

PART 2

ARTICLES OF THE CONSTITUTION

Article 1 – The Constitution

References:

Section 37, Local Government Act 2000

Chapter 10, DETR Guidance,

The Local Government Act 2000 (Constitutions) (England) Direction 2000

1.1 Powers of the Council

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

1.2 The Constitution

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

1.3 Purpose of the Constitution

The purpose of the Constitution is to:

- (a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- (b) support the active involvement of citizens in the process of local authority decision-making;
- (c) help councillors represent their constituents effectively;
- (d) enable decisions to be taken efficiently and effectively;
- (e) create a powerful and effective means of holding decision-makers to public account;
- (f) ensure that no one will review or scrutinise a decision in which they were directly involved;
- (g) explain the way in which decisions are made at the Council and explain who is responsible for making those decisions;
- (h) ensure that those responsible for decision-making explain the reasons for their decisions;
- (i) provide a means of improving the delivery of services to the community.

1.4 Interpretation and Review of the Constitution

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

The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

Article 2 – Members of The Council

References:

Part I, Part VA and Section 79, Local Government Act 1972

Chapter 2, DETR Guidance

Section 18, Local Government and Housing Act 1989 and regulations thereunder
Section 7, Superannuation Act 1972 and regulations thereunder

2.1 Composition and Eligibility

- (a) **Composition.** The Council will comprise 41 members, otherwise called councillors. One or more councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- (b) **Eligibility.** Only registered voters of the district or those living or working there will be eligible to hold the office of councillor.

2.2 Election and Terms of Councillors

Election and terms. The regular election of councillors will be held on the first Thursday in May every four years beginning from 2003. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

2.3 Roles and Functions of All Councillors

- (a) **Key roles.** All councillors will:
 - (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
 - (ii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;

- (iii) effectively represent the interests of their ward and the interests of individual constituents;
- (iv) respond to constituents' enquiries and representations fairly and impartially;
- (v) balance different interests identified within their ward and represent the ward as a whole;
- (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.

(b) **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.
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
- (iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

2.4 Conduct

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

2.5 Allowances

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 7 of this Constitution.

Article 3 – Citizens and The Council

3.1 Citizens' Rights

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

- (a) **Voting and petitions.** Local government electors have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.
- (b) **Information.** Citizens have the right to:
 - (i) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) attend meetings of the Cabinet;
 - (iii) find out from the forward plan what key decisions will be taken by the Cabinet, Cabinet Member, or officers, and when;
 - (iv) see reports and background papers, and any records of decisions made by the Council, Cabinet, Cabinet Member, or key decisions made by officers;
 - (v) inspect the Council's accounts and make their views known to the District Auditor.
- (c) **Participation.** Citizens have the right to put questions to councillors at meetings of the Council and to contribute to investigations by the Policy and Performance Advisory Committee when invited to do so.
- (d) **Complaints.** Citizens have the right to complain to:
 - (i) the Council itself under its complaints scheme;
 - (ii) the Ombudsman after using the Council's own complaints scheme;
 - (iii) the Monitoring Officer about a breach of the Councillors' Code of Conduct.

3.2 Citizens' Responsibilities

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

Article 4 – The Full Councilⁱ

4.1 Introduction

The Full Council is a formal meeting of all Councillors. The Full Council is required by law to take certain important decisions including setting the Council's Budget and Council Tax, and approving a number of key plans and strategies, which together form the Policy Framework (listed below). The full Council must also by law take decisions on a number of specific matters.

The Full Council provides a central forum for debate and gives the opportunity for Councillors and members of the public to ask questions about the Council or matters affecting the Council.

4.2 The Council

A meeting of the Council is one in which all 41 members are entitled to attend to speak and vote. The Council is responsible for the determination of the Budget and Policy Framework of the Council and for all of the functions which are not the responsibility of the Executive. The Council is responsible for regulatory and other non-Executive functions, for example planning and licensing, and has a role in holding the Executive to account.

It will carry out some functions itself but others will be delegated to Committees or named officers.

4.3 Meanings

- (a) **Policy Framework.** The policy framework means the following plans and strategies:
- (i) those required by law to be adopted by the Council:
 - Council Plan;
 - Sustainable Community Strategy;
 - Crime Reduction Strategy;
 - Plans and strategies which together comprise the Development Plan;
 - Pay Policy Statement;
 - (ii) The following plans and strategies should be adopted by the Council as part of the Policy Framework:
 - Food Law Enforcement Service Plan;
 - The plan and strategy which comprise the Housing Investment Programme;
 - Local Agenda 21 Strategy;

ⁱ References:

Local Authorities (Functions and Responsibilities) (England) Regulations 2000 Chapters 2 and 9

- (iii) other plans and strategies which the Council may decide should be adopted by the Council meeting as a matter of local choice:
 - E-government strategy;
 - Policy for use of powers given by the Regulation of Investigatory Powers Act 2000.

- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits and supplementary estimates.

- (c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

4.4 Functions of the Full Council

Only the Council will exercise the following functions:

- (a) adopting and changing any part of the Constitution unless stated otherwise;

- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;

- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of the Constitution, making decisions about any matter where the Executive is proposing to make a decision which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget;

- (d) appointing the Leader;
- (e) assessing the performance of the Cabinet and passing a resolution to remove the Leader from office;
- (f) approving the scheme of delegations, save for the delegation of executive functions;
- (g) agreeing and/or amending the terms of reference for the Policy and Performance Advisory Committee and other committees, deciding on their composition and making appointments to them;
- (h) appointing representatives to outside bodies unless the power of appointment has been delegated by the Council as part of the Executive arrangements;
- (i) adopting an allowances scheme for members under Article 2.5;
- (j) changing the name of the Council's area;
- (k) the conduct of elections, electoral registration, boundary/electoral reviews and associated matters, unless these have been delegated to officers under the Scheme of Delegation (see Part 9);
- (l) confirming the appointment of the Head of Paid Service; and designating the Chief Finance Officer and the Monitoring Officer.
- (m) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (n) to consider reports on lawfulness and maladministration;
- (o) adopting a Code of Conduct for members;
- (p) matters relating to local government pensions;
- (q) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet; and
- (r) all other matters which, by law, must be reserved to Council.

4.5 Council Meetings

There are three types of Council meeting:

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

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

4.6 Council Procedure

At Council meetings (including the Annual Council) the business of the Council will be conducted without any civic ceremony.

The Chair may wear the Chain of Office or badge at Council meetings if s/he so wishes.

The Chair will be seated at the start of the Council meeting and will call the proceedings to order.

There will be no prayers – but the Chair will ask for a period of silence before the meeting begins to enable councillors to focus their thoughts on the meeting or to pray silently.

The Chair will conduct Council meetings in accordance with the words and spirit of the Constitution; balancing the need to expedite business in an efficient and effective manner with the requirement to ensure full and adequate debate.

The Annual Council Meeting will be a business meeting without ceremony. At the start of the meeting, the Leader of the Council will give a brief speech thanking the outgoing Chair for his/her work on behalf of the Council. The outgoing Chair will give a brief speech in response. Once elected, the new Chair and Vice-Chair will then sign their declarations of acceptance of office without ceremony and the business of the Council will start immediately.

Article 5 – Chairing the Council

Title of the Person Chairing Council Meetings

References:

Sections 3, 5, 245; schedule 2, 12; Local Government Act 1972

Schedule 3, Local Government Act 2000

Chapters 2, 4 and 9, DETR Guidance

5.1 The Role of the Chair of the Council

The Chair and Vice-Chair will be elected by the Council annually. The Chair and, in his/her absence, the Vice-Chair, will have the following responsibilities:

1. To Chair Council Meetings;
2. To focus his/her activities on the communities of the District (including communities of interest, as well as geographical ones) and, by focusing on the Council's priorities, strengthen links between those communities and the Council;
3. To act as an enabler and ambassador by arranging meetings between the Council and other parties for the benefit of the District.
4. To celebrate those people or groups in the District who do extraordinary things to help others in the community, and to recognise those whose everyday lives are a challenge but who succeed in spite of their difficulties;
5. To celebrate successes of partners involved in major projects with the Council, particularly projects steered by the voluntary sector;
6. To encourage activities that recognise and support staff, (eg the annual garden party).

Article 6 – Policy and Performance Advisory

The Council will appoint a Policy and Performance Advisory Committee to undertake the dual roles of providing advisory input into key decisions to be made by the Cabinet and reviewing performance of services and projects against objectives.

In doing so, this Committee will discharge the overview and scrutiny functions conferred by section 21 of the Local Government Act 2000. In addition this Committee will undertake the role and discharge the functions conferred by sections 19 and 20 of the Police and Justice Act 2006, as amended by section 126 of the Local Government and Public Involvement in Health Act 2007, relating to scrutiny of the crime and disorder functions exercised by the Crime Reduction Partnership.

6.1 General Principles

The general principles of the Policy and Performance Advisory Committee shall be that it will:

- (a) provide meaningful input into the Cabinet's consideration of key matters for decision;
- (b) provide critical friend challenge to the Cabinet and/or other external partner organisations;
- (c) reflect the voice and concerns of the public and its communities;
- (d) take the lead and own the performance review process on behalf of the public;
- (e) make an impact on the delivery of public services.

6.2 General Role of Policy and Performance Advisory Committee

The Committee will:

- (a) provide commentary, advice and recommendations to the Cabinet on key matters due for decision;
- (b) hold the Cabinet and Cabinet Members to account by examining decisions about to be taken, taken but not yet implemented (call-in), and those that have been implemented (post-hoc review);
- (c) review general policies (especially those in the Policy Framework) and make suggestions for improving them;
- (d) contribute to continuous improvement in service delivery (through consideration of service delivery performance, participation in value for money reviews and investigation of budgets);

- (e) review and make recommendations relating to the discharge of non-executive (regulatory) functions;
- (f) consider and make recommendations to the Cabinet and/or Council (and relevant partner organisations) on any matters having a direct bearing on the economic, social or environmental well-being of the District's residents.

6.3 Specific Functions of the Policy and Performance Advisory Committee

(a) Policy Development

The Committee may:

- (i) assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;
- (ii) conduct research with the community on policy issues and possible options available to the Council;
- (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (iv) assist the Cabinet in providing direct consultative input into individual matters due for decision;
- (v) consult (or question) Cabinet Members, Committee members, Chief Officers and/or Heads of Service about their views on issues and proposals affecting the area.

(b) Performance Review

The Committee may:

- (i) review and scrutinise the decisions made by the Cabinet, Cabinet Members, Committees, and/or 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 Cabinet Members and/or Committees, ward members, Chief Officers and/or Heads of Service 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) review and scrutinise the performance of other public bodies in the area or whose work impinges on the area and invite reports from them by requesting them to address the Committee and local people about their activities and performance;
- (v) gather evidence from any person outside the Council (with their consent).

(c) **Other Key areas**

The Committee:

- (i) may review and/or scrutinise the work of the Community Safety Partnership and the partners who comprise it insofar as their activities relate to their crime and disorder functions and make reports or recommendations to the Cabinet and/or Council and/or Community Safety partners as appropriate;
- (ii) shall consider Councillor Calls for Action which are referred to it and which relate to local government and/or crime and disorder matters.

6.4 Work Programme

The Committee shall:

- (a) prepare an annual programme of work so as to ensure that the Committee's time is effectively and efficiently utilised.

The annual programme may include in its work programme a list of issues relating to crime and disorder matters providing these are first agreed with the relevant partners on the community safety partnership.

- (b) make in-year adjustments and additions to the annual programme in light of changing circumstances, subject to:
 - (i) there being no substantial addition to any resources to be called upon to undertake the programme;
 - (ii) the relevant Head of Service agreeing to any additional call upon staffing support; and
 - (iii) no additional costs arising which cannot be met from existing budgets unless approved by the virement procedures in the Financial Procedure Rules.
- (c) In determining the work programme the Committee shall have regard first and foremost to the following:

- (i) Council priorities;
- (ii) areas of improvement identified from the Council’s corporate governance, performance management and/or data quality arrangements;
- (iii) issues of public concern; and
- (iv) issues of concern raised by Councillors.

6.5 Proceedings of Policy and Performance Advisory Committee

- (a) The Committee may establish “task-finish” panels to undertake any of its activities. It will determine their size and membership and approve their terms of reference.

The Committee may suggest the names of individuals that could become co-opted members of any panel and/or organisations that might be invited to nominate representatives as possible co-opted members.

- (b) The Committee and Panels will conduct their proceedings in accordance with the Policy and Performance Advisory Procedure Rules set out in Part 4 of this Constitution.
- (c) When carrying out work relating to crime and disorder matters the Committee shall ensure the involvement of the police authority by
 - (i) inviting it to send a police authority member or the clerk or another officer of the police authority as an “expert adviser”; or
 - (ii) by co-opting a police authority member onto the Committee or Panel as appropriate;
- (d) The Committee may require information relating to local improvement targets from its relevant partner authorities in accordance with regulations made by the Secretary of State.
- (e) The Committee must consider community safety matters at least annually and may make reports or recommendations to the Cabinet, the Council or any Committee relating to the discharge of crime and disorder functions by:
 - (i) the District Council
 - (ii) the County Council
 - (iii) the Chief Officer of Police.

Any report or recommendation made by the Committee acting in this capacity must be circulated to the County Council and Chief Officer of Police, together with the Police Authority, Probation

Committee, Health Authority and such other person or body as may be prescribed by order by the Secretary of State.

- (f) The Committee may make reports and recommendations arising from its work to the Cabinet, the Council, any Committee and/or any relevant partner authority.

Article 7 – The Executive ie the Cabinet

References:

Section 11 and schedule 1, paragraphs 1,2,3, Local Government Act 2000 Chapters 4, 14, and 15, DETR Guidance

7.1 Role

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. The Leader may, if he/she wishes, delegate any of his/her powers to the Cabinet.

7.2 Form and Composition

The term "Cabinet" is used to describe the Leader together with such other councillors, appointed by the Leader to form the Cabinet.

7.3 Leader

The Leader will be a councillor elected to the position of Leader by the Council. The Leader will hold office for a four year period unless and until:

- (a) he/she resigns from the office; or
- (b) he/she is no longer a councillor; or
- (c) he/she is removed from office by a resolution of the Council.

7.4 Other Cabinet Members

Other Cabinet Members shall hold office unless and until:

- (a) they resign from office; or
- (b) they are no longer councillors; or
- (c) they are removed from office, either individually or collectively.

7.5 Proceedings of the Cabinet

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

7.6 Responsibility for Functions

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

Article 8 – Regulatory and other committees

8.1 Regulatory and Other Committees

The Council will appoint the committees set out in the left hand column of the table Responsibility for Council Functions in Part 3 of this Constitution to discharge the functions described in column 3 of that table.

Article 9 – The Audit and Standards Committee

References:

*Sections 53-55 and Sections 81(5), Local Government Act 2000
The Relevant Authorities (Standards Committee) Regulations 2001*

9.1 Audit and Standards Committee

The Council meeting will establish an Audit and Standards Committee.

9.2 Composition

- (a) **Membership.** The Audit and Standards Committee will be composed of:
 - seven councillors other than the Leader; (no more than one member of the Executive may be on the Committee)
 - three co-opted non-voting town or parish members may participate in Standards, but not Audit, matters;

- (b) **Chairing the Committee.** The Chair shall be elected from a non-Cabinet member of the Minority Groups.

9.3 Role and Function

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

- (a) promoting and maintaining high standards of conduct by councillors and co-opted members;
- (b) assisting the councillors and co-opted members to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising, and or arranging to train councillors and co-opted members on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct;
- (g) providing Sub-Committees to consider matters relating to the Members' Code of Conduct.
- (i) the exercise of (a) to (g) above in relation to the town and parish councils wholly or mainly in its area and the members of those town and parish councils.
- (j) overview of the whistle blowing policy.

Article 10 – Area Committees and Forums

10.1 Area Committees

The Council may appoint area committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making.

The Council will consult with relevant town and parish councils and the chairmen of relevant parish meetings when considering whether and how to establish area committees.

Article 11 – Joint Arrangements

11.1 Arrangements to Promote Well Being

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

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

11.2 Joint Arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions which are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint Committee with these other local authorities.
- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Cabinet may appoint members to a joint committee from outside the Cabinet in the following circumstances:
 - the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area;
 - the joint committee is between a county council and the district council and relates to functions of the Executive of the county council. In such cases, the Executive of the county council may appoint to the joint committee any councillor who is a member for an electoral division which is wholly or partly contained within the area.

In both of these cases the political balance requirements do not apply to such appointments.

- (e) Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

11.3 Access to Information

- (a) The Access to Information Rules in Part 4 of this Constitution apply.
- (b) If all the members of a joint committee are members of the Executive in each of the participating authorities then its access to information regime is the same as that applied to 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 VA of the Local Government Act 1972 will apply.

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

11.5 Contracting Out

The Council (for those functions which are not executive functions) and the Cabinet (for executive functions) may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles

Article 12 – Officers

Terminology

References:
Chapters 8 and 9, DETR Guidance

12.1 Management Structure

- (a) **General.** The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The Council will engage persons for the following posts, who will be designated chief officers:

Post	Functions and areas of Responsibility
Chief Executive (and Head of Paid Service)	Provides overall strategic leadership of Lewes District Council in line with the policies and decisions of the elected Councillors. Provision of professional advice to all parties in the decision-making process. Responsibility for ensuring that the Council delivers quality services to Lewes's residents and visitors according to its statutory obligations and stated objectives and in line with Government legislation.
Director of Regeneration and Planning (and Deputy Chief Executive)	Responsibility for planning, assets and property, regeneration, energy and sustainability.
Director of Tourism and Enterprise	Responsibility for tourism, events, marketing, sports, seafront, cultural centre and the Eastbourne Devonshire Park facilities.
Director of Service Delivery	Responsibility for Service delivery, Customer First, EHL, Bereavement services, Waste services, strategic partnerships, voluntary sector, community engagement, town and parish liaison, community safety, community grants, youth strategy and equality.
Assistant Director of Legal and Democratic Services (and Monitoring Officer)	Responsibility for legal and democratic services.
Assistant Director for Corporate Governance	Responsibility for local democracy and member services.
Assistant Director of Human Resources and Transformation	Responsibility for human resources, organisational development, Chief Executive's Office, internal and external communications.

- (c) **Head of paid service, Monitoring Officer and chief financial officer.**

The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Assistant Director of Legal and Democratic Services	Monitoring Officer
A Legal Officer appointed by the Monitoring Officer	Deputy Monitoring Officer
Director of Finance	Chief Finance Officer
Head of Finance	Deputy Chief Finance Officer

Such posts will have the functions described in Article 12.2–12.4 below.

- (d) **Structure.** The head of paid service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers.

This is set out at Part 8 of this Constitution.

12.2 Functions of the Head of Paid Service

- (a) **Discharge of functions by the Council.** The head of paid service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Restrictions on posts.** The head of paid service may not be the Monitoring Officer but may hold the post of chief finance officer if a qualified accountant.

References:

Sections 4 and 5, Local Government and Housing Act 1989

12.3 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.

- (b) **Ensuring lawfulness and fairness of decision making.** After consulting with the head of paid service and chief finance officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to an executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered. (NB. Any unlawfulness/maladministration relating to a regulatory committee would generate a report to full council).
- (c) **Supporting the Audit and Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Audit and Standards Committee.
- (d) **Maintaining the Register of Members' Interests.** The Monitoring Officer will maintain a register of interests of Members and Co-opted Members of the Council and will ensure that it is available for public inspection and published on the Council's website. The Monitoring Officer will maintain a similar register of interests for Town and Parish Councils within the District including placing the register on that council's website if it has one. The Monitoring Officer will also maintain a register of pecuniary interests which are notified by a Member or Co-opted Member to the Monitoring Officer after arising and being declared at a meeting.
- (e) **Conducting investigations.** The Monitoring Officer will conduct investigations into Code of Conduct matters and make reports or recommendations in respect of them to the Audit and Standards Committee.
- (g) **Proper officer for access to information.** The Monitoring Officer will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible and, wherever possible, within 10 working days.
- (h) **Advising whether executive decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the executive are in accordance with the budget and policy framework.
- (i) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.

- (j) **Restrictions on posts.** The Monitoring Officer cannot be the chief finance officer or the head of paid service.

*References: (Section 5), Local Government and Housing Act 1989
Sections 60, 64–66, Local Government Act 2000
Chapters 8 and 9, DETR Guidance*

12.4 Functions of the Chief Finance Officer

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

12.5 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 those officers' opinions sufficient to allow their duties to be performed.

12.6 Conduct

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

12.7 Employment

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

Article 13 – Decision Making

13.1 Responsibility for Decision Making

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

13.2 Principles of Decision Making

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

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes; and
- (f) an explanation of what options were considered and the reasons for the decision will be included as part of the record of any decision

13.3 Types of Decision

References: Chapter 7, DETR Guidance

Regulations made under section 22, Local Government Act 2000

- (a) **Decisions reserved to Full Council.** Decisions relating to the functions listed in Article 4.2 will be made by the full Council and not delegated.
- (b) **Key decisions.**
 - (i) A key decision means an executive decision which is likely
 - to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's

budget for the service or function to which the decision relates; or

- to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the local authority

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

13.4 Decision Making by the Full Council

Subject to Article 13.8, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

13.5 Decision Making by the Cabinet

Subject to Article 13.8, the Cabinet will follow the Cabinet Procedure Rules set out in Part 4 of this Constitution when considering any matter.

13.6 Decision Making by the Policy and Performance Advisory Committee

The Policy and Performance Advisory Committee will follow the Policy and Performance Advisory Procedure Rules set out in Part 4 of this Constitution when considering any matter.

13.7 Decision Making by Other Committees and Sub-Committees Established by the Council

Subject to Article 13.8, other Council committees and sub-committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

13.8 Decision Making by Council Bodies Acting as Tribunals

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

Article 14 – Finance, Contracts and Legal Matters

References:

*Sections 135, 151, 223 & 234, Local Government Act 1972
Part VIII, Local Government Finance Act 1988*

14.1 Financial Management

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

14.2 Contracts

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

Article 15 - Review and Revision of the Constitution

References:

*Sections 30 and 37, Local Government Act 2000
Chapters 10 and 15, Guidance*

15.1 Duty to Monitor and Review the Constitution

The Cabinet will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

15.2 Changes to the Constitution

- (a) **Approval:** Changes to the Constitution will only be approved by the full Council unless stated otherwise.
- (b) **Change from one form of executive to another:** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

Article 16 – Suspension, Interpretation and Publication of the Constitution

16.1 Suspension of the Constitution

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

taking account of the purposes of the Constitution set out in Article 1.

- (c) **Rules capable of suspension.** The following Rules may be suspended in accordance with Article 16.1:

Council Procedure Rules
Executive Procedure Rules
Policy and Performance Advisory Procedure Rules
Financial Procedure Rules
Contracts Procedure Rules

16.2 Interpretation

The ruling of the Chair of the Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

16.3 Publication

- (a) The Council's senior legal officer will make available a copy of this Constitution, either electronically or in hard copy if requested, to each councillor (and co-opted member) of the Council upon delivery to him/her of that individual's declaration of acceptance of office on the councillor first being elected to the Council.
- (b) The Council's senior legal officer will ensure that copies are available for inspection at council offices and other appropriate locations and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Council's senior legal officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

Article 17 - Position of Leader

17.1 Leader of the Council

The position of Leader of the Council is defined in Article 7.3.

17.2 Leaders of the Minority Groups

The members chosen by the largest political groups on the Council not forming part of the Administration shall be known as the Leaders of the Minority Groups. Those councillor's names when so appointed shall be notified to the Council's senior legal officer and reported to the Council. The Groups shall be known as the Minority Groups.

17.3 Leader of Any Other Political Group

Any other political group may, if it so wishes, appoint a Leader and that councillor's name shall be notified to the Council's senior legal officer and reported to the Council.

Schedule 1: Description of Executive Arrangements

The following parts of this Constitution constitute the Executive arrangements:

- 1 Article 6 Policy and Performance Advisory Procedure Rules;
- 2 Article 7 The Cabinet and the Cabinet Procedure Rules;
- 3 Article 10 Area Committees and Forums if and when they are established and only insofar as functions are delegated to them by the Cabinet;
- 4 Article 11 Joint arrangements if and when they are established and only insofar as functions are delegated to them by the Cabinet;
- 5 Article 13 Decision making and the Access Information Procedure Rules;
- 6 Part 3 Responsibility for Functions.