

Part 2

Articles of the Constitution

Article 1 - The Constitution

1.01 Powers of the Council

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

1.02 The Constitution

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

The purpose of the Constitution is to:

- (a) enable the Council to provide clear leadership to the community in partnership with members of the public, businesses and other organisations;
- (b) support the active involvement of members of the public in the process of local authority decision-making;
- (c) help Councillors represent their constituents more effectively;
- (d) enable decisions to be taken efficiently and effectively;
- (e) create a powerful and effective means of holding decision-makers to public account;
- (f) ensure that no-one will review or scrutinise a decision in which they were 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 a means of improving the delivery of services to the community.

1.03 Interpretation and review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will seek to 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 17.

Article 2 - Members of the Council

2.1 Composition and Eligibility

- (a) **Composition:** The Council will comprise 39 Councillors. Councillors will be elected by the voters of each ward in accordance with the approved scheme drawn up by the Local Government Boundary Commission.
- (b) **Eligibility:** The eligibility criteria for a person to be qualified to be elected and be a Councillor are set out in section 79 of the Local Government Act 1972.

2.2 Election and Terms of Councillors

The regular election of a third (or as near as may be) of all Councillors will be held on the first Thursday in May each year, except in every fourth year after 2021. The normal term of office of a Councillor is 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

- (c) **Key Roles:** All Councillors will: -
 - (i) collectively be the ultimate policymakers and carry out a number of strategic and corporate management functions;
 - (ii) participate in the governance and management of the Council;
 - (iii) contribute to the good governance of the area and actively encourage community participation and members of the public involvement in decision-making;
 - (iv) effectively represent the interests of their ward and of individual constituents;
 - (v) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
 - (vi) balance different interests identified within the ward and represent the ward as a whole;
 - (vii) be involved in decision-making;
 - (viii) be available to represent the Council on other bodies; and
 - (ix) maintain the highest standards of conduct and ethics.

A fuller description of each Councillors role in the form of a role

description is shown in the Appendix after this section.

(d) 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 staff 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.

2.4 Conduct

Councillors will at all times observe the Councillor Code of Conduct, the Protocol on Councillor/Staff Relations and the Code of Conduct for Councillors and Staff Dealing with Planning Matters (Part 5 of the Constitution).

2.5 Allowances

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

APPENDIX A

COUNCILLOR ROLES IN DEMOCRATIC STRUCTURE

THE LEADER

- Is appointed by the Council.
- Provides political leadership and vision for the Cabinet and the Council.
- Leads on the formulation and overview of the Budget, and capital projects.
- Leads the Cabinet and chairs its meetings.
- Appoints the deputy leader and Cabinet members and allocates areas of responsibility (portfolios).
- Leads the community planning process at democratic management level.
- Represents the views, policies and decisions of the Cabinet within and outside the Council.
- Represents the Council on the Local Government Association, Hampshire and Isle of Wight Local Authority Association and other organisations as nominated.
- Decides on party representation in Councillor participation.
- Promotes compliance with Codes of Conduct and Protocols.
- Engages and encourages Councillor Development and Training to enhance corporate and personal effectiveness of themselves and group members.

CABINET MEMBER - PORTFOLIO LEAD

- Provides a clear sense of direction and oversees the management of the organisation and political leadership and vision, within Portfolio responsibilities allocated by the Council.
- Within the allocated Portfolio area, and more generally, participates in the development of budget priorities and strategies for recommendation to the Council.
- Acting jointly with other Cabinet Members, promotes an integrated and corporate approach to the Council's democratic management.
- With the Leader and other Cabinet Members, takes forward the community planning process at democratic management level.
- In the context of the Corporate Plan and more generally, encourages effective partnerships with local public, private, voluntary and community organisations.

- Provides leadership for the implementation of the Council and Cabinet agreed policies and action in one of the five local areas, working closely with the relevant Local Area Committee.
- Oversees the implementation of agreed action and policy priorities.
- Takes decisions on Cabinet business matters, within agreed delegations.
- Works closely with the Corporate Leadership Team and other managers and staff.
- Represents the Council on other organisations, particularly on partnerships relating to the allocated Portfolio area.
- Takes account of the needs and views of the community, other Councillors and staff.

MINORITY GROUP LEADER

- Is chosen by their political party group.
- Provides political leadership and vision for the political group and acts as a spokesperson.
- Promotes compliance with Codes of Conduct and Protocols.
- Engages and encourages Councillor Development and Training to enhance corporate and personal effectiveness of themselves and group members.

LOCAL AREA COMMITTEE CHAIR

- Chairs the Local Area Committee, with the objective of ensuring the best possible decisions are taken at local level, and that development control responsibilities are exercised on the basis of material planning considerations.
- Maintains effective liaison with the Local Area Manager on day-to-day issues affecting devolved budgets, service responsibilities, capital project implementation and work with partner Local Councils and agencies.

LOCAL AREA COMMITTEE VICE CHAIR

- Assists the Committee Chair in the discharge of their role.
- Deputises for the Chair as necessary.

LOCAL AREA COMMITTEE (LAC) MEMBERS (applies to all Councillors)

- Ensure local decisions take consideration of the Corporate Strategy and Council priorities and are within agreed budgets.
- Participate in the determination of action, within the Council's protocol on Planning Business, on local planning applications and other development control matters referred to the Committee, visiting the sites as appropriate.

- If required, participate in the determination of licensing applications.
- Use local knowledge and awareness of local community priorities, and feed this into both formal and informal Committee meetings, and more generally into the Council's decision and management processes.
- Assist the Committee to manage and monitor its devolved budgets and service responsibilities effectively.
- Contribute to the development of Local Action Plans, particularly in the areas of Community Development, Local Youth Initiatives and Community Safety.
- Assist in the development and continual review of local Community Investment Programme priorities, and the implementation of local projects.
- Work on behalf of local people, organisations and business in their wards, participating in consultations and, where appropriate, inter-agency meetings. This local representational work may require direct liaison with appropriate staff.
- Act as advocates for the local area and its members of the public – where necessary liaising with local members of the public and Town or Parish Councils.
- Liaise, where necessary, with the Cabinet Member to ensure they are aware of local perspectives that need to be referred to the Cabinet.
- Maintain an awareness of Council priorities and improves personal competencies for example by participating in training events, Councillors' briefing and seminars.

POLICY AND PERFORMANCE SCRUTINY PANEL / AUDIT AND RESOURCES COMMITTEE CHAIR

- Promotes a positive approach to the overview and scrutiny function.
- Chairs the relevant meetings.
- Creates and facilitates effective working relationships with Cabinet Councillors (particularly those leading on Portfolios within the Panel's/Committee's terms of reference) and LAC Chairs.
- In liaison with the Vice Chair, develops a work plan for the Panel/Committee, so that it is able to focus on topics where it can add value to the Council's democratic management processes.

POLICY AND PERFORMANCE SCRUTINY PANEL / AUDIT AND RESOURCES COMMITTEE VICE CHAIR

- Assists the Panel / Committee Chair in the discharge of their role.
- Deputises for the Chair as necessary.

POLICY AND PERFORMANCE SCRUTINY PANEL / AUDIT AND RESOURCES COMMITTEE MEMBERS

- Participate in the review and scrutiny of decisions or action taken in respect of any functions, which are the responsibility of the Cabinet in relation to the Portfolio areas within the Panel's/Committee's terms of reference.
- Participates in the review or scrutiny of decisions or action taken in respect of any functions, which are the responsibility of the Area Committees within the scope of the Panel's/Committee's terms of reference.
- Contributes to the making of reports or recommendations to the Cabinet, Local Area Committees and/or the Council, on topics reviewed or scrutinised. Where strong disagreement exists, Councillors may produce a minority report.
- Contributes to reports or recommendations to the Cabinet or the Council, on matters that affect the Borough or its inhabitants.
- Keep themselves apprised of issues and, if necessary, questions the responsible Cabinet Member or Local Area Committee Chair.
- Take part in debate to develop or review policy in relation to matters within the scope of the Panel's/Committee's terms of reference.
- Represents the views of the local community and other organisations to the Cabinet and Council.
- Helps to ensure that the Cabinet is held to account.

ADMINISTRATION COMMITTEE MEMBERS

- Deal with taxi and hackney carriage licensing issues.
- Deal with all electoral registration and election issues.
- Deal with code of conduct related matters referred by the Monitoring Officer.

LICENSING COMMITTEE MEMBERS

- Deal with the discharge of such functions which fall within the ambit of the Licensing Act 2003 (or any amendment thereof) and the Gambling Act 2005 (or any amendment thereof).

Article 3 - Members of the public and The Council

3.01 Members of the Publics' Rights

Members of the public 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 the Constitution.

- (a) **Voting and Petitions:** Members of the public on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.
- (b) **Information:** Members of the public have the right to:
 - (i) attend meetings of the Council, Cabinet, Committees and Panels except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) find out from the forward plan what key decisions will be taken by the Cabinet and when;
 - (iii) see reports and background papers, and any records of decisions made by the Council, Cabinet, Area Committees and other Committees;
 - (iv) inspect the Council's accounts and make their views known to the external auditor;
 - (v) to make representations about why a Cabinet meeting, or part of a Cabinet meeting, should be open to the public when notice of an intention to meet in private has been published;
- (c) **Participation:** Members of the public have the right to speak at all meetings of the Council, Cabinet, Committees and Panels, subject to the public participation rules set out in the Appendix to the Council and Committee Procedure Rules (Part 4).
- (d) **Complaints:** Members of the public have the right to complain to:
 - (i) the Council itself under its [complaints procedure](#); and
 - (ii) the Local Government Ombudsman after using the Council's own complaints procedure.

3.02 Members of the publics' Responsibilities

Members of the public must not be violent, abusive or threatening to Councillors or staff and must not wilfully harm anything owned by the Council, Councillors or staff. The public are entitled to attend meetings in public of the Council, Cabinet Committees and Panels, and must comply with the rulings of the Chair. They may not disrupt the meeting or cause undue disturbance, or they may be removed from the meeting at the Chair's discretion (see Part 4,

section 18).

Article 4 - The Full Council

4.01 Meanings

(a) **Policy Framework:** The policy framework means the following plans and strategies:

- Plans and strategies which together comprise the Development Plan;
- Council's Corporate Strategy;
- Food Law Enforcement Service Plan;
- The plan and strategy which comprise the Housing Investment Programme;
- Equality and Diversity Strategy

together with other plans and strategies which the Council may decide should be adopted by the Council as a matter of local choice.

(b) **Budget:** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the overall control of its capital expenditure and the setting of virement limits.

4.02 Functions of the Full Council

The Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) adopting the policy framework;
- (c) approving the budget;
- (d) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, 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;
- (e) electing the Leader, removing them from office and noting their appointment of the Deputy Leader and members of the Cabinet, and areas of responsibility (portfolios);
- (f) agreeing and/or amending the terms of reference for Committees and Panels, deciding on their composition and making appointments to them (except the Cabinet);
- (g) appointing the Civic Mayor and Deputy Mayor;
- (h) appointing representatives to outside bodies unless the appointment is a Cabinet function or has been delegated by the Council;

- (i) determining matters referred by the Cabinet or Committees;
- (j) determining planning applications not otherwise delegated;
- (k) adopting a Members allowance scheme under Article 2.5;
- (l) changing the name of a local area;
- (m) conferring the title of Honorary Alderman or Freedom of the Borough;
- (n) confirming the appointment of the Head of Paid Service, Chief Finance Office (s151) and Monitoring Officer;
- (o) making, amending, revoking, re-enacting or adopting bylaws unless such actions are within policy framework, in which case they may be exercised by the relevant Local Area Committee;
- (p) promoting or opposing the making of local legislation or personal bills such as a local act.
- (q) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet; and
- (r) all other matters which, by law, must be reserved to Council.

4.03 **Council Meetings**

There are four types of Council meeting:

- (s) the Mayor-making meeting (to appoint the Mayor and Deputy Mayor);
- (t) the Annual General Meeting (AGM) (to deal with other annual business);
- (u) ordinary meetings;
- (v) extraordinary meetings;

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

Under current arrangements, there will be a minimum of three ordinary meetings of the Council each year (one of which will be for budget-setting), plus the Annual and Mayor-Making meetings.

4.04 **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 not executive functions.

Article 5 - The Mayor and Deputy Mayor

5.01 Role and Function

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

- (a) to be the Civic head of the Borough and act at all times in an inclusive non-partisan manner;
- (b) to carry out Civic, ceremonial and community activities and foster community identity and pride;
- (c) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (d) 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;
- (e) 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 Councillors who are not on the Cabinet are able to hold the Cabinet to account;
- (f) to promote public involvement in the Council's activities; and

to endorse urgent action proposed by the Cabinet

(Note: Under the provisions of the Local Government Act 2000, neither the Mayor nor Deputy Mayor can be members of the Cabinet.)

Article 6 - Policy and Performance Scrutiny Panel

6.01 Terms of Reference

The Council will appoint one or more overview and scrutiny panels to discharge the functions conferred by section 9F of the Local Government Act 2000 or regulations under that Act. The number, size and composition of these committees will be determined by Council and reflect the respective size of the political groups of the council as it sees fit.

The Policy and Performance Scrutiny panel has overview and scrutiny responsibilities for the following areas, which are related to Cabinet lead responsibilities.

The Audit and Resources Committee also has some scrutiny responsibilities as set out in Article 9 of this Constitution.

Notwithstanding the above, the Policy and Performance Scrutiny Panel is able to review, scrutinise, and submit reports or recommendations in respect of any decision or action by the Audit and Resources Committee.

The appointment of Scrutiny Panel shall be deemed to satisfy the requirement under Section 21 of the Local Government Act 2000 to appoint one or more overview and scrutiny panels.

6.02 General Role

Within their terms of reference, the Scrutiny Panel will:

- Review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions (including executive functions);
 - Assist with policy development, budget scrutiny prior to Council approval and overview and scrutinise policy implementation;
- (a) To overview and scrutinise the decisions of the Cabinet and Local Area Committees and regularly review the contents of the Forward Plan.
 - (b) The overview and scrutiny of policy implementation, and the effectiveness of policy in achieving objectives via the annual strategic cycle.
 - (c) To assist with policy development, budget evolution or other work evolving from the annual strategic cycle and when requested by either the Cabinet or Council.
 - (d) In liaison with the Cabinet or relevant lead, to undertake efficiency and improvement work related to their theme areas through the creation of task and finish groups (where necessary).

- (e) To monitor the implementation of improvement plans arising from efficiency and improvement reviews related to their theme areas;
- (f) To make recommendations to the Cabinet, Local Area Committee or the Council in the light of (a) to (e);
- (g) To recommend to the Council that other policy development, overview or scrutiny work should be undertaken;
- (h) To scrutinise organisational performance related to theme areas, including the outcomes achieved and key performance indicators; and.
- (i) To liaise with other external organisations operating in the area to ensure that the interests of local people are enhanced by collaborative working.

In carrying out this role, the Scrutiny Panel will liaise with the lead Cabinet Member for its theme areas, and with Local Area Committee Chairs and relevant staff members where appropriate, to facilitate effective working relationships.

6.03 Proceedings of the Scrutiny Panel

The conduct of their proceedings at the Scrutiny Panel will be in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of the Constitution.

6.04 Crime and Disorder Overview and Scrutiny

The Policy and Performance Scrutiny Panel has been designated as the Council's crime and disorder overview and scrutiny panel, as set out in the Crime and Disorder (Overview and Scrutiny) Regulations 2009. The terms of reference for the Panel shall also include the following:

- (a) To review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions;
- (b) To make reports or recommendations to the Council with respect to the discharge of those functions;
- (c) To have at least one meeting each municipal year to scrutinise crime and disorder matters; and
- (d) To co-opt members from the Eastleigh Community Safety Partnership should it wish to when reviewing certain projects/decisions.

6.05 Task and Finish Groups

Where appropriate, the Scrutiny Panel may use time limited Task and Finish Groups to carry out detailed work on specific topics or issues.

Councillors are appointed to Task and Finish Groups based on their interest, either on the issue or as a representative of a relevant ward, and personal knowledge or expertise.

The Groups will be Councillor led and conduct their business on an informal basis. They have no decision-making powers but aid the policy development of the Council by examining important issues and preparing ideas and recommendations for consideration. A [Protocol](#) for organising Task and Finish Groups is available on the Council's website.

Article 7 - The Cabinet

7.01 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.

Its overall role will be:

- (a) To provide political leadership.
- (b) To propose for approval by the Council:
 - the Council's policy framework and its overall community and corporate strategies; and
 - budget strategy and each year's revenue and capital budgets.
- (c) To implement policy, to secure service delivery and to oversee the management of Council assets.
- (d) To take Cabinet decisions within policy framework and budget other than on those matters delegated to the Local Area, Licensing, Audit and Resources or Administration Committees.
- (e) To consider the recommendations of the Scrutiny Panel and Audit and Resources Committee in the context of both policy and budget development and Cabinet decisions/actions.
- (f) To consider motions or proposals from Councillors.

7.02 Form and Composition

The Cabinet will consist of the Leader together with between two and up to nine Councillors appointed to the Cabinet by the Leader (one of whom will be appointed by the Leader to act as Deputy Leader) and the Leader will allocate areas of responsibility (portfolios) to them. The Leader may appoint and/or remove Cabinet members to/from the Cabinet at any time.

Deputy or substitute arrangements are not permitted.

The composition of the Cabinet is subject to change by the Leader following written notification to the Monitoring Officer.

The Cabinet is exempt from the provisions of Section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups).

7.03 Portfolio Arrangements

Each of the Cabinet Members will have lead responsibilities for a portfolio or policy/service/Community Plan related themes.

The Portfolio Annex following this section sets out the current allocation of activity areas between those portfolio themes at November 2021. This can be changed by the Leader at any time following written notification to the Chief Executive.

The lead Cabinet Member for each theme area will ensure that there is an effective working relationship with the Policy and Performance Scrutiny Panel.

Cabinet

Portfolios	Key outcome measures	Services, Projects and Campaigns
<u>Transport</u> <ul style="list-style-type: none"> • Transport/Planning and policy • Traffic, parking studies and management • Engineering including coastal protection • Fleet Transport • Sustainable Transport inc public transport • Air and water quality • Taxi/Private Hire Licensing policy • Airport Liaison 	<ul style="list-style-type: none"> • Air quality • Transport infrastructure delivery (milestones) • Non car usage (rail, walk, cycle, bus) • Electric vehicle infrastructure 	<ul style="list-style-type: none"> • Transport Specialist Services (Localities) Parking • OPE • Parking review • Modal shift / Air quality campaigns • Promotion of electric vehicles
<u>Environment</u> <ul style="list-style-type: none"> • Sustainability (Examples) • Green infrastructure (including Country Parks, parks and open spaces) • Renewable energy • Biodiversity • Contaminated land • Urban environment • Enviro Crime • Grounds Maintenance • Waste and Recycling • Cemeteries • Noise • Bonfires • Animal Welfare 	<ul style="list-style-type: none"> • ASPE measures e.g. Streetscene • Recycling rate • Overall CO2 • Renewable energy • Use of open space/parks 	<ul style="list-style-type: none"> • Direct services (Streetscene) • Direct Services (waste and recycling) • Locality services • Environment
<u>Health and Social Policy</u> <ul style="list-style-type: none"> • Healthy Communities • Health promotion (smoking, alcohol, diet and exercise) • Mental health • Health works • Creative learning – health and wellbeing programmes • Dementia • Community Safety and Safeguarding • Social Exclusion of Elderly People • Equalities: race, religion, age, sex, sexuality, disability, transsexuality, pregnancy/maternity, marriage/civil partnership • Provision of benefits • Poverty and deprivation • Cultural outreach • Cultural opportunities for young people • Increasing participation 	<ul style="list-style-type: none"> • Physical inactivity • Excess weight • Social isolation • Attendance at parks, leisure centres and theatres • Participation of inactive people at EBC physical activities • Attendance at social groups • Homelessness • Debt • Life expectancy gap (currently approx. 16 yrs) • NEETs • Deprivation levels 	<ul style="list-style-type: none"> • Health and Wellbeing Executive Area • Sport Works • Health Works • Community Development • Events (wellbeing) • Health and wellbeing campaigns (national and county) • Country Parks • Arts and Culture • Benefits • Vol sec grants • Arts and Culture • Pilands and Velmore Partnerships • Youth offer • Review of pricing and subsidies/ loyalty card • Customer service enhancement

<ul style="list-style-type: none">• Clubs and volunteering• Community Development Grants		
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Portfolios	Key outcome measures	Services, Projects and Campaign
<p><u>Economy</u> <u>Skills and Business</u></p> <ul style="list-style-type: none"> • Talent, education, training and skills (STEM, apprenticeships, level 4+) • Business survival and growth • Licensing and regulation of businesses (e.g. food hygiene, health and safety) • Employment land • Entrepreneurship and Innovation • Development of economic clusters (e.g. Creative Industries) • Capital investment in creative spaces and start-ups • Broadband and ICT infrastructure • Fair Trade 	<ul style="list-style-type: none"> • Increase standard of living (GVA) • Economic activity • Educational attainment • Employment by occupation • No. of businesses • Business births/deaths 	<ul style="list-style-type: none"> • Planning and Economy (inc Economic Development, Revenue collection, Environmental health) • Wessex house, Sorting Office • Sorting Office expansion project (feasibility)

Portfolios	Key outcome measures	Services, Projects and Campaign
<p><u>Housing and Development Group</u> <u>Planning and Property</u></p> <ul style="list-style-type: none"> • Strategic land use • Commercial property portfolio • Infrastructure to support growth (housing and economic) • Planning policy • Developers Obligations (CIL, s106) • Quality design • Housing development • Heritage and conservation areas 	<ul style="list-style-type: none"> • Housing delivery • Affordable housing delivery • 5yr land supply • Property portfolio performance 	<ul style="list-style-type: none"> • Development Management (Housing and Development Specialists) • Asset Management Service • Delivery of Local Plan, including CIL) • Housing Programme • Growth Areas master planning • Communications • Strategic Planning • Housing and Development Specialist Services • Regen Board
<p><u>Regeneration (North)</u></p> <ul style="list-style-type: none"> • Town centre policy • Economic, social and physical regeneration • Non-housing infrastructure (north) • Attracting inward investment • Stakeholders inc BID • Homelessness/Housing Register • Assessing housing need delivery of specialist housing (extra care) • Private sector renting, HMOs • Disabled Facilities Grants • Gypsies and travellers • Housing Revenue Account 	<ul style="list-style-type: none"> • Town centre footfall • Vacancy rates • Town Centre regeneration outcome measures to be established 	<ul style="list-style-type: none"> • Regen Board (project based) • Central Precinct • Chandler's Ford Industrial Areas • Housing Options homelessness • Private renting regulation • HMS's • DFGs
<p><u>Regeneration (South)</u></p> <ul style="list-style-type: none"> • Local centres • Out of town retail • Economic, social and physical regeneration • Non-housing infrastructure (south) • Attracting inward investment • SPV/JV Boards - housing 	<ul style="list-style-type: none"> • Hedge End town centre footfall • Local centre regeneration outcome measures to be established • SPV performance measures 	<ul style="list-style-type: none"> • Regen Board (project based) • SPV/JB Boards e.g. (Aspect Building Communities Ltd) • Hedge End Industrial Areas • One Horton Heath

The list does not include functions that are directly managed by Local Area Committees (November 2021)

7.04 Leader and Deputy Leader

The Leader and Deputy Leader will each be a Councillor.

The Leader will be elected to the position by the Council for their term of office. The term of office of the Leader starts on the day of their election as Leader and ends on the day when the Council holds its first Annual General meeting after the Leader's normal day of retirement as a Councillor unless they:

- (a) are removed from Office by resolution of the Council or resigns;
- (b) cease to be a Councillor; or
- (c) are disqualified from being a Councillor before that day.

The Leader will appoint one of the Members of the Cabinet to be their deputy, to hold office until the end of the term of office as Leader (unless the person resigns as Deputy Leader, ceases to be a Councillor or is disqualified or removed from office by the Leader). The Leader may, if they think fit, remove the Deputy Leader from office, but must then appoint another person in their place. The Deputy Leader will carry out the functions of the Leader when they are absent (including portfolio functions).

7.05 Other Cabinet Members

Other Cabinet members shall hold office until:

- (a) they resign from office; or
- (b) they are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (c) they are no longer Councillors; or
- (d) they are removed from office, either individually or collectively, by the Leader.

7.06 Proceedings of the Cabinet

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

7.07 Delegation

The Leader can delegate any of the executive functions to a Committee of the Cabinet, an individual member of the Cabinet, to an Area or other Committee or to a member of staff. Details of the delegation shall be recorded in the minutes of the meeting at which the delegation is authorised. The Leader will report to Council on all appointments and changes to the Cabinet scheme of delegation.

Article 8 - Regulatory and Other Functions

- 8.01 Regulations made under the Local Government Act 2000 specify that certain functions shall be the responsibility of the Council (rather than the Cabinet). There are also 'Local Choice' functions which may or may not be the responsibility of the Cabinet. Part 3 of this Constitution shows the allocation of these responsibilities. In particular, the Council has agreed to delegate its development control and licensing functions to Local Area Committees.

Article 9 – Audit and Resources Committee

9.01 Appointment

The Council will appoint an Audit and Resources Committee.

9.02 Composition

The size and composition of this committee will be determined by Council from time to time as it sees fit but will be separate, organisationally and practically, from the executive and will not comprise of any Cabinet members.

The committee will meet as needed and in public (subject to confidential and exempt business).

The Chair shall be elected by full Council.

9.03 Role

The Committee will have the following roles and functions:

Audit functions:

- Act as the Council's Audit Committee for internal and external audit.
- Agree and oversee the Council's Asset Management Strategy and Internal Audit Plan and monitor progress against this Plan.
- Receive and consider the work of the external auditor.
- Ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted.
- Seek assurances that action is being taken on risk-related issues identified by auditors and inspectors.
- Approve the Annual Governance Statement, Statement of Accounts and anti-fraud and anti-corruption arrangements.
- To notify, report or recommend to Council as appropriate.
- Have continued due regard for CIPFA (Chartered Institute of Public Finance and Accountancy) guidance.
- Regular review of Council wide staffing issues and implications.

The Audit and Resources Committee is able to scrutinise or review any decision made by this Committee relating to the above functions.

Scrutiny functions:

All items relating to the asset portfolio and management and staffing issues (but excluding decisions made by the Audit and Resources Committee itself):

- To review and/or scrutinise decisions made relating to audit, risk or governance;
- make reports and/or recommendations to the Cabinet, Local Area Committees or the Council in connection with the discharge of any functions;

- To review, on a regular basis, the contents of the Forward Plan;
- To assist with budget evolution or other work when requested by either the Cabinet or the Council;
- To scrutinise property transactions as necessary
- To scrutinise and monitor the delivery of programmes and projects subsequent to the associated land and property acquisitions

9.04 Proceedings of the Committee

The conduct of the proceedings at the Audit and Resources Committee will be in accordance with the Procedure Rules set out in Part 4 of the Constitution with a clear separation of the scrutiny and audit functions.

Article 10 - Area Committees

10.01 Appointment

The Council will appoint Local Area Committees in the context of more efficient, transparent and accountable decision making at local level.

10.02 Form, Composition and Function

- (a) There will be five Local Area Committees (LACs) covering respective parts of the Borough as follows:

Bishopstoke, Fair Oak and Horton Heath LAC -

All six Councillors representing:

Bishopstoke Ward	3
Fair Oak and Horton Heath Ward	3

Bursledon, Hamble-le-Rice and Hound LAC -

All six Councillors representing:

Bursledon and Hound Ward	3
Hamble and Netley Ward	3

Chandler's Ford and Hiltingbury LAC -

All six Councillors representing:

Chandler's Ford Ward	3
Hiltingbury Ward	3

Eastleigh LAC -

All nine Councillors representing:

Eastleigh Central Ward	3
Eastleigh North Ward	3
Eastleigh South Ward	3

Hedge End, West End and Botley LAC -

All twelve Councillors representing:

Botley Ward	2
Hedge End South Ward	3
Hedge End North Ward	3
West End North Ward	2
West End South Ward	2

- (b) The terms of reference of Local Area Committees are as follows:
- (i) To take Cabinet decisions within policy framework and budget on locally provided services (including matters delegated to them by either the Council or the Cabinet).
 - (ii) To take local planning, licensing (subject to the provisions of 11.06) and bye-law decisions within policy framework and to make recommendations to the Council on development management matters outside the terms of their delegated powers.
 - (iii) To determine complaints made by the owner/occupiers of domestic property adversely affected by evergreen hedges over two meters high (in the case of hedges owned by the Council)
 - (iv) To act for the Council where a local response is appropriate to a local community issue.
 - (v) To develop partnerships/links with other agencies to the benefit of the local area community, and in particular with Local Councils.
 - (vi) To contribute to the wider community planning process and to the Council's related corporate planning process.
 - (vii) To promote efficiencies at local level and to work with the Cabinet and Scrutiny Panel on the wider promotion and securing of related objectives.
 - (viii) If appropriate, to report to the Council on the local impact of the decisions of the Cabinet.
 - (ix) To authorise direct action under section 219 of the Town and Country Planning Act 1990.
- (c) The Council and the Cabinet will include details of the delegations to Area Committees in Part 3 of this Constitution, including the functions delegated (showing which are the responsibility of the Cabinet and which are not), budgets and any limitations on delegation.
- (d) The proceedings of Area Committees will be in accordance with the Council and Committee Procedure Rules set out in Part 4 of this Constitution.
- (e) At its meeting on 24 July 2014, Council approved the creation of a 'Horton Heath Development Management Committee' to deal solely with planning applications in the area of West End north of the railway line, and adjacent/within the Fair Oak and Horton Heath Parish. The membership of this committee will comprise the three Fair Oak and Horton Heath Councillors and the four West End Councillors.

10.03 Conflicts of Interest - Membership of Area Committees and Scrutiny Panel

- (a) **Conflict of Interest:** If the Policy and Performance Scrutiny Panel is scrutinising specific decisions or proposals in relation to the business of the Area Committee of which the Councillor concerned is a member, then the Councillor may not speak or vote at the Scrutiny Panel meeting unless a dispensation to do so is given by the Monitoring Officer.
- (b) **General Policy Reviews:** Where the Policy and Performance Scrutiny Panel is reviewing policy generally the Councillor must declare their interest before the relevant agenda item is reached but need not withdraw.

10.04 Area Committees - Access to Information

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

Agendas and notices for Area Committee meetings which deal with both functions of the Cabinet and functions which are not the responsibility of the Cabinet will state clearly which items are which.

10.06 Licensing Panels

- (a) Local Area Committees shall appoint Licensing Panels for relevant licensing functions. Such panels shall consist of three Councillors, appointed on a non-political basis.
- (b) Appeals to Licensing Panels shall be discharged by all Councillors of the relevant Panel. However, where all parties to an appeal who appear so agree, the appeal may be decided by 2 Councillors (ie, one fewer than the total).
- (c) Should, in exceptional circumstances a Local Area Committee be unable to convene a Panel to determine a Licensing Appeal, the matter may be transferred for determination by either, any three Members of the Administration Committee, if available, or, any three Members of the Council nominated by the Chair of the Administration Committee. The Chair of the Administration Committee will seek, where possible, to include a Member of the relevant Local Area Committee on the Licensing Panel.

Article 11 – Administration Committee

11.01 Appointment

The Council will appoint an Administration Committee.

11.02 Composition

- (a) The Administration Committee composition shall be determined by the Annual General Meeting of the Council to include each of the Group Leaders.
- (b) The Administration Committee will meet as needed and in public (subject to confidential and exempt business considerations).
- (c) The following rules will apply:
 - Cabinet Members cannot form the majority of the Committee
 - The Chair shall not be the Chair of the Cabinet, a Local Area Committee or the Scrutiny Panel

11.03 Quorum

The quorum for the Administration Committee under (a) in 12.02 above shall be three members.

11.04 Role

The Administration Committee will have the following delegated responsibilities:

- To deal with the discharge of such functions which cannot be the responsibility of the Cabinet (under the Local Government Act 2000) and which have not been delegated or allocated to another Committee, Panel or member of staff. (Specific issues include some aspects of licensing and the making of byelaws.)
- To deal with matters that need to be referred to a Committee of the Council relating to elections and electoral registration (e.g. the setting of election fees).
- To notify, report or recommend to Council as appropriate.
- Promoting and maintaining high standards of conduct by Councillors and any co-opted members.
- Assisting the Councillors and co-opted members to observe the Councillor's Code of Conduct.
- To operate the overall scheme in respect of the local determination of Code of Conduct complaints against Borough and Parish/Town Councillors, via sub-committees where appropriate.
- Approving, and keeping under review, codes of conduct and protocols for Councillors and staff.

- Monitoring the local operation of codes and protocols.
- Promoting training of Councillors and co-opted members in the context of codes and protocols.
- Granting dispensations, where referred by the Monitoring Officer and in accordance with the Localism Act 2011 or other legislation.
- To monitor the use of dispensations.
- Dealing with any reports from the Monitoring Officer on any matter relating to standards issues or standards complaints.
- To appoint sub-committees consisting of Councillors drawn from its own membership, excluding group leaders, to determine complaints under the Code of Conduct and referred by the Monitoring Officer. Meetings of these sub-committees are to follow the procedure as set out in the Council's agreed procedure for dealing with Code of Conduct complaints.
- Overview of the Council's whistle blowing policy.
- To grant exemptions for politically restricted posts.
- The Administration Committee is authorised by Council to delegate such work as the law permits and it considers appropriate to Council staff or nominated third parties.

The following rules will apply:

- Minority order provision will not apply on issues where the Committee has met in quasi-judicial mode (e.g. certain licensing issues), as determined by the Monitoring Officer
- There should be an option for any decision to be referred back to the Committee, where an error of fact or law has been made and where permissible under the legislation, particularly if there is time for it to meet prior to the next meeting of Council.

Article 12 - Licensing Committee

12.01 Appointment

The Council will appoint a Licensing Committee.

12.02 Composition

(a) The Committee will:

- comprise fifteen Councillors
- seek to comprise three Councillors from each Local Area Committee
- meet as needed and in public (subject to confidential and exempt business considerations and/or only specific rules or good practice guidance issued under the Licensing Act 2003 and/or the Gambling Act 2005, or any amendment thereof).

(b) The following rules will apply:

- The Chair shall be elected by Full Council.
- Up to five Sub-Committees (to be known as Licensing Panels) may be created. Such Panels will consist of three Councillors and will determine licensing applications on a local area basis wherever possible and will comprise where the law and availability permits three local area committee members.
- Where the licensing committee is unable to discharge any Function because of the number of Councillors unable to participate the committee must refer the matter back to the licensing authority (Council).
- In the event of any conflict between the contents of this Article and any regulation or rule to be issued under the provisions of the Licensing Act 2003 and/or the Gambling Act 2005 the Council's Monitoring Officer is authorised to appropriately amend this Article and to put into effect the requirements of the legislation subject to a report to Council being made as soon as practicable thereafter on all matters of a significant nature.

12.03 Role

The Committee will have the following responsibilities:

- To deal with the discharge of such functions which fall within the ambit of the Licensing Act 2003 (or any amendment thereof) and the Gambling Act 2005 (or any amendment thereof).
- To notify, report or recommend to Council as appropriate.

- The Licensing Committee is authorised by Council to delegate such work as the law permits and it considers appropriate to Council Staff or nominated third parties.

The following rules will apply:

- Minority order provision will not apply on issues where the Committee has met in quasi-judicial mode, as determined by the Monitoring Officer or on matters solely the responsibility of the licensing committee.
- Any decision may be referred back (at the Committees discretion) to the Committee, where an error of fact or law has been made and where permissible under the legislation.

Article 13 - Joint Arrangements

13.01 Arrangements to Promote Well Being

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

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

13.02 Joint Arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Cabinets to exercise functions (which are not Cabinet functions) in any of the participating authorities, or to 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, the Cabinet may only appoint Cabinet members to a Joint Committee and those Councillors need not reflect the political composition of the local authority as a whole.
- (d) The Cabinet may appoint members to a Joint Committee from outside the Cabinet in the following circumstances:
 - the Joint Committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the Joint Committee any Councillor who is a member for a ward which is wholly or partly contained within the area;
 - the Joint Committee is between a County Council and a single District Council and relates to functions of the Cabinet of the County Council. In such cases, the Cabinet of the County Council 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.

In both of these cases the 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.

13.03 Access to Information

- (a) The Access to Information Rules in Part 4 of this Constitution apply.
- (b) If all the Councillors 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.
- (c) If the Joint Committee contains Councillors 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.

13.04 Delegation to and from Other Local Authorities

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

13.05 Contracting Out

The Council and the Cabinet, as regards their respective functions, may contract out to another body or organisation functions which may be exercised by a member of staff 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 14 - Staff

Terminology

The use of the word "staff" means all employees and staff engaged by the Council to carry out its functions. This word also covers those engaged under short-term, agency or other non-employed situations.

14.01 Management Structure

- (a) **General:** The Full Council may engage such staff as it considers necessary to carry out its functions.
- (b) **Statutory Staff Member:** The Full Council will engage persons for the following statutory posts:

<u>Post</u>	<u>Designation</u>
Chief Executive	Head of Paid Service
Monitoring Officer	Monitoring Officer
Chief Financial Officer	Chief Finance Officer

Such posts will have the functions described in Article 15.02- 15.04 below.

- (c) **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 staff. This is set out at Part 7 of this Constitution.

14.02 Functions of the Head of Paid Service

- (a) **Functions and Areas of Responsibility:**
 - (i) Overall corporate management and operational responsibility (including overall management responsibility for all staff).
 - (ii) Provision of professional advice to all parties in the decision-making process.
 - (iii) Together with the Monitoring Officer, responsibility for a system of record-keeping for all the Council's decisions.
 - (iv) Representing the Council on partnership and external bodies (as required by statute or the Council).
 - (v) To grant dispensations to any Councillor or staff member in respect of any declared conflict of interest in an executive decision to be made by that Councillor or staff member as an individual.
- (b) **Discharge of Functions by the Council:** The Head of Paid Service

will report as necessary to Council and the Cabinet on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of staff required for the discharge of functions and the organisation of staff.

- (c) **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.

14.03 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 Councillors, 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 the Cabinet in relation to a Cabinet function) 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 Administration Committee:** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Administration Committee.
- (d) **Conducting Investigations:** The Monitoring Officer will conduct investigations into alleged breaches of the code of conduct and make reports or recommendations in respect of them to the Administration Committee where appropriate.
- (e) **Proper Officer for Access to Information:** The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions, and relevant staff 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 Cabinet 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.
- (h) **Restriction on Posts:** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

14.04 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 (or to the Cabinet in relation to a Cabinet function) and the Council's external auditor if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of Financial Affairs:** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to Corporate Management:** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing Advice:** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and staff 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.

14.05 Duty to Provide Sufficient Resources to the Monitoring Officer and Chief Finance Officer

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

14.06 Conduct

Staff will comply with the Staff Code of Conduct, the Protocol on Staff/Councillor Relations and the Code of Conduct for Councillors and Staff Dealing with Planning Matters, as set out in Part 5 of this Constitution.

14.07 Employment

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

Article 15 - Decision Making

15.01 Responsibility for Decision Making

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

15.02 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 staff;
- (c) respect for human rights (see below for further details);
- (d) a presumption in favour of openness; and
- (e) clarity of aims and desired outcomes.

15.03 Recording and Notification of Decisions

- (a) In the case of Council, Cabinet, or Local Area Committee meetings, a note of decisions will be recorded within the minutes.
- (b) The minutes of the meeting will contain the following:
 - (i) a record of the decision;
 - (ii) a record of the reasons for the decision;
 - (iii) details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made;
 - (iv) a record of any conflict of interest in relation to the matter decided which is declared by any member of the decision-making body; and
 - (v) in respect of any declared conflict of interest, a note of any dispensation granted by the Monitoring Officer.

- (c) Decisions of the Cabinet, Area Committees and other Committees are subject to the call-in arrangements as set out in the Council and Committee Procedure Rules in Part 4 (standing order 23.2).
- (d) As soon as is reasonably practical after a member of staff has made a decision which is a key decision, a written statement will be produced containing the information shown in paragraph 15.03(b) (i) - (v) above.

15.04 **Types of Decision**

- (e) **Decisions Reserved to Full Council:** Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated.
- (f) **Key Decisions:**
 - (i) A key decision means a Cabinet decision which is likely:
 - (1) to result in the Council incurring expenditure or making savings which amount to either £50,000 or 20% (whichever is the larger) of the gross expenditure budget for the service or general function to which the decision relates; or
 - (2) to be significant in terms of its effect on communities living or working in an area comprising two or more wards within the Borough of Eastleigh.
 - (ii) Paragraph (i) above shall not apply:
 - (1) if the expenditure or savings are part of a programme already approved; or
 - (2) if it is a decision taken by the Corporate Director (CFO) (or statutory Chief Financial Officer) in accordance with the approved Treasury Management Policy.
 - (iii) 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.

15.05 **Decision Making by the Full Council**

Subject to Article 15.09, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

15.06 **Decision Making by the Cabinet**

Subject to Article 15.09, the Cabinet will follow the Cabinet Procedures Rules set out in Part 4 of this Constitution when considering any matter.

15.07 **Decision Making by Scrutiny Panels**

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

15.08 Decision Making by Other Committees and Sub-Committees established by the Council

Subject to Article 15.09, 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.

15.09 Decision Making by Council Bodies Acting as Tribunals

The Council, a Councillor, Committee or a member of staff acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the Human Right Act 1998.

Article 16 - Finance, Contracts and Legal Matters

16.01 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.

16.02 Contracts

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

Article 17 - Review and Revision of the Constitution

17.01 Duty to Monitor and Review the Constitution

The Chief Executive and Monitoring Officer will jointly monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

17.02 Protocol for Monitoring and Review of Constitution

A key role for the Chief Executive and 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 they may:

- (1) observe meetings of different parts of the Councillor and staff structure;
- (2) undertake an audit trail of a sample of decisions;
- (3) record and analyse issues raised with them by Councillors, staff, the public and other relevant stakeholders; and
- (4) compare practices in this Council with those in other comparable authorities, or national examples of best practice.

17.03 Changes to the Constitution

- (a) **Approval:** Changes to the Constitution will only be approved by the Full Council after they have first been considered by the Chief Executive and Monitoring Officer. Any alterations to Cabinet arrangements may be made only after complying with any necessary statutory requirements.
- (b) **Change from a Leader and Cabinet Form of Cabinet to a Mayoral Form of Cabinet:** This will require a referendum.

Article 18 - Suspension, Interpretation and Publication of the Constitution

18.01 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 a simple majority by the full Council, the Cabinet or a Committee to the extent permitted within those Rules and the law.
- (b) **Procedure to Suspend:** A motion to suspend any Rules (including Standing Orders) will not be moved without notice unless at least one half of the whole number of Councillors of the relevant body is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- (c) **Rules Capable of Suspension:** The Rules which may be suspended in accordance with Article 18.01 are those Rules of Procedure contained in Part 4 that Councillors consider it appropriate to suspend in order to facilitate the conduct of meetings or the discharge of the Council's functions.

18.02 Interpretation

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

18.03 Publication

The Monitoring Officer will ensure that a copy is available for inspection at Council offices and published online.

Schedule 1 - Description of Cabinet Arrangements

The following parts of this Constitution constitute the Cabinet arrangements:

1. Article 6 (Policy and Performance Scrutiny Panel) and the Overview and Scrutiny Procedure Rules;
2. Article 7 (The Cabinet) and the Cabinet Procedure Rules;
3. Article 9 (Audit and Resources Committee);
4. Article 10 (Area Committees);
5. Article 11 (Administration Committee);
6. Article 13 (Joint Arrangements);
7. Article 15 (Decision Making) and the Access to Information Procedure Rules;
8. Part 3 (Responsibility for Functions).