

Part 2 – Articles of the Council

Table of Contents

Article 1 – The Constitution	4
1.1 The Constitution.....	4
1.2 Powers of the Council.....	4
1.3 Purpose of the Constitution	4
1.4 Interpretation and Review of the Constitution	4
Article 2 – Members of the Council	5
2.1 Composition and Eligibility	5
2.2 Election and terms of councillors	5
2.3 Rights and duties of Members	5
2.4 Conduct	5
2.5 Allowances	5
2.6 Key roles.....	6
Article 3 – Citizens and the Council	7
3.1 Citizens’ rights	7
3.2 Citizens’ responsibilities.....	8
Article 4 – The Full Council	9
4.1 Introduction.....	9
4.2 Meanings	9
4.3 Functions of the full Council.....	9
4.4 Council meetings	9
Article 5 – The Executive	11
5.1 Form and composition	11
5.2 Leader	11
5.3 Deputy Leader	11
5.4 Other Executive Members	11
5.5 Executive Support Members.....	12
5.6 Vacancies or Inability to Act.....	12
5.7 Responsibility for functions	12
5.8 Proceedings of the Executive	13
Article 6 – Overview and Scrutiny Arrangements	14
6.1 Terms of Reference	14

6.2 General role	14
6.3 Specific functions	14
6.4 Annual report	16
6.5 Proceedings of Overview and Scrutiny Bodies	16
Article 7 – The Standards Committee	17
7.1 Standards Committee	17
7.2 Composition.....	17
7.3 Role and Function.....	17
Article 8 – Joint Arrangements	18
8.1 Arrangements to promote well being	18
8.2 Joint arrangements	18
8.3 Access to information	19
8.4 Delegation to and from other local authorities	19
8.5 Contracting out	19
8.6 Partnerships.....	19
8.7 Existing Joint Arrangements	19
Article 9 – Officers	20
9.1 Management structure.....	20
9.2 Functions of the Head of Paid Service.....	24
9.3 Functions of the Monitoring Officer	24
9.4 Functions of the Chief Finance Officer.....	25
9.5 Functions of the Scrutiny Officer.....	26
9.6 Functions of the Director of Public Health.....	27
9.7 Functions of the Data Protection Officer	27
9.8 Duty to provide sufficient resources to the Monitoring Officer, Chief Finance Officer and Data Protection Officer	28
9.9 Conduct	28
9.10 Employment.....	28
9.11 Functions of the Head of Internal Audit.....	28
Article 10 – Decision Making	29
10.1 Responsibility for decision making	29
10.2 Principles of decision making.....	29
10.3 Types of decision.....	29
10.4 Decision making by the full Council	30
10.5 Decision making by the Executive	30

10.6 Decision making by Overview and Scrutiny Committees	30
10.7 Decision making by other Committees and Sub-Committees established by the Council.....	30
10.8 Decision making by Council bodies acting as tribunals	31
Article 11 – Finance, Contracts and Legal Matters	32
11.1 Financial management	32
11.2 Contracts	32
11.3 Legal proceedings	32
11.4 External Legal Advice	32
11.5 Authentication of documents.....	32
11.6 Common Seal of the Council	33
Article 12 – Review, Revision and Suspension of the Constitution	34
12.1 Duty to monitor and review the constitution	34
12.2 Changes to the Constitution	34
12.3 Suspension of the Constitution	34
12.4 Interpretation.....	35
12.5 Publication	35

Article 1 – The Constitution

1.1 The Constitution

This Constitution, and all its appendices, is the Constitution of Durham County Council.

1.2 Powers of the Council

The Council will exercise all its powers and duties in accordance with the law and this Constitution. In the event that the constitution conflicts with the law, the law shall prevail.

1.3 Purpose of the Constitution

The purpose of the Constitution is to:

- (a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- (b) support the active involvement of citizens in the process of local authority decision-making;
- (c) help councillors represent their constituents more effectively;
- (d) enable decisions to be taken efficiently and effectively;
- (e) create an effective means of holding decision-makers to public account;
- (f) ensure that no one will review or scrutinise a decision in which they have been directly involved;
- (g) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- (h) provide a means of improving the delivery of services to the community in pursuit of the Council's Mission Statement and its corporate aims as expressed in the Council's Corporate Plan.

1.4 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.

Article 2 – Members of the Council

2.1 Composition and Eligibility

- (a) **Composition** - The Council will comprise such number of members, otherwise called councillors, as may be elected by the voters of each electoral division in accordance with a scheme drawn up by the Electoral Commission and approved by the Secretary of State as varied by the County Durham (Structural Change) Order 2008 (the 2008 Order) – currently 126.
- (b) **Eligibility** - Only registered voters of the county or those living or working there will be eligible to hold the office of Councillor.

2.2 Election and terms of councillors

The regular election of councillors will be held on the first Thursday in May every four years beginning in 2005. 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. The 2008 Order made temporary changes to these arrangements.

2.3 Rights and duties of Members

- 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.
- 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.
- For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.

2.4 Conduct

Councillors will at all times observe the Members’ Code of Conduct and the Protocol on Member / Officer Relations set out in Part 5 of this Constitution.

2.5 Allowances

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

2.6 Key roles

Councillors and those co-opted to council bodies, will have the roles and functions appropriate to their position, further detail of which is set out in the Councillor Compact, which can be found on the Council's website.

Article 3 – Citizens and the Council

3.1 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 – Elected Mayor.** 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) **Petitions – General Provisions.** Any citizen has the right to present a petition to the Council either at a meeting of the Council or through the Chair, Leader, Member of the Executive, Committee Chair, Local Member, the Chief Executive or any other Corporate Director. A petition must be in proper language and relate to Council business or to a matter over which the Council has responsibility or which affects the County. The Director of Legal and Democratic Services can give citizens further guidance on this process. Petitions will be managed and responded to in accordance with the provisions set out in the Council Procedure Rules, which can be found at Part 4 of this Constitution.
- (c) **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) find out from the Notice of Key Decisions what key decisions will be taken by the Executive and when;
 - (iii) see reports and background papers, and any records of decisions made by the Council and the Executive;
 - (iv) inspect the Council's accounts and make their views known to the external auditor; and
 - (v) ask questions at Council meetings on matters relevant to the agenda.
- (d) **Complaints** - Citizens have the right to complain to:
 - (i) the Council itself under its complaints scheme;

- (ii) the Local Government and Social Care Ombudsman after using the Council's own complaints scheme;
- (iii) the Council's Monitoring Officer about a breach of the Councillors' Code of Conduct.

3.2 Citizens' responsibilities

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

Article 4 – The Full Council

4.1 Introduction

This Article defines the functions that are reserved for decision by the full Council. The Council is responsible for approving the policy framework and the annual revenue and capital budget. The Council also retains responsibility for (i) regulatory functions (which include planning, licensing and health and safety at work); (ii) certain constitutional and quasi-legislative functions (primarily the conduct of elections and making of by-laws); and (iii) most of the local choice functions which the Council is free to decide whether they are the responsibility of full Council or the Executive. The Council also has a role in holding the Executive to account.

4.2 Meanings

(a) **Policy Framework.** The policy framework means the following plans and strategies:

- i. Council Plan
- ii. Sustainable Community Strategy
- iii. County Durham Plan (Plans and alterations that together form the Development Plan)
- iv. County Durham Youth Justice Plan
- v. Housing Strategy
- vi. Homelessness Strategy
- vii. Licensing Authority Policy Statement
- viii. Statement on Gambling Policy
- ix. Any other plan or strategy which the Council determines should be adopted or approved by them.

(b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, 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.

4.3 Functions of the full Council

The functions of full Council are set out in Part 3A of the Constitution.

4.4 Council meetings

There are three types of Council meeting:

- i. the annual meeting;

- ii. ordinary meetings;
- iii. extraordinary meetings.

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution. Meetings will be chaired by the Chair or Vice-Chair of the Council.

Article 5 – The Executive

5.1 Form and composition

The Executive will consist of a Leader together with at least 2, but not more than 9, councillors appointed to the Executive by the Leader, one of whom shall be designated by the Leader as the Deputy Leader.

5.2 Leader

The Leader of the Council will be a councillor elected to that position by the Council at their annual meeting in 2021. The Leader will hold office until the day of the post-election annual meeting following their election, unless before that date:

- (a) they resign from the office; or
- (b) they are no longer a councillor; or
- (c) they are removed from office by resolution of the Council in accordance with the Council Procedure Rules in Part 4 of this Constitution.

5.3 Deputy Leader

The Deputy Leader will hold office until the end of the term of office of the Leader, unless before that date:

- (a) they resign from office; or
- (b) they are no longer a councillor; or
- (c) they are removed from office by the Leader.

5.4 Other Executive Members

Other Executive Members will hold office for such period as the Leader shall determine unless during that period:

- (a) they resign from office; or
- (b) they cease to be councillors.

5.5 Executive Support Members

- (a) The Leader may appoint and remove at their discretion up to 10 councillors to be Executive Support Members, to support and assist the Executive as a whole or individual members of the Executive.
- (b) Executive Support Members may not be members of any Overview and Scrutiny Committee, or Audit Committee or the Chair of the Council.
- (c) Executive Support Members may not substitute or represent an Executive Member at meetings of the Executive or a committee of the Executive, or require an item to be placed on the agenda of such meetings; nor may they exercise any executive function delegated to an Executive Member.

5.6 Vacancies or Inability to Act

- (a) Where a vacancy occurs in the office of Deputy Leader, the Leader will appoint another person in their place;
- (b) If for any reason the Leader is unable to act, or the office of Leader is vacant, the Deputy Leader will act in their place;
- (c) If for any reason:
 - i. the Leader is unable to act or the office of Leader is vacant; and
 - ii. the Deputy Leader is unable to act or the office of Deputy Leader is vacant;

the Executive will act in the Leader's place or arrange for a member of the Executive to act in their place.

- (d) In the case of a vacancy of the Leader, an election to fill the vacancy shall be held not later than the next ordinary meeting of the Council held after the date on which the vacancy occurs, or if that meeting is held within 14 days after that date, then not later than the next following ordinary meeting of the Council. The Proper Officer may convene a meeting of the Council for such an election
- (e) If the Council passes a resolution to remove the Leader from office, it will elect a new Leader at the meeting at which the Leader is removed or at a subsequent meeting.

5.7 Responsibility for functions

The functions of the Executive are set out in Part 3B of the Constitution.

5.8 Proceedings of the Executive

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

Article 6 – Overview and Scrutiny Arrangements

6.1 Terms of Reference

The Council will appoint the Committees set out in Part 3A of the Constitution to discharge the functions conferred by section 21 of the Local Government Act 2000 (as amended) or regulations under section 32 of the Local Government Act 2000 (as amended) and under the Health and Social Care Act 2001. The terms of reference for the Committees are set within the context of the Council Plan, its Notice of Key Decisions and the overarching partnership framework.

Neither the Chair of the Council nor members of the Executive or Executive Support Members may be members of a Scrutiny Committee.

6.2 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 Executive in connection with the discharge of any functions;
- (c) consider and make reports or recommendations on any matter affecting the area or its inhabitants; and
- (d) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive in accordance with the Overview and Scrutiny Procedure Rules.
- (e) work to ensure that communities are engaged in the scrutiny process; and consider and implement mechanisms to encourage and enhance community participation in the development of policy options.
- (f) promote equality and diversity across all of its work and the work of the County Council.

6.3 Specific functions

- (a) Policy development and review

The Corporate Overview and Scrutiny Management Board and Scrutiny Committees may:

- i. assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues;
- ii. conduct research, community and other consultation in the analysis of policy issues and possible options;
- iii. question Members of the Executive and/or Committees and Chief Officers from the Council about their views on issues and proposals affecting the area; and
- 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; and
- v. consider the impact of policies to assess if they have made a difference.

(b) Scrutiny

The Corporate Overview and Scrutiny Management Board and Scrutiny Committees may:

- i. review and scrutinise the decisions made by and performance of the Executive and/or Committees and council Officers in relation to individual decisions and over time;
- ii. review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- iii. question Members of the Executive and/or Committees and Chief Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- iv. make recommendations to the Executive and/or appropriate Committee and/or Council arising from the outcome of the Scrutiny process;
- v. review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Corporate Overview and Scrutiny Management Board or Scrutiny Committee and local people about their activities and performance; and
- vi. question and gather evidence from any person (with their consent).

(c) Finance

The Corporate Overview and Scrutiny Management Board will exercise overall responsibility for the budget allocated to the function.

6.4 Annual report

The Corporate Overview and Scrutiny Management Board must report annually to full Council on their workings with recommendations for its future work programme and amended working methods if appropriate. This annual report will be complemented by additional half-yearly update reports setting out key issues from Overview and Scrutiny activity.

6.5 Proceedings of Overview and Scrutiny Bodies

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

Article 7 – The Standards Committee

7.1 Standards Committee

The Council meeting will establish a Standards Committee.

7.2 Composition

The Standards Committee comprises 11 Council Members with two non-voting co-optees from the parish councils.

7.3 Role and Function

The role and functions of the Standards Committee are set out in Part 3A of the Constitution.

Article 8 – Joint Arrangements

8.1 Arrangements to promote well being

The Executive, in order to promote the economic, social or environmental well-being of the County 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.

8.2 Joint arrangements

- (a) The Council may establish joint arrangements with one or more local authorities to exercise functions which are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Executive may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities. Except as set out below, or as permitted or required by law the Executive may only appoint Executive Members to such joint committees and those members need not reflect the political composition of the Council as a whole.
- (c) The Executive may appoint members to a joint committee from outside the Executive where the joint committee has functions for only part of the area of the Council, and that area is smaller than two-fifths of the county by area or population. In such cases, the Executive may appoint to the joint committee any councillor who is a member for an electoral division which is wholly or partly contained within the area. The political balance requirements do not apply to such appointments.
- (d) 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.

8.3 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 executive in each of the participating authorities then its access to information regime is the same as that applied to an executive, subject to any contrary provision agreed among the participating authorities as permitted by law.
- (c) If the joint committee contains members who are not on the executive of any participating authority then the Access to Information Rules in Part VA of the Local Government Act 1972 will apply.

8.4 Delegation to and from other local authorities

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

8.5 Contracting out

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

8.6 Partnerships

The Council will maintain and regularly review a register of partnerships in which the Council participates. Reviews will be undertaken in accordance with the Council's Partnership Performance Management Framework to assess and evaluate the governance and effectiveness of each partnership.

8.7 Existing Joint Arrangements

Existing joint arrangements are set out in Part 3A of the Constitution.

Article 9 – Officers

9.1 Management structure

- (a) **General.** The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The Council will engage persons for the following posts, who will be designated Chief Officers. The information below shows post title and lists main functions and areas of responsibility:

Chief Executive

- Overall corporate management and operational responsibility (including overall management responsibility for all officers)
- Overall responsibility for delivering the Council's policies and programmes
- Principal adviser to the Council on general policy
- Provision of professional advice to all parties in the decision-making process

Director for Regeneration, Economy and Growth

- Archives and Records
- Arts and Culture
- Assets, Estates and Property Management
- Attracting inward investment
- Building Control
- Business Durham
- Building Facilities and Management
- CCTV (Internal use)
- Care Connect and CCTV (public space cameras)
- Marketing
- Construction Programme and Project Management including: Programme and Project Management, Quantity Surveying and Accounts, Construction and Design Management (CDM)
- Culture Sport and Leisure
- Dangerous Structures
- Durham Key options (Housing)
- Economic Development
- Economic Regeneration
- Employability
- External Funding and Programmes
- Health and Safety (Internal)
- Housing Renewal and Improvement
- Housing Management, Strategy and Policy
- Integrated Passenger Transport Unit
- Local Transport Planning

- Libraries
- Management of commercial property portfolio
- Mineral and Waste Applications
- Museums
- Parking Policy, Control and Enforcement
- Planning Applications and Appeals
- Prevention & Resolution of Homelessness
- Project Design, Development and Delivery
- Promoting enterprise
- Regeneration Policy and Programmes
- Selective Licensing (Housing)
- Strategic Spatial and Planning Policy
- Sport and Leisure Centres
- Tourism (Visit County Durham)
- Theatre and Performing Arts
- Strategic Transport and Traffic Management

Corporate Director of Adult and Health Services

Adult Care Services including:

- In-House Care Provision
- Integrated Social Work/Health Teams
- Adult Protection
- Carers
- Mental Health, Learning Disability, People with a Disability
- Sensory Support
- Personalisation
- Substance Misuse
- Commissioning Services Community Safety
- Public Health

Corporate Director of Children and Young People's Services

- First contact – Multi agency safeguarding hub and Emergency Duty Team
- One Point Service
- Think Family Services
- Youth Offending Service
- Corporate Parenting
- Disability services
- Children in Need
- Child Protection
- Local Authority Designated Officer (LADO)
- Aycliffe Secure Services
- Children's services reforms and quality assurance
- Community Support Service
- Supervised contact service
- Children's homes
- Looked After Services

- Fostering
- Adoption
- Independent Reviewing Officer Service
- Statutory complaints
- Pupil Place Planning
- School organisation
- School admission
- Home to school transport entitlement
- Elective home education
- Education safeguarding
- School attendance
- Progression and Learning
 - Education Business Partnership
 - Preparing for Adulthood Team
 - Careers Education, Information
 - Advice and Guidance for Young People
 - Adult Learning and Skills Service
- Support and Development
 - School and Governor support
 - Education Development services
 - Music service
 - DCC Nurseries
 - Early Years Team
 - Durham Learning Resources
- Statutory Casework
- Special Education Needs and Disability (SEND) and Inclusion
- SEND Information Advice and Support Service
- SEND Support
 - Education Psychology
 - Cognition and learning
 - Social and emotional mental health
 - Communication and interaction
 - Sensory and physical
- Equalities and Interventions
 - English as an Additional Language
 - Education Equalities
- Education Health Needs (Home and Hospital) Operational Support

Director for Neighbourhoods and Climate Change

- Allotments
- Anti-Social Behaviour
- Bereavement services
- Civic Pride
- Clean and Green including: Street Cleansing, Public Realm/ Open Space
- Community Buildings
- Community Development and Area Action Partnerships

- Community Engagement
- Community Safety – support for statutory partnerships
- Conservation, Archaeology and Ecology
- Consumer Protection including Fair Trading, Safety and Metrology, Licensing and Markets
- Corporate Policy, Planning and Improvement
- Countryside and Rights of Way
- County Fleet
- Emergency Planning and Civil Contingencies
- Environment Policy
- Environment Protection including Pollution Control, Contaminated Land, Air Quality Management, Public Health and Private Sector Housing
- Government Migration Programmes
- Gypsy, Roma, Traveller Services
- Health Protection including Food Hygiene and Standards, Animal Health and Welfare, Infectious Disease Control, Safety and Occupational Health, Health and Safety (Employees)
- Highway Services including Highway Design, Construction and Maintenance, Winter Maintenance
- Maintenance, Parks and Grounds
- Neighbourhood Interventions
- Neighbourhood wardens
- Operational community safety
- Parks and Countryside
- Partnership Co-ordination and support for the County Durham Partnership
- Pest Control
- Public Rights of Way
- Refuse and Recycling including Waste Transfer Stations
- Strategic Highways including Drainage and Coastal Protection, Network Management, Client, Policy and Asset Management, Road Safety
- Strategic Waste including Waste Contract and Management Strategy
- Sustainability & Climate Change
- Voluntary Sector and Local Councils

Corporate Director of Resources

- Business Services (Internal)
- Coroners
- Corporate Complaints, Compliments and suggestions
- Corporate Procurement
- Council Tax Collection & Housing Benefits (Revenues & Benefits)
- Customer Services
- Democratic Services
- Electoral Services
- Equalities, Diversity and Cohesion

- Financial Management
- Human Resources & Organisational Development
- Information & Communication Technology
- Information Management and Governance
- Land Charges
- Legal Services
- Members' Services
- Pensions
- Procurement
- Performance Management and Research Information
- Registration of Births, Deaths & Marriages
- Service Improvement
- Service Review and Improvement

- (c) **Statutory Officers.** The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Corporate Director of Resources	Chief Finance Officer
Director of Legal and Democratic Services	Monitoring Officer
Democratic Services Manager	Scrutiny Officer
Director of Public Health	Director of Public Health
Strategic Manager - Executive Support	Data Protection Officer

Such posts will have the functions described in Article 9.2 – 9.7 below. 9.2

9.2 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.

9.3 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution.** The Monitoring Officer will maintain an upto-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring

- Officer will report to the full Council or to the Executive in relation to an executive function if they consider 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 oversee investigations into complaints made under the Code of Conduct and, where appropriate, make reports or recommendations in respect of them to the Standards Committee.
 - (f) **Proper Officer for access to information.** The Monitoring Officer will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
 - (g) **Advising whether executive decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework, and whether any particular decision or proposed decision constitutes a key decision.
 - (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 and will support and advise councillors and officers in their respective roles.
 - (i) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.
 - (j) **Protocol.** In carrying out their functions the Monitoring Officer will observe such protocols as shall from time to time be approved by the Standards Committee.

9.4 Functions of the Chief Finance Officer

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council or to the Executive in relation to an executive function and the Council's external auditor if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.
- (e) **Giving financial information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

9.5 Functions of the Scrutiny Officer

- (a) **Promotion of the role of the Corporate Overview and Scrutiny Management Board and its Committees** – The Scrutiny Officer will promote the role of the Corporate Overview and Scrutiny Management Board and its Committees.
- (b) **Support to Committees** – The Scrutiny Officer will provide support to the Corporate Overview and Scrutiny Management Board and its Committees, and to the Members of the Board and its Committees.
- (c) **Support and Guidance** – The Scrutiny Officer will provide support to members of the Authority, members of the Executive, and Officers of the Authority, in relation to the functions of the Corporate Overview and Scrutiny Management Board and its Committees.
- (d) **Restrictions on Posts** – The Scrutiny Officer cannot be Head of Paid Service, Monitoring Officer, or Chief Financial Officer.

9.6 Functions of the Director of Public Health

- (a) **Contributing to the Health and Wellbeing Board.** The DPH will advise on and contribute to the development of the joint strategic needs assessments and joint health and wellbeing strategies and commission appropriate services accordingly.
- (b) **Management of the Council's Public Health Services.** The DPH will have professional responsibility and accountability for the effectiveness and value for money of the Council's Public Health Services.
- (c) **Production of the annual report on the health of the local population.** The DPH will write the annual report on the health of the local population which the Council has a duty to publish.
- (d) **Responding as a responsible authority under the Licensing Act 2003.** The DPH will make representations about licensing applications. (e) Management of the Council's ring-fenced public health grant. The DPH will ensure that commissioned services meet the health needs of the population, are cost effective and that monitoring returns are accurate and timely.
- (f) **Providing Leadership, Expertise and Advice.** The DPH will provide leadership, expertise and advice to Senior Officers and Elected Members on a range of public health issues, from outbreaks of disease and emergency preparedness through to improving local people's health and concerns around access to health services.

9.7 Functions of the Data Protection Officer

- (a) To inform and advise the organisation and its employees about their obligations to comply with the General Data Protection Regulations (GDPR) and other data protection laws.
- (b) To monitor compliance with the GDPR and other data protection laws, including managing internal data protection activities, advise on data protection impact assessments; train staff and conduct internal audits.
- (c) To be the first point of contact for supervisory authorities and for individuals whose data is processed (employees, residents etc).

9.8 Duty to provide sufficient resources to the Monitoring Officer, Chief Finance Officer and Data Protection Officer

The Council will provide the Monitoring Officer, Data Protection 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.

9.9 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.

9.10 Employment

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

9.11 Functions of the Head of Internal Audit

In addition to the statutory officer posts, the Head of Internal Audit provides objective assurance on the Council's internal control arrangements (both financial and non-financial) and plays a key part in promoting good corporate governance in accordance with proper internal audit practices.

The Head of Internal Audit provides the Council with independent and objective assurance that there are strong arrangements in place for controlling its resources and for delivering its objectives. To do this, key roles include:

- (a) Formulating the internal audit strategy, charter and plan.
- (b) Providing an annual audit opinion on all aspects of governance, risk management and internal control to be used as a primary source of evidence for the annual governance statement.
- (c) Championing best practice in governance, objectively assessing the adequacy of governance and management of existing risks, commenting on responses to emerging risks and proposed developments.

Article 10 – Decision Making

10.1 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 these Articles.

10.2 Principles of decision making

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

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due regard to all relevant and material considerations and disregard of irrelevant considerations;
- (c) due consultation and the taking of professional advice from officers;
- (d) respect for human rights;
- (e) a presumption in favour of openness;
- (f) clarity of aims and desired outcomes;
- (g) the giving of reasons for decisions;
- (h) due regard to equality legislation; and
- (i) due regard to the need to prevent people from being drawn into terrorism.

10.3 Types of decision

- (a) **Decisions reserved to full Council.** Decisions relating to the functions listed in Article 4.2 will be made by the full Council and not delegated.
- (b) **Key decisions** – this means an executive decision which is likely to result in the Council incurring expenditure which is, or the making of savings which are, significant, having regard to:
 - i. the Council's budget for the service or function to which the decision relates, or

- ii. 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 Council
- (c) For the purposes of paragraph 10.3(b) above, the incurring of expenditure is not a key decision, if it is:
 - i. to implement or give effect to a provision of the Council's Budget or Policy Framework and, where appropriate, for which financial provision has been made;
 - ii. to implement nationally or provincially agreed pay awards for officers of the Council in accordance with the terms of such award;
 - iii. iii) expenditure incurred by the Corporate Director, Resources in the exercise of Treasury Management powers delegated to them.
- (d) For the purposes of paragraph 10.3(b) above, any decision taken for the purpose of implementing an approved plan or strategy is not a key decision if it relates to a matter for which the plan or strategy makes provision.

10.4 Decision making by the full Council

Subject to Article 10.8, the Council meeting will follow the Council Procedure Rules set out in this Constitution when considering any matter.

10.5 Decision making by the Executive

Subject to Article 10.8, the Executive will follow the Executive Procedure Rules set out in this Constitution when considering any matter.

10.6 Decision making by Overview and Scrutiny Committees

The Corporate Overview and Scrutiny Management Board and the Scrutiny Committees will follow the Overview and Scrutiny Procedure Rules set out in this Constitution when considering any matter.

10.7 Decision making by other Committees and Sub-Committees established by the Council

Subject to Article 10.8, other Council committees and sub-committees will follow those parts of the Council Procedure Rules set out in this Constitution as apply to them.

10.8 Decision making by Council bodies acting as tribunals

The Council, a councillor or an officer acting as a tribunal or in an administrative manner or determining / considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

Article 11 – Finance, Contracts and Legal Matters

11.1 Financial management

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

11.2 Contracts

Every contract made by the Council will comply with the Contract Procedure Rules set out in Part 4 of this Constitution and with the Procurement Code of Practice.

11.3 Legal proceedings

The Director of Legal and Democratic Services is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or a chief officer acting under delegated powers or in any case where they consider that such action is necessary to protect the Council's interests.

11.4 External Legal Advice

No Officer shall commission legal advice from outside the Council other than the Director of Legal and Democratic Services.

11.5 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 Director of Legal and Democratic Services or other person authorised by them, 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 £500 entered into on behalf of the Council in the course of the discharge of an executive function shall be made in writing. In accordance with the Contract Procedure Rules, if a formal agreement is unnecessary it can be concluded by the sending of an award letter and the subsequent issuing of a purchase order. A formal agreement requires signature by at least two officers of the Council authorised in accordance with Paragraph 11.5(c). Where the contract is in the form of a deed it must be made under the Council's seal and attested as required by Paragraph 11.6(a) of the Constitution.

- (c) Chief Officers shall determine which persons within their service areas are authorised to sign contracts on behalf of the Council and shall notify the Director of Legal and Democratic Services of the names of those persons so authorised whose names shall be kept in a list maintained by the Director of Legal and Democratic Services.

11.6 Common Seal of the Council

- (a) The Common Seal of the Council will be kept in a safe place in the custody of the Director of Legal and Democratic Services. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Director of Legal and Democratic Services should be sealed. The affixing of the Common Seal will be attested by the Director of Legal and Democratic Services or some other person authorised by them.
- (b) Details of every deed and other document to which the Common Seal is to be affixed shall be entered prior to the time of its sealing or as soon as practicable thereafter by the Director of Legal and Democratic Services in a central register maintained for that purpose and the register shall be signed by the person attesting the affixation of the Common Seal.
- (c) The Common Seal of the Council may be affixed electronically in accordance with the Electronic Communications Act 2000. This is subject to the Director of Legal and Democratic Services being satisfied that proper arrangements are in place for the use and application of an electronic version of the Common Seal of the Council.

Article 12 – Review, Revision and Suspension of the Constitution

12.1 Duty to monitor and review the constitution

The Director of Legal and Democratic Services will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. In undertaking this task the Director of Legal and Democratic Services 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 them by members, officers, the public and other relevant stakeholders; and
- (d) compare practices in the Council with those in other comparable authorities, or national examples of best practice.

12.2 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 Director of Legal and Democratic Services in consultation with the Executive and the Constitution Working Group.
- (b) **Change from a leader and cabinet form of executive to another form of executive or vice versa.** The Council will take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.
- (c) **Changes to the responsibility for functions** may be made as set out within this Constitution or as permitted by law.

12.3 Suspension of the Constitution

- (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Procedure Rules in Part 4 may be suspended by the full Council to the extent permitted therein and by law.
- (b) **Procedure to suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to

the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

12.4 Interpretation

The ruling of the Chair of the 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. Any references to legislation contained within the Constitution includes subsequent amendments to that legislation.

12.5 Publication

The Director of Legal and Democratic Services will ensure that copies of the Constitution are available for inspection at County Hall and on the Council's website and can be purchased by members of the local press and the public on payment of a reasonable fee.