

## **Part 2**

# **Articles of the Constitution**

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# **Article 1 – The Constitution**

## **1.01 Powers of the Council**

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

## **1.02 The Constitution**

This constitution and all its appendices is the constitution of the London Borough of Ealing.

## **1.03 Purpose of the Constitution**

The purpose of the Constitution is to:

1. Enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
2. Support the active involvement of citizens in the process of local authority decision making;
3. Help councillors represent their constituents more effectively.
4. Enable decisions to be taken efficiently and effectively.
5. Create a powerful and effective means of holding decision makers to public account.
6. Ensure that no one will review or scrutinise a decision in which they were directly involved.
7. Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
8. Provide a means for improving the delivery of services to the community.

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### **References:**

Section 37. LGA 2000

Chapter 10, DTLR guidance

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

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

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

The Council will monitor and evaluate the operation of the constitution as set out in Article 16.

# Article 2 – Members of the Council

## 2.01 Composition and eligibility

- a) **Composition:** The Council will comprise 70 members otherwise called councillors. Three 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 area, those living or working there or those owning or renting property there will be eligible to hold the office of councillor.

## 2.02 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 in 2002. 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.

### **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) Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances.
  - (iv) Balance different interests identified within the ward and represent the ward as a whole.
  - (v) Be involved in decision making.
  - (vi) Be available to represent the Council on other bodies; and
  - (vii) Maintain the highest standards of conduct and ethics.

**(b) Rights and duties:**

- (i) Councillors will have rights of access to documents, information, land and buildings of the Council necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.

**2.04 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.

**2.05 Allowances**

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

**2.06 Party leaders and officers**

The Leader of the Council shall be elected by the Council under Article 7.03 of this constitution. The councillor chosen by the largest political party not represented in the cabinet shall be known as the Leader of the Opposition. The Leader of the Council and the Leader of the Opposition shall notify the proper officer which councillors will be the Deputy Leader of the Council and the Deputy Leader of the Opposition together with the names of one

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**References:**

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

Chapter 2, DTLR Guidance

Section 18, Local Government & Housing Act 1989 and regulations thereunder

Section 7, Superannuation Act 1972 and regulations thereunder

further councillor from each of their political parties to be known as the Chief Whip and Opposition Chief Whip.

# Article 3 – Citizens and the Council

## 3.01 Citizens rights

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

- (a) **Voting and petitions:** citizens on the electoral roll for the area 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, its committees and the cabinet except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private;
  - (ii) Find out from the forward plan what key decisions will be taken by the cabinet and when;
  - (iii) See reports and background papers, and any records of decisions made by the Council and the cabinet; and
  - (iv) Inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation:** citizens may participate in question time at Council and committee meetings, make representations about planning applications directly to planning committees and may be asked to contribute to investigations by scrutiny committees.
- (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) Standards Committee about a breach of the Councillors' Code of Conduct.

# Article 4 – The full Council

## 4.01 Meanings

- (a) **Policy framework:** The policy framework means the following plans and strategies which must be approved by the full Council:
- budget and level of local taxation
  - council plan
  - crime and disorder reduction strategy
  - development plan documents
  - housing investment programme
  - licensing authority policy statement
  - local transport plan
  - youth justice plan
  - pay policy statement
- (b) **Budget:** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.
- (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.

## 4.02 Functions of the full Council

Only the Council will exercise the following functions:

- (a) Adopting and changing the Constitution (subject to article 16.03);
- (b) Approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any large scale housing land transfer;

- (c) Making the decision when it is proposed to make a cabinet decision which is contrary to the policy framework or contrary to or not wholly in accordance with the budget. If the matter is urgent the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution will apply;
- (d) Appointing and removing the leader;
- (e) Agreeing/amending the powers and duties of committees, deciding on their composition and (other than cabinet and cabinet side committees) making appointments to them;
- (f) Appointing representatives to outside bodies unless the appointment is a cabinet side function or has been delegated by the council;
- (g) Adopting a members' allowances scheme under article 2.05;
- (h) Changing the name of the area, conferring the title of honorary alder or freedom of the borough;
- (i) Confirming the appointment of the head of paid service;
- (j) Making, amending, revoking, re-enacting or adopting by-laws and promoting or opposing the making of local legislation or personal Bills;
- (k) All local choice functions set out in Part 3 of the constitution which the Council decides should be undertaken by itself rather than by the cabinet; and
- (l) All other matters which, by law, must be reserved to Council.

#### **4.03 Council meetings**

There are three types of council meeting which will be conducted in accordance with the council and committee procedure rules in Part 4

- (a) The annual meeting;
- (b) Ordinary meetings;
- (c) Extraordinary meetings.

#### **4.04 Responsibility for functions**

The Council will maintain the tables in Part 3 of the constitution setting out the responsibility for the Council's functions which are not the responsibility of the cabinet.

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#### **References:**

Local Authorities (Functions and Responsibilities) (England) Regulations 2000

Chapters 2 & 9, DTLR guidance

# Article 5 – Chairing the Council

## 5.01 Role of the Mayor

The Mayor will be elected by the Council at the annual meeting; the Deputy Mayor will be appointed by the Mayor at the annual meeting.

The Mayor and in their absence, the Deputy Mayor, will have the following roles and functions:

1. To uphold and promote the purposes of the constitution, and to interpret the constitution when necessary;
2. To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
3. 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;
4. To promote public involvement in the Council's activities;
5. To attend civic and community functions;
6. To carry out an ambassadorial and promotional role on behalf of the borough.

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### References:

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

Schedule 3 Local Government Act 2000

*Chapters 2, 4 & 9, DTLR guidance*

# **Article 6 – Overview and Scrutiny Committee**

## **6.01 Powers and Duties**

The Council will appoint the Overview and Scrutiny Committee and the Scrutiny Panels to discharge the functions conferred by section 21 of the Local Government Act 2000 and regulations made under section 32 of that Act.

The Scrutiny Procedure Rules (set out later in this constitution) shall apply to the Overview and Scrutiny Committee and to the Scrutiny Panels.

## **6.02 General scrutiny functions**

The Overview and Scrutiny Committee and Scrutiny Panels will have the following powers:

- (i) To review or scrutinise any proposals, decisions made, or actions taken, in connection with the discharge of any functions which are or are not the responsibility of the executive
- (ii) To assist the council and cabinet in the development of its budget and policy framework by in–depth analysis of policy issues and proposals for policy development
- (iii) To consider and make recommendations to encourage and enhance community participation in policy development and decision-making, and access to services on non-discriminatory criteria
- (iv) To question members of the cabinet and officers on any issues under scrutiny
- (v) To examine and give views upon any matter upon which they are consulted by the cabinet or council
- (vi) To liaise with external organisations operating in the area, to maximise opportunities for collaborative working
- (vii) To appoint non-voting advisory members
- (viii) To propose areas for improvement review or value for money review and to scrutinise the implementation of action plans arising
- (ix) To consider and make recommendations in respect of any local government and local crime and disorder matter referred by a Councillor as a ‘Councillor Call for Action’

### **6.03 Specific role of the Overview and Scrutiny Committee**

The Overview and Scrutiny Committee will have the following general powers and duties:

- (i) To review and scrutinise decisions made or actions taken in connection with the discharge of any of the council's functions.
- (ii) To make reports or recommendations to full Council or to Cabinet in connection with the discharge of any of council or executive functions.
- (iii) To formulate and agree an annual work programme.
- (iv) To have overall responsibility for scrutinising the Council's performance and investigate matters itself or refer them to a scrutiny panel.
- (v) To have overall responsibility for the review and scrutiny of the council's budget strategy.
- (vi) To exercise the right to call-in, for reconsideration of any decision made but not yet implemented by the Cabinet, cabinet committees, or any officer key decisions.
- (vii) To deal with all call-ins
- (viii) To agree the terms of reference for the Scrutiny Panels, save for the Health and Adults Social Care Scrutiny Panel (the terms of reference for which are set out in Article 6.5 below)
- (ix) To oversee the work of the Scrutiny Panels
- (x) To set up individual Scrutiny Review Panels, each to be chaired by a member of the Overview and Scrutiny Committee, to carry out an investigation as directed and report back to the Overview and Scrutiny Committee.
- (xi) To consider and refer (with amendments or otherwise) to cabinet or full council (as the case may be) all recommendations arising from Scrutiny Panels.
- (xii) To report annually to full Council on its workings and make recommendations for future work programmes and (if appropriate) amended working methods.
- (xiii) To consider and make recommendations in respect of any local government and local crime and disorder matter referred by a Councillor as a 'Councillor Call for Action'
- (xiv) To review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions
- (xv) To make reports or recommendations to the local authority with respect to the discharge of crime and disorder functions.

- (xvi) To consider petitions to hold a cabinet portfolio holder to account

#### **6.04 Specific functions of Scrutiny Panels**

With the exception of the Health and Adults Social Services Panel, the terms of reference for each scrutiny panel shall be determined from year to year by Overview and Scrutiny Committee. All scrutiny panels shall be chaired by a member of the Overview and Scrutiny Committee.

#### **6.05 Health and Adult Social Services Panel**

The Health and Adult Social Services Panel shall have the following specific powers:

- (i) To review and scrutinise the planning, management, provision and performance of adult social services.
- (ii) To review and scrutinise matters relating to the health service in the authority's area and to make reports and recommendations on such matters to the relevant NHS bodies in accordance with the powers given to the local authority by the Health and Social Care Act 2001.
- (iii) To consider and make recommendations for response to NHS consultations on proposed substantial developments/variations in health services that would affect the people of LB Ealing,

# **Article 7 – The Cabinet**

## **7.01 Role**

The Leader 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 (also referred to as the 'executive' functions). The Leader may delegate functions to:

- the cabinet
- a committee of the cabinet
- an individual cabinet member
- an officer of the council

## **7.02 Form and composition**

The cabinet will consist of the Leader together with no more than nine councillors appointed to the cabinet by the Leader.

## **7.03 Election of Leader**

The Leader will be a councillor elected to the position of Leader by the annual meeting of the Council after local council elections. If a casual vacancy in the office of Leader occurs the election of Leader will take precedence over other business at the next meeting of the Council. The Leader will hold office until the annual meeting of the Council after the next local council elections unless:

- (a) They resign from the office; or
- (b) They are suspended from being a councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) They are no longer a councillor; or
- (d) They are removed from office by resolution of the Council.

## **7.04 Role of Leader**

The Leader will carry out the following roles:

- Appoint and remove members of the cabinet
- Appoint a deputy leader
- Lead the cabinet
- Assign portfolios to cabinet members
- Discharge the executive functions of the Council or arrange for the discharge of those functions by cabinet, a cabinet

member, by a cabinet committee or by an officer of the Council

- Provide political leadership
- Provide community leadership
- In the name of the cabinet, propose the general budget and policy plans to the council

### **7.05 The Deputy Leader**

The Deputy Leader shall be appointed by the Leader and shall hold office until the end of term of office of the Leader unless

- (a) They resign from the office; or
- (b) They are suspended from being a councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) They are no longer a councillor; or
- (d) They are removed from office by the Leader

### **7.06 Other Cabinet Members**

Other cabinet members shall be appointed by the Leader and notified to full Council. In the case of a casual vacancy, it will be filled by the Leader and notification given at the next meeting of the Council. Cabinet members shall hold office until removed by the Leader unless:

- (a) They resign from the 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 by the Leader

### **7.07 Portfolios**

Portfolios are established by the Council with the allocation of portfolios to members of the cabinet being made by the Leader and notified to the annual meeting of the Council. In the case of casual changes, the Leader will give written notice to the proper officer which will take effect two working days after receipt of the notice by the proper officer. The current portfolios are:

- **Leader of the Council** (policy & performance, reform & transformation, media & comms, community engagement)

- **Inclusive Economy** (finance, procurement, human resources, community wealth building\*, social impact)
- **Safe and Genuinely Affordable Homes** (temporary accommodation, housing demand, homelessness, & housing management)
- **Good Growth and New Housing** (planning, major projects, council property, regeneration strategy, new homes)
- **Decent Living Incomes** (community wealth building\*, licensing, economic regeneration, skills, employment, welfare reform, business support, further & higher education)
- **Climate Action** (active travel, climate crisis, highways, recycling & waste reduction, parks & green space, renewable energy)
- **Thriving Communities** (neighbourhood governance, volunteering, libraries, sports, leisure & community centres)
- **A Fairer Start** (children's social care, schools' performance, child poverty, SEN)
- **Tackling Inequality** (public health, youth offending, eliminating violence against women and girls, youth service, policing, antisocial behaviour)
- **Healthy Lives** (public health, older people, adult social care, mental health, NHS)

## 7.08 Proceedings of the Cabinet

Proceedings of the cabinet shall take place in accordance with the Cabinet Procedure Rules set out in part 4 of the constitution.

## 7.09 Responsibility for functions

- The functions set out in Part 3.3 of the Constitution and the executive functions delegated to officers set out in Part 8 of the Constitution have been delegated by the Leader or the cabinet.
- The monitoring officer will maintain a list in Part 3 and Part 8 of the constitution setting out which individual members of the cabinet, committees of the cabinet, area committees, officers or joint arrangements are responsible for the exercise of particular executive functions.
- The Leader will keep the delegation of executive functions under review and will notify the monitoring officer of any alterations. The monitoring officer shall ensure that
  - (a) The constitution is amended accordingly

- (b) The alterations are published
- (c) Members are informed of the alterations
- (d) Alterations are reported to the next full Council meeting

### **7.10 Cabinet aides**

The Leader may appoint one or more councillors as Cabinet Aides to advise and support the duties of Cabinet members on particular areas within their portfolios. Any such Cabinet Aides are not executive councillors and may not exercise the powers of the executive or vote on any matter for decision at a Cabinet or Cabinet committee meeting. The areas of responsibility of any Cabinet Aides appointed shall be determined and may be varied by the Leader

### **7.11 Emergencies**

During any period recognised by the Home Office as a period of national emergency the Council's cabinet arrangement shall cease and all those powers and duties which may lawfully be delegated to cabinet shall be exercised by an emergency cabinet comprising the Leader of the Council, the Deputy Leader of the Council and the Leader of the Opposition. Decisions taken by the emergency cabinet will be dealt with under the scrutiny procedure for urgent matters.

### **7.12 Housing Delivery Cabinet Committee**

- (i) To consider and determine matters relating to individual affordable housing schemes and their funding
- (ii) To consider and determine issues of land disposal, acquisition, and related matters, as appropriate to achieve individual affordable housing schemes
- (iii) To keep cabinet informed on the work of the committee

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#### **References:**

Section 11 and schedule 1, paragraphs 1,2,3, Local Government Act 2000

Chapters 4, 14 & 15, DTLR guidance

# Article 8 – General Purposes and other committees

## 8.01 General Purposes and other committees

The Council will appoint the committees set out in the table, “Responsibility for Council Functions” in section 2 of Part 3 of the constitution to discharge the functions described.

## 8.02 Audit committee

The Audit Committee may appoint co-optees to its membership, specifically on the basis of their experience and knowledge in the field of internal audit, risk management or corporate governance

## 8.03 Health and Wellbeing Board

The council will appoint a committee known as the Health and Wellbeing Board. The membership will be as follows:

- Up to four cabinet portfolio holders, one of whom will chair the Board
- The opposition spokesperson for Healthy Lives (**non-voting**)
- The Strategic Director of Children’s Services (in their capacity as the council’s statutory director of children’s services)
- The Strategic Director of Adults’ and Public Health
- The Director of Public Health
- a representative of the Local Health Watch organisation
- Borough Medical Director of the NHS NWL Integrated Care Board, Ealing
- Chief Executive of the NWL Integrated Care Board, or representative
- Borough Based Partnership Director, Ealing Borough Based Partnership
- Borough Director Ealing, NWL Integrated Care Board
- Chief Executive of London NW Healthcare Hospitals Trust (**non-voting**)
- Chief Executive of West London NHS Trust, or representative (**non-voting**)
- Representative of Ealing and Hounslow Community and Voluntary Service
- (subject to their agreement) a representative from each of the following: Ealing Primary Care, Imperial College Healthcare Trust, and Hillingdon Hospitals Foundation (**all non-voting**)

#### **8.04 Victoria Hall Trust Committee**

To carry out the functions of the council as charity trustee with regard to Victoria Hall Trust.

To carry out those functions:

- in the best interests of the Trust,
- in accordance with charity law,
- in compliance with the Trust Scheme objectives, and
- having due regard to relevant guidance and advice issued by the Charity Commission.

The committee will appoint independent members with full voting powers but will be chaired by a councillor.

#### **8.05 Civic Honours Committee**

To recommend to full council recipients of the range of civic awards available

In exceptional circumstances, to recommend to full council that civic awards be removed from a specified past recipient, where the behaviour of such past recipient has been such as to demonstrate clearly that they are no longer befitting of the honour of holding that civic award

To recommend to full council changes to the criteria for the award of honorary freedom of the borough, honorary alder, and other civic awards as appropriate.

To agree the criteria for the award of the Mayor's Award.

To suggest potential street names and building names (new names or changes to existing names), taking into account the council's adopted Street Naming and Numbering Protocol, for consideration by the decision maker

The Civic Honours Committee may invite the Borough Deputy Lieutenant to join its meetings.

# **Article 9 – The Standards Committee**

## **9.01 Standards Committee**

The Council will establish a Standards Committee.

## **9.02 Composition**

The Standards Committee will be composed of at least five councillors, other than the Mayor or the Leader. It will be advised by independent people, appointed in accordance with the requirements of Chapter 7 of the Localism Act 2011.

## **9.03 Role and Function**

The Standards Committee will have the following 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 Local Code of Conduct for Councillors;
- (c) Advising the Council on the adoption or revision of the Local Code of Conduct for Councillors;
- (d) Monitoring the operation of the Local Code of Conduct for Councillors;
- (e) In some circumstances granting dispensations to councillors and co-opted members from requirements relating to interests set out in the Local Code of Conduct for Councillors;
- (f) Determining allegations referred to it under the council's standards procedures, that a member or co-opted member has failed to comply with the Local Code of Conduct for Councillors;
- (g) Receiving reports on the operation of the Council's whistle blowing policy;
- (h) Monitoring, and where necessary advise and make recommendations upon freedom of information issues.

## **9.04 Sub-Committee**

In addition to the parent committee the following sub-committee of the Standards Committee shall be appointed as follows.

### **Standards Assessment Panel –**

**Membership:** any three members of the Standards Committee

**Powers and functions:** to receive complaints received in accordance with prescribed requirements and alleging that a member or co-opted member has failed to comply with the Council's Local Code of Conduct for Councillors and to determine whether and how such complaints will be taken forward and dealt with.

# **Article 10 – North West London Joint Health Overview and Scrutiny Committee (NWL JHOSC)**

## **10.1 Participation**

The council will participate fully in the NWL JHOSC.

## **10.2 Terms of reference**

The terms of reference of the NWL JHOSC will be as determined by that body from time to time but shall broadly comprise scrutiny and review of the configuration, implementation plans and actions of health service commissioners and providers in North West London.

## **Article 11 – Citizens Tribunal**

An independent body, having the following responsibilities:

- (a) To hold the council and partners to account on the delivery of its commitment and responsibilities to fight race inequality and promote race equality
- (b) To suggest ideas and initiatives for how the council can most effectively fight race inequality and promote race equality

The Citizens Tribunal is not a council committee or council decision making body and accordingly the provisions of the Public Bodies (Admission to Meetings) Act 1960, the Local Government Act 1972 and the Openness of Local Government Bodies Regulations 2014 relating to conduct of meetings and decision making will not apply to it.

# Article 12 – Joint Arrangements

## 12.01 Arrangements to promote well-being

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.

## 12.02 Joint arrangements

- (a) 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.
- (b) 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.
- (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 by 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 an appointment.

- (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.

### **12.03 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 cabinet in each of the participating authorities then its access to information regime is the same as that applied to the cabinet.

If the joint committee contains members who are not on the cabinet of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

### **12.04 Delegation to and from other local authorities**

- (a) The Council may delegate non-cabinet functions to another local authority or, in certain circumstances, the cabinet of another local authority.
- (b) The cabinet may delegate cabinet functions to another local authority or the cabinet 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.

### **12.05 Contracting out**

The Council, for non-cabinet functions, and the cabinet, for cabinet 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, provided there is no delegation of the Council's discretionary decision making.

## **12.06 Partnership arrangements**

The council may enter into an arrangement with one or more other party to achieve objectives of the council and at least one of the other parties which involves one or more of the following:

- (a) sharing of risk in relation to the subject matter of the arrangement
- (b) joint planning and decision-making such as joint commissioning
- (c) joint delivery of services
- (d) sharing of resources

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### References:

Sections 2, 19, 20 Local government Act 2000

Chapters 6 & 9, DTLR guidance

Local Authorities (Arrangements for the Discharge of Functions)  
(England) Regulations 2000

# Article 13 – Officers

## 13.01 Management Structure

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

(b) **Senior management:** The Council will engage the posts of Chief Executive and Strategic Directors who have the responsibilities set out below and make up the Council's Senior Leadership Team.

Post	Functions and Responsibilities
Chief Executive	Chief Executive and Head of Paid Service.
Strategic Director of Strategy and Change	Strategy and performance. Change and transformation. Communications and public relations. Equalities and engagement. Human resources and organisational development. Cabinet Office. Chief Executive's Office.
Strategic Director of Children's Services	Learning, standards and schools partnerships. Children's social care. Early help and prevention. Social care training and development social care. Schools planning, resources and service development.
Strategic Director of Adults' Services	Adults operations (social care). Business support and integrated commissioning. Mental health. Public health. Reablement.
Strategic Director of Economy and Sustainability	Leisure. Capital investment and major projects. Development management. Housing development. Economic growth and regeneration. Building Control. Planning.
Strategic Director of Housing and Environment	Housing demand. Housing landlord services. Housing asset management.

<b>Post</b>	<b>Functions and Responsibilities</b>
	Environment and living streets. Community protection.
Strategic Director of Resources	Finance. Accountancy. Customer Services. Audit and investigations. Legal and democratic services. Commercial hub. ICT, IDM and property services. Strategic property.

**(c) Statutory officers**

The Council has designated the following posts to fulfil the statutory roles identified:

<b>Post</b>	<b>Statutory function</b>
Chief Executive	Head of Paid Service
Strategic Director of Resources	Chief Finance (S.151) Officer
Director of Legal and Democratic Services	Monitoring Officer, and Statutory Scrutiny Officer
Strategic Director, Children's Services	Statutory director of children's services
Strategic Director of Adults and Public Health	Statutory Director of Adults' Services
Director of Public Health	Statutory Director of Public Health
Corporate Information	Data Protection Officer

Post	Statutory function
Governance Manager	

- (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.

### 13.02 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) **Restriction on functions:** The head of paid service may not be the monitoring officer but may hold the post of chief finance officer if a qualified accountant

### 13.03 Functions of the monitoring officer

- (a) **Maintaining the constitution:** The monitoring officer will maintain an up-to-date version of the constitution and will ensure that it is widely available for consultation by members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision making:** after consulting 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 a 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.
- (c) **Supporting the Standards Committee:** The monitoring officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

- (d) **Receiving reports:** The monitoring officer will receive and act on reports made by ethical standards officers and decisions of case tribunals.
- (e) **Conducting investigations:** The monitoring officer will conduct investigations into matters referred by Standards Committee and make reports or recommendations in respect of them to the Standards Committee.
- (f) **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.
- (g) **Advising whether cabinet 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.
- (h) **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.
- (i) **Restrictions on posts:** The monitoring officer cannot be the chief finance officer or the head of paid service.

#### **13.04 Functions of the chief finance officer**

- (a) **Ensuring lawfulness and financial prudence of decision making:** After consulting 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 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.
- (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.

### **13.05 Duty to provide sufficient resources to the monitoring officer and chief finance officer**

The Council will provide the monitoring officer and chief finance officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

### **13.06 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.

### **13.07 Employment**

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

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#### **References:**

Chapters 8 & 9. DTLR guidance

Sections 4 & 5, Local Government and Housing Act 1989

Sections 60, 64-66, Local Government Act 2000

# Article 14 – Decision Making

## 14.01 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 Parts 3 and 8 of this constitution.

## 14.02 Principles of decision-making

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

- (a) proportionality (ie. the action must be proportionate to the 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
- (f) take account of all relevant matters
- (g) discount all irrelevant matters

## 14.03 Types of decision

**(a) Decisions reserved to full Council:** Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated other than as indicated.

**(b) Key decisions:** These are cabinet decisions which are likely:

- (i) To result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function to which the decision relates; or
- (ii) To be significant in terms of its effects on communities living or working in an area of the local authority.
  - \* Savings or expenditure will not normally be considered to be significant unless they exceed £500,000.
  - \* An effect on the community will not be considered to be "significant" unless that significance is felt by

people living or working in an area comprising not less than two wards in the borough.

A decision taker may only make a key decision in accordance with the requirements of the various requirements of this constitution with regard to key decisions.

#### **14.04 Decision making by the full Council**

Subject to Article 14.08, the Council meeting will follow the Council and Committee Procedure Rules set out in Part 4 of the constitution when considering any matter.

#### **14.05 Decision making by the cabinet**

Subject to Article 14.08, the cabinet will follow the Cabinet Procedure Rules set out in Part 4 of this constitution when considering any matter.

#### **14.06 Decision making by scrutiny committees**

Scrutiny committees will follow the Scrutiny Procedures Rules set out in Part 4 of this constitution when considering any matter.

#### **14.07 Decision making by other committees and sub-committees established by the Council**

Subject to Article 14.08, other council committees and sub-committees will follow the Council and Committee Procedure Rules set out in Part 4 of this constitution as apply to them.

#### **14.08 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 15 – Finance, Contracts and Legal Matters**

## **15.01 Financial management**

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

## **15.02 Contracts**

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

## **15.03 Legal proceedings**

The Director of Legal and Democratic Services 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 Director of Legal and Democratic Services considers that such action is necessary to protect the council's interests.

## **15.04 Authentication of documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Director of Legal and Democratic Services or any other person authorised by him/her in writing, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

All contracts entered into on behalf of the Council that are not executed as deeds must be signed for and on behalf of the Council as set out below:

- Contracts of less than £15,000 in value - by the relevant service director or an officer of the Council authorised by him/her;
- Contracts £15,000 – the Major Contract Value (as defined in the Contract Procedure Rules) – by the relevant service director;
- Contracts over the Major Contract Value – by two officers of the Council, one of whom must be the Strategic Director responsible for the contract.

Contracts executed as deeds must be sealed with the Council's Common Seal.

#### **15.05 Common Seal of the Council**

The Common Seal of the Council will be kept in safe place in the custody of the monitoring officer. 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. The Common Seal will be affixed to those documents, which in the opinion of the monitoring officer should be sealed. The affixing of the Common Seal will be attested by the monitoring officer or some other person authorised in writing by him/her. Where the monitoring officer deems it appropriate and has authorised the same, the council may seal documents electronically or by digital means.

# Article 16 – Review and Revision of the Constitution

## 16.01 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.

## 16.02 Protocol for monitoring and review of constitution by monitoring officer

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

1. Observe meetings of different parts of the members and officer structure;
2. Undertake an audit trail of a sample of decisions;
3. Record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
4. Compare practices in this authority with those in other comparable authorities or national examples of best practice.

## 16.03 Changes to the Constitution

(a) **Approval:** Changes to this Constitution will only be made by full Council, PROVIDED THAT the Monitoring Officer may from time to time make the following changes:

- (i) such changes to Part Three (Responsibility for Functions) and Part 8 as may be necessary to reflect any decision made by a person or body with the authority to delegate or sub-delegate powers to exercise executive or non-executive functions;
- (ii) such changes to Article 13.01 and Part 7 (Management Structure) as may be necessary to reflect any changes made in the allocation of functions to officers;
- (iii) such changes as may be necessary to comply with or give effect to any legislative requirements;

- (iv) such other changes of an editorial nature as may seem appropriate to make the Constitution internally consistent, up-to-date and readily understandable.
- (b) **Consultation:** the council will take reasonable steps to consult local electors and other interested persons in drawing up proposals.

# Article 17 – Suspension, Interpretation and Publication of the Constitution

## 17.01 Suspension of the constitution

- (a) **Limit to suspension:** the Articles of the 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 the suspension will be proportionate to the result to be achieved, taking account of the principles of the constitution.
- (c) **Rules capable of suspension:** the following rules may be suspended in accordance with Article 17.01:  
Council and Committee Procedure Rules (except Rules 16.5 & 17.2)

## 17.02 Interpretation

The ruling of the Mayor 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.

## 17.03 Publication

- (a) The monitoring officer will ensure that each member of the authority receives training on the constitution, on the member first being elected to the Council.
- (b) The monitoring officer will ensure that copies of the constitution are available for inspection online via the council's website, and that copies can be purchased by members of the local press and public on payment of a reasonable fee.
- (c) The monitoring officer will ensure that the summary of the constitution is made widely available within the area and is updated as necessary.

## **Schedule 1: Description of Cabinet Arrangements**

The following parts of this constitution constitute the cabinet arrangements:

1. Article 6 (Scrutiny Committees) and the Scrutiny Procedure Rules;
2. Article 7 (The Cabinet) and the Cabinet Procedure Rules;
3. Article 12 (Joint Arrangements)
4. Article 14 (Decision making) and the Access to Information Procedure Rules;
5. Part 3 (Responsibility for Functions)