

Article 1 - The Constitution

1.1 Powers of the Council

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

1.2 The Constitution

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

1.3 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 identified 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.

1.4 Interpretation and Review of the Constitution

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

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

Article 2 - Members of the Council

2.1 Composition and eligibility

- (a) **Composition** - The Council will comprise 74 members, otherwise called Councillors. Councillors will be elected by the voters of each electoral division 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 Shropshire (not including Telford and Wrekin) or those living or working there will be eligible to hold the office of Councillor.

2.2 Election and terms of Councillors

Election and terms – The regular election of all Councillors will be held on the first Thursday in May every four years from 2009. The terms of office of Councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

2.3 Roles and functions of all Councillors

- (a) **Key roles** - All Councillors will:
 - (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
 - (ii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision – making;
 - (iii) effectively represent the interests of their electoral division and of individual constituents 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 for constituents and act as their advocate in resolving particular concerns or grievances;
 - (iv) respond to constituents' enquiries and representations, fairly and impartially;
 - (v) participate in the governance and management of the Council;
 - (vi) balance different interests within the electoral division and represent the electoral division as a whole;

- (vii) be involved in decision-making;
- (vii) be available to represent the Council on other bodies;
- (ix) maintain the highest standards of conduct and ethics; and
- (x) take part in member development and training.

(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 is defined in the Access to Information Rules in Part 4 of this Constitution.

2.4 **Conduct**

Councillors will at all times observe the Members’ Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution, and comply with any reasonable request of the Monitoring Officer and the Council’s Standards Committee.

NOTE: More detail as to a Councillor’s role is explained in Part 9 of the Constitution entitled “Members – Roles and Expectations”.

2.5 **Allowances**

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

Article 3 - Citizens and the Council

3.1 Citizens' Rights

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

- (a) **Voting** - Citizens on the electoral roll for the area have the right to vote.
- (b) **Information** - Citizens have the right to:
 - (i) attend meetings of the Council, Cabinet and its Committees, 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) attend meetings of the Cabinet when key decisions are being considered;
 - (iv) see reports and background papers, and any records of decisions made by the Council its committees and the Cabinet;
 - (v) inspect the Council's accounts and make their views known to the external auditor; and
 - (vi) such other information as may be specified in the Council's Freedom of Information publication scheme.
- (c) **Participation** - Citizens have the right to participate in Public Question time at the beginning of Council, Cabinet and certain other committees and contribute to investigations by Overview and Scrutiny Committees. In addition, public speaking is permitted at various committees, the rules of which are set out in more detail within Part 4 of this Constitution. Citizens have the right to submit petitions to Councillors or officers about matters that are of local concern.
- (d) **Complaints** - Citizens have the right to complain to:
 - (i) the Council itself under its complaints scheme;
 - (ii) the Ombudsman after using the Council's own complaints scheme;
 - (iii) the Monitoring Officer about a breach of the Councillors' Code of Conduct.

3.2 Citizens' responsibilities

Part 2 – Article 3

- (a) Citizens must not be violent, abusive or threatening to Councillors or officers and must not wilfully harm things owned by the Council, Councillors or officers.
- (b) Citizens are legally required to register to vote and actively encouraged to exercise their vote as part of their commitment to citizenship and local democracy.

Article 4 - The Full Council

4.1 Meetings

The full Council will decide the Council's budget and policy framework.

(a) **Policy Framework** - The policy framework means the following plans and strategies: (to include those required by law even if not specifically referred to in the list below).

- Annual Library Plan;
- Children and Young People's Plan;
- Community Strategy;
- Council's Corporate Plan;
- Crime and Disorder Reduction Strategy;
- Licensing Authority Policy Statement;
- Local Transport Plan;
- Plans and strategies which together comprise the Local Development Framework, including saved policies from structure, minerals, waste or other Local Plans
- Waste Strategy
- Quality Protects Management Action Plan;
- School Organisation Plan
- Sustainable Community Strategy
- The plan and strategy which comprise the Housing Investment Programme;
- Youth Justice Plan;

(b) **Budget** - The budget includes the allocation of financial resources to different services and projects, proposed reserves, 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.

4.2 Functions of the Full Council

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer; n.b. **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 section 32 or 43 of the Housing Act 1985.
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules, making decisions about any matter in the discharge of a Cabinet function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to, or not wholly in accordance with, the budget;
- (d) appointing the Leader;
- (e) electing a Chairman and Vice Chairman;
- (f) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (g) appointing representatives to outside bodies unless the appointment is a Cabinet function or has been delegated by the Council;
- (h) adopting an allowances scheme;
- (i) changing the name of the area;
- (j) confirming the appointment of the Head of Paid Service;
- (k) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (l) all local-choice functions set out in Part 3 of the Constitution which the Council decides should be undertaken by itself rather than the Cabinet; and
- (m) all other matters which, by law, must be reserved to Council;
- (n) to determine the meaning of 'significant' in relation to key decisions (see Article 13).

4.3 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 the Constitution.

4.4 Responsibility for functions

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

Article 5 – Chairing the Council

Title of the Person Chairing Council Meetings

5.1 Role and Function of the Chairman

The Chairman will be elected by the Council.

The Chairman of the Council and in their absence, the Vice-Chairman, will have the following role and function:

Ceremonial Role

The Chairman is the civic leader of the Council. He/she will be the principal representative of the Council on ceremonial occasions and in representing the Council at other ceremonial events.

Term of Office

The term of office of the Chairman will be for a one year period at the end of which the Vice Chairman shall have the opportunity to take the Office of Chairman.

5.2 Chairing the Council Meeting

The Chairman will be elected by the Council annually. The Chairman 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;
4. to ensure that the Council meeting is the place at which members who are not on the Cabinet are able to hold the Cabinet to account;
5. to promote public involvement in the Council's activities; and
6. to be the conscience of the Council.

5.3 Chairman's Role in Urgent Decisions Outside the Budget or Policy Framework

Under the Budget and Policy Procedure Rules, in the absence of the Chairman of the relevant Scrutiny Committee, the Chairman of the Council or in the absence of both, the Vice Chairman can give consent to such a decision.

Article 6 Overview and Scrutiny Committees

- 6.1 The overview and scrutiny function is a central element to this constitution. Overview and Scrutiny Committees will meet in public to discuss and make recommendations on the review of policies and hold Cabinet to account for their actions. They will also have a key role in considering other matters of local concern.
- 6.2 The guiding principle for the work of scrutiny is that it should be consensual, non-political and positive. The emphasis of the work should be on making a proactive and positive contribution to the review of policy and service improvement and the discharge of the Council's functions. This is best achieved by an inclusive process covering Members, partners, service users and staff.
- The Council will appoint four Committees.
 - The Transformation and Improvement Overview and Scrutiny Committee will be responsible for corporate governance and monitoring and evaluating the effectiveness of Shropshire Council and its partnerships.
 - The Overview and Scrutiny Committees may undertake reviews through task and finish groups and involve other Councillors with an interest. A protocol for Task and Finish Groups is set out in Part 5.
 - The People Overview and Scrutiny Committee will include in its work education matters and have statutory representatives as voting members within its overall membership for the relevant matters.
 - All Scrutiny Committees may also appoint non-voting representatives as co-opted members, as and when required.
 - Each Overview and Scrutiny Committee will exercise responsibility for the use of any finances made available to them.
 - An item shall be included on the agenda for every ordinary Council meeting to facilitate the review of the Scrutiny Committees.
 - The Overview and Scrutiny Committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.
 - The Chairs of the other three Committees will all sit on the Transformation and Improvement Overview and Scrutiny Committee to focus on strategic issues for overview and scrutiny and maintain regular dialogue and engagement with senior officers,
- 6.3 Overview and Scrutiny should not be political and should have regard to four principles of good scrutiny:
- provide constructive “critical friend” challenge
 - amplify the voice and concerns of the public
 - be led by independent people who take responsibility for their role
 - drive improvement in public services

Article 7 – The Cabinet

7.1 Role

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

7.2 Form and Composition

The Cabinet will consist of the Leader of the Council, together with at least 2, but not more than 9, councillors appointed to the Cabinet by the Leader.

7.3. Leader and Deputy Leader

The Leader will be a councillor elected for a term of four years to the position of Leader by the Council. The Leader will also appoint one or more Cabinet member(s) to be his/her Deputy Leader. The Leader will hold office until:

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

In the event that the Leader no longer holds office as described above, the Deputy Leader will carry out the role and duties of Leader until the next meeting of the Council when the Council shall elect a Leader.

The Deputy Leader, unless he/she resign as Deputy Leader or ceases to be a member of the Council or is removed by the Leader if he thinks fit, is/are to hold office until the end of the term of office of the Leader.

(NB See Part 4 – Council Procedure Rules – 2.2 (vi) in relation to the election of Leader at the annual meeting.)

7.4 Other Cabinet Members

Other Cabinet members will be councillors appointed to the Cabinet by the Leader. Cabinet members will hold office until

- (a) they resign from office; or
- (b) they are no longer councillors; or
- (c) they are removed from office by resolution of the Council;
- (d) they are removed from office by the Leader who must give written notice of any removal to the Proper Officer.

7.5 Proceedings of Cabinet

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

7.6 Responsibility for Functions

The Leader will present to Council the list in Part 3 of this Constitution setting out those Cabinet functions which are the responsibility of the Cabinet and which individual members of the Cabinet, officers or joint arrangements are responsible for the exercise of particular Cabinet functions.

Article 8 – Regulatory and other Committees

8.1 Regulatory and Other Committees

Part 3 of the Constitution sets out the separate committees the Council intends to appoint to carry out various functions of the Council. The Council will appoint the committees set out in the left-hand column of the table entitled 'Responsibility for Council Functions' in Part 3 of this Constitution. The terms of reference and the functions of each committee are also set out within that table.

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Article 11 – Joint Arrangements

11.1 Arrangements to Promote Well-being

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

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

11.2 Joint Arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Cabinets to exercise functions which are not Cabinet functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (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, 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 if the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint committee any councillor who is a member for an electoral division which is wholly or partly contained within the area. Political balance requirements do not apply to such appointments.
- (e) Details of any joint arrangements including any delegations to joint committees will be found in the Council's Scheme of Delegations in Part 3 of this Constitution.

11.3 Access to Information

- (a) 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;
- (b) 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.

11.4 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) Subject to (d) below, the decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting
- (d) the decision whether or not to accept a delegation from another local authority in respect of cross border planning applications shall be made by the relevant Planning Committee.
- (e) **Contracting Out**

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

Article 12 – Officers

12.1 Management Structure

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

Post	Functions and Areas of Responsibility
Chief Executive (and Head of Paid Service)	Overall corporate management and operational responsibility (including overall management responsibility for all officers). Provision of professional advice to all parties in the decision-making process. Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions. Representing the Council on partnership and external bodies (as required by statute of the Council).
Corporate Director of Health and Care	Adult Social Services and Safeguarding, Joint Commissioning with PCT, Culture, Leisure and Adult Learning, Housing Services.
Corporate Director Places	Planning, Highways and Transportation, Public Protection, Environmental Maintenance
Corporate Director People	Education and Training, Lifelong Learning, Social Care and Safeguarding, Multi Agency Working.

- (c) **Head of Paid Service, Monitoring Officer and Chief Financial Officer.**
The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Assistant Director of Legal and Democratic Services	Monitoring Officer
Corporate Head of Finance	Chief Finance Officer

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

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

12.2 Functions of the Head of Paid Service

- (a) **Discharge of Functions by the Council.** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Restrictions on 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.

12.3 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.
- (b) **Ensuring Lawfulness and Fairness of Decision-making.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to 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) **Dealing with Code of Conduct Complaints.** The Monitoring Officer will make arrangements for dealing with complaints that a Member of Shropshire Council or a Town and Parish Council has breached the Code of Conduct for Members. This will include making arrangements for the conduct of an investigation where appropriate.
- (e) **Proper Officer for Access to Information and any Procedure Rules.** 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.
- (f) **Advising Whether Cabinet Decisions are within the Budget and Policy Framework.** The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.
- (g) **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. The Monitoring Officer shall also provide advice to councillors in relation to the Code of Conduct.

- (h) **Restrictions on Posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.
- (i) **Appointment of Deputy.** The Monitoring Officer shall appoint a deputy to act in his/her absence.
- (j) **Register of Interests.** The Monitoring Officer shall keep a Register of Interests and a Register of Gifts and Hospitality and regularly remind employees and Members to keep this up to date.
- (k) **Town and Parish Councils.** The Monitoring Officer shall undertake all statutory Monitoring Officer functions in respect of Town and Parish Councils, within the area of the Authority and to provide support and advice to such Councils in maintaining probity, including advice on the Code of Conduct as well as the requirement for Members to notify him or her of financial or other interests.

12.4 Functions of the Chief Finance Officer

- (a) **Ensuring Lawfulness and Financial Prudence of Decision-making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council or to the Cabinet in relation to a Cabinet function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (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 the elected mayor 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.
- (f) **Advising whether Cabinet Decisions are within Budget.** The Chief Finance Officer will advise whether the decisions of the Cabinet are in accordance with the Budget.

12.5 **Duty to Provide Sufficient Resources to the Monitoring Officer and Chief Finance Officer**

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

N.B. The relevant statutory references for the Monitoring Officer and the Chief Finance Officer are sections 5 and 6 The Local Government and Housing Act 1989 and section 151 Local Government Act 1972.

12.6 **Conduct**

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

12.7 **Employment**

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

Article 13 – Decision-Making

13.1 Responsibility for Decision-making

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

13.2 Principles of Decision-making

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

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes;
- (f) consideration of alternative options;
- (g) recording reasons for the decision, including details of any alternative options considered and rejected; and
- (h) that in relation to decisions of the Cabinet that these are lawful and consistent with the powers delegated by the Council.

13.3 Types of Decision

- (a) **Decisions Reserved to Full Council.** Decisions relating to the functions listed in Article 4.2 will be made by the full Council and not delegated.
- (b) **Key Decisions:**
 - (i) A key decision is a Cabinet decision which is likely:
 - (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or
 - (b) to be significant in terms of its effect on communities living or working in an area comprising two or more electoral divisions in the area of the local authority.

NOTE: The current Financial and Contract Rules recommend any financial decision over and above a budget value of £500,000 to be a key decision.

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

13.4 Decision-making by the Full Council

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

13.5 Decision-making by the Cabinet

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

13.6 Recommendations made by Overview and Scrutiny Committees

Overview and Scrutiny Committees will follow the Overview and Scrutiny Procedures Rules set out in Part 4 of this Constitution when considering any matter.

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

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

13.8 Decision-making by Council Bodies Acting as Tribunals

The Council, committee, sub-committee or working group, 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 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.

13.9 Cabinet Acting Outside its Existing Powers

In the event of the Cabinet acting outside its existing powers, the call-in arrangements will be automatically activated.

Article 14 – Finance, Contracts and Legal Matters

14.1 Financial Management

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

14.2 Contracts

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

14.3 General Emergency Powers

The Chief Executive shall, having as far as possible conferred with the Leader in the event of civil disasters or other issues of extreme emergency, have power to make decisions for the protection of the County and its inhabitants, and which cannot be dealt with in accordance with the normal decision making process of the Council

14.4 Legal Proceedings

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

14.5 Authentication of Documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Assistant Director of Legal and Democratic 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.

Any contract with a value exceeding £30,000 entered into on behalf of the local authority in the course of the discharge of a Cabinet function shall be made in writing. Such contracts must either be signed by two duly authorised officers of the authority or made under the common seal of the Council attested by at least one officer in accordance with the Contracts Procedure Rules.

14.6 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Assistant Director of Legal and Governance. 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 either physically or, where appropriate, electronically, to those documents which in the opinion of the Assistant Director of Legal and Governance should be sealed. The affixing of the Common Seal will be attested by the Assistant Director of Legal and Governance or some other person authorised by him.

Article 15 – Review and Revision of the Constitution

15.1 Duty to Monitor and Review the Constitution

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

15.2 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.

15.3 Changes to the Constitution

- (a) **Approval.** Changes to the Constitution will only be approved by the full Council, subject to the Assistant Director of Legal and Democratic Services making routine revisions, providing clarity where necessary and by replacing references to any repealed or amended, consolidated or replacement legislation, or secondary legislation with current references.
- (b) **Change from a Leader and Cabinet Form of Executive to Alternative Arrangements 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 16 – Suspension, Interpretation and Publication of the Constitution

16.1 Suspension of the Constitution

- (a) **Limit to Suspension.** The Articles of this Constitution may not be suspended. The rules specified below may be suspended by the full Council to the extent permitted within those rules and the law.
- (b) **Procedure to Suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1. The extent and duration of the suspension and the reasons for the suspension will be recorded in the minutes of all meetings to which the suspension applies as well as the minutes of the meeting which resolved to suspend those rules (if different).
- (c) **Rules Capable of Suspension.** The following Rules may be suspended in accordance with Article 16.1:
 - (i) Council Procedure Rules.

16.2 Interpretation

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

16.3 Publication

- (a) The Chief Executive will give a printed copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.
- (b) The Chief Executive 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.