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Woking Borough Council

Articles

Shaping the *future* of our borough



1. Article 1 – The Constitution

1.1. Powers of the Council

1.2. The Council will exercise all of its powers and duties in accordance with the law and this Constitution.

Purpose of the Constitution

1.3. The purpose of the Constitution is to:

(i) enable the Council to provide leadership to the community in partnership with citizens, businesses and other organisations;

(ii) support the active involvement of local people in decisions made by the Council;

(iii) help councillors represent their constituents more effectively;

(iv) enable decisions to be taken efficiently and effectively;

(v) create a powerful and effective means of holding decision-makers to public account;

(vi) ensure that no one will review or scrutinise a decision in which they were directly involved;

(vii) ensure that those responsible for decision making are clearly identifiable to local people, and that they can explain the reasons for their decisions; and

(viii) provide a means of improving delivery of services to the community.

Interpretation of the Constitution

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

2. Article 2 – Members of the Council

Number of Councillors

2.1. The Council comprises 30 councillors (also referred to as “Members”).

Eligibility

2.2. The eligibility criteria for a person to be qualified to be elected and be a councillor are set out in Section 79 of the Local Government Act 1972.

Election and Terms of Councillors

2.3. The regular election of councillors will normally be held on the first Thursday in May every four years. The Council operates a system of election by “thirds” meaning it

elects one third (10) of local Councillors every year for three years and hold no elections in the fourth year.

Roles of Councillors

2.4. Councillors will:

- (i) Collectively be the ultimate policy-makers for the Council;

- (ii) Contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;

- (iii) Represent the interests of their ward and of individual constituents;

- (iv) Respond to constituents' enquiries and representations, fairly and impartially;

- (v) Serve the public interest, and make decisions having regard to the interests of the whole community.

- (vi) be involved in decision-making;

- (vii) be available to represent the Council on other bodies; and

- (viii) maintain the highest standards of conduct and ethics.

Rights and Duties of Councillors

- 2.5. Councillors have rights of access to such documents, information, land and buildings of the Council as are necessary for them to act as a councillor and in accordance with the law.
- 2.6. Councillors are entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 5 of this Constitution.
- 2.7. Councillors will observe the Members' Code of Conduct set out in Part 5 of this Constitution.

3. Article 3 –The Public and the Council

The Public's Rights

- 3.1. The public's rights to information and to participate in the decision-making process are explained in more detail in the Access to Information Procedure Rules and Public Speaking Procedure Rules in Part 4 of this Constitution.

Petitions

- 3.2. The Council is committed to responding to petitions. Anyone who lives, works or studies in the Borough may sign or organise a petition and trigger a response from the Council. Details of the Council's adopted (non statutory) petition scheme are set out in Part 4 of this Constitution.

The Public's rights

(a) Information.

3.3. The Public have the right to:

- (i) attend meetings of the Council, Executive and 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 Forward Plan what key decisions will be taken under the Council's Executive arrangements. The Forward Plan is no longer a statutory requirement but the Council has decided to retain it for effective operation of the Council's activities;

- (iii) see public reports and background papers, and any public records of decisions made by the Council, Executive and Committees except where confidential or exempt information is likely to be disclosed; and

- (iv) inspect the Council's accounts, and make their views known to the external auditor during the statutory period of 20 working days prior to the external auditor giving their opinion.

(b) Participation.

3.4. The Public have the right to:

- (i) contribute to investigations by the Overview and Scrutiny Committee;

- (ii) present petitions under the Council's Petition Scheme; and

- (iii) ask questions at the Executive and Council.

(c) Complaints

3.5. The Public have the right to complain to:

- (i) the Council under its complaints scheme;

- (ii) the Ombudsman after using the Council's own complaints scheme, and

- (iii) the Council's Monitoring Officer about a breach of the Members' Code of Conduct.

3.6. The Public's ' Responsibilities

3.7. The Public must not be violent, abusing or threatening to councillors, officers or persons carrying out work for the Council and must not wilfully harm things owned by the Council, councillors or officers.

3.8. The public are entitled to attend public meetings of the Council, Executive and committees, but must comply with the rulings of the chairman. They may not disrupt the meeting or cause undue disturbance or they may be removed from the meeting.

4. Article 4 – The Full Council

Meanings

(a) Policy Framework.

4.1. "Policy Framework" means:

(i) plans and strategies which, by law, have to be approved by Full Council, and

(ii) plans and strategies which the Council has decided should be approved by Full Council.

(b) Budget

4.2. "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.

(c) Housing Land Transfer

4.3. "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.

Functions of the Full Council

4.4. Only Full Council will exercise the following functions:

(i) adopting and changing the Constitution (apart from changes to Part 3 in relation to executive functions which will be discharged by the Leader and reported to the Council);

(ii) approving or adopting the Policy Framework, the Budget and any application to the Secretary of State in respect of a Housing Land Transfer;

(iii) intervening, where necessary, to prevent executive decisions that would run contrary to the Policy Framework or Budget;

(iv) appointing and removing the Leader of the Council;

(v) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;

(vi) appointing representatives to outside bodies, unless the appointment is an executive function or has been delegated by Full Council;

(vii) adopting a Members' Allowances scheme under Article 2.03;

(viii) changing the name of the area, or conferring the title of Freedom of the Borough;

- (ix) Appointing the Head of Paid Service and other members of the Corporate Leadership Team in accordance with the Officer Employment Rules;

- (x) making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;

- (xi) all local choice functions, set out in Part 3 of this Constitution, which Full Council decides should be undertaken by itself;

- (xii) electing the Mayor; and

- (xiii) all other matters which, by law, must be reserved to Full Council.

Council Meetings

4.5. There are three types of Council meeting:

- (i) the annual meeting;

- (ii) ordinary meetings;

- (iii) extraordinary meetings;

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

Responsibility for Functions

4.7. The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Leader.

5. Article 5 – Chairing the Council

Role and Function of the Mayor

5.1. The Mayor will be elected by the Council annually.

5.2. The Mayor, and in his/her absence, the Deputy Mayor, will have the following roles and functions:

- (i) to act as First Citizen and Civic Head of the Borough;

- (ii) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;

- (iii) 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;

- (iv) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community;

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- (v) to promote public involvement in the Council's activities;

 - (vi) to be the non-political representative of the Council; and

 - (vii) to attend such civic and ceremonial functions as the Council and he/she determines appropriate.

5.3. Neither the Mayor nor the Deputy Mayor shall be members of the Executive.

6. Article 6 – The Leader

Role

6.1. The Leader of the Council will be a councillor elected to the position of Leader by the full Council. The Leader will be elected by Council at its post-election annual meeting (or, if the Council fails to elect the Leader at that meeting, at a subsequent meeting of Council).

6.2. The term of office of the Leader starts on the day of his/her election as Leader and ends on the day the Council holds its first annual meeting after the Leader's normal day of retirement as a Councillor unless:

- (i) he/she resigns as Leader; or

- (ii) 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

- (iii) he/she is no longer a councillor; or

- (iv) he/she is removed from office by resolution of the Council before that day.

6.3. During their term of office as Leader, the Leader shall continue to hold office as a councillor.

6.4. If there is a vacancy in the position of Leader, the Leader will be elected at the first meeting of the Council following such vacancy for a term of office expiring on on the day the Council holds its first annual meeting after the Leader's normal day of retirement as a Councillor, subject to (i) to (iv) above.

6.5. The Leader will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution, unless otherwise delegated by him/her. All delegations by the Leader will be set out in Part 3 of this Constitution.

Functions of the Leader

6.6. The Leader is responsible for maintaining a list (which the Monitoring Officer will compile on the Leader's behalf), in Part 3 of this Constitution, setting out who will authorise executive functions. Executive functions can be exercised by the Leader, the Executive, individual Executive Members or individual councillors exercising powers in relation to their wards or Officers. Any changes to Part 3 of the

Constitution in relation to Executive functions will be reported to the next appropriate meeting of the Council.

6.7. The Leader will be Chairman of the Executive.

6.8. Only the Leader will exercise the following functions:

- (i) appointing the Deputy Leader,

- (ii) appointing the Executive, and

- (iii) allocation of areas of responsibility (portfolios) to lead councillors.

6.9. The Leader may at any time:

- (i) remove lead councillors from the Executive, or

- (ii) change lead councillors' areas of responsibility

6.10. The Leader shall report to the next appropriate meeting of the full Council on all appointments and changes to the Executive.

Deputy Leader

6.11. The Leader shall appoint one of the lead councillors to be the Deputy Leader.

6.12. The Deputy Leader shall normally hold office until the end of the Leader's term of office unless that person:

- (i) is removed from office by decision of the Leader; or

- (ii) is disqualified from being a councillor by order of a court under Section 34 of the Localism Act 2011; or

- (iii) resigns as Deputy Leader; or

- (iv) ceases to be a councillor before that day

6.13. In the event of any of the above occurring, the Leader shall appoint another lead councillor as Deputy Leader at the earliest opportunity.

Role of the Deputy Leader

6.14. The Deputy Leader will be Vice-Chairman of the Executive and if, for any reason, the Leader is unable to act, or the office of the Leader is vacant, the Deputy Leader must act in his/her place and shall be entitled to exercise all functions reserved to the Leader until such time as the Leader is able to act or until a new Leader is elected by the Council.

6.15. If for any reason the Leader is unable to act, or the office of the Leader is vacant, and the Deputy Leader is unable to act or the office of Deputy Leader is vacant, the remaining members of the Executive must either act collectively in the Leader's place or they must arrange for a lead councillor to act in the place of the Leader.

Removal of the Leader

- 6.16. The Council may remove the Leader by way of resolution by a simple majority. At any meeting of the full Council, a councillor may propose that “the Council has no confidence in the Leader”. The question shall, after debate, be put and, if carried by a simple majority of those councillors present, the Leader shall be removed from office.
- 6.17. In that event, a new Leader shall be elected:
- (i) at the meeting at which the Leader is removed from office, or
 - (ii) at a subsequent meeting.

7. Article 7 – The Executive

Role of the Executive

- 7.1. The Executive will carry out all of the Council’s functions which are not the responsibility of any other part of the Council whether by law or under this Constitution, as delegated by the Leader.

Form and Composition

- 7.2. The Executive will consist of the Leader, Deputy Leader together with not fewer than one, and up to five other Councillors appointed by the Leader who shall be known as Portfolio Holders.

Portfolio Holders/Executive Members

- 7.3. Executive Members shall be appointed by the Leader. The Leader shall appoint councillors to specified areas of the Council’s work known as their Portfolio. They hold office until the end of the term of office of the Leader unless:
- (i) they resign from the Executive; or
 - (ii) 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
 - (iii) they are no longer councillors; or
 - (iv) they are removed from office, either individually or collectively, by the Leader before that date.
- 7.4. The Leader may at any time alter the responsibilities of an Executive Member or discontinue their appointment and elect a replacement. Lead councillors shall be entitled to be consulted by the Corporate Leadership Team and service leaders when exercising delegated powers requiring such consultation. A lead councillor shall not be a member of the Overview and Scrutiny Committee.

Deputy Portfolio Holders

- 7.5. Other councillors may, from time to time, be designated by the Leader as Deputy Portfolio Holders.
- 7.6. A Deputy Portfolio Holders shall not be a member of the Executive and will not participate in Executive decision-making but may work closely with a Portfolio Holder(s). A Deputy Portfolio Holders shall not be a member of the Overview and Scrutiny Committee.
- 7.7. Deputy Portfolio Holders will not have delegated powers and will not be entitled to vote at Executive meetings. The Leader may, at any time, discontinue the appointment of a designated Deputy Portfolio Holders. The Leader will report all appointments and discontinued appointments to the next meeting of the Council.
- 7.8. Key Duties and Responsibilities of Deputy Portfolio Holders:
- (i) To assist, support, and advise the relevant Portfolio Holders in carrying out their responsibilities.

 - (ii) To lead on specific policy areas at the request of the relevant Portfolio Holders and/or Leader.

 - (iii) To carry out tasks as agreed on behalf of the relevant Portfolio Holders.

 - (iv) To maintain awareness of policy developments, and advise the Portfolio Holders of key developments.

 - (v) To bring to the attention of the Portfolio Holders issues of concern to non Executive councillors.

 - (vi) To undertake research and any other tasks under the direction of the Portfolio Holders.

Proceedings of the Executive

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

8. Article 8 – Overview and Scrutiny Committee

Terms of Reference

- 8.1. The Council will appoint the Overview and Scrutiny Committee to discharge the functions conferred by section 21 of the Local Government Act 2000 and the functions of a crime and disorder committee under section 19 of the Police and Justice Act 2006.
- 8.2. The work of the Overview and Scrutiny Committee should focus on the Council's principles, practice, procedures and performance (rather than politics and personalities); the work will be informed by the following principles:
- (i) Constructive “critical friend” challenge

 - (ii) Amplifies the voices and concerns of the Public

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- (iii) Led by independent people who take responsibility for their role; and
 - (iv) Drives improvement in public services
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General Role

8.3. Within its terms of reference, the Overview and Scrutiny Committee will:

- (i) review and/or scrutinise decisions made (or to be made) or actions taken (or to be taken) in connection with the discharge of any of the Council's functions;
 - (ii) make reports and/or recommendations to Full Council and/or the Leader/Executive;
 - (iii) consider any matter affecting the area or its inhabitants;
 - (iv) exercise the right to call-in, for reconsideration, Executive decisions made but not yet implemented; and
 - (v) deal with crime and disorder matters referred to it under the Police and Justice Act 2006;
 - (vi) consider any valid Councillor Call for Action.
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Specific Functions

(a) Policy development and review

8.4. The Overview and Scrutiny Committee may:

- (i) assist the Council and the Leader/Executive in the development of its Budget and Policy Framework by in-depth analysis of policy issues;
 - (ii) conduct research, community consultation and other consultation in the analysis of policy issues and possible options;
 - (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
 - (iv) question the Leader, members of the Executive and/or Committees and Corporate Leadership Team members about their views on issues and proposals affecting the Borough; and
 - (v) liaise with other external organisations operating in the Borough, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
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(b) Scrutiny

8.5. The Overview and Scrutiny Committee:

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

(iii) may question the Leader, members of the Executive and/or individual members (to the extent that the latter have been granted powers in relation to their ward) and/or Committees and Corporate Leadership Team members 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) may make recommendations to the Leader/Executive and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;

(v) may 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) may question and gather evidence from any person or organisation (with their consent) and require information from partner authorities;

(vii) may review and scrutinise equality issues, and

(viii) shall be responsible for ensuring effective scrutiny of the Treasury Management Strategy and Policies

(c) Finance

8.6. The Overview and Scrutiny Committee have overall responsibility for the finances made available to them.

(d) Annual Report

8.7. The Overview and Scrutiny Committee shall publish an annual report outlining work undertaken during the year, and may make recommendations for future work programmes and amended working methods (if appropriate).

(e) Petitions

8.8. The Overview and Scrutiny Committee is responsible for considering petitions received under the Petition Scheme that fall into the following categories:

(i) Petitions requiring a Senior Officer to give evidence to the Overview and Scrutiny Committee;

(ii) Appeals from Petitioners who are not satisfied with the response to a petition, and

(iii) Where the petition has been referred to the Committee for further investigation.

Proceedings of Overview and Scrutiny Committee

- 8.9. The Overview and Scrutiny Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

9. Article 9 – Regulatory and Other Committees

Regulatory and Other Committees

- 9.1. The Council will appoint the committees set out in Part 3 of this Constitution (Responsibility for Council Functions) to discharge the functions described.

10. Article 10 – The Standards and Audit Committee

Standards and Audit Committee

- 10.1. The Council meeting will establish a Standards and Audit Committee composition.

Composition

(a) Membership

- 10.2. The Standards and Audit Committee will comprise:

- (i) 5 Councillors;

- (ii) 1 Independent Member;

(b) Independent Member

- 10.3. The Independent Members shall be appointed by the Council for an initial term of office of four years with serving independent members being eligible for re-appointment one further time.
- 10.4. At the end of the term of office, the Council will invite applications from the general public via its website for appointment as co-opted independent members of the Standards and Audit Committee.
- 10.5. To be eligible for appointment candidates must not be engaged in party political activity, or have been at any time in the preceding five years, a councillor or officer of Woking Borough Council or be a relative or close friend of a councillor or officer of the Council.
- 10.6. Ideally candidates will have significant experience of working at a senior level in a large, complex organisation and have a very good understanding of strategic or financial management or have sat previously on an Audit Committee.
- 10.7. The Monitoring Officer shall short-list candidates and invite them for interview by a panel comprising two members of the Standards and Audit Committee, the Monitoring Officer and Chief Finance Officer. The panel's recommendations as to appointment of co-opted independent members will be referred to full Council for approval.

(c) Chairing the Committee

10.8. The office of Chairman shall be filled by the co-opted (independent) member. In the absence of the Chairman, a meeting of the Committee shall be chaired by the Vice-Chairman.

(d) Votes

10.9. The Independent member is not entitled to vote at meetings.

10.10. In the case of an equality of votes, the Vice-Chairman may exercise a second or casting vote.

Role and Function

10.11. The Committee has a dual purpose both as an audit committee and a standards committee.

10.12. The Committee is a key component of the authority's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.

10.13. The purpose of the Committee is to provide independent assurance to councillors of the adequacy of the risk management framework and the internal control environment. It provides independent review of the authority's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes.

10.14. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place. With regard to standards, the Committee promotes high standards of conduct by councillors and co-opted members and oversees the arrangements for dealing with allegations of misconduct.

10.15. The Standards and Audit Committee will have the following roles and functions:

(i) promoting and maintaining high standards of conduct by councillors and co-opted members in accordance with Sections 26-37 of the Localism Act 2011;

(ii) assisting councillors and co-opted members to observe the Members' Code of Conduct;

(iii) advising the Council on the adoption or revision of the Members' Code of Conduct;

(iv) monitoring the operation of the Members' Code of Conduct;

(v) advising, training or arranging to train councillors and co-opted members on matters relating to the Members' Code of Conduct;

(vi) determining allegations that there has been a breach of the Members' Code of Conduct in accordance with arrangements adopted by Council;

(vii) acting as the Council's Audit Committee. In performing this task the Standards and Audit Committee will:

- approve the plans of Internal Audit and consider the External Audit plan;
 - receive the Annual Audit and Inspection letter from External Audit;
 - receive Internal Audit recommendations for improvements and assurance that action has been taken where necessary;
 - review summary Internal Audit reports (located on the intranet);
 - receive a half yearly and annual report from the Chief Internal Auditor on the work of Internal Audit;
 - receive appropriate matters of concern raised by either External or Internal Audit or other agencies; and
 - ensure that there are effective relationships between Internal and External Audit and promote the value of the audit process;
- (viii) overseeing the Council's Risk Management, Anti-Fraud and Whistleblowing strategies, and Health and Safety policies and practices;
- (ix) receiving the Annual Governance Statement, and
- (x) oversight of payments in cases of maladministration which are neither disputed nor significant (which are dealt with by the Monitoring Officer).

Standards Panel

- 10.16. The Committee will establish the Standards Panel. The Panel will comprise four councillors and the Independent) Member.
- 10.17. A substitute for each councillor member of the Panel shall be appointed. A substitute member may attend any meeting of the Panel, with all the powers of the appointed councillor member in the event that the appointed councillor member is unable to attend a particular meeting.
- 10.18. The Panel will be chaired by the Independent Member (unless he/she is absent, in which case the Vice-Chairman will chair the meeting). The Independent Member is not entitled to vote at meetings. In the case of an equality of votes, the Vice-Chairman may exercise a second or casting vote.
- 10.19. The Panel will act on the Committee's behalf in determining allegations that there has been a breach of the Members' Code of Conduct in accordance with arrangements adopted by Council.

Election Review Panel

- 10.20. The Chairman of the Standards and Audit Committee shall be the Chairman of the Council's Election Review Panel.

11. Article 11 – Officers

Management Structure

- (a) General
- 11.1. The Full Council may engage such staff (referred to as “officers”) as it considers necessary to carry out its functions.
- (b) Corporate Leadership Team
- 11.2. The Council’s Corporate Leadership Team will comprise the Chief Executive, the Monitoring Officer (Director of Legal and Democratic Services), the Chief Finance Officer (Director of Finance), Strategic Director of Corporate Resources, Strategic Director of Place and Strategic Director of Communities or such other composition as the Council may from time to time determine.
- (c) Statutory Officers
- 11.3. The Council will designate Officers to the following statutory posts:
- (i) Head of Paid Service

 - (ii) Chief Finance Officer

 - (iii) Monitoring Officer
- 11.4. Such posts will have the functions described in Article 11.02–11.04 below
- (d) Structure
- 11.5. The Head of Paid Service will determine and publicise a description of the overall service structure of the Council showing the management structure and deployment of officers. This is set out in Part 3 of this Constitution

Statutory Functions of the Head of Paid Service

- (a) Discharge of functions by the Council
- 11.6. 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
- 11.7. The Head of Paid Service may not be the Monitoring Officer, but may hold the post of Chief Finance Officer if they are a qualified accountant.

Statutory Functions of the Monitoring Officer

- (a) Maintaining the Constitution
- 11.8. 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

11.9. After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to Full Council, or to the Leader/Executive in relation to an executive function, if he/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 and Audit Committee

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

(d) Alleged Breaches of the Members' Code of Conduct

11.11. The Monitoring Officer will be responsible for dealing with allegations that a Member has failed to comply with the Members' Code of Conduct in accordance with arrangements adopted by Council.

(e) Proper Officer for access to information

11.12. 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.

(f) Budget and Policy Framework

11.13. The Monitoring Officer will advise whether executive decisions are in accordance with the Budget and Policy Framework.

(g) Providing advice

11.14. 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.

(h) Restrictions on posts

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

Statutory Functions of the Chief Finance Officer

(a) Ensuring lawfulness and financial prudence of decision making

11.16. After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to Full Council, or to the Leader/Executive in relation to an executive function, and the Council's external auditor if he/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

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

(c) Contributing to corporate management

11.18. 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

11.19. The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all councillors and will support and advise councillors and officers in their respective roles.

(e) Give financial information

11.20. The Chief Finance Officer will provide financial information to the media, members of the public and the community.

11.21. Duty to Provide Sufficient Resources to the Monitoring Officer and Chief Finance Officer.

11.22. The Council will provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

Conduct

11.23. Officers will comply with the Officers' Employment Procedure Rules set out in Part 5 of this Constitution.

Employment

11.24. The recruitment, selection and dismissal of officers will comply with the Officers' Employment Procedure Rules set out in Part 5 of this Constitution.

12. Article 12 – Decision Making

Responsibility for Decision Making

12.1. The Council will issue and keep up-to-date a record of what part of the Council, or individual, has responsibility for:

(i) particular types of decisions; or

(ii) decisions relating to particular areas or functions

12.2. This record is set out in Part 3 of this Constitution.

Principles of Decision Making

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

(i) the action must be proportionate to the desired outcome;

(ii) due consultation and the taking of professional advice from officers;

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- (iii) respect for human rights;

 - (iv) a presumption in favour of openness; and

 - (v) clarity of aims and desired outcomes.

Types of Decision

- (a) Decisions reserved to Full Council. Decisions relating to the functions listed in Article 4.02 will be made by Full Council, and not delegated.
- (b) Key decisions
 - (i) A 'key decision' means an executive decision which is likely:
 - to result in significant expenditure or savings of £250,000 or more; and/or ; or

 - 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 local authority.

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

Decision Making

- 12.4. All decision making shall comply with the relevant Articles of, and Procedure Rules set out in, this Constitution.

Decision Making by Council Bodies Acting as Tribunals

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

13. Article 13 – Finance, Contracts and Legal Matters

Financial Management

- 13.1. The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 5 of this Constitution.

Contracts

- 13.2. Every contract made by the Council will comply with the Contract Standing Orders set out in Part 5 of this Constitution.

Legal Proceedings

- 13.3. The Monitoring Officer 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 Monitoring Officer considers that such action is necessary to protect the Council's interests.

Authentication of Documents

- 13.4. Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Monitoring Officer or other person authorised by him or her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.
- 13.5. Any contract (excluding contracts for property disposals and acquisitions) which amounts to or exceeds £100,000 in value must, unless the Monitoring Officer otherwise, be sealed with the common seal of the Council. In exceptional cases where the Monitoring Officer that a contract which amounts to or exceeds £100,000 in value does not require the common seal, it must be signed, subject to compliance with the Council's Financial Procedure Rules, by two Strategic Directors or the Monitoring Officer.
- 13.6. Contracts less than £100,000 in value must be signed by the relevant Strategic Director, Director, or service leader or, subject to compliance with the Council's Financial Procedure Rules, their nominee.

Common Seal of the Council

- 13.7. The common seal of the Council will be kept in a safe place in the custody of the Monitoring Officer. 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.
- 13.8. The common seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed. The affixing of the common seal will be attested by a Member of the Corporate Leadership Team, or some other persons authorised by the Monitoring Officer. An entry of every sealing of a document will be made and consecutively numbered in a book kept by the Monitoring Officer for the purpose and shall be signed by the persons who have attested the seal.

Land, Premises – Inspection

- 13.9. A member of the Council, unless specifically authorised to do so by the Council or the Leader/Executive or the Committee concerned, shall not inspect any lands or premises which the Council has the right or duty to inspect, or enter upon any such lands or premises or issue any orders respecting any works which are being carried out by or on behalf of the Council.

14. Article 14 – Review and Revision of the Constitution

Duty to Monitor and Review the Constitution

- 14.1. The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.
- 14.2. 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:

- (i) observe meetings of different parts of the councillor and officer structure;

- (ii) undertake an audit trail of a sample of decisions;

- (iii) record and analyse issues raised by councillors, officers, the public and other relevant stakeholders; and

- (iv) compare practices in this Council with those in other comparable authorities, or national examples of best practice.

Changes to the Constitution

(a) Minor Changes

14.3. The Monitoring Officer may generally update the Constitution, or make amendments consequential upon changes to operational arrangements (including, without limitation, amendments resulting from a decision by the Leader not to delegate responsibility for executive functions to the Executive), without report.

(b) Other Changes

14.4. Changes to the Constitution, other than minor changes, will be approved by Full Council.

(c) Proposals

14.5. The Monitoring Officer shall, before making any proposals for change to the Council, carry out consultation appropriate to the scale, scope and extent of the change proposed. The persons and bodies consulted may, without limitation, include the Corporate Leadership Team, the Leader and Executive, the Overview and Scrutiny Committee or the Standards and Audit Committee.

15. Article 15 – Suspension, Interpretation and Publication of the Constitution

Suspension of the Constitution

(a) Limit to suspension

15.1. The Articles of this Constitution may not be suspended. Other provisions of this Constitution may be suspended by Full Council to the extent permitted by those provisions and the law.

(b) Procedure to suspend

15.2. The extent and duration of suspension shall be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

Interpretation

15.3. The ruling of the Mayor, the Leader or the Chairman of any Committee (as appropriate) 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, the Executive or Committee (as the case may be). Such ruling shall have regard to the purposes of this Constitution contained in Article 1.

Publication

15.4. Table

- (i) The Monitoring Officer will ensure that where a councillor so wishes a printed copy of this Constitution is delivered to him or her following their election to the Council.

- (ii) The Monitoring Officer will ensure that an up-to-date copy of the Constitution is available on the Council's web-site.

- (iii) The Monitoring Officer will ensure that a copy of this Constitution is available for inspection at the Council Offices and can be purchased on payment of a reasonable fee.

16. Schedule 1: Description of Executive Arrangements

16.1. The following parts of this Constitution constitute the executive arrangements:

- (i) Article 8 (Overview and Scrutiny Committee) and the Overview and Scrutiny Procedure Rules;

- (ii) Article 6 (The Leader);

- (iii) Article 8 (The Executive) and the Executive Procedure Rules;

- (iv) Article 12 (Decision making) and the Access to Information Procedure Rules;

- (v) Part 3 (Responsibility for Functions)