

PART 2

ARTICLES OF THE CONSTITUTION

ARTICLE 1 – THE CONSTITUTION

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 Tunbridge Wells Borough Council.

1.3 Purpose of the Constitution

The purpose of the Constitution is to:

- 1.3.1 enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- 1.3.2 support the active involvement of citizens in the process of local authority decision-making;
- 1.3.3 help Councillors represent their constituents more effectively;
- 1.3.4 enable decisions to be taken efficiently and effectively;
- 1.3.5 create a powerful and effective means of holding decision-makers to public account;
- 1.3.6 ensure that no one will review or scrutinise a decision in which they were directly involved;
- 1.3.7 ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- 1.3.8 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 9.

ARTICLE 2 – MEMBERS OF THE COUNCIL

2.3 Composition and Eligibility

2.3.1 Composition

The Council will comprise 48 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 Boundary Commission for England and approved by the Secretary of State.

2.3.2 Eligibility

Only registered voters of the Borough or those occupying land or other premises or living or working in the Borough will be eligible to hold the office of Councillor. Certain persons may be disqualified from holding the office of Councillor such as a person who holds paid office or employment with the Council.

2.4 Election and Terms of Councillors

The ordinary election of a third (or as near as may be) of all Councillors will normally be held on the first Thursday in May in each year, except that in 2013 and every fourth year after, there will be no regular election. 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 regular election four years later.

2.5 Roles and functions of all Councillors

2.5.1 Key roles

All Councillors will:

- (a) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (b) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- (c) effectively represent the interest of their ward and of individual constituents;
- (d) respond to constituent's enquiries and representations, fairly and impartially;
- (e) participate in the governance and management of the Council;
- (f) be available to represent the Council on other bodies; and
- (g) maintain the highest standards of conduct and ethics.

Further details on roles and responsibilities are contained in [Part 5](#) of the Constitution (Member Role Descriptions). Councillors may fulfil more than one role and the detail is intended to cover these main roles.

2.6 Rights and Duties

- 2.6.1 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.
- 2.6.2 Councillors should consider the situation carefully and, if appropriate, seek guidance from the Monitoring Officer before making 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. The disclosure of information as referred to in this paragraph could result in a Code of Conduct complaint against the Councillor as well as potential infringement of data protection laws.
- 2.6.3 For these purposes, “confidential” and “exempt” information are defined in the Access to Information Procedure Rules in [Part 4](#) of this Constitution.

2.7 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.

2.8 Allowances

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

2.9 Appointment of non-elected Independent Members

Non-elected Independent Members will be interviewed by a selection panel and their recommendation for appointment will be put to Full Council for its approval.

The appointment will be for a fixed period of four years starting on the date of their appointment by Council, which may be renewable for one further term of four years.

2.10 Appointment of Parish and Town Council representatives

Parish and Town Council representatives will be interviewed by a selection panel and their recommendation for appointment will be put to Full Council for its approval. The appointment will be for a fixed period of four years starting on the date of their appointment by Council, which may be renewable for one further term of four years.

2.11 Co-opted Members

Co-opted Members are invited by Committees to attend meetings in an advisory capacity as and when appropriate to matters under consideration.

2.12 Rights and duties

Non-elected Independent Members and appointed Parish/Town Councillors are:

- a. entitled to attend public meetings of other Committees of the Council, but they do not have the right to participate in meetings of Committees of which they are not members unless the Council has made the provision for them to do so;
- b. allowed to have rights of access to such documents, information, and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law. They will not be entitled to attend committees of which they are not a member when confidential items are discussed without the consent of the Chairman of that Committee (or in their absence, the Vice-Chairman) who will seek advice on appropriateness from the Monitoring Officer. They will not be entitled to receive confidential reports submitted to committees of which they are not a member unless the Monitoring Officer agrees it is necessary for the proper discharge of their functions and it is in accordance with the law.
- c. not to make public information which is confidential or exempt without the consent of the Monitoring Officer or divulge information given in confidence to anyone other than a councillor or officer entitled to know it. For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution;
- d. entitled to expect the best available professional advice and support from Council officers; and
- e. entitled to receive training to support them in their roles and fulfilling their duties.

ARTICLE 3 – CITIZENS AND THE COUNCIL

Citizens have a number of rights and responsibilities. The following list is a general summary of rights in terms of information, the opportunity to participate and the ability to make complaints.

3.1 Citizens' Rights

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

3.1.1 Voting and petitions

Citizens on the electoral role for the area have the right to:

- (a) vote; and
- (b) sign a petition to request a referendum for an elected mayor form of Constitution.

3.1.2 Information

Citizens have the right to:

- (a) attend meetings of Full 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 including those where key decisions are being considered except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private;
- (c) find out from the forward plan what key and non-key decisions will be taken by the Cabinet and when;
- (d) see agendas, reports and background papers, and any records of decisions made by the Council, the Cabinet and non-Executive Committees, except where confidential or exempt information is likely to be disclosed; and
- (e) inspect the Council's accounts and make their views known to the external auditor;
- (f) ask questions at Full Council and Cabinet meetings on matters relevant to the agenda and subject to the relevant Procedure Rules in [Part 4](#) of this Constitution;
- (g) speak at meetings of Full Council, Cabinet, Committee and Advisory Boards on matters relevant to the agenda and subject the relevant Procedure Rules in Part 4 of this Constitution; and
- (h) sign any petition they wish to support. Further details are set out in the Council's Petition Scheme Protocol.

3.1.3 Complaints

Citizens have the right to complain to:

- (a) the Council itself under its Complaints Scheme;
- (b) the Local Government, Housing and Social Care Ombudsman; or
- (c) the Monitoring Officer about a breach of the Councillor's Code of Conduct.

3.2 Citizens' Responsibilities

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

ARTICLE 4 – THE FULL COUNCIL

4.1 Introduction

Full Council is a formal meeting of all Councillors. 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). Full Council must also by law take decisions on a number of specific matters.

Full Council provides a central forum for debate and gives the opportunity for Councillors and, at designated meetings throughout the year, members of the public, to ask questions about the Council or matters affecting the Council.

4.2 Full Council

4.2.1 Role

A meeting of Full Council is one which all 48 members are entitled to attend and to speak and vote. Full Council is responsible for the Budget and Policy Framework of the Council and for all of the functions not the responsibility of the Cabinet. It will carry out some functions itself but others will be delegated to Committees or named officers.

4.2.2 Plans and Budgets

Full Council is responsible for the determination of its Budget and Policy Framework. Full Council is responsible for regulatory and other non-Cabinet functions and has a role in holding the Cabinet to account.

4.3 Policy Framework

The Policy Framework means the following three categories of plans and strategies:

4.3.1 Those required by law to be adopted by the Council, namely:

- (a) The Council's Budget;
- (b) Sustainable Community Strategy;
- (c) Community Safety Partnership Plan; and
- (d) Plans and alterations which together comprise the Development Plan.

4.3.2 Those which the Council has chosen to adopt as part of the Policy Framework, namely:

- (a) The Council's Strategic Plan;
- (b) Communication and Engagement Strategy;
- (c) The Council's Vision (Vision 2026); and
- (d) Vision for Kent

4.3.3 Any plan or strategy required by law to be sent to a Minister of the Crown for approval.

4.4 Budget

Responsibility for the Budget includes the allocation of financial resources to different services and projects, proposed contingency funds, earmarked reserves, setting the Council tax level, decisions relating to the control of the Council's borrowing requirements, investments, the control of its capital expenditure.

4.5 Functions of Full Council

Only Full Council will exercise the following functions:

- 4.5.1 adopting and changing the Constitution;
- 4.5.2 approving or adopting material changes to the Policy Framework, the Budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- 4.5.3 subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter where the Cabinet 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;
- 4.5.4 appointing and removing the Leader;
- 4.5.5 determining which Committees, Sub-Committees, working parties, Boards, Panels etc. shall be established as standing committees, the terms of reference of each body, the number of members (voting and non-voting) that each consists of and making the necessary appointments to the bodies;
- 4.5.6 appointing representatives to joint authorities, joint committees and other outside bodies unless the appointment is an Executive function or has been delegated by the Council;
- 4.5.7 adopting a scheme for members' allowances;
- 4.5.8 changing the name of the Council's area;
- 4.5.9 conferring the title of Honorary Alderman or Freeman of the Borough;
- 4.5.10 confirming the appointment of the Head of Paid Service; Chief Finance Officer and designating the Monitoring Officer and the taking of any disciplinary action against the these Officers and the designating of "Proper Officers";
- 4.5.11 making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;
- 4.5.12 adopting a Code of Conduct for Members;
- 4.5.13 taking decisions in respect of functions which are not the responsibility of the Leader and which have not been delegated by the Council to Committees, Sub-Committees or officers;

- 4.5.14 the making of Procedure Rules, including in relation to Contracts and Finance;
- 4.5.15 the delegation of non-executive functions to Committees, Sub-Committees and officers, subject to the right to amend the Delegation Scheme from time to time as may be required;
- 4.5.16 all other matters which, by law, must be reserved to the decision of the Council as a whole;
- 4.5.17 to provide a means whereby Councillors may ask questions of matters relevant to the Council's functions and to bring forward motions for debate;
- 4.5.18 to receive Annual Reports from the Audit and Governance Committee and the Overview and Scrutiny Committee and provide an opportunity for members to ask questions on the reports;
- 4.5.19 to receive reports from the Leader, the Cabinet, and the Audit and Governance Committee which they have referred to Council;
- 4.5.20 to consider and decide on recommendations of Committees on non-Executive functions not within their delegation or which a committee has referred to the Council for decision;
- 4.5.21 to consider reports on lawfulness and maladministration;
- 4.5.22 to consider decisions referred from the Overview and Scrutiny Committee in respect of executive functions where decisions have not yet been implemented and the Committee considers the decisions may be contrary to the Budget or Policy Framework;
- 4.5.23 to receive reports from the Leader or Cabinet on urgent decisions contrary to the Policy Framework;
- 4.5.24 to take all decisions in respect of delegating non-executive functions to another local authority;
- 4.5.25 to set the Council Tax;
- 4.5.26 any function under a local Act other than a function specified or referred to in Regulation 2 or Schedule 1 of The Local Authorities Functions and Responsibilities (England) Regulations, 2000 as amended;
- 4.5.27 applications to the Secretary of State under Section 10 of the Representation of the People Act 2000 for an Order to proceed with pilot election arrangements;
- 4.5.28 to take the decision to dismiss the Chief Executive, the Section 151 Chief Financial Officer or the Monitoring Officer.

4.6 Full Council Meetings

There are three types of Full Council meeting:

- 4.6.1 the annual meeting;
- 4.6.2 ordinary meetings;
- 4.6.3 extraordinary meetings.

and they will be conducted in accordance with the Council Procedure Rules in [Part 4](#) of this Constitution.

4.7 Responsibility for Functions

The Council will keep under review the tables in [Part 3](#) of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

ARTICLE 5 – CHAIRING THE COUNCIL

The Mayor and Deputy Mayor of the Council will be elected by Full Council annually. The Mayor and in their absence the Deputy Mayor, will have the following responsibilities:-

- 5.1** to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- 5.2** to preside over meetings of 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;
- 5.3** to ensure that Full Council meetings are 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;
- 5.4** to promote public involvement in the Council's activities;
- 5.5** to be the conscience of the Council;
- 5.6** to attend or be represented at such civic and ceremonial functions as the Council and he determines appropriate;
- 5.7** to determine any matter referred to them under the urgency provisions of the Access to Information Procedure Rules or the Budget and Policy Framework Procedure Rules in Part 4 of the Constitution; and
- 5.8** to be consulted on any matter to which consultation with the Mayor of the Council is required under this Constitution.

ARTICLE 6 - OFFICERS

6.1 Management Structure

6.1.1 General

The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.

6.1.2 Chief Officers

The Council will engage persons for the following posts, who will be designated Chief Officers Council.

Post Functions and Areas of Responsibility:

Post	Functions and areas of Responsibility
Chief Executive (Head of Paid Service)	<ul style="list-style-type: none"> • Overall corporate management and operational responsibility (including overall management and responsibility for all officers) • Responsibility and power to amend the functions and areas of responsibility of the Chief Officers as they consider necessary to deliver the Council's functions, vision and priorities. Such changes will be carried out in accordance with any relevant HR policies. • Principal advisor to the Council on general policy • Overall responsibility for delivering the Council's policies and programmes • Provision of professional advice to all parties in the decision-making process
Director of Change and Communities	<ul style="list-style-type: none"> • Digital, Communications and Transformation; Housing, Health and Environment; Human Resources, Customer Services and Culture; Partnership and Engagement; and Facilities and Community Hubs
Director of Finance, Policy and Development	<ul style="list-style-type: none"> • Section 151 Officer; Finance and Procurement; Business Support; Policy and Governance; Mid Kent Client Services (Revenues and Benefits, Legal Services, ICT and Internal Audit); Planning Services; and Economic Development
Head of Planning Services	<ul style="list-style-type: none"> • Planning Policy; Development Management; Heritage and Conservation; Building Control

	and Planning Support
Head of Economic Development and Property	<ul style="list-style-type: none"> Commercial Property Development; Investment and Estates; Economic Development; Strategic Transport; and Tourism
Head of Housing, Health and Environment	<ul style="list-style-type: none"> Environmental Health; Leisure Centres and Parks; Licensing/Regulatory Services; Waste and Street Cleansing; Crematorium and Cemetery; Health; and Housing
Head of Facilities and Community Hubs	<ul style="list-style-type: none"> Emergency Planning and Business Continuity; Facilities; TN2; Community Hubs; CCTV; and Community Safety
Head of Human Resources, Customer Services and Culture	<ul style="list-style-type: none"> Human Resources; Learning and Development; Gateway and Customer Care; Assembly Hall Theatre; Events; Museum and Art Gallery
Head of Communication and Transformation	<ul style="list-style-type: none"> Business Delivery Unit; GIS; Smarter Digital Services; Project Management Office; Website; and Communications
Head of Finance and Procurement	<ul style="list-style-type: none"> Accountancy and Exchequer; Payroll; Insurance; Procurement; and Parking
Head of Policy and Governance	<ul style="list-style-type: none"> Policy and Performance; Scrutiny; FOI; Complaints; Democratic Services; Elections; Executive Office; and Mayor's Office

6.1.3 Head of Paid Service, Monitoring Officer and Chief Finance Officer

The Council will designate the following posts as shown:

Designation	Post
Head of Paid Service	Chief Executive
Monitoring Officer	Head of Legal Partnership
Chief Finance Officer	Director of Finance, Policy and Development

Such posts will have the functions described below.

6.1.4 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.

6.2 Functions of the Head of Paid Service

6.2.1 Discharge of Functions by the Council

The Head of Paid Service will keep under review 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.

6.2.2 Restrictions on Posts

The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Financial Officer if a qualified accountant.

6.3 Functions of the Monitoring Officer

6.3.1 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.

6.3.2 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 Full Council or to the Cabinet in relation to an Executive function, if he 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.

6.3.3 Supporting the Audit and Governance Committee

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

Notwithstanding the duty of confidentiality, the Monitoring Officer shall be at liberty to disclose any information relating to the Council's affairs, and provide copies of any records or documents belonging to the Council to the Audit and Governance Committee, for the purposes of investigation or determination of a complaint against a Member.

6.3.4 Conducting Investigations

The Monitoring Officer will conduct investigations into matters and carry out any other actions as directed by the Audit and Governance Committee and make reports or recommendations in respect of them to the Audit and Governance Committee.

6.3.5 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.

6.3.6 Advising Whether Executive Decisions are within the Budget and Policy Framework

The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.

6.3.7 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. Where the Monitoring Officer considers that a Member(s) has acted contrary to advice it is open to them to issue a report to the Council under s.5 Local Government and Housing Act 1989, or seek judicial review, as considered appropriate in the circumstances.

6.3.8 Restrictions on Posts

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

6.4 Functions of the Chief Finance Officer

6.4.1 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 they consider that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

When the report is completed the Chief Finance Officer shall send a copy to: (a) the current auditor of the Council's accounts; and, (b) each Member of the Council.

6.4.2 Administration of Financial Affairs

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

6.4.3 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.

6.4.4 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.

6.4.5 Give Financial Information

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

6.4.6 Restrictions on Posts

The Chief Finance Officer cannot be the Monitoring Officer.

6.5 **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 their opinion sufficient to allow their duties to be performed.

6.6 **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.

6.7 **Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Procedure Rules set out in [Part 4](#) of this Constitution.

6.8 **Service Managers**

Service Managers are those officers who report directly to a Chief Officer, save it does not include the officers who report directly to the Head of Legal Partnership.

ARTICLE 7 – DECISION MAKING

7.1 Responsibility for Decision Making

The Council will issue and keep up to date a record of what part of the Council or which 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.

7.2 Principles of Decision Making

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

- 7.2.1 proportionality (i.e. the action must be proportionate to the desired outcome)
- 7.2.2 due consultation and the taking of professional advice from officers;
- 7.2.3 respect for human rights;
- 7.2.4 a presumption in favour of openness;
- 7.2.5 clarity of aims and desired outcomes;
- 7.2.6 consideration of any alternative options; and,
- 7.2.7 the giving of reasons for the decision and the proper recording of those reasons.

7.3 Type of Decision

- 7.3.1 Decisions reserved to Full Council. Decisions relating to the functions listed in Article 0 (functions of the Full Council) will be made by the Full Council and will not be delegated.
- 7.3.2 Key decisions – a “key decision” means an executive decision which is likely:
 - (a) To involve expenditure or savings in excess of £375,000 as well as otherwise being significant having regard to the Council’s budget for the service or function to which the decision relates; or
 - (b) To be significant in terms of its effects on communities living or working in an area comprising two or more wards in the borough.

In accordance with section 38 of the Local Government Act 2000, in determining the meaning of “significant” regard shall be had to any guidance for the time being issued by the Secretary of State.

A decision taker may only make a key decision in accordance with the requirements of the Access to Information Procedure Rules and the Cabinet Procedure Rules set out in Part 4 of this Constitution.

- 7.3.3 Non-Key decisions – decisions which are not key decisions and fall within the Portfolios of the Leader or any Portfolio Holder or their respective delegations or the delegation to any officer.

7.4 Decision Making by the Full Council

The Full Council meeting will follow the Council Procedures Rules set out in [Part 4](#) of this Constitution when considering any matter.

7.5 Decision Making by the Cabinet

The Cabinet meeting will follow the Cabinet Procedures Rules set out in [Part 4](#) of this Constitution when considering any matter.

7.6 Decision Making by the Overview and Scrutiny Committee

The Overview and Scrutiny Committee will follow the Overview and Scrutiny Procedure Rules set out in [Part 4](#) of this Constitution when considering any matter.

7.7 Decision Making by Committees and Sub-Committees Established by the Council including Planning Committee

Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in [Part 4](#) of this Constitution as applies to them.

The Planning Committee will follow the Planning Procedure Rules set out in [Part 4](#) of this Constitution when considering other matters.

7.8 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 8 – FINANCE, CONTRACTS AND LEGAL MATTERS

8.1 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.

8.2 Contracts

Every contract made by the Council will comply with the Contract Procedure Rules set out in [Part 4](#) of this Constitution.

8.3 Legal Proceedings

The Head of Legal Services is authorised to institute, defend, participate in or settle any legal proceedings and take all necessary steps in any case where such action is necessary to give effect to decisions of the Council or in any case where the Head of Legal Services considers that such action is necessary to protect the Council's interests.

The Monitoring Officer has delegated powers to authorise officers to appear in court on the Council's behalf.

8.4 Execution of the Contract

Any contract entered into on behalf of the Council shall be in writing and shall be signed or sealed as provided for in [Part 4](#), paragraphs 41 and 42.

8.5 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 Head of Legal Partnership or other person authorised by them, unless any enactment or otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract entered into on behalf of the Council shall be made in writing. Any contract in excess of £75,000 shall be executed as a deed. The common seal of the Council shall be affixed to every contract in excess of £75,000. Contracts for a sum exceeding £10,000 shall be signed by two officers authorised under the Constitution.

In addition to any other person who may be authorised by resolution of the Council, the proper officer for the purposes of authentication of documents under the Local Government Acts shall be:

8.5.1 The Chief Executive;

8.5.2 The Monitoring Officer;

8.5.3 The Director of Finance, Policy and Development (S151 Officer)

8.5.4 Any Chief Officer of the Council concerned with the matter to which the document relates; or,

8.5.5 Any officer authorised in writing by such Chief Officer or by the Monitoring Officer.

8.6 Common Seal of the Council

8.6.1 Common Seal

The Common Seal of the Council and the mobile sealing devices for remote use shall be kept in a safe place in the custody of the Head of Legal Partnership.

A decision of the Council, or any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision.

8.6.2 Sealing and Execution of Documents

The common seal of the Council or the mobile seal for remote use shall be affixed to a document only on the authority of:-

- (a) a resolution of the Council;
- (b) a resolution of a Committee or Sub-Committee which the Council has empowered to authorise the use of the seal; or
- (c) a decision by the Council, or by a Committee, Sub-Committee or officer exercising delegated functions, to do anything where a document under the common seal is necessary or desirable as part of the action.

The affixing of the common seal or the mobile seal for remote use shall be attested by the Head of Legal Services or another person authorised by them.

8.6.3 Record of Sealing of Documents

Any entry of the sealing of every deed or document to which the Common Seal or the mobile seal for remote use has been affixed shall be made by the Chief Executive or Head of Legal Services and consecutively numbered and logged electronically by Legal Services to be provided for the purpose.

8.6.4 Disposal of Land and Real Property

Every disposal of land and real property made by the Council will comply with the Acquisition and Disposal of Property Guidance set out in [Part 5](#) of the Constitution.

ARTICLE 9 – REVIEW AND REVISION OF THE CONSTITUTION

9.1 Duty to Monitor and Review the Constitution

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. The Chief Finance Officer shall be responsible for keeping under review the Financial Procedure Rules set out in Part 4 of the Constitution and shall make any amendments and revisions as are required by law and shall report any amendments made to [Part 4](#) for the next available Council meeting for noting.

9.2 Protocol for Monitoring and Review of Constitution by Monitoring Officer

A key role for the Monitoring Officer is to make recommendations for ways in which the Constitution could be amended in order to better achieve the purposes set out in Article 1. In undertaking this task, the Monitoring Officer may:

- 9.2.1 Observe meetings of different parts of the member and officer structure;
- 9.2.2 Undertake an audit trail of a sample of decisions;
- 9.2.3 Record and analyse issues raised by Members, Officers, the public and other relevant stakeholders; and,
- 9.2.4 Compare practices in this Council with those in comparable authorities, or national examples of best practice.

9.3 Changes to the Constitution

9.3.1 Approval

Subject to 0 below, changes to the Constitution will only be approved by the Full Council. The Council may if it considers necessary appoint a special committee to make recommendations for that purpose. Where the table of Chief Officers in Article 6 needs to be updated, the Monitoring Officer may make the necessary changes upon receipt of notification from the Chief Executive that he has made changes to these structures following Council or relevant committee approval of such changes.

9.3.2 Minor, Technical or Legislative Changes

The following changes to the Constitution can be made by the Monitoring Officer, if in the reasonable opinion of the Monitoring Officer, a change is:

- (a) A minor variation including typographical corrections or stylistic improvements; or
- (b) Required to be made to remove any inconsistency or ambiguity; or
- (c) Required to be made so as to put into effect any decision of the Council or its committees or the Cabinet, or
- (d) An organisational structure change, upon, notification from the Chief Executive following Council or relevant Committee approval of such change in which case the Monitoring Officer may make such a change. Any such

change made by the Monitoring Officer shall come into force with immediate effect.

in which case the Monitoring Officer may make such a change. Any such change made by the Monitoring Officer shall come into force with immediate effect.

- (e) Any part of the Constitution may be amended by the Monitoring Officer where such amendment is required to be made so as to comply with any legislative provision. Such amendments shall take effect when the Monitoring Officer so decides or the legislation (where relevant) so provides. Such changes shall be reported to the next Council meeting.

9.3.3 Change to a Mayoral Form of Executive

The Council must take reasonable steps to consult with local electors and other interested persons in the area if drawing up proposals and must hold a binding referendum.

ARTICLE 10 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

10.1 Suspension of the Constitution

10.1.1 Limit to Suspension

The Articles of this Constitution may not be suspended. The Council Procedure Rules in [Part 4](#) of this Constitution may be suspended by the Full Council to the extent permitted within those Rules and the law.

10.1.2 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 is 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](#).

10.2 Interpretation

The interpretation of any of these Rules will be determined by the person presiding at a particular meeting, as appropriate, after taking the advice of the Monitoring Officer or supporting officers.

10.3 Publication

10.3.1 All members are referred to the up-to-date version of the Constitution, which is maintained online. The Monitoring Officer will make available a copy of this Constitution to a Member of the Council on request.

10.3.2 The Monitoring Officer will ensure that copies are available for inspection at Council offices, libraries and other appropriate locations and on the Council's website, and can be purchased by members of the local press and the public on payment of a reasonable fee.

10.3.3 The Monitoring Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.