

Part 2

Articles of the Constitution

<i>Number</i>	<i>Description</i>	<i>Page</i>
1	<i>The Constitution</i>	2
2	<i>Members of the Council</i>	3
3	<i>Citizens and the Council</i>	5
4	<i>The Full Council</i>	6
5	<i>Chairing the Council</i>	8
6	<i>Overview and Scrutiny Committee, Audit Committee and Task & Finish Groups</i>	9
7	<i>The Cabinet</i>	13
8	<i>Planning, Licensing and Other Committees</i>	15
9	<i>Standards Committee</i>	16
10	<i>Local Committees</i>	19
11	<i>Joint Arrangements</i>	21
12	<i>Officers</i>	23
13	<i>Decision Making</i>	27
14	<i>Finance, Contracts and Legal Matters</i>	29
15	<i>Review and Revision of the Constitution</i>	30
16	<i>Suspension, Interpretation and Publication of the Constitution</i>	31
<i>Schedule 1</i>	<i>Description of Arrangements</i>	32

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 Braintree District Council.

1.03 Purpose of the Constitution

The purpose of the Constitution is to:

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

1.04 Interpretation and Review of the Constitution

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 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.
- (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. The next election is in 2011. 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 governance 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) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
 - (v) effectively represent the interests of their ward and of individual constituents;
 - (vi) respond to constituents' enquiries and representations, fairly and impartially;
 - (vii) maintain the highest standards of conduct and ethics.

(b) **Rights and duties**

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
- (iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.

2.04 Conduct

Councillors will at all times observe the Members’ Code of Conduct, the Protocol on Member/Officer Relations set out in Part 5 of this Constitution and the Code of Practice for Councillors and Officers Engaged in the Determination of Planning Applications set out in Part 5 of this Constitution.

2.05 Allowances

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

Article 3 - Citizens and The Council

3.01 Citizens' rights

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

- (a) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote 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 Cabinet when key decisions are being considered;
 - (iii) find out from the forward plan what key decisions will be taken by the Cabinet and when;
 - (iv) see reports and background papers, and any records of decisions made by the Council and the Cabinet; and
 - (iv) 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 Allegations Panel of the Standards Committee about a breach of the Councillor's Code of Conduct set out in Part 5.

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 to be approved by full Council and set out below:-
- Sustainable Community Strategy
 - Local Development Framework
 - Corporate Strategy
 - Medium Term Financial Strategy
 - Crime and Disorder Annual Partnership Plan
 - Licensing Policy Statement
- (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.
- (c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

4.02 Functions of the full Council

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an Cabinet 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 the leader where there is no majority group on the Council;
- (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 Cabinet function or has been delegated by the Council;
- (g) adopting an allowances scheme under Article 2.05;
- (h) changing the name of the area, conferring the title of honorary alderman;
- (i) confirming the appointment of the head of paid service;
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (k) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet; and
- (l) all other matters which, by law, must be reserved to Council.

4.03 **Council meetings**

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings.

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

4.04 **Responsibility for functions**

The Council will maintain Part 3 of this Constitution setting out the responsibilities for the Council's functions.

Article 5 – Chairing the Council

5.01 Role and function of the Chairman and Vice-Chairman

The Chairman will be elected by the Council annually.

- A The Chairman and Vice-Chairman of the Council will have the following roles and functions:
1. to represent the whole district during his/her year of office.
 2. as its representative, to provide fair and visible civic leadership to the Council and in relation to citizens.
 3. to act as a link between the Council and various groups and organisations within the Braintree District.
 4. to maintain an overview of the needs and concerns of the community he/she serves.
 5. to raise the profile of the Council and to promote the aims and values of the Council within the community.
- B The Chairman and in his/her absence the Vice-Chairman of the Council 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 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;
 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 Committee, Audit Committee and Task and Finish Groups

6.01 Overview and Scrutiny

Effective overview and scrutiny is essential to enhance the accountability and transparency of the decision making process. Local Committees provide a key mechanism for Councillors to represent the views of their constituents and for local organisations, such as Parish and Town Councils, to have their views taken into account in local decisions. Policy Groups allow a similar broad view of policy development, and actively engage key stakeholders in cross-cutting reviews. The Overview and Scrutiny Committee has a key function in holding the Cabinet to account. The Audit Committee monitors service standards and seeks to ensure best value is achieved across the Council.

6.02 Scope of Overview and Scrutiny Committee

- (a) Within its terms of reference, Overview and Scrutiny Committee will discharge the overview and scrutiny functions conferred by Section 21 of the Local Government Act 2000 as amended by the Local Government and Public Involvement in Health Act 2007 and will:
- i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions other than development control and other quasi-judicial matters;
 - ii) make reports and/or recommendations to the full Council and/or the Cabinet and/or any joint or area committee in connection with the discharge of any functions;
 - iii) consider any matter affecting the district or its inhabitants;
 - iv) exercise the right to call-in, for reconsideration, executive decisions made but not yet implemented by the Cabinet, portfolio holders and/or any area committees;
 - v) take an overview of policy development in line with the priorities of the Council; and
 - vi) exercise powers for the Community Call for Action in accordance with the Community Call for Action guidance set out in Part 4 of the Constitution
- (b) In accordance with the Crime and Disorder (Overview and Scrutiny) Regulations 2009, to act as the crime and disorder committee of the Council and in this respect to exercise the following functions:-
- i) to review or scrutinise at a strategic level the decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions;

- ii) to make reports or recommendations to the local authority with respect to the discharge of those functions;
- iii) to make reports or recommendations to a responsible authority or to a co-operating person or body on a crime and disorder matter and consider responses to its reports and recommendations within 1 month of receipt or as soon as possible;
- iv) to meet at least once in each civic year; and
- v) the crime and disorder committee may also require any officer of a responsible authority or of a co-operating person or body to answer questions.

6.03 **Scope of Audit Committee**

The Audit Committee is responsible for the programme of fundamental reviews and Improvement Plans as required under Best Value, and for scrutinising performance across the Council. It makes recommendations on these issues to the Cabinet.

As part of the Council's scrutiny function, no member of the Cabinet can serve on the Audit Committee.

The Committee also receives reports from the Audit Manager, and evaluates the District Audit Management Letter and Best Value Inspectorate reports.

The Committee also approves the Council's Annual Statement of Accounts.

6.04 **Scope of Task and Finish Groups**

The Council will appoint policy groups to support the development of policies. The work plans for policy groups shall be approved by the Council.

6.05 **Specific functions**

- (a) **Overview and Scrutiny.** Overview and Scrutiny Committee shall:
 - (i) review and scrutinise the decisions made by the Cabinet and/or local 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, and/or particular service areas;
 - (iii) question members of the Cabinet and/or local committees and senior officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
 - (iv) make recommendations to the Cabinet and/or local committees and/or Council arising from the outcome of the scrutiny process;

- (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance;
 - (vi) question and gather evidence from any person (with their consent);
 - (vii) request policy groups to undertake reviews of policy and report back to the Overview and Scrutiny Committee; and
 - (viii) consider and advise upon the Cabinet's initial proposals for the budget and policy framework in accordance with the Budget & Policy Framework Procedure Rules set out in Part 4 of this Constitution.
- (b) **Audit.** Audit Committee shall:
- (i) review service performance levels and receive update reports on progress on achieving targets set in Best Value Review plans and position statements.
 - (ii) receive reports from Internal Audit and make recommendations for action to be taken in response.
 - (iii) discuss with the external auditor, before the audit commences, the nature and scope of the audit;
 - (iv) review external audit reports and annual audit letters together with the management response.
 - (v) agree the Council's Annual Statement of Accounts.
 - (vi) oversee the Council's preparation for its Comprehensive Performance Assessment.
 - (vii) make recommendations to the Cabinet on these matters.
- (c) **Task and Finish.** Task and Finish Groups may:
- (i) assist the Council and the Cabinet in the search for continuous improvement and 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) 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;

(v) consider requests by the Overview and Scrutiny Committee to conduct policy reviews.

(d) **Performance Review Panels.** The Chairman of the Overview & Scrutiny Committee will participate in the regular performance reviews of the Chief Executive and Directors through Performance Review Panels comprising also the Leader of the Council and appropriate Cabinet Members.

6.06 **Proceedings of Overview and Scrutiny Committees**

The Overview and Scrutiny Committee, Audit Committee and Task and Finish Groups will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

Article 7 - The Cabinet

7.01 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.

7.02 Form and composition

The Cabinet will consist of the Leader of the Council, a Deputy Leader and such number of Cabinet Members (not less than 2 nor more than 9, including the Deputy Leader) as the Leader may determine.

7.03 Leader

Where there is a majority group among the members of the Council the leader will be the leader of that Group; otherwise the leader will be a Councillor elected to the position of leader by the Council. In either event the leader will hold office for a period of 4 years or until the Leader's ordinary term of office as a Councillor expires (whichever is the shorter). The Leader of the Council shall continue to 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 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 of the Council who must give written notice of any removal to the proper officer. The removal will take effect immediately upon receipt of the notice by the proper officer.

7.05 Proceedings of the Cabinet

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

7.06 Responsibility for functions

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

7.07 From time to time, the Leader may appoint Deputy Cabinet Members who will assist Cabinet Members in the discharge of their duties. Deputy Cabinet Members will have no delegated powers. The roles and responsibilities of Deputy Cabinet Members are set out in Section 7 of Part 3 of this Constitution.

Article 8 - Planning, Licensing and other committees

8.01 Planning, Licensing and other committees

The Council will appoint the committees set out in Part 3 of this Constitution to discharge the functions as described in each Committee terms of reference. The Licensing Committee will appoint the Members of the Committee to the necessary panels to conduct its business effectively.

Committee/Panel	Scope
Planning Committee (15 Members)	District Planning
Licensing Committee (15 Members)	Licensing
Licensing Drivers Panel (4 Members)	Hackney Carriage or Private Hire Licenses

8.02 Role and Function

To deal with all matters of a regulatory nature that are not in the functions of the Cabinet as set out in Schedule 1 to The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (SI 2000 No. 2853).

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 at least:
- two Councillors other than the leader;
 - one person who is not a Councillor or an officer of the Council or any other body having a standards committee (an independent member);
 - one member of a Parish or Town Council wholly or mainly in the Council's area (a Parish Member).
- (b) **Independent Members.** Independent members will be entitled to vote at meetings.
- (c) **Parish Members.** At least one parish member must be present when matters relating to those Parish and Town Councils or their members are being considered.
- (d) **Chairing the Committee.** The Chairman of the Committee shall be an Independent Member.

9.03 Role and Function

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by Councillors and co-opted members;
- (b) assisting the Councillors and co-opted members to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising, training or arranging to train Councillors and co-opted members on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to Councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct;
- (g) dealing with any reports from a case tribunal or interim case tribunal, and any report from the monitoring officer on any matter which is referred by an ethical standards officer appointed by the Standards Board for England to the monitoring officer;

- (h) the exercise of (a) to (g) above in relation to Parish and Town Councils wholly or mainly in its area and the members of those Parish and Town Councils;
- (i) to act as consultee (if required) in the appointment of members of the Independent Remuneration Panel;
- (j) the Chairman of the Standards Committee shall be consulted on any proposal to terminate the membership of any member of the Independent Remuneration Panel;
- (k) to grant exemptions from politically restricted posts.

9.04 Allegations and Hearings

The Standards Committee will appoint the following Sub-Committees to discharge the functions as described under their respective terms of reference:

Sub-Committee	Terms of Reference
Allegations Panel	To carry out the initial assessment of Misconduct allegations in accordance with Section 57A of the Local Government Act 2000 and any relevant Regulations, including any subsequent reference back to the Panel by the Monitoring Officer
Allegations Appeals Panel	To review a decision by an Allegations Panel to take no action in respect of a misconduct allegation in accordance with Section 57B of the Local Government Act 2000 and any relevant Regulations
Standards Hearing Panel	To determine any matters referred to it in accordance with the provisions of the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 as subsequently amended

- 9.05 Meetings of the Allegations Panel and Allegations Appeals Panel shall comprise three members and no member who has sat on an Allegations Panel may also sit on an Allegations Appeals Panel which considers an appeal against the decision of the Allegations Panel.
- 9.06 Meetings of the Standards Hearing Panel shall comprise five members.
- 9.07 Each of the Sub-Committees shall be chaired by an independent member of the Standards Committee.
- 9.08 One of the parish representatives shall sit on the Allegations Panel and another on the Allegations Appeals Panel.

- 9.09 The third member of the Allegations Panel and the Allegations Appeals Panel shall be drawn from the District Councillor members of the Standards Committee and be selected on an alphabetical rota basis.
- 9.10.1 The Standards Hearing Panel shall comprise 5 members of the Committee (with a minimum quorum of 3 including one independent member) and be chaired by an independent member
- 9.10.2 In respect of hearings into complaints against District Councillors, the Standards Hearing Panel shall comprise two District Councillors and three members drawn from the remaining non-District Councillors on the Committee one of whom shall be either the Chairman or Vice-Chairman of the Committee, all members to be selected in rotation on the basis of availability;
- 9.10.3 In respect of hearings into complaints against Parish or Town Councillors, the Standards Hearing Panel shall comprise two District Councillors and three members drawn from the remaining non-District Councillors on the Committee one of whom shall be either the Chairman or Vice-Chairman of the Committee and another shall be one Parish representative, all members to be selected in rotation on the basis of availability;
- 9.10.4 The Monitoring Officer is authorised to:-
- (a) settle the membership of a particular Standards Hearing Panel on a rota basis according to availability and in consultation with the Chairman of the Committee (or the Vice-Chairman if the Chairman is not available);
 - (b) carry out the pre-hearing process in consultation with the Chairman of the Standards Hearing Panel in respect of referred cases, reporting the outcomes and actions to the Standards Hearing Panel for its endorsement; and
 - (c) make minor amendments to the procedure for local determinations which do not alter the sense intended.
- 9.11 Subject to the requirement for a parish representative to sit on a Sub-Committee where the business of the meeting relates to a parish Councillor, any independent member and any parish representative on the Standards Committee may act as a substitute at a meeting of any of the Sub-Committees for any other independent member or parish representative, or in place of a District Councillor member in a situation where no District Councillor could sit on the Sub-Committee because of an interest or because of other commitments.

Article 10 - Local Committees

10.01 Local 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.

10.02 Form, composition and function

- (a) **Table of local committees.** The Council will appoint the local committees as set out in the first column of the tables below, composed as set out in the second column of these tables and with the broad terms of reference set out in the third table.

Name of Committee	Composition
Braintree Local Committee	26 members of the Council all from the Area
Halstead Local Committee	16 members of the Council all from the Area
Witham Local Committee	18 members of the Council all from the Area

Terms of Reference
A broad description of the terms of reference is set out below. The detailed terms of reference are set out later in Part 3 of this Constitution.
Local Committees - will be responsible for all functions arising solely within their areas

- (b) **Delegations.** The Council and the Cabinet will include details of the delegations to local committees in Part 3 of this Constitution, including the functions delegated showing which are the responsibility of the Cabinet and which are not, the composition and membership of the committees, budgets and any limitations on delegation.

10.03 Conflicts of interest - membership of local committees and overview and scrutiny committees

If an overview and scrutiny committee is scrutinising specific decisions or proposals in relation to the business of the local 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.

10.04 **Local committees - access to information**

Local committees will comply with the Access to Information Rules in Part 4 of this Constitution.

10.05 **Cabinet members on local committees**

A member of the Cabinet may serve on a local committee if otherwise eligible to do so as a Councillor.

Article 11 - Joint Arrangements

11.01 Arrangements to promote well being

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

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

11.02 Joint arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Cabinets to exercise functions which are not Cabinet functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Cabinet functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Cabinet may appoint members to a joint committee from outside the Cabinet where the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint committee any Councillor who is a member for a ward which is wholly or partly contained within the area. 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 will be found in the Council's scheme of delegations in Part 3 of this Constitution.

11.03 Access to information

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

- (c) If the joint committee contains members who are not on the Cabinet 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-Cabinet functions to another local authority or, in certain circumstances, the Cabinet of another local authority.
- (b) The Cabinet may delegate Cabinet 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.

11.05 Contracting out

The Cabinet may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

Article 12 - Officers

TERMINOLOGY

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 (Committee thereof) will engage persons for the following posts, who will be designated chief officers:

The Chief Executive is responsible for the overall corporate management of the Council ensuring the efficient, effective and economic delivery of services that meet the Council's overall policy objectives.

The Directors are responsible for a broad range of services managed through the Heads of Service and the corporate management of the Council within those service and policy areas.

Post	Functions and areas of responsibility
Chief Executive	Overall management of the Council's functions, Street Scene and Health Protection
Corporate Director	Planning, Housing, Economic Development, Building Control, Architects, Surveyors, Transport and Landscapes.
	Waste Recycling, Engineering, Public Health and Housing and Environmental Protection
Finance Director	Assets, Exchequer and Finance.

Chief Officers are responsible and accountable for the day to day delivery of Council services. Each has specific service responsibilities, as well as a corporate responsibility for contributing to the overall development, improvement and wellbeing of the Council and the citizens of the District.

Each manages, motivates and supports various teams and individuals within the Service to secure the required performance in achieving the outcomes set out in the service/performance plan.

Each contributes to the Council's corporate management and will lead, from time to time, on corporate projects commissioned by the corporate team.

(c) **Head of Paid Service, Monitoring Officer and Chief Financial Officer.** The Council will designate the following posts as shown:

(d)

Post	Designation
Chief Executive	Head of Paid Service
Head of Law and Governance	Monitoring Officer
Finance Director	Chief Financial Officer

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

- (e) **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.
- (f) **Proper Officer Provisions.** Any reference to the 'proper officer' in this Constitution or other legislation shall be construed in accordance with 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 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 Finance Director, the Monitoring Officer will report to the full Council or to the Cabinet in relation to an Cabinet 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 Cabinet 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 Cabinet decisions are within the budget and policy framework.** The monitoring officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- (h) **Providing advice.** The monitoring officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.
- (i) **Restrictions on posts.** The monitoring officer cannot be the chief finance officer or the head of paid service.

The monitoring officer will take the appropriate action following consultation with the head of paid service.

12.04 Functions of the Finance Director

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the head of paid service and the monitoring officer, the Finance Director will report to the full Council or to the Cabinet in relation to an Cabinet 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 Finance Director will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management.** The Finance Director will contribute to the corporate management of the Council through the provision of professional financial advice.
- (d) **Providing advice.** The Finance Director 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 Finance Director 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**

The Council will provide the monitoring officer with such officers, accommodation and other resources subject to consideration by the Cabinet to allow his/her duties to be performed.

12.06 **Conduct**

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

12.07 **Employment**

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

Article 13 - Decision Making

13.01 Responsibility for decision making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

13.02 Principles of decision making

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

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' means a decision made or to be made by a decision maker in connection with the discharge of a function which is the responsibility of the Cabinet and which is likely:
 - (1) to result in the Council incurring expenditure which is, or the making of savings which are, in excess of Fifty Thousand Pounds (£50,000) or is significant having regard to the Council's budget for the service or function to which the decision relates; or
 - (2) to be significant in terms of its effect on one or more communities living or working in the District.
 - (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.

13.04 Decision making by the full Council

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

13.05 Decision making by the Cabinet

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

13.06 Decision making by overview and scrutiny

The Scrutiny Panel and Policy Groups will follow the Overview and Scrutiny Procedures Rules set out in Part 4 of this Constitution when considering any matter.

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

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

13.08 Decision making by Council bodies acting as tribunals

The Council, a Councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of 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 Part 4 of this Constitution.

14.02 Contracts

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

14.03 Legal proceedings

The Head of Law and Governance 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 the Head of Law and Governance 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 Head of Law and Governance 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 £20,000 (Twenty Thousand Pounds) entered into on behalf of the local authority in the course of the discharge of an Cabinet 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. (See Contracts Procedure Rules in Part 4 of this Constitution).

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 Law and Governance. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Head of Law and Governance should be sealed. The affixing of the Common Seal will be attested by the Head of Law and Governance or some other person authorised by him/her.

Article 15 – Review and Revision of the Constitution

15.01 Duty to monitor and review the constitution

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aim 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:

1. observe meetings of different parts of the member and officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
4. 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.** Changes to the constitution will only be approved by the full Council after consideration of the proposal by the Cabinet.
- (b) **Change from a leader and cabinet form of Cabinet 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.

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 be suspended. The Rules 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 into account of the purposes of the Constitution set out in Article 1.
- (c) **Rules capable of suspension.** The Rules may be suspended in accordance with Article 16.01 but only to achieve an effect consistent with purposes set out in Article 1.

16.02 Interpretation

The ruling of the Chairman of Council 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 Member Services Manager will make a copy of this Constitution available 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 Member Services Manager will ensure that a copy is available for inspection at Council offices, libraries, other appropriate locations and placed on the Council's web-site. A copy can also be purchased by members of the local press and the public on payment of a reasonable fee.

Schedule 1: Description of Arrangements

The following parts of this Constitution constitutes the executive arrangements:

1. Article 6 (Overview and Scrutiny Committee, Audit Committee and Task and Finish Groups) and the Overview and Scrutiny Procedure Rules;
2. Article 7 (The Cabinet) and the Cabinet Procedure Rules;
3. Article 10 (Local Committees);
4. Article 11 (Joint arrangements);
5. Article 13 (Decision making) and the Access to Information Procedure Rules;
6. Part 3 (Responsibility for Functions).