

ARTICLES

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 is the Constitution of the Tendring District Council.

1.03 Purpose of the Constitution

The purpose of the Constitution is to enable the Council to work towards achieving its vision for Tendring as set out in the Council's Corporate Strategy and in particular to:

- 1 Enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations for the long term well-being of the district;
- 2 Support local democratic decision making and enable councillors to represent their constituents effectively;
- 3 Enable decisions to be taken efficiently and effectively;
- 4 Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;
- 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 Provide a means of improving the delivery of services to the community.
- 8 Support the involvement of citizens in the process of local authority decision-making;
- 9 Enable the Council to contribute effectively to the issues which need co-operation between local agencies as set out in the Community Strategy;
- 10 Enable the Council to strive towards its strategic objectives as set out in its Corporate Strategy.

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 it thinks is closest to the purposes stated above.

Where the context allows, words in the Constitution indicating one gender include both genders.

Unless otherwise indicated, where a “day” is referred to, this will mean a “working day” and will not include weekends or Bank Holidays.

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

ARTICLE 2 – MEMBERS OF THE COUNCIL

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2.01 Composition and Eligibility

- (a) **Composition.** The Council will comprise 60 members, otherwise called councillors. One or more councillors will be elected by the voters of each of 35 wards in accordance with a scheme 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 regular election of councillors will be held on the first Thursday in May every four years beginning in 2003. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

2.03 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. become an advocate for their communities;
 - (iii) effectively represent the interests of their ward and of individual constituents;
 - (iv) respond to constituents' enquiries and representations, fairly and impartially;
 - (v) be involved in decision-making for the people of the district as a whole;
 - (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 that 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.

ARTICLE 2 – MEMBERS OF THE COUNCIL

- (iii) For these purposes, “confidential” and “exempt” information is defined in the Access to Information Rules in Part 5 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 6 of this Constitution.

2.05 Allowances

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 7 of this Constitution.

ARTICLE 3 – CITIZENS AND THE COUNCIL

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3.01 Citizens' Rights

The rights to information and to participate are explained in more detail in the Access to Information Rules in Part 5 of this Constitution. Other rights include:

- (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;
 - (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, 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 written question time and contribute to investigations by the 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 Standards Board for England about a breach of the Councillor's Code of Conduct.

3.02 Citizens' Responsibilities

Citizens must treat councillors and officers with respect and courtesy and must not wilfully harm the property of 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 which the Secretary of State has required **must** be adopted by the full Council;
 - Best Value Performance Plan;
 - Community Strategy;
 - Crime and Disorder Reduction Strategy;
 - Plans and strategies which together comprise the Local Development Plan Documents;
 - (ii) those which the Secretary of State recommends **should** be adopted by the full Council;
 - Council's Corporate Strategy;
 - The plan and strategy which comprise the Housing Investment Programme (HRA Business Plan and Housing Strategy);
 - Local Agenda 21 Strategy;
 - (iii) those which the Council has decided should be adopted by the full Council;
 - Coastal Protection Strategy (Tendring)
 - ICT Strategy
 - Procurement Strategy
 - Regeneration Strategy
 - Capital Strategy
- (b) **Budget.** The term budget is used to encompass the budget requirement (as provided for in the Local Government Finance Act 1992), all the components of the budget such as the budgetary allocations to different services and projects, proposed taxation levels, contingency funds ('reserves' and 'balances') and any plan or strategy for the control of the local authority's borrowing or capital expenditure. This does not include the Housing Revenue Account Budgets or rent fixing.

The term budget also does not include the determination of the Council's Capital Strategy which forms part of the Policy Framework as defined in (a) above.

ARTICLE 4 – THE FULL COUNCIL

- (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

The Council will exercise the functions set out in Part 3 of this Constitution.

4.03 Council Meetings

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

ARTICLE 5 – CHAIRING THE COUNCIL

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5.01 Role and Function of the Chairman

The Chairman and Vice-Chairman will be elected by the Council annually. The Chairman or, failing him, the Vice-Chairman will have the following responsibilities:

- 1 to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- 2 to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- 3 to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Executive are able to hold the Executive to account;
- 4 to promote public involvement in the Council's activities;
- 5 to attend such civic and ceremonial functions as the Council and he determines appropriate;
- 6 to be the custodian of the democratic process of the Council.

ARTICLE 6 – OVERVIEW AND SCRUTINY COMMITTEES

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6.01 General Role

The Council will appoint three Overview and Scrutiny Committees, whose terms of reference are as set out in Part 3. Within its terms of reference, each Overview and Scrutiny Committee will:

- (i) Review and/or scrutinise decisions made, or about to be made, or other actions taken in connection with the discharge of any of the Council's functions including exercising, via the Scrutiny Committee, the right to 'call-in' for reconsideration decisions made by the Executive and not yet implemented.
- (ii) make reports and/or recommendations to the full Council and/or the Executive in connection with the discharge of any functions;
- (iii) consider any matter affecting the area or its inhabitants.

6.02 Scrutiny of Individual Decisions

The Scrutiny Committee will have the power to scrutinise decisions made by the Executive before the decision is implemented. If appropriate it can recommend that the decision be reconsidered by the person or body that made it.

6.03 Proceedings of the Overview and Scrutiny Committees

The Overview and Scrutiny Committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 5 of this Constitution.

ARTICLE 7 – THE EXECUTIVE

7.01 Role

The Executive will carry out all of the local authority's functions that 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 other councillors appointed to the Executive by the Executive Leader. The Executive Leader will determine the number of councillors who may be appointed to the Executive subject to the statutory minimum requirement of two councillors appointed to the Executive by the Executive Leader and the statutory maximum number of 10 members of the Executive.

7.03 Leader

The Leader will be a councillor elected to the position of Leader by the full Council. The election of the Leader will normally be carried out at the Annual Meeting of the Council. The Leader will hold office until:

- (a) he resigns from the office; or
- (b) he is suspended from being a councillor (although he may resume office at the end of the period of suspension); or
- (c) he is no longer a councillor; or
- (d) on expiry of a fixed term of one year save that the Council may, by passing a resolution remove the Executive Leader from office at an earlier date. If the Council so passes a resolution to remove the Executive Leader, a new Executive Leader is to be elected at the meeting at which the Leader is removed from office or at a subsequent meeting.

Upon expiry of the fixed term the Leader will be eligible for re-election for subsequent fixed terms.

7.04 Deputy Executive Leader

The Executive Leader will appoint one of the members of the Executive to be his deputy. The Deputy Executive Leader, unless he resigns as Deputy Executive Leader or ceases to be a member of the authority, will hold office until the end of the term of office of the Executive Leader. However, the Executive Leader may, if he thinks fit, remove the Deputy Executive Leader from office.

Where a vacancy occurs in the office Deputy Executive Leader the Executive Leader will appoint another person in his place.

If for any reason the Executive Leader is permanently unable to act or the office of Executive Leader is vacant, the Deputy Executive Leader will act temporarily in his place until the next formal ordinary meeting of the Council when a new Leader will be elected.

If the Deputy Executive Leader is also unable to act or the office is vacant the Executive will act in the Executive Leader's place or will arrange for a member of the Executive to act in his place.

7.05 Other Executive Members

Other executive members shall hold office until:

- (a) they resign from office; or
- (b) they are suspended from being councillors (although they may resume office at the end of the period of suspension); or
- (c) they are no longer councillors; or
- (d) they are removed from office by the Leader who must give written notice of any removal to the Chief Executive. The removal will take effect two working days after receipt of the notice by the Chief Executive.

7.06 Proceedings of the Executive

Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 5 of this Constitution.

ARTICLE 8 – COMMITTEES

Subject to Article 13.4, committees and sub-committees will follow those parts of the Council Procedure Rules as apply to them.

ARTICLE 9 – THE STANDARDS COMMITTEE

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9.01 Standards Committee

The Council meeting will establish a Standards Committee with terms of reference as set out in Part 3.

9.02 Composition

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

- One Councillor from each political group represented on the Council, only one of whom may be a member of the Executive;
- Up to 6 Independent Members appointed by the full Council ensuring that the Committee has at least 25% independent members.

An Independent Member must not be a person who is a member or officer of another relevant authority, a relative or close friend of a member or officer of the Council or any person who is or has been a member or officer of the Council within the last 5 years. When appointing any Independent Member(s), the full Council will appoint them as an Independent Member (IM) or a Substitute Independent Member (SIM). Except as stated below, the appointment and role of IMs and SIMs are the same. The Head of Legal Services shall arrange, so far as reasonably practicable, that SIMs who sit on the Committee as stated below do so in rotation on a fair and equitable basis. At meetings of the Committee which are not training sessions, a SIM may only sit as an Independent Member of the Committee instead of an IM who fails to or is unable or unwilling to sit, where there is a casual vacancy for an IM or where the number of independent members sitting on the Committee would otherwise be less than 25% of the Committee.

- Two members of any one or more parish councils wholly or mainly in the Council's area (Parish Members) and two further members of any one or more parish councils wholly or mainly in the Council's area (Substitute Parish Members).

Excepted as stated below the appointment and role of the Parish Members and Substitute Parish Members are the same. At meetings of the Committee which are not training sessions, a Substitute Parish Member may only sit as a Committee member instead of a Parish Member and then only when the Parish Member fails to or is unable or unwilling to attend a Committee meeting or where there is a casual vacancy for a Parish Member. The Head of Legal Services shall ensure, so far as reasonably practicable, that Substitute Parish Members who sit on the Committee as stated above do so in rotation (where applicable) on a fair and equitable basis.

The Executive Leader may not be a member of the Standards Committee.

ARTICLE 9 – THE STANDARDS COMMITTEE

- (b) **Independent Members.** Independent Members will be appointed for a term not exceeding 12 months by the full Council, or until the next Council meeting thereafter, initially after taking into account the recommendations of the Monitoring Officer in consultation with the Chairman of the Council.
- (c) **Parish Members and Substitute Parish Members.** These Members will be appointed for a term not exceeding 12 months by the full Council, or until the next Council meeting thereafter, initially after taking into account the recommendations of the Monitoring Officer in consultation with the Chairman of the Committee. No such Member can be a serving member of Tendring District Council.
- (d) **Voting Members.** Independent and Parish Members will be entitled to vote at meetings
- (e) **Chairing the Committee.** The Council will appoint one of the Independent Members as Chairman of the Committee and the Council may appoint one of the Independent Members as Vice-Chairman of the Committee or, where the Chairman or Vice-Chairman is unable to act, the Committee may appoint an Independent Member to act as Chairman or Vice-Chairman.
- (f) **General.** The Standards Committee is not subject to the requirements for a politically balanced Membership.
- (g) **Quorum.** A meeting of the Standards Committee shall be quorate when at least three Members (including at least one Independent Member) of that Committee are present. Where at least one Independent Member would have been present for the duration of the meeting, but for the fact that he was prevented or restricted from participating in any business of the authority by virtue of its code of conduct, the requirement for the quorum to include at least one Independent Member shall not apply.

ARTICLE 10 – AREA COMMITTEES AND FORUMS

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10.01 Area Committees and Forums

The Council may appoint area committees (with decision making powers) or area forums (advisory and consultative bodies) 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 or area forums.

ARTICLE 11 – JOINT ARRANGEMENTS

ARTICLE 11 – JOINT ARRANGEMENTS**11.01 Arrangements to Promote Well Being**

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

- (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 to advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Executive may establish joint arrangements with one or more local authorities to exercise functions that 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 circumstance:
 - The joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Executive may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area;

In this case the political balance requirements do not apply to such appointments.

- (e) Details of any joint arrangements including any delegations to joint committees are set out in the Council's scheme of delegations in Part 3 of this Constitution.

11.03 Access to Information

- (a) 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.
- (b) If the joint committee contains members who are not on the Executive of any participating authority then the Access to Information Rules set out in Part 5 will apply.

ARTICLE 11 – JOINT ARRANGEMENTS

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. This also applies 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 13 – DECISION MAKING

ARTICLE 12 - OFFICERS

12.01 Management Structure

- (a) **General.** The full Council may engage such 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	Main Functions and Areas of Responsibility
<p>Chief Executive (and Head of Paid Service)</p> <p>Mr J Hawkins</p>	<p>Overall corporate management and operational responsibility (including overall management responsibility for all officers)</p> <p>Provision of professional advice to all parties in the decision making process.</p> <p>Representing the Council on partnership and external bodies.</p>
<p>Deputy Chief Executive</p> <p>Mr R Coulter</p>	<p>To contribute substantially to the vision and strategic management of the Council and the development of appropriate policies reflecting corporate aspirations.</p> <p>Provide corporate leadership and co-ordination as required of Council wide projects, cross-service initiatives and strategies.</p> <p>To influence the development of high quality services and to lead at Management Board level on financial strategy.</p> <p>To be accountable for the performance management of services within the remit of the post, through operational heads of service.</p> <p>To Deputise for the Chief Executive.</p>

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ARTICLE 13 – DECISION MAKING

<p>Assistant Chief Executive</p> <p>Mr R Stewart</p>	<p>To contribute substantially to the vision and strategic management of the Council and the development of appropriate policies reflecting corporate aspirations.</p> <p>To provide corporate leadership and as required co-ordination of Council wide projects, cross cutting initiatives and key strategies.</p> <p>To influence the development of high quality services.</p> <p>To lead on the strategic aspects of partnership working on behalf of the Council</p> <p>To be accountable for the performance management of Regeneration Planning and Community Services</p>
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- (c) **Head of Paid Service, Monitoring Officer and Chief Financial Officer.** The Council will designate the following posts as shown:

Designation	Post
<p>Head of Paid Service</p> <p>Mr J Hawkins</p>	<p>Chief Executive</p>
<p>Monitoring Officer</p> <p>Miss S Walter-Browne</p>	<p>Head of Legal Services and Monitoring Officer, referred to in this Constitution as Head of Legal Services</p>
<p>Chief Finance Officer</p> <p>Miss K Neath</p>	<p>Head of Financial Services</p>

These posts will have the functions described in paragraphs 12.02–12.05 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 8 of 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 the full Council on the manner in which the discharge of the Council's functions is co-ordinated. He will also report to the Human Resources Committee in respect of 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 and may hold the post of Chief Finance Officer if a qualified accountant.

12.03 Functions of the Monitoring Officer

- (a) **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 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.
- (b) **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.
- (c) **Receiving reports.** The Monitoring Officer will receive and act on reports made by the Ethical Standards Officers and decisions of the case tribunals.
- (d) **Conducting investigations.** The Monitoring Officer will ensure arrangements are in place to conduct investigations into matters referred by the Ethical Standards Officers and make reports or recommendations in respect of them to the Standards Committee.
- (e) **Advising whether executive decisions are within the budget and Policy Framework.** The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and Policy Framework.
- (f) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, budget and policy Framework issues to all councillors.
- (g) **Record Keeping.** Responsibility for a system of record keeping for all the Council's decisions.
- (h) **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 the Paid Service, appropriate Management Board members 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 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, 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 Functions of Head of Legal Services

- (a) **Maintaining the Constitution.** The Head of Legal Services 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) **Proper officer for access to information.** The Head of Legal Services 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.

12.06 Duty to Provide Sufficient Resources to the Head of Paid Service, Monitoring Officer and Chief Finance Officer

The Council will provide the Head of Paid Service, 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.

12.07 Employment

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ARTICLE 13 – DECISION MAKING

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules in Part 5 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 (Part 3 - Delegated Powers).

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, and equality and diversity;
- (d) a presumption in favour of openness; and
- (e) clarity of aims and desired outcomes;
- (f) transparency (i.e. explaining what options were considered and giving the reasons for the decision).

13.03 Key Decisions

A “key decision” means an executive decision that is likely-

- to result in the local authority incurring expenditure which is, or the making of savings which are in excess of £ 50,000 or is significant having regard to the local authorities budget for the service or function to which the decision relates; or
- 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.

A decision-taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 5 of this Constitution.

13.04 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

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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 Part 5 of this Constitution.

14.02 Contracts

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

14.03 Legal Proceedings

Heads of Service (in consultation with the Head of Legal Services) are 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 they consider that such action is necessary to protect the Council's interests.

14.04 Authentication of Documents

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

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 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 all contracts with a value exceeding £50,000 and any other documents, including contracts with a value of less than £50,000, that in the opinion of the Head of Legal Services should be sealed. The affixing of the Common Seal will be attested by the Head of Legal Services or some other person authorised by him.

14.06 Sealing of Documents

- (a) Subject to (b) below the Common Seal of the Council shall not be affixed to any document unless the sealing has been authorised by a resolution of the Council or a committee, sub-committee, member of the Executive or a duly authorised officer to which the Council has delegated its powers in this behalf. Such a resolution shall be a sufficient authority for sealing any document necessary to give effect to that resolution or decision.

ARTICLE 14 – FINANCE, CONTRACTS AND LEGAL MATTERS

- (b) The Seal may be affixed to the following documents without an authorising resolution:
- (i) mortgages, including receipts thereon and related documents, granted by the Council under the Small Dwellings Acquisition Acts and the Housing Acts;
 - (ii) guarantees given to building societies by the Council under the Housing Acts;
 - (iii) mortgages of the Council's revenues to secure repayment of local loans;
 - (iv) Legal Charges in the Council's favour on private properties.

ARTICLE 15 –REVIEW AND REVISION
OF THE CONSTITUTION

ARTICLE 15 – REVIEW AND REVISION OF THE CONSTITUTION

15.01 Duty to Monitor and Review the Constitution

The Head of Legal Services will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

15.02 Changes to the Constitution

- (a) **Approval.** Changes to the constitution will only be approved by the full Council after receiving a recommendation by the Executive following:
- consideration of a proposal from the Head of Legal Services by the Chief Executive and Management Board and;
 - a recommendation by the Chief Executive and Management Board to the Cabinet via the portfolio holder with responsibility for corporate governance.
- (b) **Change from a Leader and Cabinet form of executive to alternative arrangements, or vice versa.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up any proposals to change the form of its Executive arrangements to one of the alternative forms permitted by the Local Government Act 2000.

**ARTICLE 16 – SUSPENSION, INTERPRETATION AND
PUBLICATION OF THE CONSTITUTION**

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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 45 members of the Council are present and will not be carried unless 31 members vote in favour of suspension. 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.**
- Council Procedure Rules
 - Budget and Policy Framework Procedure Rules
 - Financial Procedure Rules
 - Contract Procedure Rules

16.02 Interpretation

At any meeting the ruling of the Chairman of the Council (or other person presiding) as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

16.03 Publication

- (a) The Head of Legal Services will give a printed copy of this Constitution to each Member of the authority upon delivery to him of that individual's declaration of acceptance of office on the Member first being elected to the Council.
- (b) The Head of Legal Services will ensure that copies are available for inspection at appropriate locations and on the Council's website, and can be purchased by members of the local press and the public on payment of a reasonable fee.