

# **PART 2**

# **ARTICLES OF THE CONSTITUTION**

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## **Article 1 – The Constitution**

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### **1.01 Powers of the Council**

The Council will exercise all its powers and duties in accordance with the law and this Constitution. Should there be a conflict between the two, the law will prevail.

### **1.02 The Constitution**

This Constitution, and all its appendices, is the Constitution of the District Council of Adur.

### **1.03 Purpose of the Constitution**

The purpose of the Constitution is to:

- i. enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations
- ii. support the active involvement of citizens and encourage all sections of the District's communities to be involved in the Council's decision-making processes;
- iii. help Elected Members 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 identified to local people and that they explain the reasons for their decisions;
- viii. provide a means of improving the delivery of services to the community;
- ix. balance speedy and reasoned decision-making with adequate checks and balances;
- x. place high standards of conduct and probity at the centre of decision-making.

### **1.04 Interpretation and Review of the Constitution**

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is most appropriate given the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

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## **Article 2 – Members of the Council**

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### **2.01 Composition**

The Council comprises 29 Members, otherwise called Councillors. Councillors are elected by the voters of the 14 Wards in the District in accordance with a scheme approved by the Secretary of State.

### **2.02 Eligibility**

Only registered voters of the District or those living or working within the District are eligible to hold the office of Councillor. For additional information you should refer to Sections 79 to 81 of the Local Government Act 1972.

### **2.03 Election and Term of Office of Councillors**

The Ordinary Election of a half of all Councillors will be held on the first Thursday in May in every second year, or such date as is determined by legislation. A Councillor's term of office is four years starting on the fourth calendar day after being elected and finishing on the fourth calendar day after the date of the local Election four years later, unless they have been elected at a By-Election, when the term is the remainder of the vacated office they have filled.

### **2.04 Roles and Functions of all Councillors**

On accepting office, all Councillors sign a Statutory Declaration of Acceptance of Office. Acceptance of office provides an implied obligation for an Elected Member to comply with the Council's Constitution.

#### **a) Key Roles**

All Councillors will participate constructively and effectively in the governance of the District and their local area. Councillors will:

- i) Collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- ii) Represent their communities and bring the views of their communities into the Council's decision-making process (i.e. become the advocate of and for their communities);
- iii) Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- iv) Balance different interests identified within their Ward and represent the Ward as a whole;
- v) Be involved in decision-making;

- vi) Be available to represent the Council on other bodies; and
- vii) Maintain the highest standards of conduct , ethics and probity.

More specifically, all Councillors will:

- i) Participate constructively in the good governance of the area;
- ii) Develop and maintain a prominent position within the community, which reflects their position as a democratically elected representative of the people within the Ward;
- iii) Contribute actively to the formation and scrutiny of the Council's policies, budget, strategies and service delivery;
- iv) Develop and maintain a sound level of working knowledge of the Council's policies and practices generally and in particular in relation to services, plans and policies affecting Committees to which they are appointed or functions which are delegated to them and to their local area;
- v) Exercise their judgement in the best interests of the Ward for which they were elected, subject to their overriding responsibility to the wider community, and deal with constituents' enquiries and representations;
- vi) Champion the causes which best relate to the interests and sustainability of the community and campaign for the improvement of the quality of life of the community in terms of equity, economy and environment;
- vii) Represent the Council on outside bodies as appointed by the Council or its Executive.

## **b) Key Tasks**

A Councillor's key tasks are to:

- i) Fulfil the statutory requirements of an Elected Member of the Council and the locally determined requirements of the Council itself, including compliance with all relevant codes of conduct and participation in those decisions and activities reserved to the Full Council;
- ii) Participate effectively as a Member of the Executive, any Committee, Sub-Committee or working group to which they are appointed, including related responsibilities for the functions falling within their terms of reference and liaison with other public bodies to promote better understanding and partnership working;
- iii) Participate, where appointed to do so, in the scrutiny or review of services, and their effectiveness in achieving the Council's strategic objectives;

- iv) Contribute constructively to open government and democratic renewal and actively encourage local people to participate generally in the governance of the area;
- v) Participate in the activities of any outside body to which they are appointed, providing two-way communication between the Council and the relevant organisations;
- vi) Report to the Council annually on the activities of any outside body to which they are appointed;
- vii) Participate, as appointed, in consultative processes with the community and with other organisations;
- viii) Develop and maintain a working knowledge of the organisations, services, activities and other factors that impact upon the well-being and identity of the District of Adur;
- ix) Develop and maintain good and effective working relationships with the Executive, Chairpersons and Vice-Chairpersons of the Council's Committees and relevant Officers of the Council;
- x) Represent the local community as requested under the procedures for the Community Call for Action (Local Government Act 2007).

**c) Rights and Duties**

- i) Councillors will have rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law;
- ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or Officer entitled to know it;
- iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.
- iv) Councillors shall not request to inspect any document or have access to any information relating to any matter in which they have a discloseable pecuniary interest unless they have received a dispensation from the Monitoring Officer.
- v) No Councillor shall have any claim by virtue of their position:-
  - a) to enter any land or buildings occupied by the Council to which the public do not have access, or to which Members of the Council do not regularly have access, except with the permission of the Director responsible for the service of the Council for which the land or buildings are occupied, or the Chief Executive;

b) to exercise any power of the Council to enter or inspect other land or buildings, except where specifically authorised by the Council;

c) to exercise any other powers of the Council.

## **2.05 Conduct**

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

## **2.06 Allowances**

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

## **2.07 Political Groups**

Councillors may belong to political groups (which are not necessarily the same as political parties). The groups are entitled under the Local Government (Committees and Political Groups) Regulations to nominate Councillors to fill a proportion of the seats on certain Committees of the Council.

Under these Regulations, the membership of most Committees, other than the Executive, broadly reflect the proportion of Councillors who are Members of each political group on the Council.

The main principles are:

- (a) That not all the seats on the Committee are allocated to the same political group;
- (b) That the majority of the seats on the Committee are allocated to a political group if the majority of Councillors on the Council belong to that group;
- (c) Subject to paragraphs (a) and (b) above, the number of seats on each Committee reflects the proportion of Councillors in the various groups.

At meetings of the Full Council, the Executive and Committees, individual Councillors may have regard to the views of their political group on policy matters, provided that they also take into account all other considerations. However, this would not apply to the determination of individual regulatory applications.

## **2.08 External Representation**

The Council recognises the importance of its relationship with the communities it represents and all those who receive its services in order to provide desired outcomes. It achieves these aims in the following ways:

- (a) By recognising the opportunity for the public and external bodies to be involved in its business, through its Committee structure and engagement with the community;
- (b) By making appropriate Councillor appointments to other bodies; and
- (c) By ensuring that the Councillor representative role is meaningful and recognises the needs of the electorate.

## **2.09 Indemnity**

The Council shall indemnify each and every Member, co-opted Member and Officer of the Council ("the Beneficiary") on demand from and against all liability for actions, claims, demands, costs, charges and expenses (including legal expenses on an indemnity basis) which may arise out of, or be in consequence of, any action of, or failure to act by, the Beneficiary which is:

- (a) authorised by the Council; or
- (b) forms part of, or arises from, any powers conferred or duties placed upon the Beneficiary as a consequence of any functions being carried on by that Beneficiary

but excluding any action of, or failure to act by, the Beneficiary which constitutes a criminal offence or is the result of fraud, deliberate wrong doing or recklessness.

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## Article 3 – The Citizen and the Council

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### 3.01 Citizens' Rights

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

#### a) Voting and Petitions

Citizens on the Electoral Roll for the area have the right to;

- i) vote in the election of Councillors;
- ii) sign a petition to request a referendum for an Elected Mayor form of Executive; and
- iii) vote in referenda.

Every year, the Council will publish details of the number of electors required to instigate a referendum for an Elected Mayor form of Executive.

- b) Anyone who lives, works or studies in the District can sign or organise a petition to request particular action. Petitions will be managed and responded to in accordance with the Council's Petition Scheme set out in Part 4 of the Constitution.

#### c) Information

Citizens have the right to:

- i) attend meetings of the Full Council, the Executive, Committees and Sub-Committees, except where confidential or exempt information is likely to be disclosed and it is determined that the meeting is held in private;
- ii) find out from the 28 Day Notice of Key and/or Exempt Decisions and the Full Council's website what Key Decisions will be taken by the Full Council, the Executive and Officers and when;
- iii) see reports, background papers, minutes and any records of decisions made by the Full Council, the Executive, Committees and Sub-Committees, except those that are confidential or exempt; and
- iv) see the decisions relating to Executive functions made by Officers, except where confidential or exempt information is likely to be disclosed;

- v) inspect the Council's accounts and make their views known to the external Auditor (subject to statutory limitations).

**d) Participation**

Citizens have the right to present petitions to the Council, in accordance with the Petitions Scheme in part 4 of this Constitution.

Citizens may ask questions or address all formal meetings of the Full Council, the Executive and Committees, subject to Council Standing Orders in Part 4 of this Constitution, and can contribute to investigations by the Overview and Scrutiny Committee and the Joint Overview & Scrutiny Committee.

**e) Complaints**

Citizens have the right to complain to:

- i) the Council itself under its complaints scheme;
- ii) the Local Government Ombudsman or the Housing Ombudsman after using the Council's own complaints scheme;
- iii) the Council's Monitoring Officer about an alleged breach of the Councillors' Code of Conduct (details are set out in Part 5 of this Constitution);
- iv) the Information Commissioner in relation to the Council's actions under the Data Protection Act 1998 and the Freedom of Information Act 2000.

**3.04 Citizens' Responsibilities**

Citizens have social responsibilities and the Council's Officers and Members have a legitimate expectation to be treated courteously and with respect. Citizens must not be violent, abusive or threatening to Councillors, Co-opted Councillors or Officers and must not wilfully harm things owned by the Council, Councillors or Officers.

Citizens are entitled to attend public meetings of the Full Council, the Executive and Committees, but must comply with the rulings of the Chairperson. They may not disrupt the meeting or cause undue disturbance or they may be removed from the meeting.

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## Article 4 – The Full Council

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### 4.01 The Role of the Full Council

Full Council is the policy-making body from which the policy framework will be established. Council has responsibility for ensuring that the correct structures are in place for the effective implementation and delivery of its services. Once the structures are agreed and appointments made, the Executive will be delegated the responsibility of policy implementation and effective service delivery. The election of the Leader and the appointment of non-Executive Committees, will be the responsibility of the Full Council.

Each year the Full Council will elect a Chairman, who shall not then be a Member of the Executive or the Overview & Scrutiny Committee.

Each year the Full Council shall appoint a Vice-Chairman who shall not then be a Member of the Executive.

The Full Council shall normally meet six times per year unless a need is identified for any additional meetings.

### 4.02 Meanings

#### a) Policy Framework

The Policy Framework includes the following plans and strategies:-

- the Council's vision and its Key Aims and Objectives;
- Treasury Management Strategy Statement and Annual Investment Strategy;
- Revenue Budget Strategy;
- Capital Strategy;
- Medium Term Financial Plan;
- Sustainable Community Strategy;
- Community Safety Strategy;
- plans and strategies which together comprise the Local Development Framework;
- Housing Strategy;
- Parking Strategy;
- Cultural Strategy;
- Climate Change Strategy;
- Coastal Defence Strategy;
- Rivers Arun to Adur Flood and Erosion Management Strategy;
- Economic Development Strategy;
- Health and Safety Enforcement;
- Equality Scheme;
- E-business Strategy;
- the Plan and Policy Strategy, which comprises the Asset Management Plan;

- Code of Corporate Governance;
- Procurement Strategy;
- Licensing Policy (2003 Act);
- Gambling Policy: Statement of principles;
- any other plan or strategy (whether statutory or non-statutory) which the Council resolves shall be adopted or approved by it;
- Annual Risk Management Strategy.

b) **Budget**

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

#### 4.03 Functions of the Full Council

The following functions must not be exercised by the Leader/Executive and, where not otherwise delegated, shall be reserved to the Full Council:

- a) to adopt, amend (apart from changes to Part 3 in relation to Executive functions which will be discharged by the Leader/Executive) or suspend the Constitution, in accordance with the provisions of Article 15;
- b) to make proposals and fulfil any duties to change the Council's Executive arrangements, determine whether a Referendum is required and pass a resolution to make such change;
- c) to approve the Council's budget, as defined in Article 4.02(b) of the Constitution;
- d) to approve, amend, revoke or replace any plan or strategy falling within the Council's policy framework (including any decision required for submission to the Secretary of State);
- e) subject to the urgency procedure contained in the Financial Procedure Rules in Part 4 of this Constitution, to make decisions about any matter in the discharge of an Executive function which is covered by the Financial Procedure Rules or included in the budget, but where the decision-maker is minded to make it in a manner which would be contrary to Financial Procedure Rules or contrary to, or not wholly in accordance with, the budget:-
  - where the decision is made under any procedure for the approval of urgent decisions approved by the Council;
  - where departures from the budget:-
    - i) are not met from external funding, a contingency or reserve set up for the purpose;

- ii) are not met from proven savings elsewhere in the revenue budget and/or exceed £150,000;
  - iii) are not met from proven savings in that financial year in the Capital Programme and/or exceed £150,000;
  - iv) the new project (whether revenue or capital) is not fully funded by a grant or external contribution already contained in the Council budget and/or the cost of the project exceeds £150,000;
  - v) The expenditure has the effect of changing Council policy.
- f) to elect the Chairman and appoint the Deputy Chairman of the Council;
  - g) to elect and remove the Leader;
  - h) with the exception of the Executive, to appoint and dissolve Committees and determine or amend their Terms of Reference and size;
  - i) with the exception of the Executive, to determine the allocation of seats on the Council's Committees, and to make appointments to them;
  - j) to appoint representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Full Council;
  - k) to approve, amend, revoke or replace the Members' Allowances Scheme and to determine the levels of all allowances payable to Councillors taking into consideration the recommendations of the Council's Joint Independent Remuneration Panel;
  - l) to make arrangements in accordance with the Officer Employment Procedure Rules in Part 4 of the Constitution for the appointment of Directors, Statutory Chief Officers, non-statutory Chief Officers, the Monitoring Officer and the Deputy Chief Officers;
  - m) to appoint and dismiss the Chief Executive (Head of Paid Service), Chief Finance Officer and Monitoring Officer;
  - n) to designate Officers as the Head of Paid Service, Monitoring Officer and Chief Finance Officer;
  - o) to appoint Proper Officers as required by statute;
  - p) to determine the terms and conditions on which staff hold office, including procedures for their dismissal, unless otherwise delegated;
  - q) to make, amend, revoke, re-enact or enforce bylaws (other than those relating to taxis and private hire vehicles);
  - r) to promote or oppose local or personal Bills;

- s) to exercise such local choice functions as may be set out in Part 3 of this Constitution which the Full Council decides should be undertaken by itself, rather than by the Executive or any Committee or Officer;
- t) to exercise the Council's functions in relation to elections and electoral registration including the appointment of the Electoral Registration Officer and the Returning Officer for Local Government Elections;
- u) to adopt, revise or replace the Code of Conduct for Councillors and Co-opted Members and arrange for dealing with allegations of misconduct;
- v) to approve the public consultation in accordance with Part 6 of the Town and Country Planning (Local Planning) (England) Regulations 2012 any draft proposals relating to a development plan document;
- w) to make all necessary arrangements for the discharge of non-Executive functions through joint arrangements, including the establishment of Joint Committees, Area Committees or delegation to another Local Authority;
- x) to authorise the contracting out of non-Executive functions to another body;
- y) to accept any delegation of functions from another Local Authority (in relation to both Executive and non-Executive functions);
- z) to exercise the Council's functions in relation to community governance arrangements, including those relating to Parishes and Parish Councils, and to determine any matters relating to the name and status of areas;
- aa) to make an Order identifying a place as a designated public place for the purposes of Police powers in relation to alcohol consumption and designating a locality as an alcohol disorder zone, unless otherwise delegated;
- bb) to resolve not to issue casino premises licences;
- cc) to determine policy in respect of the licensing of Hackney Carriages and Private Hire Vehicles and review such policy upon the recommendation of the Licensing Committee;
- dd) to authorise Co-opted Members to vote at meetings of Scrutiny Committees in accordance with a scheme approved by the Council;
- ee) to determine matters relating to the failure of a Councillor to attend meetings for a period of six months;
- ff) to determine all other matters which, by law, must be reserved to the Council or which have not been delegated to any Committee or Officer;
- gg) to approve the Schedule of Ordinary Council Meetings for the forthcoming year;

- hh) to make appointments to various Independent Person roles; as required by statute.

#### **4.04 Full Council Meetings**

There are four types of Full Council Meeting:

- a) the Annual Meeting;
- b) Ordinary Meetings;
- c) Extraordinary Meetings;
- d) Special Meetings;

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

#### **4.05 Responsibility for Functions**

The Full Council will determine the responsibilities for the Council's functions which are not the responsibility of the Executive. Details are set out in Part 3 of this Constitution.

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## Article 5 – Chairing the Council

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### 5.01 Role and Function of the Chairman

The Chairman will be elected by Council annually.

The Chairman, and in his/her absence, the Deputy Chairman will have the following roles, functions and responsibilities:

- a) Chairing meetings of Full Council
  - i) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary, having taken advice from the Solicitor to the Council;
  - ii) to preside over meetings of the Full Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
  - iii) to ensure that the Full Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not on the Executive or do not hold Committee Chairs are able to hold the Executive and Committee Chairmen to account;
  - iv) to promote public involvement in the Council's activities; and
  - v) to be the conscience of the Council.
- b) Civic and Ceremonial Role

The Chairman shall be the First Citizen of the District of Adur and shall have the following civic responsibilities:

- i) to attend such civic and ceremonial functions as the Council and the Chairman may determine generally or in appropriate cases;
  - ii) to promote the Council as a whole and act as a focal point for the community;
  - iii) to host functions in order to promote the Council and its interests.
- c) Generally:

The Chairman may promote a Chairman's Charity Appeal for the charity or charities of their choice during their term of office and will make external arrangements for provision of all the support necessary in relation to their involvement with, or support of, that charity appeal.

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## Article 6 – Overview and Scrutiny Committee

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### 6.01 Introduction

- a) Overview and Scrutiny is an important element of the Council's Constitution. The Overview and Scrutiny Committee, Joint Overview and Scrutiny Committee, Sub-Committees and/or panels which may be established from time to time to carry out overview and scrutiny represent powerful public forums through which Councillors can monitor the implementation of the Council's policies and the quality of its services; make recommendations on the discharge of the Council's functions and/or other matters affecting the District of Adur and hold the Executive to account for their decisions and actions;
- b) Overview and Scrutiny is concerned with the overall wellbeing of the District and all factors affecting this, including not only Council services but those of other agencies and other matters. Overview and Scrutiny is an important mechanism for community Councillors to represent their Wards and are a focus for stakeholder and community involvement;
- c) This Article outlines the basic elements of the Overview and Scrutiny function. It should be read in conjunction with the Overview and Scrutiny Procedure Rules, which appear at Part 4 of the Constitution and provide a more detailed framework for the operation of Overview and Scrutiny.

**6.02** The Council has appointed an Overview and Scrutiny Committee and jointly with the Borough Council of Worthing, a Joint Overview and Scrutiny Committee to discharge the functions conferred by Section 21 of the Local Government Act 2000 and regulations under Section 32 of the Local Government Act 2000.

### 6.03 General Role

Within their Terms of Reference, the Overview and Scrutiny Committee and the Joint Overview and Scrutiny Committee may:

- i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- ii) make reports and/or recommendations to the Full Council, the Executive or any Committee in connection with the discharge of any functions;
- iii) consider and make reports or recommendations to the Full Council, the Executive or a Committee on any matters affecting the Council's area or its inhabitants; and
- iv) exercise the right, following a call-in, to ask for reconsideration of decisions made but not yet implemented by the Executive.

The Overview and Scrutiny Committee has 8 Members appointed by the Council and its membership will reflect the political balance on the Council.

The Joint Overview and Scrutiny Committee has 16 Members. The Council appoints 8 Members and the Borough Council of Worthing appoints 8 Members.

#### **6.04 Co-opted Members**

The Overview and Scrutiny Committee and the Joint Overview and Scrutiny Committee, their Sub Committees or Working Groups, may, from time to time, co-opt up to two non-voting Members to assist them with a particular matter. A co-opted Member may not sit as a Co-opted Member on both an Executive and a Scrutiny Committee when considering the same matter.

Where the matter relates to the Adur Housing Revenue Account, terms and conditions of tenancies or leaseholds, leasehold service charges and any other matter directly affecting housing tenants or leaseholders which do not have a general effect on other residents, the Adur Consultative Forum appointed co-optee shall be co-opted onto the Committee, Sub-Committee, or Working Group.

#### **6.05 Specific Functions**

##### **a) Policy development and review**

The Overview and Scrutiny Committee and the Joint Overview and Scrutiny Committee may:

- i) assist the Council and the Executive on all issues, including the development of new policies and the review of existing policies and services;
- ii) assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues;
- iii) conduct research, community and other consultation in the analysis of policy issues and possible options;
- iv) consider all performance, resources and corporate governance issues;
- v) question Members of the Executive about their views on issues and proposals affecting the area; and appoint Panels to assist it with its work;
- vi) set and monitor the annual scrutiny work programme.

##### **b) Scrutiny**

The Overview and Scrutiny Committee and Joint Overview and Scrutiny Committee may:

- i) review and scrutinise the decisions made by the Executive and Council Officers, both in relation to individual decisions and over time;
- ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- iii) question Members of the Executive and 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 Council arising from the outcome of the scrutiny process;
- v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance; and
- vi) question and gather evidence from any person (with their consent).

c) **Finance**

The Overview and Scrutiny Committee and Joint Overview and Scrutiny Committee may exercise overall responsibility for any finances made available to it.

d) **Annual Report**

The Overview and Scrutiny Committee and Joint Overview and Scrutiny Committee must report annually to Full Council on its workings and make recommendations for future work programmes and amended working methods, if appropriate.

e) **Officers**

The Overview and Scrutiny Committee and Joint Overview and Scrutiny Committee may exercise overall responsibility for the work programme of any Officers employed to support their work.

## **6.06 Proceedings of the Overview and Scrutiny Committee**

The Overview and Scrutiny Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules, or jointly with the Borough Council of Worthing in accordance with the Joint Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

## **6.07 Greater Brighton Economic Board Call-in Panel**

The Overview and Scrutiny Committee will appoint one of its Members to be a Member of the Greater Brighton Economic Board Call-in Panel, who is not a Member, nor a substitute Member, of the Greater Brighton Economic Board. The function of this Panel will be to consider decisions made, but not yet implemented, by Greater Brighton Economic Board, when challenged by a Member of the Board referring such a decision to the Panel.

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## **Article 7 – The Executive**

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### **7.01 Role**

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.

### **7.02 Form and Composition**

The Executive will consist of the Leader, who shall act as Chairperson of the Executive, together with between 2 and 9 other Councillors appointed by the Leader, one of whom the Leader shall appoint as Deputy Leader.

### **7.03 Leader**

The Leader will be a Councillor elected to the position of Leader by the Council. The Leader will hold office until:

- a) they resign from office; or
- b) they cease to be a Councillor other than on the normal day of their retirement as Councillor; or
- c) the next 'Selection Meeting' of the Council which is the Annual Meeting after the Leader's normal day of retirement as a Councillor; or
- d) they are removed from office by the Council.

### **7.04 Deputy Leader**

The Leader shall appoint a Member of the Executive to be the Deputy Leader.

The Deputy Leader will hold office until:

- a) they resign from office;
- b) they cease to be a Councillor; or
- c) they are removed from office by the Leader, such removal to be notified in writing to the Monitoring Officer and the removal will take place 3 clear working days after receipt of such notice.

### **7.05 Executive Members**

Other Executive Members shall be appointed by the Leader and have delegated to them specific Executive functions. They shall hold office until:

- a) they resign from office;

- b) they cease to be Councillors;
- c) they are removed from office by the Leader; such removal to be notified in writing to the Chief Executive (or Monitoring Officer) and the removal will take place 3 clear working days after receipt of such notice.

#### **7.06 Proceedings of the Executive**

Proceedings of the Executive shall take place in accordance with the Council's Procedure Rules and the Executive Procedure Rules, as set out in Part 4 of this Constitution.

#### **7.07 Responsibility for Functions**

The Leader, at their discretion, will determine which individual Members of the Executive, Committees of the Executive, Officers or joint arrangements are responsible for the exercise of particular Executive functions. The Monitoring Officer will maintain a list setting out such arrangements in Part 3 of this Constitution. The Leader will notify the Monitoring Officer of any changes, which shall take effect 3 working days thereafter.

#### **7.08 Policy Advisers**

- a) Policy Advisers may be appointed by the Leader to advise Executive Members on any area for which they are responsible.
- b) An Executive Member may consult a Policy Adviser before making a decision.
- c) A Policy Adviser shall not have power to take decisions on behalf of or affecting the Council.

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## **Article 8 – Regulatory and Other Non-Executive Decision-Making Committees and Advisory Panels**

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### **8.01 Regulatory Committees**

The Council will appoint the following Committees:

- Planning Committee;
- Licensing Committee.

### **8.02 Non-Executive Decision-Making Committees**

The Council will, jointly with the Borough Council of Worthing, appoint the following Non-Executive Decision-Making Committees:

- Joint Governance Committee;
- Joint Staff Committee;
- Joint Senior Staff Committee;
- Joint Senior Staff (Appeals) Committee.

### **8.03 Advisory Panels**

The Council will, jointly with the Borough Council of Worthing, appoint the following advisory panels:

- Joint Independent Remuneration Panel.

### **8.04 Terms of Reference and Procedure Rules**

The terms of reference and delegated powers of the Committees are set out in Part 3 of this Constitution.

The terms of reference of the Joint Governance Committee should be read in conjunction with the Standards Procedure Rules in Part 4. The terms of reference of the Joint Staff Committee, Joint Senior Staff Committee and Joint Senior Staff Appeals Committee should be read in conjunction with the Officer Employment Procedure Rules in Part 4. The terms of reference for the Planning Committee should be read in conjunction with the Probity in Planning document in Part 5.

The terms of reference and delegated functions of the Joint Independent Remuneration Panel can be found in the Joint Independent Remuneration Panel Procedure Rules in Part 4.

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## Article 9 – Governance

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### 9.01 Standards

The Council has established a Joint Governance Committee with the Borough Council of Worthing.

The Committee will carry out functions delegated to it by the Council in accordance with the Local Government Acts 1972 and 2000 and the Localism Act 2011 including the Standards functions.

### 9.02 Composition

#### a) Political Balance

The Joint Governance Committee has to comply with the political balance rules in Section 15 of the Local Government & Housing Act 1989.

#### b) Membership

The Joint Governance Committee is composed of the following:

- Eight Worthing Borough Councillors, only one of whom can be an Executive Member;
- Eight Adur District Councillors, only one of whom can be an Executive Member;
- Up to three persons who are not Councillors nor Officers of the Council nor any other body having a Standards Committee and are appointed as Independent non-voting Co-opted Members (“Independent Persons”);
- One Member of Lancing Parish Council and one Member of Sompting Parish Council (Parish Representatives) appointed as non-voting Co-opted Members to advise the Committee on standards matters relating to a Parish.

#### c) “Independent Persons”

“Independent Persons” are independent non-voting Co-opted Members of the Joint Governance Committee. They are not entitled to vote at meetings. Their role and function is:

- i) to advise and assist the Committee by providing an independent opinion on the matters before the Committee;
- ii) to advise the Monitoring Officer, as consultee, in respect of complaints under the Code of Conduct for Members; and

- iii) to advise any Member who is the subject of a complaint under the Code of Conduct for Members, (the “Subject Member”), as a consultee.

Not more than one Independent Person shall advise the Committee in respect of standards matters at any one time.

d) **Parish Representatives**

Parish Representatives will not be entitled to vote at meetings. At least one Parish Representative should be present when matters relating to Parish Councils or their Members are being considered, although a Parish Representative must not advise in any matter affecting the Parish Council or Parish Councillors of the Parish of which he or she is a Parish Councillor.

e) **Local Determinations**

The Committee may appoint a Sub-Committee, comprising at least two Members of the Council, and at least two Members of Worthing Council and one Independent Person. The Members of the Sub-Committee shall be selected by the Monitoring Officer from the Members of the Joint Governance Committee.

When considering a complaint in respect of a Parish Councillor the Sub-Committee shall include a Parish Representative.

### **9.03 Role and Function of Members of the Governance Committee**

- a) Promoting and maintaining high standards of conduct by Councillors and Co-opted Members;
- b) Assisting the Councillors and Co-opted Members to observe the Code of Members’ Conduct;
- c) Advising the Council on the adoption, or revision, or replacement of the Code of Members’ Conduct;
- d) Monitoring the operation of the Code of Members’ Conduct;
- e) Advising, training or arranging for the training of Councillors and Co-opted Members on matters relating to the Code of Members’ Conduct;
- f) Granting dispensations to Councillors and Co-opted Members from requirements relating to interests set out in the Code of Members’ Conduct, which have not been dealt with by the Monitoring Officer.
- g) Hearing and determining allegations that a Member or Co-opted Member of the District Council has failed or may have failed to comply with the Code of Members’ Conduct in accordance with the provisions of the Localism Act 2011 and any relevant regulations;

- h) To co-opt, in an advisory capacity only, any person who is an Independent Person at another Local Authority, to advise the Committee or any Sub-Committee. Such advice to be provided on such terms as the Committee may determine and agree with the person and the Local Authority concerned, and in accordance with the Localism Act 2011 and any relevant regulations;
- i) To make arrangements for the appointment of two Parish Representatives to advise the Committee on Parish matters;
- j) To receive an annual report from the Monitoring Officer on the local resolution and assessment of allegations of breaches of the Code of Members' Conduct;
- k) To support the Monitoring Officer in the exercise of the Officers' Ethical Standards functions, in particular the duty to establish and maintain Registers of Interest for the Council;
- l) Any other functions imposed by statute;
- m) The exercise of (g), (j), (k) and (l) above in relation to Parish Councils in the area and Members of those Parish Councils.
- n) To appoint a Sub-Committee consisting of two elected Members of the Council, two elected Members of Worthing Borough Council, one co-opted Parish Representative (for Parish Matters) and one Independent Person to determine applications for dispensation and complaints following investigations.

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## Article 10 – Joint Arrangements

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### 10.1 Joint Arrangements

- a) The Council has established joint arrangements with the Borough Council of Worthing to exercise non-Executive functions, and to advise the Council. These arrangements include the appointment of Joint Committees with the Borough Council of Worthing.
- b) The Executive has established joint arrangements with the Borough Council of Worthing to exercise Executive functions. These arrangements include the appointment of a Joint Strategic Committee with the Executive of the Borough Council of Worthing.
- c) The Council has established joint arrangements with the Borough Council of Worthing, and District Councils of Mid-Sussex and Horsham to exercise non-Executive functions, and to advise the Council. These arrangements include the appointment of a Joint Committee with these Councils.
- d) The Executive has established joint arrangements with the Borough Council of Worthing, and the District Councils of Mid-Sussex and Horsham to exercise Executive functions. These arrangements include the appointment of a Census Joint Committee with these Councils.
- e) The Council has established joint arrangements with Brighton & Hove City Council, the Borough Council of Worthing and the District Council of Lewes in relation to the Greater Brighton Economic Region under the City Deal arrangements. These arrangements include the appointment of a Greater Brighton Economic Joint Committee.
- f) The Council may establish further joint arrangements with the one or more Local Authorities to exercise non-Executive functions, and to advise the Council. These arrangements may include the appointment of Joint Committees with the other Local Authorities.
- g) The Executive may establish further joint arrangements with one or more other Local Authorities to exercise Executive functions. These arrangements may include the appointment of a Joint Committee with the other Local Authorities.

### 10.2 Arrangements to Promote Well-Being

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

- a) enter into arrangements or agreements with any person or body;
- b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and

- c) exercise on behalf of that person or body any functions of that person or body.

### **10.3 Access to Information**

- a) The Access to Information Procedure 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 the Executive.
- 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 V of the Local Government Act 1972 will apply.

### **10.4 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 Full Council.
- d) The Council has accepted delegations from the South Downs National Park Authority in relation to Planning matters.

### **10.5 Contracting Out**

The Executive 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 Delegation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision-making. Such decision to contract out shall be reserved to Full Council.

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## Article 11 – Officers

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### 11.01 Management Structure

a) **General**

The Council may employ such staff (referred to as Officers) as it considers necessary to carry out its functions. The Full Council will confirm the appointment of the Chief Executive (Head of Paid Service), the Chief Finance Officer and the Monitoring Officer. All other staff will be appointed by the Chief Executive or by an individual to whom the Chief Executive has delegated authority. All appointments must be made in compliance of the Officer Employment Procedure Rules in Part 4 of the Constitution.

b) **Corporate Leadership Team**

The Council will engage persons for the following posts and they will collectively be designated as the Corporate Leadership Team (“CLT”):-

Chief Executive (and Head of Paid Service);  
Director for Communities;  
Director for Customer Services;  
Director for Digital and Resources; and  
Director for the Economy

c) **Head of Paid Service, Monitoring Officer and Chief Financial Officer**

The Council will designate the following statutory posts as shown:-

<b>Post</b>	<b>Designation</b>
Chief Executive	Head of Paid Service, Returning Officer, Deputy Returning Officer, Acting Returning Officer and Electoral Registration Officer.
Solicitor to the Council	Monitoring Officer (Section 5 of the Local Government and Housing Act 1989).
Head of Financial Services	Chief Finance Officer (Section 151 of the Local Government Act 1972 and Section 114 of the Local Government Finance Act 1982).

Such posts will have the functions described in Articles 11.02 – 11.04 below.

d) **Structure**

The Chief Executive will, from time to time, report to Full Council on the overall departmental structure of the Council, showing the management structure and deployment of Officers. This is set out at Part 7 of this Constitution and may be amended from time to time by Full Council.

e) **The Council's Pay Policy**

The Chief Executive shall produce The Council's Pay Policy to be approved by Full Council not later than 31<sup>st</sup> March in each year.

### **11.02 Functions of the Head of Paid Service**

a) **Discharge of functions by the Council**

The Head of Paid Service will from time to time report to the 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) **Appointment and dismissal of staff**

The Council has delegated to the Head of Paid Service responsibility for certain staffing matters as set out in the Officer Employment Procedure Rules set out in Part 4 of the Constitution.

On acceptance of appointment all Officers are obliged to comply with the provisions of the Council's Constitution.

c) **Restrictions on functions**

The Head of Paid Service cannot be the Monitoring Officer but may hold the post of Chief Finance Officer, if a qualified accountant.

### **11.03 Functions of the Monitoring Officer**

a) **Maintaining the Constitution**

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is openly available to Members, Officers and the public. The Monitoring Officer has the delegated authority to make minor and consequential amendments to the Constitution at any time.

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

c) **Supporting the Joint Governance Committee**

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

d) **Code of Conduct complaints**

The Monitoring Officer:

- i) will carry out an initial assessment of every allegation that a Member of the Council has failed to comply with the Code of Conduct and, after consulting one of the Independent Persons, decide whether or not it should be investigated;
- ii) will appoint an Investigator if he/she decides that a complaint merits formal investigation;
- iii) will review the Investigator's report, in consultation with one of the Independent Persons and decide either that no further action is required or that the matter should be referred to a Sub-Committee of the Joint Governance Committee for a hearing.

e) **Proper Officer for Access to Information**

The Monitoring Officer will ensure that all decisions, together with the reasons for those decisions, relevant Officer reports and background papers, are made publicly available as soon as possible. The Monitoring Officer will be the Proper Officer for determining whether information should be exempt.

f) **Providing advice**

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions and maladministration issues to all Members.

g) **Restrictions on posts**

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

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

b) **Administration of Financial Affairs**

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

c) **Contributing to Corporate Management**

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

d) **Providing Advice**

The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Members and will support Council.

e) **Providing Financial Information**

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

f) **Advising whether Executive decisions are within the budget and the Financial Regulations.**

The Chief Finance Officer is responsible for advising whether Executive decisions are within the Financial Regulations and whether funding for such decisions is within the budget.

g) **Restriction on Functions**

The Chief Finance Officer shall not be the Monitoring Officer, but may be the Head of Paid Service.

**11.05 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer**

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

### **11.06 Conduct**

Officers will comply with the Officers' Code of Conduct set out in Part 5 of this Constitution.

### **11.07 Employment**

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

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## Article 12 – Decision-Making

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### 12.01 Responsibility for Decision-Making

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

### 12.02 Principles of Decision-Making

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

- a) there should be clarity of aims and desired outcomes;
- b) proper regard should be paid to professional advice from Officers;
- c) all decision shall be in accordance with the law;
- d) proper regard should be paid to the outcome of any internal or external consultation;
- e) there should be a presumption in favour of openness, accountability and transparency;
- f) there should be respect for human rights;
- g) there should be proportionality (i.e. the action must be proportionate to the desired outcome);
- h) there should be an explanation of the alternative options considered; and
- i) there should be proper and documented reasons given for all decisions.

In exercising discretion, the decision-maker must:

- a) understand the law that regulates the decision-making power and gives effect to it. The decision-maker must direct itself properly in law;
- b)
  - i) take into account all relevant matters (those matters which the law requires the Authority as a matter of legal obligation to take into account);
  - ii) leave out of account irrelevant considerations;
  - iii) act for a proper purpose, exercising its powers for the public good;

- iv) not reach a decision which no Authority acting reasonably could reach (also known as the ‘rationality’ or ‘taking leave of your senses’ principle);
- v) comply with the rule that Local Government finance is to be conducted on an annual basis, save to the extent authorised by Parliament, ‘live now, pay later’ and forward funding are unlawful; and
- vi) act with procedural propriety in accordance with the rules of fairness.

To be lawful, a decision:

- a) If taken in Full Council, Cabinet, Committee, Sub-Committee or Joint Committee, must comply with the principle of being reached by a majority of Councillors present and voting, at a properly constituted meeting;
- b) Be one which the decision-maker is empowered or obliged to take, otherwise it is ultra vires;
- c) Not contravene ‘Wednesbury reasonableness’;
- d) If intended to secure action (as opposed, for example, to a resolution merely expressing the Council’s collective view on an issue), be capable of execution, or it will be of no effect; and
- e) Not purport to undo what has already been done irrevocably (but it can rescind an earlier decision where this is feasible).

There can be no substitute for appropriate advice on a matter-by-matter basis. This guidance cannot be, and does not purport to be, comprehensive or replace that professional advice.

**Note:**

*‘Wednesbury reasonableness’. This relates to the actions of a Local Authority or other public body in exercising its discretion, and relates to whether the body has acted irrationally (rather than ultra vires). The definition was given by Lord Greene in the Wednesbury case (1948):*

*‘When an executive discretion is entrusted by Parliament to a body such as the Local Authority in this case, what appears to be an exercise of that discretion can only be challenged in the Courts in a limited class of case.... When discretion of this kind is granted, the law recognises certain principles on which that discretion must be exercised, but within the four corners of those principles, the discretion, in my opinion, is an absolute one and cannot be questioned in any Court of Law... If, in the statute conferring the discretion, there is to be found expressly or by implication matters which the Authority exercising the discretion ought to have regard to, then in exercising the discretion it must have regard to those matters. Conversely, if the nature of the subject matter and the general interpretation of the Act makes it clear that certain matters would not be germane to the matter in question, the Authority must disregard those irrelevant collateral matters. There have been in the cases expressions used relating to the sort of thing that Authorities must not do... bad phrase, dishonesty - those of course stand by themselves... discretion must be exercised reasonably. He must call his own attention to the matters which he is bound to consider, and exclude from his consideration matters which are irrelevant to what he has to consider.*

*If he does not obey those rules, he must truly be said, and often is said, to be acting unreasonably.'*

### **12.03 Types of decision**

#### **a) Decisions reserved to Full Council**

Decisions relating to the functions listed in Article 4.03 will be made by the Full Council and not delegated.

#### **b) Key Decisions**

Certain Executive decisions are "Key Decisions" within the terms of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000. These are decisions which are likely:-

Either:

i) to result in the Council incurring expenditure which is, or the making of savings which are, significant, having regard to the Council's budget for the service or function to which the decision relates, which the Council has currently determined to be;

A) Capital schemes, within the approved Capital Programme, in excess of £250,000; or

B) the letting/re-letting of contracts of value of £100,000 or more over the period of the contract, where provision has been made in the approved budget; or

C) expenditure in addition to the approved budget, requiring virement or a supplementary estimate in excess of £100,000;

Or:

ii) to be significant in terms of its effects on communities living or working in an area comprising two or more Wards in the wider area of Adur District Council and Worthing Borough Council jointly.

In interpreting after the event whether or not a decision should or should not have been classified as a Key Decision, the following will be taken into account:

i) The issue must be assessed on the basis of the information which could reasonably have been available to the decision-maker at the time;

ii) The 'de minimus' rule will be applied;

iii) The level and nature of advice sought by the decision-maker. The Monitoring Officer and Chief Financial Officer will have significant roles to play in this.

A decision-maker may only make a Key Decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

No treasury management decisions, as defined by the Chief Financial Officer, shall be deemed to be Key Decisions.

**Note:**

*'De minimus' means that (in this context) this rule does not apply to trifling, minor or insignificant variations, departures or breaches.*

Major Decisions are decisions which are not Key Decisions and are not Administrative Decisions.

Administrative Decisions are decisions that are ancillary to the delivery of the function such as the:

- a) ordering of stationery;
- b) publication of statutory notices; or
- c) deployment of staff.

#### **12.04 Decision-Making by the Full Council**

Subject to Article 12.08, the Full Council will follow the Council's Standing Orders relating to the Council in Part 4 of this Constitution when considering any matter.

#### **12.05 Decision-Making by the Executive**

Subject to Article 12.08, the Executive will follow the Executive Procedure Rules relating to the Executive in Part 4 of this Constitution when considering any matter.

#### **12.06 Decision-Making by Overview and Scrutiny**

Subject to Article 12.08 the Overview and Scrutiny function will follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

#### **12.07 Decision-Making by Other Committees**

Subject to Article 12.08, other Council Committees and Sub-Committees will follow those parts of the Council's Standing Orders set out in Part 4 of this Constitution as apply to them.

#### **12.08 Decision-Making by Council bodies acting as tribunals**

Any decision-making body within the Council acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purpose 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 as contained in Article 6 of the European Convention on Human Rights.

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

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### **13.01 Financial Management**

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

### **13.02 Contracts**

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

### **13.03 Legal Proceedings**

The Solicitor to the Council is authorised to institute, defend, participate in, prosecute or settle any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where he / she considers that such action is in the Council's best interests. The Solicitor to the Council may delegate this authority to a suitably qualified Officer or a suitably qualified external provider.

### **13.04 Authentication of Documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Solicitor to the Council or another person authorised by him/her, unless any enactment otherwise authorises or requires.

All contracts entered into on behalf of the Council in the course of the discharge of an Executive or non-Executive function shall be made in writing and signed in accordance with the Contract Procedure Rules in Part 4 of this Constitution.

Any contract with a value exceeding £100,000 entered into on behalf of the Council in the course of the discharge of an Executive or non-Executive function shall be made in writing and must either be signed by at least two Officers of the Council, or made under the Common Seal of the Council attested by at least one Officer, in accordance with the Contract Procedure Rules in Part 4 of this Constitution.

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

The Common Seal of the Council will be kept in a safe place in the custody of the Solicitor to the Council. 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 Solicitor to the Council should be sealed. The affixing of the Common Seal will be attested by the Solicitor to the Council or by any other person duly authorised by them, who is employed by the Council and

authorised in writing. The Solicitor to the Council may additionally arrange for the Chairman to attest the Common Seal where this is desirable for civic or ceremonial reasons.

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## Article 14 – Review and Revision of the Constitution

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### 14.01 Duty to Monitor and Review the Constitution

The Joint Governance Committee will monitor and review the operation of the Constitution to ensure that its aims and principles are given full effect.

### 14.02 Protocol for Monitoring and Review of the Constitution by the Monitoring Officer

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order to better achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:

1. observe meetings of different parts of the Member and Officer structure;
2. undertake an audit of a sample of decisions;
3. record and analyse issues raised with him/her by Members, Officers, the public and other relevant stakeholders; and
4. compare practices in this Council with those in other comparable Councils, or with national examples of best practice.

### 14.03 Changes to Constitution

#### a) **Approval**

Changes to the Constitution arising either from a review, a motion from Council or from the Monitoring Officer will only be approved by the Full Council after consideration of the proposal by the Joint Governance Committee.

#### b) **Minor or inconsequential changes**

The Monitoring Officer has delegated authority to update the Constitution arising from decisions of the Council or Executive or where legislation requires a change in wording or terminology, such changes to be reported to Members of the Joint Governance Committee. The Monitoring Officer also has delegated authority to make 'de minimus' inconsequential changes to the Constitution, without the requiring of such reporting.

#### c) **Change in the form of Executive**

Special Procedures apply to changes in the form of Executive including (but not limited to) binding referendums when the law requires.

d) **Delegations**

Where a delegation is made to an Officer by the Council, to last six months or more, that delegation may need to be reflected within the Constitution (normally Part 3 or one of the Appendices), in which case the Monitoring Officer has authority to update the Constitution to reflect that change.

e) **Changes that are predominantly managerial in their nature**

The Monitoring Officer has the authority to amend the Constitution in relation to matters that are predominantly managerial in their nature where there is agreement from the other two Statutory Officers, namely the Chief Executive (Head of Paid Service) and the Chief Financial Officer, and where the matter has been subject to consultation with the appropriate Members (normally the relevant Executive Member and opposition spokespersons). Any such changes will be reported subsequently to Joint Governance Committee.

f) **Changes arising from changes to Executive Portfolios**

The Monitoring Officer has authority to amend the Constitution to implement decisions of the Leader in relation to the delegation by the Leader of executive functions to the Executive.

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## **Article 15 – Suspension, Interpretation and Publication of the Constitution**

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### **15.01 Suspension or Waiver of the Constitution**

a) **Limit to Suspension**

The Articles of this Constitution may not be suspended or waived. The Standing Orders and Procedure Rules below may be suspended or waived by the Full Council or the Executive or any Committee, to the extent permitted within those Standing Orders and Procedure Rules, and the law.

b) **Procedure to Suspend**

A motion to suspend any Standing Order or Procedure Rule in accordance with Article 15.01 must be moved in accordance with the Standing Order or Procedure Rules. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution as set out in Article 1.

### **15.02 Interpretation**

The person presiding at any meeting shall take into account legal advice in interpreting the Constitution. The ruling of the person presiding at any meeting as to the construction or application of this Constitution in relation to any proceedings of the meeting shall not be challenged at that meeting. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

### **15.03 Publication**

- a) On first being elected to the Council, and on an individual declaring their acceptance of office, the Monitoring Officer will make available an electronic or paper copy of this Constitution to each Member.
- b) The Monitoring Officer will ensure that copies are available for inspection at Council Offices, Libraries and other appropriate locations, and that they are available for purchase by members of the local press and the public on payment of a reasonable fee.