

## 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 Constitution

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

## 1.03 Purpose of the Constitution

The purpose of the Constitution is to:

1. Give a framework for the Council to provide high quality services which give best value in order to maintain and enhance the environment, and quality of life for all residents and businesses in the Derbyshire Dales;
2. Enable the Council to provide clear leadership to the community in partnership with local people, businesses and other organisations;
3. Support the active involvement of local people in the process of local authority decision making;
4. Help Councillors represent their constituents more effectively;
5. Enable decisions to be taken efficiently and effectively.
6. Create a powerful and effective means of holding decision makers to public account;
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 of improving the delivery of services to the community.

## 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 12.

## ARTICLE 2 - MEMBERS OF THE COUNCIL

### 2.01 **Composition and Eligibility**

- (a) **Composition.** The Council will comprise 39 Members, otherwise called 'Councillors'. Up to 3 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.

### 2.02 **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. 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.

- (a) **Key Roles.** All Councillors will:
  - (i) Collectively be the ultimate policy-makers and carry out a number of strategic and corporate leadership functions
  - (ii) Represent their communities and bring their views into the Council's decision making process, ie. Be the advocate of and for their communities
  - (iii) Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances
  - (iv) Balance different interests identified within their ward and represent the ward as a whole
  - (v) Be involved in decision making
  - (vi) Be available to represent the Council on other bodies, and
  - (vii) Maintain the highest standards of conduct and ethics.
- (b) **Rights and Duties**
  - (i) 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.

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

### 2.03 **Conduct**

Councillors will at all times observe the Council’s Code of Conduct for elected members and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

### 2.04 **Allowances**

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

# ARTICLE 3 - CITIZENS INVOLVEMENT AND PARTICIPATION

## 1. Derbyshire Dales District Council welcomes correspondence from the public. This policy sets out how we will respond to your correspondence

### 1.1 Contact Address

The District Council can deal with correspondence in the form of letters, faxes, Emails and telephone calls. You can also contact us through a variety of social networking sites which are linked through our website: [www.derbyshiredales.gov.uk](http://www.derbyshiredales.gov.uk)

If you wish to communicate with the District Council, you may know the name of the individual Councillor or officer, or the section of the Council that you wish to correspond with, and you are welcome to use their individual addresses. However, the District Council's general contact points are as follows:

Letters and personal visits –

Derbyshire Dales District Council,  
Town Hall,  
Bank Road,  
Matlock,  
Derbyshire,  
DE4 3NN

Telephone – 01629 761100 – Main contact number

The main contact number operates during normal office hours from 9.00am to 5.00pm on Mondays, Tuesdays, Thursdays and Fridays, and from 9.30am to 5.00pm on Wednesdays (except public and bank holidays).

Email – [enquiries@derbyshiredales.gov.uk](mailto:enquiries@derbyshiredales.gov.uk)

## 2. Responding to Correspondence

### 2.1 Telephone calls

If you ring and the appropriate officer is not available, we will take your telephone number and get an appropriate officer to call you back.

### 2.2 General correspondence including e-mails

For all other correspondence, we aim to provide a substantive response within 10 working days of receipt. Please appreciate that we may not be able to resolve your enquiry within that period, so we will acknowledge receipt within 5 working days and advise you when you can expect a full response, and provide you with a contact name and telephone number or Email address so that you can check on progress.

## 2.3 Participation

The District Council is committed to involving citizens in the development of services and the decision making process. Under the Public Participation Scheme, Citizens have the right to participate at Council, Policy and Planning Committees. The Council's Consultation Strategy also seeks to encourage participation in and understanding of the work of the Council and how citizens can get involved.

Full details of the Public Participation is set out in Part 4 of the Constitution

## 2.4 Petitions

We particularly welcome petitions and the District Council has agreed special procedures to ensure that petitions are reported to an appropriately senior level within the District Council ([see Section 3, below](#))

## 2.5 Complaints

We try to provide high quality services for the benefit of the Derbyshire Dales and its citizens. We cannot always achieve that or meet all the demands for public services. We take all complaints very seriously, and complaints help us to improve our services. Citizens have the right to complain to:

- The Council itself under our complaints procedure.
- The Local Government Ombudsman after using the Council's own complaints procedure.
- The Monitoring Officer about a breach of the Councillors Code of Conduct.

## 2.6 Exceptions

Unfortunately, we do receive some correspondence which is rude, offensive, defamatory, scurrilous or time-wasting. We reserve the right to require particular correspondents to correspond with the District Council only through a Single Point of Contact which will deal with all their correspondence, ensuring that no one correspondent can take up a disproportionate amount of officer or Councillor time. Please see our website for a copy of our policy on persistent complainants

## 3. Petitions

We particularly welcome petitions as one way in which you can let us know your concerns. We set out below how the District Council will respond to petitions which you send us.

### 3.1 What is a petition?

We treat as a petition any communication which is signed by or sent to us on behalf of a number of people. For practical purposes, we normally set a requirement for at least 10 signatories or petitioners before we treat it as a petition. Whilst we like to hear from people who live, work or study in the Derbyshire Dales, this is not a requirement and

we would take equally seriously a petition from, for example, 10 visitors to the District on the subject of facilities at one of our Leisure Centres.

### 3.2 What should a petition contain?

#### 3.2.1 A petition should include –

- 3.2.1.1 A clear statement of your concerns and what you want the District Council to do. This must relate to something which is the responsibility of the District Council, or over which we have some influence. Where a petition relates to a matter which is within the responsibility of another public body, we will ask the petition organiser whether he/she would like us to redirect the petition to that other public body. Where a petition relates to a matter over which the District Council has no responsibility or influence, we will return the petition to the petition organiser with an explanation for that decision;
- 3.2.1.2 The name and contact details of the “petition-organiser” or someone to whom you would like any correspondence about the petition to be sent. Contact details may be either a postal address or an Email address;
- 3.2.1.3 The names of at least 10 petitioners (which can include the petition organiser). Where the petition is in paper form, this can include an actual signature from each petitioner, but actual signature is not essential. Where the petition is in electronic form, a list of the names and addresses of the petitioners will suffice.
- 3.2.1.4 If you are submitting the petition in response to our consultation on a specific matter, please identify the matter which it relates to, so that we can ensure that your petition is considered along with original matter.

### 3.3 Who should you send a petition to?

Where you submit a petition in response to consultation by the District Council, please address it to the return address set out in the consultation invitation. This will ensure that it is reported at the same time as the matter to which it relates is considered.

We have appointed a Petitions Officer, who is responsible for receiving, managing and reporting all other petitions sent to the District Council. Please address petitions to –

The Petitions Officer  
Derbyshire Dales District Council,  
Town Hall,  
Bank Road,  
Matlock,  
Derbyshire,  
DE4 3NN

Or to [Petitions@derbyshiredales.gov.uk](mailto:Petitions@derbyshiredales.gov.uk)

The Petitions Officer will ensure that the petition is acknowledged. The Petitions Officer can also provide you with advice about how to petition the District Council or the progress of your petition, at either of the above addresses or by telephone at 01629 761281

### 3.4 Types of Petition

There are three different types of petition, as set out below. How we deal with a petition depends on which type of petition you submit:

#### 3.4.1 Ordinary Petitions

these are petitions which do not come within any of the following specific types. Please note that petitions which raise issues of possible Councillor misconduct will be taken as complaints arising under the Local Government Act 2000 and will be reported to the Monitoring Officer, rather than considered under this Petitions Procedure.

#### 3.4.2 Consultation Petitions

These are petitions in response to an invitation from the District Council for representations on a particular proposal or application, for example on planning or licensing applications or proposals prior to their determination, for parking restrictions or speed limits or a major capital scheme. Consultation petitions which are received by the response date in the consultation invitation will be reported to a public meeting of the person or body which will be taking the decision on the application or proposal

#### 3.4.3 Statutory Petitions

Particular Acts of Parliament require the Council to consider petitions, for example a petition for a review of Parish Councils, or a petition for a directly-elected Mayor. Where you submit a petition under such a specific statute, we will report it to the next available meeting of the Council in accordance with the statutory requirements.

## 4. The Petitions Website

- 4.1 The purpose of the e-petition service is to enable as many people as possible to make their views known to the District Council.
- 4.2 E-petitions must follow the same guidelines as paper petitions set out in paragraph 3 and combinations of the two are allowed.
- 4.3 As a petition organiser you will need to provide your name, email and postal address. You will also need to decide how long you would like your petition to be open for signatures. The maximum time is 6 months.
- 4.4 When you create an e-petition, it can take up to 5 working days before it is published online. If we feel we cannot publish your petition for some reason (explained in paragraph 9.3) we will contact you and offer you an opportunity to resubmit your petition if you wish.

- 4.5 Acknowledgements will be emailed to everyone who signs an e-petition and they will be asked to verify their email address by clicking a link to confirm their signature.
- 4.6 Use of individuals' personal data including their email addresses will be protected under the terms of the Data Protection Act 1998 and will be held by the Council only for the purpose of corresponding in relation to the petition so submitted.

## **5. The role of Ward Councillors**

- 5.1 When a petition is received which relates to a local matter (particularly affecting specific electoral wards), the Petition Officer will send a copy of the petition to each relevant Ward Member at the same time as acknowledging receipt of the petition to the petition organiser.
- 5.2 When the petition is reported to the person or body within the District Council who can take a decision on the matter to which it relates, the relevant Ward Member will be invited to attend and to address the decision-taker for no more than 3 minutes (or 3 minutes each), immediately after the petition organiser.

## **6. What happens when a petition is received?**

### 6.1 Whenever a petition is received:

- 6.1.1 Within 5 working days of receipt, the Petitions Officer will acknowledge receipt to the petition organiser.
- 6.1.2 In some cases, the Petitions Officer may be able to resolve the petitioners' request directly, by getting the relevant Officer to take appropriate action. For example where the petition relates to fly-tipping and the District Council can arrange for it to be cleared up directly. Where this is done, the Petitions Officer will ask the petition organiser whether s/he considers that the matter is resolved.
- 6.1.3 Unless the matter has been resolved to the satisfaction of the petition organiser, the Petitions Officer will aim, within 10 working days of receipt of the petition, to provide a substantive response to the petition organiser setting out who the petition will be reported to for consideration, when and where that will take place and inviting the petition organiser to attend that meeting and to address the meeting for up to 3 minutes on the issue covered by the petition.

### 6.2 What happens to a Consultation Petition?

- 6.2.1 Consultations Petitions are submitted in response to an invitation from the Council to submit representations on a particular proposal or application, such as a planning or licensing application.
- 6.2.2 The petition will be reported to person or body who will take the decision on the proposal or application at the meeting when they are to take the decision on that application or proposal. The Council's Constitution defines who will take different types of decision, as set out in Part 3 of the Constitution. So,

for example, where a petition has been received objecting to the grant of planning permission, the application would be reported to the Planning Committee for decision. Where the petition supports the planning application, it may be determined by the Director of Regulatory Services.

### 6.3 What happens to a Statutory Petition?

6.3.1 Particular Acts of Parliament require the Council to consider petitions, for example a petition for a review of Parish Councils, or a petition for a directly-elected Mayor. Where you submit a petition under such a specific statute, we will report it to the next available meeting of the Council or relevant Committee in accordance with the statutory requirements.

### 6.4 What happens to an Ordinary Petition?

6.4.1 The Petitions Officer will arrange for each Ordinary petition to be reported to the relevant senior officer (listed in 3.4.5), or Committee or Sub-Committee of Council which has the power to take a decision on the matter.

6.4.2 An ordinary petition will only be referred to the appropriate Committee or Sub-Committee of Council with the agreement of the Chair and Vice Chair of that Committee in consultation with the Director of Corporate Services and the relevant officer.

## **7. At the meeting, when the matter to which the petition relates is considered –**

7.1 Petitions will be considered in the order in which they were received, unless the Chairman at the meeting determines otherwise.

7.2 The decision-taker or the Chairman of the meeting may invite a relevant officer to set out the background to the issue before inviting the petition organiser to address him/her for up to 3 minutes. The Chairman may then ask questions of the petition organiser, and will then invite any relevant Ward Member present to address him/her on the matter for up to 3 minutes (each). The Chairman will then invite a relevant officer(s) to advise him/her/the meeting, after which the matter will be open for debate among members of the decision-making body. Where the matter is to be determined by an officer, s/he will take a decision on the matter. That decision may be a determination of the matter, or may be a decision to refer the matter for investigation and report back, or to refer it up to a meeting of Council or a Committee of the Council for determination.

## **8. The role of the Petition Organiser**

8.1 The petition organiser will receive acknowledgement of receipt of the petition within 5 working days of its receipt by the District Council.

8.2 Where the petition is not accepted for consideration (see 9.1 to 9.4 for grounds for rejection of petitions), the petition organiser will be advised by the Petitions Officer of the rejection and the grounds for such rejection.

8.3 Where the petition is accepted for consideration, the petition organiser will be advised by the Petitions Officer within 10 working days of receipt by the District Council as to who the petition will be considered by, and the date, time and place of the meeting at which it will be considered, and will be invited to address the meeting for up to 3 minutes. The meeting may then ask the petition organiser questions on the subject matter of the petition.

8.4 The petition organiser may nominate another person to address the meeting and to answer any questions on the matter.

8.5 The petition organiser will be regularly informed by the Petitions Officer of any decisions in respect of the petition and will be formally notified of the outcome of the petition's consideration within 5 working days of such decision.

## **9. Petitions which will not be reported**

### **9.1 Duplicate Petitions**

Where more than one petition is received in time for a particular meeting, each supporting the same outcome on one matter, each petition organiser will be treated as an independent petition organiser, but only the petition organiser of the first petition to be received will be invited to address the relevant meeting. This does not prevent any other member of the public addressing the meeting during the specific public time allotted at each meeting. Where possible the Council will inform each petition organiser of the duplication and provide details if we are able.

### **9.2 Repeat Petitions**

A petition will not normally be considered where it is received within 6 months of another petition being considered by the District Council on the same matter.

### **9.3 Rejected Petitions**

Petitions will not be reported if in the opinion of the Petitions Officer, they are rude, offensive, defamatory, scurrilous or time-wasting, or do not relate to something which is the responsibility of the District Council, or over which the District Council has some influence.

9.4 Petitions relating to Planning and Licensing matters will not be considered outside of the proper consideration of the matter. So for example a petition following a planning decision by the appropriate committee will not be considered as there are proper statutory routes for appealing such decisions and these are laid out in the appropriate legislation.

## **10. Citizens Responsibilities**

Citizens must not be violent, abusive or threatening to Councillors or Council employees and must not wilfully harm things owned by the Council or employees.

## ARTICLE 4 - THE FULL COUNCIL

### 4.01 Meanings

- (a) **Policy Framework.** The policy framework means the following plans and strategies:
- (i) those required by Statute:
    - Performance Plan;
    - Community Strategy;
    - Crime and Disorder Reduction Strategy;
    - Local Transport Plan;
    - Plans and strategies which together comprise the Development Plan;
    - Budget - including the allocation of financial resources to services and projects, contingency funds, setting the Council Tax and decisions relating to the Control of the borrowing requirements.
  - (ii) those other plans and strategies adopted by the Council as part of the Policy Framework:
    - Council's Corporate Plan;
    - Food Law Enforcement Service Plan;
    - The plan and strategy which comprise the Housing Investment Programme;
  - (iii) those strategies which the Council has decided should be adopted by the Council:
    - Development Plan Policy
    - Financial Strategy
    - Treasury Management Policy
    - Commercial Investment Policy
    - Minimum Revenue Provision Policy
  - (iv) Any strategies proposed by one of its Policy Committees, or the Commercial Board which represent a major departure from existing Policy.

### 4.02 Functions of the Full Council

Only the Council will exercise the following functions:

- (a) Adopting and changing the Constitution
- (b) Approving, adopting or amending the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) Agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;

- (d) Appointing representatives to outside bodies unless the appointment has been delegated by the Council;
- (e) Adopting a Members Allowances Scheme as set out in Part 6 of this Constitution;
- (f) Changing the name of the area, or conferring the title of Honorary Alderman/woman.
- (g) Confirming the appointment or dismissal of the Head of Paid Service, Monitoring Officer and Chief Financial Officer;
- (h) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (i) Delegating functions to other local authorities and deciding whether or not to accept such a delegation from another local authority;
- (j) Determining any delegation to officers which does not fall within the purview of any Committee
- (k) Considering petitions in accordance with the Council's scheme ; and
- (l) All other matters which by law must be reserved to Council.

#### 4.03 **Council Meetings**

There are three types of Council meeting:

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

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

## ARTICLE 5 - CHAIRING THE COUNCIL

### 5.01 Role and Function of the Chairman of the Council

#### Chairing the Council Meeting

The Chairman of the Council will be elected by the Council annually. The Chairman of the Council will have the following responsibilities:

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 do not sit on Policy Committees or hold Committee Chairs are able to hold the Members of the Policy Committees and Committee Chairmen to account;
4. To promote public involvement in the Council's activities;
5. To be the conscience of the Council.

### 5.02 Role and Function of the Civic Chairman

The Civic Chairman will be appointed by the Council annually. The role of the Civic Chairman is:

- ***As a symbol of the authority.***

To be the Council's ambassador and to represent the Council at civic functions within the County boundaries.

- ***As a symbol of open society***

To promote inclusiveness and equality.

- ***As an expression of social cohesion***

To act as a link between the Council and the various community bodies and organisations.

The Civic Chairman will use the special responsibility allowance attached to the position in accordance with the Protocol on the management of the Civic Allowance set out in Part 4 of the Constitution.

## **ARTICLE 6 - THE COUNCIL'S COMMITTEES**

### **6.01 Policy Committees**

The Council will appoint 2 Policy Committees whose terms of reference will between them reflect the Council's Aims and Objectives and the Council's Community Leadership role.

The functions attributed to the Policy Committees are set out in Part 3 of this Constitution entitled "Responsibility for Functions".

### **6.02 Planning Committees**

The Council will appoint a Planning Committee which will be politically proportionate. The Committee will be responsible for determining planning applications and dealing with related matters.

The functions of the Committee is set out in Part 3 of this Constitution entitled "Responsibility for Functions".

### **6.03 Licensing & Appeals Committee**

The Council will appoint a Licensing and Appeals Committee which will be responsible for all the service areas within the Committee's remit.

The functions of the Committees are set out in Part 3 of this Constitution entitled "Responsibility for Functions".

### **6.04 Attendance by Members**

A Member of the Council whose Ward (but not the whole of the District) is directly affected by a matter to be discussed by a Committee or Sub-Committee is entitled to attend the meeting and speak, but shall not have the right to vote. The Ward Members' contribution will be limited to 5 minutes.

## **ARTICLE 7 - AREA COMMUNITY FORUMS**

### **7.01 Area Community Forums**

The Council will establish Area Community Forums in the North, Central and Southern areas of the District.

### **7.02 Form, Composition and Function**

The Forums will act as major consultees to the Council and aim to be inclusive of all sectors of the local population as well as organisations, the local community, local members of this Council, the County and Parish councils will be invited to attend.

The terms of reference of the Area Community Forums are set out in Part 3 of this Constitution entitled "Responsibility for Functions".

An annual report of the Area Community Forums activities and plans will be presented to a meeting of the Full Council.

### **7.03 Area Community Forums - Access to Information**

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

## **ARTICLE 8 - JOINT ARRANGEMENTS**

### **8.01 Arrangements to Promote Well Being**

The Council, 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.

### **8.02 Joint Arrangements**

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) Details of any joint arrangements including any delegations to joint committees will be found in the Council's Scheme of Delegation in Part 3 of this Constitution.

### **8.03 Access to Information**

- (a) The Access to Information Rules in Part 4 of this Constitution apply.
- (b) If the Joint Committee contains Members who are not on the executive of any participating authority then the Access to Information rules in Part VA of the Local Government Act 1972 will apply.

### **8.04 Delegation to and from Other Local Authorities**

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

### **8.05 Contracting Out**

The Council 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 9 - OFFICERS

### 9.01 Management Structure

- (a) **General.** The full Council may engage such staff (referred to as employees) as it considers necessary to carry out its functions.
- (b) **Strategic Management Team.** The full Council will engage persons for the following posts.

e.g.

Post	Functions and areas of responsibility
Chief Executive (also Head of Paid Service)	<p>Overall corporate leadership and operational responsibility (including overall management responsibility for all employees).</p> <p>Provision of professional advice to all political parties in the decision making process.</p> <p>Leadership of the team of Corporate Leadership Team in the achievement of the Councils corporate objectives and effective implementation of Council policy.</p> <p>Representing the Council on partnership and external bodies (as required by statute or the Council).</p> <p>Operational responsibility for organisational development, financial services, democratic services and elections.</p>

Post	Functions and areas of responsibility
Corporate Director and Chief Executive	To work with the Chief Executive in the delivery of the Council's vision, long-term and annual priorities and policies, to deputise where appropriate in her/his absence, to provide leadership for the Council's staff and to secure collaboration and effective partnership working.

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

The Council will designate the following posts as shown:

• Chief Executive	Head of Paid Service
• Monitoring Officer	Director of Corporate Services
• Chief Finance Officer	Director of Resources

Such posts will have the functions described in Article 9.02 - 9.04 below

- (d) **Structure.** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of employees. This is set out at Part 7 of this Constitution.

## 9.02 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 employees required for the discharge of functions and the organisation of employees.
- (b) **Restrictions 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.

## 9.03 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 with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council 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) **Promoting high ethical standards.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct by elected members of the District Council and the parish/town councils in the District.
- (d) **Proper Officer for Access to Information.** The Monitoring Officer will ensure that decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (e) **Providing Advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, and probity to all Councillors.
- (f) **Restrictions on Posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

#### 9.04 **Functions of the Chief Finance Officer**

- (a) **Ensuring Lawfulness and Financial Prudence of Decision Making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council 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 Leadership.** The Chief Finance Officer will contribute to the corporate leadership 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, and probity 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.

#### 9.05 **Duty to Provide Sufficient Resources to the Head of Paid Service, Monitoring Officer and Chief Finance Officer**

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

9.06 **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.

9.07 **Employment**

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

## **ARTICLE 10 - DECISION MAKING**

### **10.01 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 relating to particular areas of functions. This record is set out in Part 3 of this Constitution.

### **10.02 Principles of Decision Making**

All decisions made by the Council and its Committees will be made in accordance with the following principles:

- (a) The rule of law;*
- (b) Proportionality (i.e. the action must be proportionate to the desired outcome);*
- (c) Due consultation and the taking of professional advice from officers;*
- (d) Respect for human rights;*
- (e) A presumption in favour of openness; and*
- (f) Clarity of aims and desired outcomes.*

### **10.03 Decision Making by the Full Council**

The Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### **10.04 Decision Making by Other Committees and Sub-Committees Established by the Council**

Other Council Committees and Sub-Committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

### **10.05 Decision Making by Council Bodies Acting as Tribunals**

The Council, a Committee 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 ensure that their actions and decisions accord with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention for the Protection of Human Rights and fundamental freedoms.

# **ARTICLE 11 - FINANCE, CONTRACTS AND LEGAL MATTERS**

## **11.01 Financial Management**

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 9 of this Constitution.

## **11.02 Contracts**

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

## **11.03 Legal Proceedings**

The Head of Corporate Services is authorised to initiate the institution, defence or participation 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 Head of Corporate Services considers that such action is necessary to protect the Council's interests. The Senior Solicitor is authorised to act in similar terms in the absence of the Head of Corporate Services.

## **11.04 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 Head of Corporate Services 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.

All contracts entered into on behalf of the Council in the course of the discharge of a policy function shall be made in writing and in accordance with the Council's Contract Standing Orders.

## **11.05 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Corporate Services. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Head of Corporate Services should be sealed. The affixing of the Common Seal will be attested by the Head of Corporate Services or some other person authorised by him/her.

# ARTICLE 12 - REVIEW AND REVISION OF THE CONSTITUTION

## 12.01 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.

- (a) **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 better to achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:
- 1) Observe meetings of different parts of the Member and officer structure;
  - 2) undertake an audit 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.

## 12.02 Changes to the Constitution

- (a) **Approval.** Changes to the Constitution will only be approved by the Council.
- (b) **Change from a Mayoral Form of Executive to another form of Executive or to a Committee Structure, or from a Committee Structure to a Mayoral Form of Executive.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and must hold a binding referendum. The change will not take effect until the end of the mayor's term of office.
- (c) **Change from a Leader and Cabinet form of Executive to a Committee Structure, or Vice Versa.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

# ARTICLE 13 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

## 15.01 Suspension of the Constitution

- (a) **Limit to Suspension.** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the Council to the extent permitted within those Rules and the law.
- (b) **Procedure to Suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- (c) **Rules Capable of Suspension.** The Procedural Rules set out in Part 4 may be suspended in accordance with Article 25.1 of that section;

## 15.02 Interpretation

The ruling of the Chairman of 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.

## 15.03 Publication

- (a) The Head of Corporate Services will provide a copy of this Constitution in electronic form to each Member of the authority following the Council's Annual Meeting, and shall ensure that an up to date version is available at all time on the Members Portal.
- (b) The Head of Corporate Services 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.