

The Constitution of South Norfolk Council

PART 2

ARTICLES OF THE CONSTITUTION

Part 2 - Articles of the Constitution

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Part 2 - Articles of the Constitution

Article 1 – The Constitution

1.1 Powers of the Council

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

1.2 The Constitution

- 1.2.1 This Constitution, and all its appendices, is the Constitution of the South Norfolk Council.

1.3 Purpose of the Constitution

- 1.3.1 The purpose of the Constitution is to:
- a. enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
 - b. support the active involvement of citizens in the process of local authority decision-making;
 - c. help councillors represent their constituents more effectively;
 - d. enable decisions to be taken efficiently and effectively;
 - e. create 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. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
 - h. provide a means of improving the delivery of services to the community.

1.4 Interpretation and Review of the Constitution

- 1.4.1 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.
- 1.4.2 The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

Article 2 – Members of The Council

2.1 Composition and Eligibility

- (a) **Composition.** The Council will comprise 46 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

- 2.2.1 Election and terms. Unless Parliament makes an order to vary this, the regular election of councillors will be held on the first Thursday in May every four years. 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

2.3.1 Key roles. All councillors will:

- (a) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (b) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
- (c) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- (d) balance different interests identified within the ward or represent the ward as a whole;
- (e) be involved in decision-making;
- (f) be available to represent the Council on other bodies; and
- (g) maintain the highest standards of conduct and ethics.

2.3.2 Rights and Duties

- (a) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (b) 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.
- (c) For these purposes, "confidential" and "exempt" information are defined in Part 4.3.10 of this Constitution

2.3.3 More guidance on Members' roles and responsibilities are set out in Part 5.5 of this document.

2.4 Conduct

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

2.5 Allowances

2.5.1 Councillors will be entitled to receive allowances in accordance with the Scheme of Allowances set out in Part 6 and updated from time to time in the light of advice from an Independent Panel on Member Remuneration.

Article 3 - Citizens and The Council

3.1 Citizens' rights

- 3.1.1 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:
- 3.1.2 **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote and sign petitions including one to request a referendum for an elected mayoral form of Constitution.
- 3.1.3 **Information.** Citizens have the right to:
- (a) 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;
 - (b) attend meetings of the Cabinet;
 - (c) find out from the forward plan what key decisions will be taken by the Cabinet and when;
 - (d) see reports and background papers, and any records of decisions made by the Council and the Cabinet; and
 - (e) inspect the Council's accounts and make their views known to the external auditor.
- 3.1.4 **Participation.** Citizens have a number of rights at Council meetings and these are set out in Part 4.6 of this Constitution – "Standing Orders and Rights of the Public at Meetings".
- 3.1.5 **Complaints.** Citizens have the right to complain to:
- (a) The Council itself under its complaints scheme;
 - (b) The Ombudsman after using the Council's own complaints scheme;
 - (c) The Standards & Ethics Committee (via the Monitoring Officer) about a breach of the Councillor's Code of Conduct.
 - (d) The External Auditor about the draft accounts (though there is only a four week period in which this can be done)

3.2 Citizens' responsibilities

Citizens must not be violent, abusive or threatening to councillors or staff and must not wilfully harm things owned by the council, councillors or employees. Other restrictions on the activity of citizens at meetings of the Council or its committees are set out in the Standing Orders and "Rights of the Public at Meetings". (See Part 4.6 of this Constitution.)

Article 4 – The Full Council

4.1 Meanings

4.1.1 **Policy Framework.** The policy framework means the following plans and strategies:-

- (a) Sustainable Community Strategy;
- (b) Council's Corporate Plan and Medium Term Financial Plan
- (c) The Local Development Framework;
- (d) Statement of Licensing Policy

and other plans and strategies which the Council may decide should be adopted by the Council as a matter of local choice.

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

4.2 Functions of the full Council

4.2.1 Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Decision Making Process set out in Part 3 of this Constitution, making decisions about any matter in the discharge of a Cabinet function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (d) appointing or removing the Chairman, Vice Chairman and Leader;
- (e) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is a Cabinet function or has been delegated by the Council;
- (g) adopting an allowances scheme under Article 2.5;
- (h) changing the name of the area,
- (i) confirming the appointment of the Head of Paid Service;

- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (k) all local choice functions set out in this Constitution which the Council decides should be undertaken by itself rather than the Cabinet; and
- (l) all other matters which, by law, must be reserved to Council.

4.3 Council Meetings

4.3.1 There are three types of Council meeting:

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

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

4.4 Responsibility for functions which are not the function of the Cabinet are set out in Part 3 of this constitution. Terms of reference of the Council are set out in Part 4 of this constitution together with the composition, terms of reference, and procedures of constituent bodies.

Article 5 – Chairing The Council

CHAIRMAN OF THE COUNCIL

5.1 Role and function of the Chairman

5.1.1 The chairman will be elected by the Council annually. The chairman of the council and in his/her absence, the vice-chairman will have a ceremonial role and will chair meetings of the full Council .

5.1.2 The chairman (and in his/her absence the vice chairman) will have the following responsibilities:

- (a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (b) to preside over meetings of the Council impartially so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- (c) to ensure that the 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 Cabinet are able to hold the Cabinet to account;
- (d) to promote public involvement in the Council's activities;
- (e) to be the conscience of the Council; and
- (f) to attend such civic and ceremonial functions as the Council and he/she determines appropriate

Article 6 – Overview and Scrutiny Committees

6.1 Role of the Overview and Scrutiny Committees

- 6.1.1 The Council will appoint overview and scrutiny committees to discharge the functions conferred by section 21 of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000 in relation to their stated terms of reference. Terms of reference of the Overview Sub Committees will reflect the responsibilities of the portfolios of cabinet members (where relevant)

Committee	Scope and Powers
Scrutiny Committee	See the composition, terms of reference, and procedures of constituent bodies for this and the following Committees in Part 4.1, Section 3 of the Constitution.
Accounts, Audit and Governance Committee	See Part 4.1, Section 4
Localism: Developing our Environment and Economy	See Part 4.1, Section 5
Community Empowerment and Building a Big Society	See Part 4.1, Section 6
In addition the following partnership bodies may help to fulfil the overview and scrutiny roles insofar as their terms of reference permit:	
Neighbourhood Boards	Under the auspices of the South Norfolk Alliance

Article 7 – The Cabinet

THE ROLE OF THE CABINET

7.1 Role

- 7.1.1 The Cabinet will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

7.2 Form and composition

- 7.2.1 The Cabinet will consist of the Leader of the Council together with at least one and up to nine further councillors appointed to the Cabinet by the Council. The Leader must appoint one of them as Deputy Leader but can change the Deputy just as he/she may change the other Cabinet Members.

7.3 Leader

- 7.3.1 The Leader will be a councillor elected to the position of Leader by the Council. The Leader will hold office until:
- (a) the Annual General Meeting following a whole-council election;
 - (b) he/she resigns from the office; or
 - (c) he/she is suspended from being a Councillor under Part 3 of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
 - (d) he/she is removed from office by resolution of the Council.

7.4 Other Cabinet Members

- 7.4.1 Other Cabinet members shall hold office until:
- (a) they resign from office; or
 - (b) they are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
 - (c) they are no longer councillors; or
 - (d) they are removed from office, either individually or collectively, by the Leader.

7.5 Proceedings of the Cabinet

- 7.5.1 Proceedings of the Cabinet shall take place in accordance with the Constitution and Terms of reference of the Cabinet as set out in Part 4 of this Constitution and the decision making process as set out in Part 3.

7.5.2 From time to time the Members of the Cabinet will meet with Council's Corporate Management Team of officers at meetings known as "Board Meetings". These meetings will be for the purpose of information sharing and informal guidance from the Cabinet to the Management Team. These meetings will not take any executive decisions and the notes shall be made available to all members of the Council.

7.6 Responsibility for functions

7.6.1 Part 3 of this Constitution sets out which individual members of the Cabinet, committees of the Cabinet, staff or joint arrangements are responsible for the exercise of particular Cabinet functions. South Norfolk Council has decided not to allocate decision making powers to individual members of the Cabinet.

7.6.2 The Local Authorities (Functions and Responsibilities)(England) Regulations 2000, (as amended) includes four schedules which define which decisions may not be made by Cabinet and in what circumstances.

Article 8 – Regulatory Committees

8.1 Regulatory and other committees

- 8.1.1 The Council will appoint the committees set out below to discharge its regulatory and administrative functions described in the Scheme of Delegation (Part 3, Section 1.1.4). Their terms of reference set out in Part 4 of the Constitution.

Accounts, Audit and Governance Committee (See Part 4.1, Section 4)

Planning Committee (See Part 4.1, Section 7)

Sites Sub-Committee (See Part 4.1, Section 8)

Licensing, Appeals and Complaints Committee (See Part 4.1, Section 10)

Licensing and Gambling Acts Committee (See Part 4.1, Section 11)

Article 9 – The Standards and Ethics Committee

9.1 Standards Committee

9.1.1 The Council will establish a Standards and Ethics Committee.

9.2 Composition and Terms of Reference

9.2.1 The Standards Committee will consist of 3 District Councillors, 3 Parish members and 3 Independent Members. It and its sub-committees shall have the procedure and terms of reference as set out in Part 4.1 of the Constitution at Section 11 to 14.

Article 10 Area Committees and Neighbourhood Boards

10.1 Area Committees

- 10.1.1 The Council may appoint area committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making.
- 10.1.2 The Council will consult with relevant Parish and Town Councils and the chairmen of relevant parish meetings when considering whether and how to establish area committees.

10.2 Form, composition and function

- 10.2.1 The Council will appoint the area committees as set out in the first column of the table below, composed as referred to in the second column of that table and with the terms of reference set out in the third column. The areas covered by these Committees are set out in Section 4.2 of the Constitution.

Name of Committee	Composition	Terms of Reference
South Norfolk Neighbourhood Board Meetings: Eastern River Valleys, Northern River Valleys, Tas Valley Waveney Valley Wymondham and West	5 District Councillors, 1 County Councillor, 1 Police Officer and 5 Community Representatives	See Part 4.1, Section 20 of Constitution

- 10.2.2 Delegations. The Council and the Cabinet may delegate some functions to area committees as set out in Part 3 of this Constitution including the functions delegated, showing which are the responsibility of the Cabinet and which are not, the composition and membership of the committees, budgets and any limitations on delegation.

10.3 Conflicts of interest – membership of area committees and overview and scrutiny committees

- 10.3.1 Conflict of interest. If an overview and scrutiny committee is scrutinising specific decisions or proposals in relation to the business of the area committee of which the councillor concerned is a member, then the councillor may not speak or vote at the overview and scrutiny committee meeting unless a dispensation to do so is given by the Standards Committee.

10.3.2 General policy reviews. Where the overview and scrutiny committee is reviewing policy generally the member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

10.4 Area Committees – access to information

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

10.4.2 Agendas and notices for area committee meetings which deal with both functions of the Cabinet and functions which are not the responsibility of the Cabinet will state clearly which items are which.

10.5 Cabinet members on area committees

10.5.1 A member of the Cabinet may serve on an area committee if otherwise eligible to do so as a councillor.

Article 11 – Joint Arrangements

11.1 Arrangements to promote well-being

- 11.1.1. 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, facilitate or co-ordinate the activities of, any person or body;
 - (c) exercise on behalf of that person or body any functions of that person or body.

11.2 Joint arrangements

- 11.2.1 The Council may establish joint arrangements with one or more local authorities and/or their Cabinets to exercise functions which are not Cabinet functions in any of the participating authorities, or advise the Council. [Such arrangements may involve the appointment of a joint committee with these other local authorities]
- 11.2.2 The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Cabinet functions. [Such arrangements may involve the appointment of joint committees with these other local authorities].
- 11.2.3 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.
- 11.2.4 The Cabinet may appoint members to a joint committee from outside the Cabinet in the following circumstances:
- (a) 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 political balance requirements do not apply to such appointments.
- 11.2.5 Details of any joint arrangements including any delegations to joint committees (if any) will be found in the Council's scheme of delegations in Part 3 of this Constitution at Section 2.1.

11.3 Access to information

- 11.3.1 The Access to Information Procedure in Part 4 of this Constitution applies.
- 11.3.2 If all the members of a joint committee are members of the Cabinet in each of the participating authorities then its access to information regime is the same as that applied to the Cabinet.

11.3.3 If the joint committee contains members who are not on the Cabinet of any participating authority then the access to information rules in Part V(A) of the Local Government Act 1972 will apply.

11.4 Delegation to and from other local authorities

11.4.1 The Council may delegate non-Cabinet functions to another local authority or, in certain circumstances, the Cabinet of another local authority.

11.4.2 The Cabinet may delegate Cabinet functions to another local authority or the Cabinet of another local authority in certain circumstances.

11.4.3 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

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

Article 12 – Staff

12.1 Management structure

12.1.1 **General.** The full Council may engage such staff, as it considers necessary to carry out its functions.

12.1.2 **Corporate Management Team.** The Council will engage people for the following posts, who, will be designated members of the Corporate Management Team:

(See also Part 3 of this Constitution for more details of the responsibilities of these posts which are only summarised here.)

Post	Functions
Chief Executive (and Head of Paid Service)	<p>Developing, in association with the Leader and Cabinet, the vision, strategic direction and leadership for the Council.</p> <p>Providing overall corporate management and taking operational responsibility (including overall management responsibility for all the employees of the Council).</p> <p>Provision of professional advice to all parties in the decision making process.</p> <p>Together with the Monitoring officer, responsibility for a system of record keeping for all the Council's decisions.</p> <p>Representing the Council on partnership and external bodies (as required by statute or the Council).</p> <p>Managing specific functions and services as listed in Part 3.3 of the Constitution.</p>
Deputy Chief Executive	<p>Supporting the Chief Executive in developing vision, strategic direction and leadership for the Council.</p> <p>Taking responsibility for the day to day running of the Authority in the absence of the Chief Executive.</p> <p>Providing strong leadership, active engagement and delivery at the strategic, directorate and service level.</p> <p>Managing, supporting and directing services as listed in Part 3.3 of the Constitution, effectively deploying resources to meet performance standards.</p> <p>Promoting measurable, continuous service improvement and value for money.</p> <p>Contributing to the overall management of the Authority through the Corporate Management Team, ensuring strategic approach to service provision.</p>
Director of Communities	<p>Managing, supporting and directing services as listed in Part 3.3 of the Constitution, effectively deploying resources to meet performance standards.</p> <p>Promoting measurable, continuous service improvement and value for money.</p> <p>Contributing to the overall management of the Authority through the Corporate Management Team, ensuring strategic</p>

	approach to service provision.
Director of Development and Environment	<p>Managing, supporting and directing services as listed in Part 3.3 of the Constitution, effectively deploying resources to meet performance standards.</p> <p>Promoting measurable, continuous service improvement and value for money.</p> <p>Contributing to the overall management of the Authority through the Corporate Management Team, ensuring strategic approach to service provision.</p>
Change Management Director (Temporary)	<p>Promoting measurable, continuous service improvement and value for money.</p> <p>Contributing to the overall management of the Authority through the Corporate Management Team, ensuring strategic approach to service provision.</p> <p>Managing, supporting and directing services, effectively deploying resources to meet performance standards.</p>

12.1.2 The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Monitoring Officer	Monitoring Officer
Financial Services Manager	Chief Financial Officer (Section 151 Officer)

12.1.3 In the absence of the Monitoring Officer, the Solicitor to the Council shall act as Deputy Monitoring Officer. In the absence of the Chief Financial Officer (Section 151 Officer) the Principal Accountant shall act as Deputy Chief Financial Officer.

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

12.2 Functions of the Head of Paid Service

12.2.1 **Discharge of functions by the Council.** The Head of Paid Service will advise on the policy framework and report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of Staff required for the discharge of functions and the organisation of officers.

12.2.2 **Restrictions on functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Financial Officer if a full member of an institution that is part of the Consultative Committee of Accountancy Bodies.

12.3 Functions of the Monitoring Officer

12.3.1 **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is available for consultation by members, staff and the public via the Council's website.

12.3.2 **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and the Chief Financial Officer, the

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

- 12.3.3 **Supporting the Standards & Ethics Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards & Ethics Committee.
- 12.3.4 **Receiving reports.** The Monitoring Officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals.
- 12.3.5 **Conducting investigations.** The Monitoring Officer will conduct investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the Standards & Ethics Committee.
- 12.3.6 **Proper Officer for access to information.** The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- 12.3.7 **Advising whether Cabinet decisions are within the policy framework.** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- 12.3.8 **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.
- 12.3.9 **Restrictions on posts.** The Monitoring Officer cannot be the Chief Financial Officer (Section 151 Officer) or the Head of Paid Service.

12.4 Functions of the Chief Financial Officer (Section 151 Officer)

- 12.4.1 **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Financial Officer will report to the full Council or to the Cabinet in relation to a Cabinet function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- 12.4.2 **Administration of Financial Affairs.** The Chief Financial Officer will have responsibility for the administration of the financial affairs of the Council.
- 12.4.3 **Contributing to Corporate Management.** The Chief Financial Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

12.4.4 **Providing Advice.** The Chief Financial Officer, in consultation with the Head of Internal Audit where appropriate, will provide advice on financial propriety and probity and budget issues to all councillors and will support and advise councillors and Staff in their respective roles.

12.4.5 **Give Financial Information.** The Chief Financial 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 Financial Officer

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

12.6 Conduct

12.6.1 Staff will comply with the Staff Code of Conduct and the Protocol on Staff /Member Relations set out in Part 5 of this Constitution. The Chief Executive, Deputy Chief Executive, Directors of Services, Scrutiny Officer, Head of Internal Audit and Solicitor to the Council and any other officer holding a statutory appointment, in relation to the functions of these appointments, although required to act on behalf of the Council have a responsibility to give accurate and honest advice to the Council in order to maintain the probity of the functions of the Council and to enable it to follow the Nolan principles it has adopted. Accordingly they have direct access to the Council, Cabinet, Committees and Working Groups and the right to make reports in their own name. No officer can be forced to act in any way they believe to be unlawful.

12.7 Employment

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

Article 13 – Decision Making

13.1 Responsibility for Decision Making

- 13.1.1 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

- 13.2.1 All decisions of the Council will be made in accordance with the following principles:
- (a) Proportionality
 - (b) Due consultation and the taking of professional advice from officers
 - (c) respect for Human Rights
 - (d) a presumption in favour of openness; and
 - (e) clarity of aims and desired outcomes

13.3 Types of Decision

- 13.3.1 Some decisions are reserved to full Council (see 13.4 below).
- 13.3.2 Regulatory decisions are of two types. Those which are quasi judicial must be dealt with by a panel or committee of members acting judicially. These are dealt with by the Licensing and Appeals Committee/Licensing Act 2003 Committee (see 13.8 below). Other regulatory decisions are administrative and are made by the Planning Committee (see 13.7 below). Uncontested regulatory decisions can be determined by officers under delegated powers (see Scheme of Delegation in Part 4).
- 13.3.3 All other decisions can be made by the Cabinet, provided they are within the Council's existing policy framework. Some of these will be "key decisions"(see 13.5 below) which must be made by the Cabinet or Council. Others can be delegated to officers in accordance with the Scheme of Delegation in Part 4. Scrutiny Committee has a scrutiny function which can delay or refer decisions but cannot make substantive decisions in its own right (see 13.7 below).

13.4 Decision making by the Full Council

- 13.4.1 Decisions relating to the functions listed in Part 2, Article 4 will be made by the full Council and not delegated. Subject to Article 13.9, the Council Meeting will follow the Standing Orders set out in Part 4 of this constitution when considering any matter.

13.5 Key Decisions

13.5.1 A key decision means a decision which will:

- (a) result in income, expenditure or savings with a gross full year effect of £100,000 or 10% of the Council portfolio's net budget, whichever is the greater which has not been included in the relevant theme budget or;
- (b) be significant (e.g. in environmental, physical, social or economic) in terms of its effect on communities living or working in an area comprising two or more electoral divisions in the area of the local authority.

13.6 Decision making by the Cabinet

13.6.1 Subject to Article 13.9, the Cabinet will follow the requirements of the Decision Making Process set out in Part 3 of this Constitution when considering any matter.

13.7 Decision making by Scrutiny Committee and Overview Sub-Committees

13.7.1 Scrutiny Committee and Overview Sub-Committees will follow the requirements of the Decision Making Process set out in Part 3 of this Constitution when considering any matter.

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

13.8.1 Subject to Article 13.9, other Council committees and sub-committees will follow those parts of the requirements of the Decision Making Process set out in Part 3 of this Constitution as apply to them.

13.9 Decision making by Council bodies acting as tribunals

13.9.1 The Council, a councillor or an officer acting as a tribunal or in a quasi judicial manner or determining or 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

14.1 Financial management

- 14.1.1 The management of the Council's financial affairs will be conducted in accordance with the Rules of Financial Governance as set out in Part 4.4 of this Constitution.

14.2 Contracts

- 14.2.1 Every contract made by the Council will comply with the Contract Standing Orders set out in part 4.5 of this Constitution.

14.3 Legal proceedings

- 14.3.1 The Solicitor to the Council is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Solicitor to the Council considers that such action is necessary to protect the Council's interests.

14.4 Signing contracts and other documents

- 14.4.1 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 other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.
- 14.4.2 Any contract with a value exceeding £100,000 entered into on behalf of the local authority in the course of the discharge of a Cabinet function shall be made in writing. Such contracts must either be signed by at least two Staff of the authority or (preferably) made under the common seal of the council. (There is more information on Contracts in section 4.5 of this Constitution – Contract Standing Orders)

14.5 Common Seal of the Council

- 14.5.1 The Common Seal of the Council will be kept in a safe place in the custody of the Solicitor to the Council. The affixing of the Common Seal will be attested by the Chief Executive, Deputy Chief Executive, Monitoring Officer, Solicitor to the Council or in their absence, the Principal Solicitor together with an officer from the relevant service.

Article 15 – Review and Revision of the Constitution

15.1 Duty to monitor and review the Constitution

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

15.1.2 **Protocol for monitoring and review of 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 better to achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:

- (a) observe meetings of different parts of the member and officer structure;
- (b) undertake an audit trail of a sample of decisions;
- (c) record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
- (d) compare practices in this authority with those in other comparable authorities, or national examples of best practice.

15.2 Changes to the Constitution

15.2.1 **Approval.** Changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Monitoring Officer.

15.2.2. If a change from a Leader and Cabinet form of executive to alternative arrangements, or vice versa, is being considered, 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

- 16.1.1 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.
- 16.1.2 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.
- 16.1.3 Rules capable of suspension: The following Rules may be suspended in accordance with Article 16.1:
- (a) In case of urgency, or if a motion has been passed after notice has been duly given, Standing Orders (as set out in Part 4.6 of this document) may be suspended at and in respect of any meeting, provided at least half of the members are present and two thirds of those present vote in favour of suspending them. (Fractions must be rounded up as necessary)

16.2 Interpretation

- 16.2.1 The ruling of the Chairman 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

- 16.3.1 The Monitoring Officer will give a printed copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.
- 16.3.2 The Monitoring Officer will ensure that copies are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- 16.3.3 The Monitoring Officer will ensure that the summary of the Constitution is made widely available within the area via the Council's website and is updated as necessary.