

## Part 2

### The Council's Fifteen Articles of Governance

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### Article 1      Members of The Council

#### 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 ward, in accordance with a scheme drawn up by the Boundary Committee for England and approved by the Secretary of State or drawn up by the Electoral Commission.
- (b)      **Eligibility:** Only registered voters of the Council's area or those living or working there will, subject to the relevant statutory provisions, be eligible to hold the office of Councillor.

#### Election and Terms

- (a)      The ordinary election of a third of all councillors will be held on the first Thursday in May in each year beginning in 2014 in 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.
- (b)      Part 2 of The Local Government and Public Involvement in Health Act 2007 allows the Council to change the above to whole council elections, such change being agreed by a Council resolution passed at a special meeting of the Council by a two thirds majority (the Council must take appropriate steps to consult relevant consultees before passing the resolution). The resolution must specify the year for the first ordinary elections of the Council at which all councillors are to be elected.

If the Council passes a resolution to change the electoral scheme it cannot pass a further resolution before the end of five years beginning from the day of the earlier resolution.

If the Council resolves to be subject to whole council elections the Council can request the Electoral Commission to conduct an electoral review of the area with the aim of introducing single member wards.

#### 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 the advocate of and for their communities;
- (iii)      deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- (iv)      balance different interests identified within the ward and represent the ward as a whole;
- (v)      be involved in decision-making;
- (vi)      be available to represent the Council on other bodies;
- (vii)      maintain the highest standards of conduct and ethics.

- (viii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- (ix) respond to constituents' enquiries and representations, fairly and impartially;
- (x) participate in the governance and management of the Council and may be involved in the exercise of the Council's quasi-judicial functions; and
- (xi) exercise those functions delegated to individual members by the Leader/Council within the ward.

### **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 any information which is confidential or exempt without the consent of the Council and will not 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 Procedure Rules in Part 4 of this Constitution.

### **Conduct**

Councillors will at all times observe the Code of Conduct for Members; the Protocol on Member/Officer Working Arrangements and the Guide to Good Practice for Members and Chief Officers involved in the Planning Process set out in Part 5 of this Constitution.

### **Allowances**

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

Councillors are also entitled to reimbursement of expenses incurred by them in the performance of their duties in accordance with regulations made under the Local Government Act 1972 by the Secretary of State responsible for local government.

## **Article 2 Citizens And The Council**

### **Citizens' rights**

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Procedure Rules in Part 4 of this Constitution:

#### **(a) Voting and petitions**

Citizens on the electoral roll for the area have the right to vote; and to sign a petition to request a referendum for an Elected Mayor form of Constitution.

#### **(b) Information**

Citizens have the right to:

- (i) attend meetings of the Council, the Cabinet and committees, except where confidential or exempt information is likely to be disclosed and the meeting is

therefore held in private. Notification of private meetings of the Cabinet will normally be published 28 days prior to the meeting. Representations can be made to the Council's Monitoring Officer (the Borough Solicitor) requesting that the matter identified will be considered in public. The Borough Solicitor will issue a response to such representations 5 clear days before the meeting takes place;

- (ii) find out from the Council's "Forward Plan" what key decisions will be taken by the Cabinet and Executive Cabinet Members and when;
- (iii) see agendas, reports and background papers (except confidential or exempt information), and any records of decisions made by the Council and the Cabinet, Executive Cabinet Member and Officers (as prescribed by the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and any committees;
- (iv) inspect the Council's accounts and make their views known to the external auditor; and
- (v) submit petitions under the Council's Petition Scheme.

(c) **Participation**

- (i) Citizens may, if so requested, contribute to investigations by Scrutiny Committees; and
- (ii) Citizens have the right to address the Planning Committee in respect of a particular planning application, whether supporting or objecting and the Licensing Sub-Committee when considering applications under the Licensing Act 2003.

(d) **Complaints**

Citizens have the right to complain to:

- (i) the Council itself under its complaints scheme; and
- (ii) the Ombudsman after using the Council's own complaints scheme;

**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 3 The Full Council**

**Meanings**

(a) **Policy Framework**

The policy framework means the following plans and strategies: -

- (A) Bolton: Our Vision
- (B) Children and Young People's Plan
- (C) Community Strategy
- (D) Community Safety Plan

- (E) Development Plan documents under section 15 of the Planning and Compulsory Purchase Act 2004
- (F) Licensing and Gambling Policies
- (G) Local Transport Plan
- (H) Joint Health and Wellbeing Strategy

**(b) Budget**

The Budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

**Functions of the full Council**

Only the Council (or the Constitutional Panel with respect to (iv) and (vi) if required before a meeting of the Council) will exercise the following functions:-

- (i) electing a (non-executive) Mayor;
- (ii) adopting and changing the Constitution;
- (iii) appointing the Leader;
- (iv) agreeing and/or amending the terms of reference of committees, deciding on their composition and making appointments to them;
- (v) approving or adopting the policy framework, the Budget and any application to the Secretary of State in respect of any Housing Land Transfer;

subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the Budget where the decision-maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the Budget;

- (vi) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
- (vii) adopting an allowances scheme under Article 1;
- (viii) changing the name of the Borough and the name of a ward in its area,
- (ix) conferring the title of Honorary Alderman or the Freedom of the Borough;
- (x) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (xi) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet;
- (xii) all other matters which, by law, must be reserved to Council; and

- (xiii) to delegate non executive functions to individual members to be exercisable in their wards, subject to the Council's Scheme of Delegation.

## **Council Meetings**

There are three types of Council meeting:

- (1) the annual meeting;
- (2) ordinary meetings; and
- (3) extraordinary meetings;

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

## **Responsibility for Functions**

The Council will maintain the details in Part 7 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

## **Article 4 Chairing The Council**

### **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**

- (a) The main duty of the Mayor is to preside over the principal meetings of the Council and, if present, at the meeting he/she must preside.
- (b) If the Mayor is not present at the Council meeting, the Deputy Mayor has to preside. In the absence of the Mayor and the Deputy Mayor, a member (except the Leader or any Executive Cabinet Member) present at the meeting shall be elected to Chair the meeting by those members present at the meeting.
- (c) The person presiding at the Annual Meeting must give a casting vote in the event of any equality of votes for the election of a new Mayor. This is in addition to any other vote he or she may have cast. A candidate for Mayor should not, however, continue to preside at the meeting for exercise of the casting vote.
- (d) Standing Orders give the Mayor specific powers in chairing Council meetings. The Mayor's ruling on any matter, whether it be the admissibility of a point of order or a ruling upon the result of a vote or upon a ruling to refuse to hear a person, is final and is not open to challenge.
- (e) The Mayor may call an extraordinary meeting of Council subject to proper procedures being followed.
- (f) If the Mayor refuses or fails to call an extraordinary meeting within seven days after a requisition for that purpose by five members has been presented to him/her, any five members may forthwith call an emergency meeting.
- (g) The Mayor may perform certain tasks in a similar manner to a Justice of the Peace. He/she may also do the following:-
  - (i) sign any document for the purpose of authenticating another person's signature;

- (ii) take and authenticate by his/her signature any written declaration not made on oath; and
- (iii) give a certificate of facts within their knowledge of their opinion as to any matter.

### **Precedence**

The Mayor is the first citizen of the Borough and has the right to precedence over everyone in attendance at functions, speaking at functions and appearing at parades, except on the occasion of a Royal visit or the Lord Lieutenant when representing Royalty.

### **Role of the Mayor**

The Mayor will be elected by the Council annually. The Mayor will have the following responsibilities:-

- (a) to uphold and promote the purposes of the Constitution and to interpret the Constitution when necessary;
- (b) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- (c) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold the Cabinet to account;
- (d) to promote public involvement in the Council's activities;
- (e) to be the conscience of the Council;
- (f) to attend such civic and ceremonial functions as the Council and he/she determines appropriate; and
- (g) to participate in the Council's dispute resolution procedure outlined in Part 4 of this Constitution.

## **Article 5 Scrutiny Committees**

### **Terms of Reference**

The Council will appoint Scrutiny Committees – as set out below - to discharge the functions conferred by Section 21 of the Local Government Act 2011 or by regulations made under Section 32 of the Local Government Act 2011 in relation to the matters set out in the Powers and Duties of Committees and Panels in Part 7 of this Constitution.

### **Scrutiny Committee**

Children's Services  
Corporate and External Issues  
Health Overview and Adults, Communities and Integration  
Place

## General Role

Within their terms of reference, the Scrutiny Committees will:-

- (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (b) make reports and/or recommendations to the full Council and/or the Cabinet and/or any Policy Development Group or Joint Committee in connection with the discharge of any functions;
- (c) consider any matter affecting the Borough or its inhabitants;
- (d) exercise the right to call-in for scrutiny, decisions made but not yet implemented by the Cabinet and/or any Policy Development Group.
- (e) consider councillor call for action issues, including crime and disorder matters (the matter has to affect all or part of a member's ward or any person who lives or works in the ward); and
- (f) to require partner organisations to provide information and to request such partner organisations to consider a report/recommendations of the committee relating to the local improvement target specified in the LAA.

## Specific Functions

### (a) Policy Development and Review

Scrutiny Committees may:-

- (i) assist the Council and the Cabinet in the development of its Budget and policy framework by in-depth analysis of policy issues;
- (ii) conduct research, consultation (including the community) 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 Cabinet, 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) to work with partner authorities to improve local improvement targets.

### (b) Scrutiny

Scrutiny Committees may:-

- (i) review and scrutinise the decisions made by and performance of the Cabinet and Council officers both in relation to individual decisions and over a period of time;
- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;



- (iii) question members of the Cabinet, 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 Cabinet, appropriate committee and/or Council arising from the outcome of the scrutiny process and to receive a response within a two month time period;
- (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Committee and local people about their activities and performance;
- (vi) question and gather evidence from any person (with their consent); and
- (vii) appoint one or more sub-committees to discharge any of its functions and such sub-committees may include persons who are not members of the Authority.

(c) **Resources**

Scrutiny Committees may exercise overall responsibility for any resources made available to them.

**Proceedings of Scrutiny Committees**

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

**Article 6      The Cabinet**

**Role**

The Cabinet 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.

**Form and Composition**

The Cabinet will consist of the Leader together with up to nine other councillors (with executive authority) appointed to the Cabinet by the Leader. The Leader will decide the portfolios of the Executive Cabinet Members/Cabinet Members.

**Leader**

The Leader will be a councillor elected to the position of Leader by the Council for a term to be determined by the Council or the balance of his/her term of office as a councillor.

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; or

- (e) the appointment of a successor at a subsequent Annual Meeting of the Council;
- (f) in the event of a change in political control of the Council; or
- (g) the time period for which he/she was appointed has elapsed.

### **The Deputy Leader**

The Deputy Leader will be a member of the Cabinet and be appointed by the Leader and will act as Leader if the Leader is unable to act or the office is vacant. If the post of Deputy Leader becomes vacant the Leader must appoint another person to be Deputy Leader.

### **Other Cabinet Members**

Other Cabinet Members shall hold office until:

- (a) they resign from office; or
- (b) they are suspended from being councillors under Part III of the Local Government Act 2000 (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;
- (e) the appointment of a successor by the Leader; or
- (f) in the event of a change in political control of the Council.

### **Proceedings of Meetings of the Cabinet and Executive Cabinet Members**

Proceedings of the Cabinet and of individual Executive Cabinet Members shall take place in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution.

### **Call In**

A decision may be called in by any individual member present at the time when the decision is taken or on receipt of a request, submitted in writing to the Chief Executive, by any six members of the Council not later than 5.00 p.m. on the second full working day following publication of the minutes of the meeting at which the decision was taken. Decisions will not therefore be implemented until this period has expired, subject to the provisions contained in the Scrutiny Procedure Rules, as set out in Part 4 of this Constitution, in relation to matters of urgency.

### **Responsibility for Functions**

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

The Deputy Leader will hold office until:-

- (a) removed by the Leader;
- (b) he/she resigns from office;
- (c) they are suspended from being a councillor under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension);

- (d) he/she is no longer a councillor; or
- (e) until the end of term of the Leader.

If the Leader/Deputy Leader is unable to act in the office or the Leader/Deputy Leader is vacant then the Cabinet shall act in the Leader's place or will arrange for a member of the Cabinet to act in the Leader's place.

## **Article 7      Regulatory and Other Committees**

The Council's regulatory committees are: -

Planning Committee  
Licensing and Environmental Regulation Committee

The Council's Appeals and Other Panels are:-

Education Assistance Panel  
Education School Admission Appeals Panel  
Personnel Appeals Panel  
Chief Officer Appointments Panel  
School Governor Appointments Panel  
Independent Remuneration Panel  
Constitutional Panel

The terms of reference and functions of these committees and panels are set out in Part 7 of this Constitution.

## **Article 8      The Standards Committee**

The Council meeting will establish a Standards Committee.

### **Composition**

The Standards Committee will be composed of, at least,

- three councillors other than the Mayor and Leader;
- at least three Town Council members, who must be present when matters relating to those Town Councils or their members are being considered;

### **Chairing the Committee**

The Chair of the Standards Committee will be one of the three Council members.

### **Role and Function**

The Standards Committee will have the following roles and functions:-

- (a) promoting and maintaining high standards of conduct by councillors, co-opted members and church and parent governor representatives;
- (b) assisting the councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;

- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising, training or arranging to train councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct;
- (g) dealing with any investigations, hearings and determinations, reports from the monitoring officer;
- (h) the exercise of (a) to (g) above in relation to the parish (town) councils wholly or mainly in its area and the members of those parish (town) councils.

## **Article 9      Community Alliances**

### **Role and Function**

The purpose of Community Alliances is to:

- (a) provide a platform to support community action with elected members, council, key stakeholders, and businesses working effectively in partnership for the benefit of the ward achieving better outcomes – all part of the vision for an Active, Connected and Prosperous Bolton;
- (b) help connect existing individuals, groups, organisations at a local level encouraging the growth of community level activity and joining up efforts;
- (c) create relationships and ways to support community conversations to take place, to provide valuable community voice and insights on key issues for communities;
- (d) identify, develop and support active citizens that can help improve the communities they live in.
- (e) support active citizens to define their own problems, their own solutions to those problems, and the direct action they wish to take to make those solutions visible.
- (f) develop opportunities to connect resources to value and grow social action;
- (g) make decisions based on consensus;
- (h) ensure that the strengths, skills, and assets of the ward are developed and contribute to its sustainability; and
- (i) develop a two way relationship with other bodies and organisations, receiving and acting upon decisions and advice but also providing information and making recommendations.

## Chairing the Community Alliance

There will be a small core group of active citizens, councillors, and local partners who are prepared to spend time to coordinate and shape the development of Community Alliances in each ward. Each Community Alliance will need a small steering group to achieve this. Community Alliances are not formal council committees. For each ward, all 3 elected members will be part of each Community Alliance, including any steering groups, working alongside community representatives. Each Community Alliance will develop and agree a set of ground rules that can be contained within an agreed term of reference. This will include who will chair these arrangements. Elected Members are well placed through their place-leadership role to take on the chairing responsibility however this decision will be made via consensus by each Community Alliance.

## Article 10 Joint Arrangements

### Joint Arrangements

The Council may establish joint arrangements with one or more local authorities and/or their Cabinet/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.

The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.

Except as set out below, the Cabinet may only appoint Executive Cabinet Members/Cabinet Members to a joint committee and those members need not reflect the political composition of the local authority as a whole.

The Cabinet may appoint members to a joint committee from outside the Cabinet in the following circumstances. When the joint committee has functions for only part of the area of the authority, and that the area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area.

Details of any joint arrangements including any delegations to joint committees will be found in the Council's Scheme of Delegation in Part 7 of this Constitution.

### Access to Information

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

### Delegation to and from other local authorities

- (a) The Council may delegate non-executive functions to another local authority or, in certain circumstances, the Cabinet of another local authority.

- (b) The Cabinet may delegate executive functions to another local authority or the Cabinet 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.

## **Contracting Out**

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

## **Article 11 Officers**

### **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 (subject to any delegation to an Appointments Panel and to the Local Authorities (Standing Orders) (England) Regulations 2001) will engage persons for the following posts, who will be designated chief officers: -

Chief Executive  
 Director of Adults, Communities and Integration  
 Director of Children's Services  
 Director of Corporate Resources  
 Director of Place  
 Director of Public Health  
 Borough Solicitor  
 Borough Treasurer

The full Council (subject to any delegation to an Appointments Panel) may engage other persons to act as deputy or assistant chief officers.

#### **(c) Head of Paid Service, Chief Finance Officer and Monitoring Officer**

The following officers and designations in the table below shall apply in this Constitution: -

Post	Designation
Chief Executive	Head of Paid Service
Borough Treasurer	Chief Finance Officer
Borough Solicitor	Monitoring Officer

Such posts will have the functions described below.

**(d) Structure**

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

**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.

**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 Cabinet in relation to an executive function, if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

**(c) Supporting the Standards Committee.**

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

**(d) 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.

**(e) Advising whether executive decisions are within the Budget and Policy Framework**

The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the Budget and policy framework.

**(f) 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.

**(g) Restrictions on posts**

The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

**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 Cabinet in relation to an executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

**(b) Administration of financial affairs**

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

**(c) Contributing to corporate management**

The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

**(d) Providing advice**

The Chief Finance Officer will provide 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.

**(f) Restrictions on posts**

The Chief Finance Officer must be a qualified accountant and cannot be the Monitoring Officer.

**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.

**Functions of the Director of Public Health**

- (a)** Principal adviser on public health matters.
- (b)** Delivery of the Council duties as to the improvement of public health; health protection and healthcare public health.
- (c)** Responsibility for the management of the Council's public health services with professional responsibility and accountability for their effectiveness, availability and value for money.



- (d) Provision of expert, objective advice on public health matters to the Council and the public.
- (e) Work with a range of partners to foster improved health and well-being.
- (f) Contribute to and influence the work of partners and in particular NHS Commissioners to ensure a holistic approach across the public sector.
- (g) Be a member of the Health and Well Being Board, advising and contributing to the Joint Strategic Needs Assessment.
- (h) Prepare the Annual Report on the health of the Council's citizens.
- (i) Responsibility for any of the Secretary of State's public health protection or health improvement functions that are delegated to the Council, either by arrangement or under regulations.

## **Conduct**

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

## **Employment**

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

## **Article 12     Decision Making**

### **Principles of Decision Making**

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

- (a) Legality and Financial Probity - in accordance with advice given by the Monitoring Officer and/or the Chief Finance Officer or their representative(s).
- (b) Proportionality – the action will be proportionate to the desired outcome.
- (c) Consultation – there will be appropriate consultation and professional advice obtained from officers.
- (d) Human Rights – all decisions will take into account the European Convention on Human Rights.
- (e) Openness and accessibility – in all decisions there will be a presumption in favour of openness.
- (f) Clarity – there will be clarity of aims and desired outcomes in respect of every decision made.
- (g) Options – an explanation of what options were considered and reasons for decisions will also be provided.

## **Types of Decision**

### **(a) Decisions reserved to full Council**

Decisions relating to the functions listed in Article 3 will be made by the full Council and not delegated.

### **(b) Key decisions**

(i) A key decision is an executive decision which is likely:

- (a) to result in the relevant local authority incurring expenditure which is, or the making of savings which are, significant having regard to the relevant 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 or electoral divisions in the area of the relevant local authority.

For the purposes of (b)(i)(a) above savings or expenditure are significant if they amount to £100,000 or more.

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

## **Decision making by the full Council**

Subject to Article 12, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

## **Decision making by the Cabinet**

Subject to Article 12, the Cabinet will follow the Cabinet Procedures Rules set out in Part 4 of this Constitution when considering any matter.

## **Decision making by Scrutiny Committees**

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

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

Subject to Article 12, other Council committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

## **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, obligations or criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

## **Article 13 Finance, Contracts and Legal Matters**

### **Financial Management**

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

### **Contracts**

Every contract made by the Council will comply with the Standing Orders relating to Contracts set out in Part 4 of this Constitution.

### **Legal Proceedings**

The Borough Solicitor (and in his/her absence any person authorised by him/her) is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where he/she considers that such action is necessary to protect the Council's interests.

### **Authentication of Documents**

- (a) Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Borough Solicitor or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to, some other person.
- (b) Any contract with a value exceeding £15,000 but less than £50,000 shall be in writing or evidenced by a note or memorandum signed by the contractor containing the material terms of the contract.
- (c) Every contract, the value of which is £50,000 or more shall be in writing and under seal unless the Borough Solicitor, after consultation with the relevant chief officer, determines otherwise.
- (d) Every contract in writing and every note or memorandum of a contract shall specify:-
  - (i) The work, materials, matters or things to be furnished, had or to be done;
  - (ii) The price to be paid, together with a statement of discounts or other deductions;
  - (iii) The time within which the contract is to be performed; and
- (e) Every contract in writing shall contain a provision to the effect that the Council shall be entitled to withhold second and subsequent interim payments (without any interest charges) if the contractor fails to conclude the contract under seal with the Council.

### **Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Borough Solicitor. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents, that in the opinion of the Borough Solicitor, should be sealed. The affixing of the Common Seal will be attested by the Borough Solicitor or some other person authorised by him/her.

## **Article 14 Review and Revision of The Constitution**

## **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 the 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 Part 1 of the Constitution. 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.

## **Changes to the Constitution**

### **(a) Approval**

Major changes to the Constitution will only be approved by the full Council, normally after consideration of the proposal by the Cabinet.

### **(b) Change of Governance Arrangements.**

The Council will take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and may hold a referendum. The change will not take effect until the end of the elected Mayor's term of office.

The Localism Act 2011 provides for three governance models:-

- (1) Executive arrangements – Mayor and Cabinet or Leader and Cabinet Executive Member;
- (2) a Committee system;
- (3) prescribed arrangements by the Secretary of State (this could be proposed by the Local Authority and approved by the Secretary of State).

The Council needs to pass a resolution at a meeting of the Council to change Governance arrangements. The Council cannot pass a further resolution until a five year period has elapsed unless a referendum is held, on the issue or a petition is received asking for a referendum for an elected Mayor.

If the existing governance arrangements have been approved by a referendum then a further referendum would be required regarding the change or the Council resolves that a proposed change in governance be approved by a referendum.

## **Article 15      Suspension, Interpretation and Publication of The Constitution**

### **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 except by approval of a simple majority of the members present. The extent and duration of suspension will be proportionate to the result to be achieved taking account of the purposes of the Constitution as set out in Part 1.

(c)      **Rules capable of suspension**

The following Rules may be suspended in accordance with Article 15: -

Order of Business at Council – The Council's Procedural Standing Orders

### **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 as set out in Part 1.

## **Schedule**

### **Description of Executive Arrangements**

The following parts of this Constitution constitute the executive arrangements:

- (1) Article 5 (Scrutiny Committees) and the Scrutiny Procedure Rules (Part 4:Section E);
- (2) Article 6 (The Cabinet) and the Cabinet Procedure Rules (Part 4:Section D);
- (3) Article 10 (Joint Arrangements) in relation to any functions that have been delegated to them by the Cabinet;
- (4) Article 12 (Decision making) and the Access to Information Procedure Rules (Part 4:Section B);
- (5) Part 3 (Responsibility for Functions).