

Part 2

Articles of the Constitution

Article 1 - The Constitution

1.1 Powers of the Council

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

1.2 The Constitution

The Constitution, and all its appendices, is the Constitution of the Douglas City Council ("the Council"). The Constitution ensures that the Council's decision making and governance arrangements help it to achieve its corporate aims, objectives and priorities effectively and efficiently. It also ensures that the Council meets its legal duties.

1.3 Purpose of the Constitution

The purpose of the Constitution is to:

- (a) enable the Council to provide clear leadership to the community in partnership with the public, businesses and other organisations;
- (b) support the active involvement of the public in the process of local authority decision-making;
- (c) help Members represent their constituents effectively;
- (d) enable decisions to be taken efficiently, effectively and transparently, with due regard to probity and equity;
- (e) create an effective means of holding decision-makers to public account;
- (f) ensure that no one will review a decision in which he or she was directly involved;
- (g) ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions; and
- (h) provide for the effective and improving 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 the option that 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 13.

1.5 Revocation

The provisions of the Constitution took effect on 1 May 2012 at which time all other Standing Orders, Financial Regulations and Schemes of Delegation were revoked, although the validity of anything done under those arrangements prior to that date was not affected. The Constitution shall continue in full force and effect until such time as it is amended or revoked by the Council. Amendments to it are recorded on the section "Contents, Title and Revisions."

Article 2 - Members of the Council

2.1 Composition and Eligibility

(a) Composition

The Council comprises 12 Councillors, otherwise called Members. Three Members will be elected by the voters of each ward.

In addition to the elected Members, the Council appoints to the Pensions Committee an Independent Member.

(b) Eligibility

Only registered voters who are 18 years of age and over on the day of the election will be eligible to hold the office of Member.

2.2 Election and Terms of Office of Members

The regular election of Members will be held on such a day in April as determined by the Government under the Local Elections Act 1986 every four years. A Member will be elected for a four year term. If a Council seat becomes vacant for any reason, there will be a by election to elect a new Councillor to fill the vacancy for the remainder of the four year term for that seat.

Where a vacancy occurs within 6 months before the day on which the members would normally have retired, a by-election will not be held as above, unless the total number of unfilled vacancies in the Council exceeds one third of the Members.

Independent Members shall be appointed by the Council on the recommendation of the appropriate Committee following advertising of the vacancy and the selection by the Committee of a preferred candidate.

The appointment of Independent Members will be for a two-year period, concurrent with elected Members' terms of office, and may be extended for a further term of two years. The appointments shall be advertised as vacant, and applications invited, at least every four years.

2.3 Roles and Functions of all Members

(a) Key Roles

All elected Members will:

- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate functions, taking a Borough-wide view;
- (ii) represent their communities and constituents whose views they will bring into the Council's decision making process;
- (iii) balance different interests identified within their Ward and represent their Ward as a whole;
- (iv) respond to constituents' enquiries and representations, fairly and impartially;
- (v) participate in the governance of the Borough and management of the Council;
- (vi) be available to represent the Council on other bodies; and
- (vii) maintain the highest standards of conduct and ethics, and show respect for fellow Members, Officers and the community;

(viii) attend meetings to which they are appointed or, if they are unable to attend, present their apologies to the Chief Executive with their reason for absence.

(b) **Rights and Duties**

(i) Members 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. The Chief Executive may refuse inspection of documents where the documents are, or in the event of legal proceedings would be, protected by privilege or where access is sought for improper or ulterior motives¹;

(ii) Members will not make public any information that is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Member or officer entitled to know it;

(iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Procedure Rules in Part 4 of the Constitution;

(iv) No Member can issue an order or make a contract or any other arrangements binding upon the Council for works to be carried out or for any goods or services to be purchased by or on behalf of the Council;

(v) A Member does not have any right to inspect or enter any land unless specifically authorised to do so by the Council.

(c) **Independent Members**

Independent Members of Committees should demonstrate the knowledge and skills necessary to perform these roles, and to fulfil the requirement for an independent input to the respective Committees’ decision making processes.

2.4 **Conduct**

Members will at all times observe the Members’ Code of Conduct set out in Part 5 of the Constitution.

The Council is required to maintain and update a Register of Interests of its Members and Independent Committee Members. The Register is available for public inspection at the City Hall.

2.5 **Allowances**

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

2.6 **Appointment of Independent Members**

In order to promote public confidence in the good governance and standards of the Council, the Council appoints an Independent Member to the Pensions Committee, who has no other link to the Council.

All Independent Members’ positions will be advertised at least every four years and applications considered by the respective Committee which will produce a recommendation to the Council.

¹ See the Access to Information Procedure Rules and the Protocol for Member/Officer Relations.

Article 3 - The Public and the Council

3.1 The Rights of Members of the Public

Members of the public have the following rights:

(a) Voting

A member of the public who is on the electoral roll for the Borough has the right to vote in local elections.

(b) Information

A member of the public has the right to:

- (i) attend meetings of the Council except where confidential or exempt information is likely to be disclosed, and that part of the meeting is therefore held in private;
- (ii) see reports and background papers, and any records of decisions made by the Council unless they contain confidential or exempt information; and
- (iii) inspect the Council's accounts and make their views known to the external auditor.

(These rights are explained in more detail in the Access to Information Procedure Rules in Part 4 of this Constitution.)

(c) Complaints

A member of the public has the right to complain to:

- (i) the Council itself under its complaints procedure²;
- (ii) the Council's Standards Committee about a breach of the Members' Code of Conduct.

3.2 Responsibilities

A member of the public who is violent, abusive or threatening to any other person whilst at a meeting or on Council-owned property or who wilfully harms property owned by the Council may be excluded by the Chief Executive from any meetings or any property owned by the Council.

3.3 Equal opportunities

In all its dealings with members of the public the Council will endeavour to provide the highest level of services and aim to distribute those services fairly across the community except where they need to (or by law must) be targeted to meet special needs, regardless of age, gender/non-binary, marital status, disability, colour, race, nationality, ethnic and national origin, religious beliefs or sexual orientation and will thoroughly investigate any complaint of noncompliance with this policy.

² The Complaints Procedure is set out in Part 5 of this Constitution

Article 4 - The Full Council

4.1 Meanings

(a) Policy Framework

The policy framework comprises the following plans and strategies:

- Corporate Plan
- Housing Strategy
- Capital Strategy
- Asset Management Strategy
- Treasury Management Policy
- Risk Management Strategy – Intranet only
- Procurement Strategy
- Equalities Policy
- Medium Term Financial Strategy
- Anti Fraud and Corruption Policy

(b) Budget

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Rate base, setting the Council Rate and decisions relating to the control of the Council's borrowing requirements and the control of its capital expenditure.

4.2 Functions of the full Council

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) formulating, amending, approving and adopting the Policy Framework and the Budget;
- (c) agreeing and/or amending the terms of reference for Committees and deciding on their composition;
- (d) appointing the Chairs of all Committees, and appointing the members of the Standards Committee and the Pension Committee;
- (e) appointing the Council Leader;
- (f) electing the Mayor annually;
- (g) appointing Members to be representatives of the Council unless the appointment has been delegated by the Council;
- (h) delegating functions to other public authorities or their executives and deciding whether or not to accept such a delegation from another public authority;
- (i) management of the Members allowance scheme under Article 2.5;
- (j) conferring the title of Honorary Freeman;
- (k) confirming the appointment of the Chief Executive (Head of Paid Service);

- (l) determining any delegation to officers which does not fall within the purview of any Committee;
- (m) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal bills; and
- (n) all other matters that by law must be reserved to Council.

In addition to the above, the full Council may exercise the powers delegated to a committee, sub-committee or officer before any decision has been made on the substantive matter.

4.3 Council Meetings

There are three types of Council meetings:

- (a) the Annual Meeting;
- (b) Ordinary Meetings;
- (c) Special Meetings;

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

4.4 Responsibility for Functions

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are attributed to the respective Committees.

Article 5 - Chairing the Council

5.1 The Mayor

The Municipal Borough of Douglas came in to being in 1896, and has had a Mayor since that time.

The Mayor is the first citizen of the City.

5.2 Ceremonial Role

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

- as Douglas' first citizen will act as the non-political and ceremonial head of the City;
- the office of Mayor of Douglas, together with the resources which the Office represents, are intended to benefit both the Town and its public;
- The Mayor as "first citizen" will endeavour to focus engagement on promoting the Council's vision and Corporate Plan whilst undertaking this traditional and civic role.

5.3 Civic Duties

In addition to the ceremonial role the Mayor and in their absence the Deputy Mayor will have the following responsibilities:

- to uphold and promote the purposes of the Constitution;
- to chair and preside over meetings of the Council so that its business can be carried out effectively and with regard to the rights of Members and the rest of the community;
- 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 Members of the Executive Committee are able to hold Members of that Committee to account;
- to promote public involvement in the Council's activities;
- to attend such civic and ceremonial functions as the Council and they consider to be appropriate.

5.4 The Deputy Mayor

The Deputy Mayor will have the following responsibilities:

- to assist and deputise for the Mayor in carrying out the responsibilities of that Office;
- to attend such civic and ceremonial functions as the Council and the Mayor may determine to be appropriate.

5.5 Election of Mayor

- (a) The election of the Mayor is to be decided by a majority of the Members present and voting on the matter at the meeting. The election will take place at the Special Private Council Meeting convened on the last Friday in March under Standing Order 7.
- (b) The out-going Mayor, will continue in office until their successor becomes entitled to act, is required to preside, if present at the meeting, is entitled to vote in the election, and in the event of an equality of votes, may exercise a second or casting vote. If the out-going Mayor is not present at the meeting, then the Deputy Mayor

will preside. The Deputy Mayor will have the same voting rights i.e. an initial vote and, in the event of equality of voting, a second or casting vote, as the Mayor.

- (c) Problems (legally) may arise if the outgoing Mayor or Deputy Mayor is a candidate for the post again (i.e. a second or subsequent term), as they have a direct interest. The Mayor/Deputy Mayor should therefore absent themselves from the Chair of the meeting during the Selection, but may remain within the meeting and may vote.
- (d) Should the outgoing Mayor in an election year be defeated at the polls preceding the Annual Meeting, they will still preside at the Annual Meeting until their successor has been elected and has made the necessary declaration of acceptance of office but shall only have a casting vote.

Article 6 - The Executive Committee

6.1 Role

The Executive Committee will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under the Constitution. Specific responsibilities of the Executive Committee are set out in Part 3.

6.2 Form and Constitution

The Executive Committee will consist of the Leader, the Chairs of:

- Environmental Services Committee;
- Regeneration and Community Committee; and
- Housing and Property Committee;

and one other Member elected by the Council, who shall be neither a Member nor Chair of any of those three Committees, nor the Mayor nor Leader of the Council.

At any meeting of the Executive Committee, if a Committee Chair is unable to attend, the Vice-Chair of that Committee may attend as a substitute.

6.3 Leader

The Leader will be a Councillor elected to the position of Leader by the Council. The Leader will hold office for two years or until the date of the private Council meeting that takes place under Standing Orders 8 and 81 unless they:

- (a) resign from the office;
- (b) are no longer a Councillor; or
- (c) become Mayor.

The Vice-Chair elected by the Committee at its first meeting shall in the absence or inability to act of the Leader, act as Leader on a temporary basis and while doing so shall be styled "Deputy Leader" and not exercise any other Committee Membership rights.

6.4 Other Executive Committee Members

Other Executive Committee Members will hold office for two Municipal Years unless they:

- (a) resign from office;
- (b) are no longer Councillors; or
- (c) become Mayor.

6.5 Proceedings of the Executive Committee

Proceedings of the Executive Committee will take place in accordance with the Procedure Rules set out in Part 4 of this Constitution.

6.6 Responsibility for Functions

The Council will maintain a list in Part 3 of this Constitution setting out the functions for which each Committee, including the Executive Committee, is responsible.

6.7 Committees

The Council will appoint Committees to be responsible for the development, oversight and execution of policy and to make decisions on matters delegated to the respective Committee under the Scheme of Delegation in Part 3. Such Committees will be made up of Members as

selected by the Executive Committee and generally will not be public meetings, although the Chief Executive in consultation with the Chair may invite persons with particular expertise to a meeting.

Article 7 - Regulatory and other Committees

7.1 Regulatory and other committees

The Council will appoint the Committees set out in Part 3 of this Constitution entitled "Responsibility for Functions and Scheme of Delegation" to discharge the functions described in that Part.

7.2 These Committees include:

Pensions Committee

Standards Committee

Article 8 – The Standards Committee

8.1 Standards Committee

The Council will appoint a Standards Committee, which will be tasked with promoting and maintaining high standards of conduct within the Council, assisting Members in observing the Code of Conduct, and deciding on any case of alleged breach.

The Council will, at its meeting every two years in accordance with Standing Order 8, appoint a Member to act as Chair of the Standards Committee whenever the need arises. Two further Members will be appointed by the Council on a temporary basis when such need arises, and they together with the Chair will comprise a Standards Committee for the specific purpose.

“Specific Need” will be on receipt by the Chief Executive of an allegation of breach of Standing Orders or the Code of Conduct, or the Chief Executive in consultation with the Leader of the Council identifying the review of procedures or some other issue within the remit of the Standards Committee requires decision. The Standards Committee will be dissolved once its purpose is fulfilled and has been reported on to the Council.

8.2 Composition

The Standards Committee will comprise the Chair appointed by the Council, together with two other Members to be appointed by the Council as required.

Should any matter arise for consideration by the Standards Committee in which the Chair has an interest or is conflicted, the Mayor and the Leader of the Council in consultation may nominate another Council Member to act as Chair for the consideration of that matter.

8.3 Proceedings of the Standards Committee

Proceedings of the Standards Committee shall take place in accordance with the Council Procedure Rules, as set out in Part 4 of the Constitution.

8.4 Roles and Functions

The terms of reference for the Standards Committee are set out in Part 3 of this Constitution, entitled “Responsibility for Functions”, and include the following roles and functions:

- (a) To consider any report referred to it by the Chief Executive, Assistant Chief Officer (Democratic Services), or other investigating officer in relation to any allegation of improper conduct by a Member; and to deal with such allegation through the established procedures;
- (b) To review any procedure, protocol, code or other matter referred to it by the Chief Executive as needing review and to recommend to the Council any changes it considers appropriate;
- (c) To consider any training needs in relation to Members’ observance of the Constitution, where the Chief Executive in consultation with the Leader decides that such consideration is necessary, and to make appropriate recommendations to the Chief Executive or to the Council.

Article 9 - Joint Arrangements

9.1 Arrangements to Promote the Area

To promote the economic, social or environmental well-being of its area, the Council may:

- (a) enter into arrangements or agreements with any person or body;
- (b) work with any person or body, or help them with their activities or the coordination of those activities; and
- (c) exercise on behalf of that person or body any functions of that person or body, in accordance with any legislative constraints imposed upon the Council.

9.2 Joint Arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executive bodies 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.

9.3 Access to Information

The Access to Information Procedure Rules in Part 4 of this Constitution apply.

9.4 Delegation to and from other local authorities

- (a) The Council may, by agreement, delegate functions to another public authority or, in certain circumstances, the executive body of another public authority and also accept such a delegation from another public authority.
- (b) Only the full Council can decide to delegate functions to another public authority or accept delegated functions from another public authority.

9.5 Contracting out

The Council may contract with another person for them to carry out functions that could be performed by an officer. The functions must be under contracting arrangements providing for the person to act as the Council's agent, but ensuring that, there will not be any delegation of the Council's discretionary decision making powers.

9.6 Partnership Working

The Council will be working with existing partners and creating new partnerships that will assist the Council in fulfilling its corporate vision and objectives. In addition the way in which the Council delivers some of its services and functions to the public and the community will change in order to ensure value for money is delivered. In part this will be achieved through more creative and effective partnership working with Government Departments, other local authorities, and third sector organisations.

No such partnership will be entered into without the approval of the Council or the appropriate Committee.

9.7 **Working with Third Sector Organisations - Policy**

Approved by Executive Committee 1st March 2013 and by Council 13th March 2013.

That the Council will engage with a Third Sector Organisation in the provision of service delivery, where appropriate, providing that the Third Sector Organisation:

- (a) is based on the Island and is delivering services in Douglas;
- (b) is non-Governmental;
- (c) is value-driven for the social good;
- (d) is not party political;
- (e) is re-investing any financial surpluses to further social, environmental or cultural objectives that bring a significant community benefit to Douglas;
- (f) is capable, and has the capacity of providing the service(s) to the standards required in the public sector, and of the Council in particular;
- (g) has the sustainable appropriate skills, knowledge infrastructures, and resources in place to realise full potential; and
- (h) is shown to deliver 'value for money' in the provision of the service(s) involved.

Article 10 – Officers

10.1 Management Structure

(a) General

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

(b) Chief Officers

The Council will engage persons for the following posts, who will be designated Chief Officers, with the responsibilities set out below:

Post	Functions and Areas of Responsibility
Town Clerk & Chief Executive	<p>As Head of Paid Service overall management responsibility for all officers.</p> <p>As Chair of the Chief Officers Management Team the overall corporate management and operational responsibility.</p> <p>Provision of professional and legal advice and guidance on policy formulation to all parties and independent Members in the decision making process.</p> <p>Together with the Assistant Chief Officer (Democratic Services), responsibility for a system of record keeping for all the Council's decisions.</p> <p>Representing the Council on partnership and external bodies (as required by statute or the Council).</p>
Chief Officers x 3 (Director of Finance, Director of Environment and Regeneration, Director of Housing and Property)	<p>As members of the Chief Officers Management Team the overall corporate management and operational responsibility.</p> <p>Provision of professional advice and guidance on policy formulation to all parties and independent Members in the decision making process.</p> <p>To oversee the management of services.</p>

(c) Assistant Chief Officers

The Council will engage persons for the following posts, and their responsibilities will be as set out in the table "Assignment of Responsibilities by Council and Committee" in Part 3 of this Constitution:

Assistant Chief Officer (Democratic Services);
Assistant Chief Officer (Human Resources);
Assistant Chief Officer (Regeneration);
Assistant Chief Officer (Finance);
Assistant Chief Officer (Income);
Assistant Chief Officer (Environment);
Assistant Chief Officer (Housing and Property).

(d) **Head of Paid Service, Responsible Financial Officer, and Governance/Monitoring Officer**

The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Services and Proper Officer
Director of Finance	Responsible Financial Officer
Assistant Chief Officer (Democratic Services)	Governance/ Monitoring Officer

The designated officers' duties are described in Article 10.2 - 10.4.

(e) **Structure**

The Head of Paid Service will determine and publicise a description of the overall departmental management structure of the Council. This is set out at Part 7 of this Constitution.

10.2 **Functions of the Head of Paid Service (Chief Executive)**

(a) **Discharge of Functions by the Council**

The Chief Executive will report to the Executive Committee on the manner in which the discharge of the Council's functions is co-ordinated, the organisation of officers and the resources required for the discharge of functions.

10.3 **Functions of the Responsible Financial Officer (Director of Finance)**

(a) **Ensuring lawfulness and financial prudence of decision making**

After consulting the Head of Paid Service, the Responsible Financial Officer will report to the full Council and the Council's external auditor if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

(b) **Administration of financial affairs**

The Responsible Financial Officer will have responsibility for the administration of the financial affairs of the Council.

(c) **Contributing to corporate management**

The Responsible Financial Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

(d) **Providing advice**

The Responsible Financial Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all Members and will support and advise Members and officers in their respective roles.

(e) **Give financial information**

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

10.4 **Functions of the Governance/Monitoring Officer (Assistant Chief Officer (Democratic Services))**

(a) **Maintaining the Constitution**

The Governance/Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, officers and the public.

(b) **Ensuring lawfulness and fairness of decision making**

After consulting the Head of Paid Service and the Responsible Financial Officer, the Governance/Monitoring Officer will report to the full Council if they consider 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 Governance/Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

(d) **Conducting investigations**

The Governance/Monitoring Officer will conduct investigations into matters referred by the Standards Committee and make reports or recommendations in respect of them to the Standards Committee.

(e) **Providing advice**

The Governance/Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all Members.

10.5 **Conduct**

Officers will comply with the Officers' Code of Conduct set out in Part 5 of the Constitution.

10.6 **Employment**

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

Article 11 - Decision Making

11.1 Responsibility for decision making

The Council's arrangements for the delegation of its functions by a Committee, Sub-Committee, an officer or another local authority are set out in Part 3 of the Constitution. These arrangements describe who is to be responsible for particular areas of the Council's work and for taking particular decisions.

11.2 Principles of Decision Making

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

- (a) the rule of law;
- (b) decisions being taken on the basis of due consultation and the taking of professional advice from officers and/or appropriately qualified consultants;
- (c) proportionality (i.e. the action must be proportionate to the desired outcome);
- (d) a presumption in favour of openness;
- (e) respect for human rights and equality issues (see below for further details);
- (f) having due regard to appropriate national, strategic, local policy and guidance; and
- (g) clarity of aims and desired outcomes.

11.3 Decision making by the full Council

Subject to Article 11.5 the Council Meeting will follow the Council Procedures Rules set out in Part 4 of the Constitution when considering any matter.

11.4 Decision making by other Committees established by the Council

Subject to Article 11.5 other Council Committees will follow those parts of the Council Procedure Rules set out in Part 4 of the Constitution as apply to them.

11.5 Decision making by Council bodies acting as tribunals

The Council, a Council body, a Member or an Officer may from time to time act as a tribunal and exercise quasi judicial decision making. When so acting, the body or individual will adopt and follow procedures so as to ensure all legal requirements including the rules of natural justice, the Equality Act and The Human Rights Act, are complied with. Details of the procedure applying to any such body can be made available on request.

11.6 Decision making by Officers

The Council may delegate responsibility for some decision making to Officers of the Council. The responsibilities delegated to Officers are set out in the Responsibility of Functions in Part 3.

Article 12 - Finance, Contracts and Legal Matters

12.1 Financial Management

The Financial Procedure Rules set out in Part 4 of the Constitution shall apply to the management of the Council's financial affairs.

12.2 Contracts

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

12.3 Legal Proceedings

The Chief Executive is authorised to start, 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 Chief Executive considers that such action is necessary to protect the Council's interests including:

- (a) enforcing any breach of any statute, byelaw or order for which the Council is the enforcing authority;
- (b) recovering monies due to the Council;
- (c) recovering possession of the Council's land;
- (d) appealing against any decision or matter affecting the interests of the Council; and
- (e) influencing the outcome of any application to another body where the Council has a right to be heard.

12.4 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 Chief Executive or other person authorised by the Chief Executive, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

12.5 Common Seal of the Council

- (a) The Common Seal of the Council will be kept in a safe place in the custody of the Chief Executive. 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 Chief Executive should be sealed. The Mayor (or in their absence, the Deputy Mayor), and the Chief Executive (or in the absence of the Chief Executive, another Officer acting in that role) will attest the affixing of the Common Seal.
- (b) Every sealing of a document will be recorded and consecutively numbered in a book or register kept for the purpose by the Assistant Chief Officer (Democratic Services). The entry in the book or register will be signed or initialled by the person who attests the seal.

Article 13 - Review and Revision of the Constitution

13.1 Duty to monitor and review the Constitution

The Assistant Chief Officer (Democratic Services) will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. Any monitoring and review shall be in accordance with the provisions of the Protocol for the Monitoring and Review of the Constitution set out in Part 5 of the Constitution.

13.2 Changes to the Constitution

(a) Approval

Changes to the Constitution will only be approved by the full Council after consideration by the Executive Committee of a proposal from the Chief Executive.

13.3 Changes to the Scheme of Delegation

(a) Changes to Part 3 of the Constitution (except those specified in (b) below) can only be approved by full Council after consideration of a recommendation by the Executive Committee.

(b) Changes to Part 3 (functions delegated to employees) and changes to Executive Portfolios will be made by the Executive Committee.

13.4 Calendar of Business and Schedule of Meetings

The Chief Executive shall, at the start of each municipal year, circulate to Members a schedule of meetings drawn up in accordance with the Rules of Procedure (Standing Orders) but nothing in this paragraph will prevent amendments being made to it during the following 12 months in accordance with Part 4 of the Constitution.

Article 14 - Suspension, Interpretation and Publication of the Constitution

14.1 Suspension of the Constitution

(a) Limit to suspension

The Articles of the Constitution may not be suspended. The Rules specified in Part 4 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 full Council 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.

14.2 Interpretation

The ruling of the Mayor as to the construction or application of the 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 the Constitution contained in Article 1.

14.3 Publication

- (a) The Chief Executive will give a printed copy of the Constitution to each Member upon delivery 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 the City Hall and can be purchased by members of the local press and the public on payment of a reasonable fee. The Chief Executive will also ensure that a copy is available for public viewing on the Council's Website.
- (c) The Chief Executive will ensure that the summary of the Constitution is made widely available within the Borough, both in print and on the Council's website and is updated as necessary.

14.4 Previous Standing Orders

All Standing Orders previously made by the Council are revoked and the Constitution will take effect on the date specified by the Council on approval.