny committee meeting unless a dispensation to do so is given by the Standards Committee.
- (b) **General policy reviews.** Where the overview and scrutiny committee is reviewing policy generally the member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

#### 10.04 **Area committees – access to information**

Area committees will comply with the Access to Information Rules in Section 3 of this Constitution.

Agendas and notices for area committee meetings which deal with both functions of the executive and functions which are not the responsibility of the executive will state clearly which items are which.

#### 10.05 **Executive members on area committees**

A member of the executive may serve on an area committee if otherwise eligible to do so as a councillor.

## **Article 11 – Joint Arrangements**

### **11.01 Arrangements to promote well being**

The executive, 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 executive may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below, the executive may only appoint executive members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The executive may appoint members to a joint committee from outside the executive 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 executive may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area;
  - the joint committee is between a county council and a single district council and relates to functions of the executive of the county council. In such cases, the executive of the county council may appoint to the joint committee any councillor who is a member for an electoral division which is wholly or partly contained within the area.

In both of 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 delegations in Section 2 of this Constitution.

### **11.03 Access to information**

- (a) The Access to Information Rules in Section 3 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.

### **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 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 meeting.

### **11.05 Contracting out**

The Council for functions which are not executive functions and the 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 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 Officers.** The full Council will engage persons for the following posts, who will be designated chief officers:

| Post  | Functions and areas of responsibility   |
|---|---|
| Town Clerk and Chief Executive (and Head of Paid Service) | Overall corporate management and operational responsibility (including overall management responsibility for all officers).<br>Provision of professional advice to all parties in the decision making process.<br>Together with the monitoring officer, responsibility for a system of record keeping for all the Council's decisions.<br>Representing the Council on partnership and external bodies (as required by statute or the Council). Customer Contact Centre, Digital Information Services, Human Resources, Procurement, Risk Management, Financial Services and Revenues and Benefits |
| Deputy Chief Executive                                    | With the Town Clerk and Chief Executive, Corporate Management of the authority and oversight of the Director functions allocated to them from time to time.<br>Community Development, Community Centres, Community Safety, Sports and Leisure Services, Partnerships, Policy & Performance, Overview & Scrutiny, Bereavement Services, Cemeteries, Streetscene, Highways and Drainage, Tourism, Waste Refuse Collection and   |

|  |  |
|--|--|
|  | Recycling, CCTV, Green Spaces and Car Parks.   |
| Corporate Director of Economic Development               | Economic Development, Regeneration, Tourism (as part of ED strategy), Property Portfolio (as part of ED strategy), Housing (strategic) and Planning.   |
| Corporate Director of Finance and Resources              | Finance, Section 151 responsibilities (Chief Finance Officer), Accountancy, Audit, Creditors & Debtors, Human Resources, Organisational Development, Payroll & Personnel, Procurement, Service Support, Risk Management Policy and Insurance.                        |
| Corporate Director of Governance and Regulatory Services | Legal, Committee, Electoral, Civic and Mayoral, Licensing, Corporate Governance Standards, Health and Safety, Property, Monitoring Officer, Facilities Management, Housing, Hostels, Homelessness, Private Sector Housing, Environmental Protection and Food Hygiene |

- (c) **Head of paid service, monitoring officer and chief financial officer.** The Council will designate the following posts as shown:

| Post   | Designation                                   |
|--|---|
| Town Clerk and Chief Executive                           | Head of Paid Service                          |
| Corporate Director of Governance and Regulatory Services | Monitoring Officer                            |
| Corporate Director of Finance and Resources              | Chief Finance Officer and Section 151 Officer |

It is the function of the Monitoring Officer and the Chief Finance Officer to appoint their Deputies and not the Council.

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 structure of the Council showing the management structure and deployment of officers. This is set out at Section 9 of this Constitution and describes the various directorates of the Council, each of which has its own Director to whom powers and responsibilities are delegated under this Constitution.

#### 12.02 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 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 head of paid service 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 head of paid service and chief finance officer, the monitoring officer will report to the full Council or to the executive 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 will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

- (g) **Advising whether executive decisions are within the budget and policy framework.** The monitoring officer will advise whether decisions of the executive are in accordance with the budget and policy framework.
- (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.
- (i) **Corporate Complaints.** The monitoring officer will act as the Council's corporate complaints officer.
- (j) **Restrictions on posts.** The monitoring officer cannot be the chief finance officer or the head of paid service.

#### 12.04 **Functions of the Chief Finance Officer**

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the head of paid service and the monitoring officer, the chief finance officer will report to the full Council or to the executive in relation to an executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs.** The 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 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.

#### 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 their opinion 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 Section 7 of this Constitution.

#### **12.07 Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Procedure Rules set out in Section 6 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 Section 2 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;
- (d) a presumption in favour of openness; and
- (e) clarity of aim and desired outcomes.

### **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" as defined in the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 means an executive decision which is likely -
    - (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or
    - (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the local authority.
  - (c) The Council will determine and publish from time to time what level of expenditure or savings is considered to be significant and so constitutes a key decision.
  - (d) In addition to the above, the Council will treat as if they were key any decisions which are likely to have a significant impact on communities in one ward, and any decision made by the executive in the course of developing proposals to the full Council to amend the policy framework.
  - (ii) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Section 3 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 Section 3 of this Constitution when considering any matter.

#### **13.05 Decision making by the executive**

Subject to Article 13.08, the executive will follow the Executive Procedure Rules set out in Section 3 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 Section 3 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 Procedure Rules set out in Section 3 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 Procedure Rules set out in Section 4 of this Constitution.

### **14.02 Contracts**

Every contract made by the Council will comply with the Contract Procedure Rules set out in Section 5 of this Constitution.

### **14.03 Legal proceedings**

The Corporate Director of Governance 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 (including for the avoidance of doubt decisions of the executive, any executive member or any committee or officer acting under delegated powers) or in any case where the Corporate Director of Governance and Regulatory Services considers that such action is necessary to protect the Council's interests.

### **14.04 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 Corporate Director of Governance 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.

Any contract with a value exceeding £10,000 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 Corporate Director of Governance and Regulatory Services. A decision of the Council, or of any part of it, including (for the avoidance of doubt) a decision of the executive or any executive member or officer acting under delegated powers 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 Corporate Director of Governance and Regulatory Services should be sealed. The affixing of the Common Seal will be attested by either the Corporate Director of Governance and Regulatory Services, the Town Clerk and Chief Executive or some other person authorised by either of them.

14.06 In an emergency the Common Seal may be affixed to any document on the written authority of the Mayor or deputy Mayor of the Council provided that any exercise of this power shall be reported to the Council at its next meeting.

## **Article 15 – Review and Revision of the Constitution**

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

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

#### **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.

### **15.02 Changes to the Constitution**

- (a) **Approval.** Other than changes made in accordance with paragraph (b), changes to the constitution will only be approved by the full Council after consideration of the proposal by the monitoring officer and after receipt of a report from him/her on the proposal. The monitoring officer will also consider and report to the full Council on any proposals for changes to the Constitution received in writing from any Councillor.
- (b) Textual and factual amendments, including those resulting from changes in legislation, required to keep the Constitution up to date, or consequential amendments as a result of a Council, Executive or Committee decision may be implemented by the Monitoring Officer following consultation with the Portfolio Holder for Finance, Governance and Resources. All Members will be notified of changes made.
- (c) **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.
- (d) **Change from a leader and cabinet form of executive to a mayoral form of executive.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and must hold a binding referendum.

## **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 in accordance with Article 16.01:

All of the Council Rules of Procedure except Rule 17.5 and 18.2 may be suspended in accordance with the provisions set out in Rule 25.1.

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

## **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;
2. Article 7 (The Executive) and the Executive Procedure Rules;
3. Article 10 (Area Committees and Forums).
4. Article 11 (Joint arrangements).
5. Article 13 (Decision making) and the Access to Information Procedure Rules;
6. Section 2 (Responsibility for Functions).