

## **PART 2**

### **ARTICLES OF THE CONSTITUTION**

#### Explanatory comment:

Article One sets out the fundamental provisions of the Constitution and confirms the Council will act within the law and the provisions of this Constitution. It defines those documents which comprise the Constitution and its purpose.

#### **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 having regard at all times, to the corporate objectives of the Council set out in Article 1.04.

##### **1.02 The Constitution**

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

#### **The purpose of the Constitution is to:**

1. Enable the Council to provide clear leadership to the community in partnership with residents, businesses and other organisations;
2. Support the active involvement of residents in the process of local authority decision-making;
3. Help Councillors represent their constituents more effectively;
4. Enable decisions to be taken efficiently and effectively; and with the principal of open accountable local government
5. Create a powerful and effective means of holding decision-makers to public account;
6. Ensure that no Member will review or scrutinise a decision in which they were directly involved;
7. Ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions;
8. Provide a means of improving the delivery of services to the community and ensuring the delivery of efficient effective and high quality services;
9. Stimulate a strategically led organisation with appropriate delegation of power, effective performance management and the effective use of resources

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

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

The Council will monitor and evaluate the operation of the Constitution as set out in Article 12

### **1.04 The Council's Corporate Objectives**

1. Protect the good quality, consistent value for money front-line services provided to residents. In particular weekly refuse and recycling collection;
2. Enhance the green environment of the Borough so that residents are able to take full advantage of it;
3. Revitalise the town centres through development and by retaining free shoppers car parking;
4. Work with the Police to create a safer Borough where people feel comfortable and at ease;
5. Listen and delegate more issues to the 3 Resident Forums;
6. Work smarter to deliver efficiency savings required to meet continuing budget cuts;
7. Improve the health and well being of our residents

## **Article 2 – Members of the Council**

Explanatory comment: This Article sets out the composition of the Council, eligibility to stand for election as a member of the Council and the form of election to be used.

It also deals with the rights and duties of members, especially as they affect access to land, buildings, documents and information and any confidential requirements surrounding the latter.

### **2.01 Composition and Eligibility**

- (a) **Composition.** The Council will comprise 26 members, otherwise called Councillors whose details can be viewed at [www.oadby-wigston.gov.uk/pages/councillors](http://www.oadby-wigston.gov.uk/pages/councillors)

One or more Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State/Electoral Commission.

- (b) **Eligibility.** Only registered voters of the Borough or those living or working there will be eligible to hold the office of Councillor. In addition a person intending to stand for election must be 18 years of age.

## **2.02 Election and Terms of Councillors**

The regular election of Councillors will usually be held on the first Thursday in May every four years from 2003. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

## **2.03 Roles and Functions of All Councillors**

### **(a) Key roles**

All Councillors will:

- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (ii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
- (iii) where appropriate to deal with individual casework and act as an advocate for their constituents in resolving particular concerns or grievances;
- (iv) balance different interests identified within the Ward they are elected to serve and represent the Ward as a whole;
- (v) be involved in decision-making;
- (vi) be available to represent the Council on other bodies; and report back to fellow Councillors on the activities and needs of these bodies at least annually via a written report to Council;
- (vii) maintain the highest standards of conduct and ethics;
- (viii) participate in the governance and management of the Council;

### **(b) Rights and duties**

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

- (iii) If a Councillor is refused access to documents, information, land or building which he/she believes is necessary for the proper discharge of her/his duties, he or she is entitled to a full explanation for the refusal by the Chief Executive;
- (iv) For these purposes “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution;
- (v) Councillors have the right to put forward issues for consideration on agendas of Committees of the Council;
- (vi) to receive training on the Code of Conduct.

## **2.04 Political Groups**

The members of an authority are to be treated as divided into different political groups when there is at least one properly constituted political group in existence

A political group shall be treated as constituted when there is delivered to the Chief Executive a notice in writing which is signed by two or more members of the authority who wish to be treated as a political group; and states

- a) that the members of the authority who have signed it wish to be treated as a political group ;
- b) the name of the group; and
- c) the name of the member of the group who is to act as its leader.

Under Section 15 of the Local Government and Housing Act 1989, the Council has a duty to review the allocation of seats on committees to the political groups in the Council at the Annual Meeting or as soon as possible thereafter.

The allocation of seats on the Council and Committees is made in proportion to the seats on the Council held by each political group. The duty to allocate seats on a proportional basis does not apply to all committees/working groups/forums of the Council.

Councillors who are not members of a political group are allocated seats by the Council. Councillors elected as Independents may, if they wish, form an independent group that, for the purposes of the 1989 Act, shall be treated as a political group.

## **2.05 Conduct**

Councillors will at all times observe the Members' Code of Conduct and associated protocols set out in Part 5 of this Constitution.

## **2.06 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution as amended from time-to-time.

## **2.07 Office Holders**

These are summarised below and are set out in more detail in Part 6 of this Constitution

### **2.07.1 The Mayor and Deputy Mayor**

- a) The Mayor and Deputy Mayor are elected each year at the Annual Council meeting. Neither shall be eligible for re-election as Mayor or Deputy -Mayor respectively for a third consecutive year.
- b) The Mayor chairs the Council meetings.
- c) The Mayor is the First Citizen of the Borough and is the Council's civic and ceremonial head.
- d) The Mayor may nominate a Mayoress or Consort and a Chaplain or some other faith representative.
- e) The Deputy Mayor may nominate a Deputy Mayoress or Consort
- f) The Deputy Mayor may, if for any reason the Mayor is unable to act or the office of Mayor is vacant, discharge all functions that the Mayor as such might discharge

### **2.07.2 The Leader of the Council**

The Council will appoint a Leader who will provide clear leadership to the community. He or she may present a regular "Leader's" report to the Council on which questions or comments from other Councillors or members of the public will be taken, in accordance with Part 4 of the Constitution. The leader will hold office until:-

- a) he or she resigns from office, or
- b) he or she is suspended from being a Borough Councillor under part (iii) of the Local Government Act (LGA) 2000 (although he or she may resume office at the end of the period of suspension subject to provisions of this constitution) or
- c) he or she is removed from office by resolution of the Borough Council or
- d) the annual meeting of the Borough Council next following his or her appointment.

### **2.07.3 The Deputy Leader**

Oadby and Wigston Borough Council may if it considers it appropriate to do so, appoint a Deputy Leader. The Deputy Leader where such an appointment is made, will hold office on the terms listed at paragraph 2.07.2 above in respect of the Leader when the Leader is absent.

### **2.07.4 Leader of the Opposition**

The Council recognizes other Group Leaders. The appointment of Leader of the Opposition Groups are noted at the Annual General Meeting of the Council.

### **2.08 Cessation of Membership**

A Councillor will cease to be a member if they

- (i) resign by giving notice in writing to the Chief Executive
- (ii) if they fail to observe the requirements to attend Council meetings as prescribed by Section 85 of the LGA 1972
- (iii) or if they are disqualified from holding office by virtue of Section 80 of LGA 1972 or any other statutory provision.

## **Article 3 – Residents and the Council**

Explanatory comment: This Article sets out the rights and responsibilities of residents

### **3.01 Residents Rights**

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

- (a) **Voting.** Residents on the electoral roll for the area have the right to vote at Council elections if they are registered
- (b) **Information.** Residents have the right to:
  - (i) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (ii) inspect reports and background papers and any records of decisions made by the Council, standing committees and ask for copies of these, but must pay a reasonable copying charge; and
  - (iii) inspect the Council's accounts and make their views known to the external auditor;
  - (iv) obtain a copy of the Constitution;

- (v) such other information as may be specified in the Council's Freedom of Information Publication Scheme;
- (c) **Participation.** Residents have the right to participate in the Council's business by
  - (i) signing a petition to request a referendum on a mayoral form of Constitution.
  - (ii) contact their local Councillor about any relevant matters of concern to them.
  - (iii) submit a petition (see Part 4 of the procedure to follow)
  - (iv) the right to contribute by way of the Council's public participation arrangement.
- (d) **Complaints.** Residents have the right to complain to:
  - (i) the Council itself under its complaints scheme;
  - (ii) the Ombudsman after using the Council's own complaints scheme;
  - (iii) the Policy, Finance and Development Committee via the Monitoring Officer about a breach of the Councillor's Code of Conduct.

### **3.02 Residents' Responsibilities**

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

When attending meeting residents must not behave improperly, offensively or interrupt the business of the meeting. If they do they will be removed and excluded from the meeting.

## **Article 4 – The Full Council**

Explanatory comment: The Council has responsibility for the Policy Framework and Budget.

### **4.01 Meanings**

#### **(a) Policy Framework.**

The policy framework means the following plans and strategies and such others as the Council shall determine to be included in the policy framework.

(b) **Budget**

The Policy Finance and Development Committee recommends to the Council the proposals for the budget each year. 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 Council house rents and decisions relating to, the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of budget virement limits.

(c) **Housing Land Transfer**

Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

**4.02 Functions of the Full Council**

Only the Council will exercise the following functions:

- (a) adopting and amending the Constitution following recommendations from the Constitutional Task Group;
- (b) approving or adopting the policy framework, the budget and Council Tax
- (c) approving any application to the Secretary of State in respect of any Housing Land Transfer;
- (d) agreeing and/or amending the terms of reference for Committees and Working Parties and deciding on their composition and making appointments to them;
- (e) appointing representatives to outside bodies unless the appointment has been delegated by the Council;
- (f) adopting an allowances scheme under Article 2.06 (Members' Allowances);
- (g) changing the name of the area; conferring the title of honorary alderman or Freedom of the Borough
- (h) confirming the appointment of the Chief Executive and their dismissal
- (i) the appointments to the designations of "Head of Paid Service" or "Monitoring Officer" or "Chief Financial Officer" and their dismissal.
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (k) electing the Mayor and Deputy Mayor of the Council;



- (l) receiving and adopting reports of committees/forums/working groups
- (m) any matter which is not in accordance with the Policy framework; and
- (n) all other matters which, by law, must be reserved to Council.

#### **4.03 Council Meetings**

There are three types of Council meeting;

- (a) the Annual meeting;
- (b) Ordinary meeting;
- (c) Extraordinary meetings.

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

### **Article 5 - Chairing the Council**

Explanatory comment: This Article explains the role of the Mayor in chairing the Council.

Some Councils have an elected Mayor who is a directly elected political leader however in Oadby and Wigston Borough Council the role is one of civic leader.

#### **5.01 CHAIRING THE COUNCIL MEETINGS**

##### **(iii) FUNCTIONS**

The Mayor will have the following responsibilities:

1. to uphold and promote the purpose of the Constitution;
2. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors, the interests of the community and the corporate objectives of the Council;
3. to ensure that the Council meeting is a forum for the debate of matters of concern to the local community; and a place where members who do not sit on Policy Committees or hold committee Chairs are able to hold members or policy committee and committee Chairs to account;
4. to promote public involvement in the Council's activities;

## **Article 6**

Explanatory comment: The Council may delegate some of its functions to appointed committees.

### **6.01 Committees appointed by the Council**

The Council will appoint the committees set out in Part 3 of this Constitution, to discharge the functions specified.

## **Article 7 –Resident Forums and Working Groups**

Explanatory comment: In order to give local residents a greater say in Council affairs it has appointed a forum for each of the towns within the Borough, Oadby, South Wigston and Wigston.

### **7.01 General role of the Residents Forums**

The Resident Forums will discharge the functions delegated to them by Council as set out in Part 3 of this Constitution.

#### **7.01.1 Finances**

Residents forums will have budgets delegated by Council to enable local groups, organisations and individuals to apply to their local forum for funding of projects that seek to improve the quality of life for people who live or work in the Borough. Prior approval for the spending of each Resident Forum budget is subject to the approval of the Policy Finance and Development committee

### **7.02 Leicestershire Together**

Leicestershire Together is the Local Strategic Partnership for Leicestershire. It includes all of the organisations and partnerships that deliver public services to Leicestershire and its aim is to improve the quality of life and of public services in Leicestershire. Oadby and Wigston Borough Council to fulfil it

### **7.04 Working Groups**

Whilst the Council will operate predominantly through a Committee and Forum system, it may from time to time create Working Groups with Terms of Reference, the purpose of which neither lend themselves to the formality of the committee structure or the time limited, task related nature of Task Groups. Working Groups will be non-decision making groups acting in an advisory capacity to a decision making body. The current Working Groups are set out in Part 3

## **Article 8 - Joint Arrangements and Partnerships**

Explanatory comment: This Article explains the powers available to the Council to enter into joint arrangements and the use it has made of that power with other bodies.

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

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

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

### **8.02 Joint Arrangements**

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) Except as set out below, the Council may only appoint Councillors to a joint committee and those Councillors shall where possible reflect the political composition of the local authority as a whole.
- (c) 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.

### **8.03 Delegation To and From Other Local Authorities**

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

### **8.04 Contracting Out**

The Full Council may contract out, to another body or organisation, functions which may be exercised by an Officer and which are subject to an order under Section 70 of the Deregulation and Contracting Out Act 1994. These are Ministerial Orders allowing local authorities to contract out specific functions. Those made so far deal with Tax Billing, Collection and Enforcement, Investment Functions, Allocation of Housing and Homelessness and certain County Council functions, or under contracting

arrangements where the contractor acts as the Council's agent under usual contacting principles, provided there is no delegation of the Council's discretionary decision making.

## **10.06 Joint Committees the Council participates in ( to go into Part 3)**

The Council is party to a Joint Committee Agreement set up under the Traffic Management Act 2004 for the adjudication of parking appeals.

### **Article 9 – Officers**

Explanatory comment: This Article explains the structure of the Council and the roles of the statutory officers of the Council

#### **9.01 Management Structure**

##### **(a) General**

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

##### **(b) Statutory Chief Officers**

The full Council will engage persons for the following posts, who will be designated Statutory Chief Officers ie Head of Paid Service, Monitoring Officer and Chief Financial Officer

<b>Post</b>	<b>Designation</b>
Chief Executive	Head of Paid
Service Director of Services	
Monitoring Officer	Chief Financial
Officer	S151 Officer

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

#### **9.02 Functions of the Head of Paid Service (Chief Executive)**

- (a) Overall corporate management and operational responsibility (including overall management responsibility for all officers and relationships with Councillors)

Business Transformation

Reputation Management

Provision of professional advice to all parties in the decision making process

Together with the Monitoring Officer responsibility for a system of record keeping for all the Council's decisions and maintaining the Constitution

Representing the Council on partnership and external bodies (as required by statute or the Council)

(b) **Restriction on post**

The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Financial Officer if a qualified accountant.

**9.03 Functions of the Monitoring Officer**

- (a) The Monitoring Officer will ensure lawfulness and fairness of decision making. After consulting with the Head of Paid Service and the Chief Financial Officer, the Monitoring Officer will report to the Council if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered. The Monitoring Officer must also report on any maladministration or injustice where the Ombudsman has carried out an investigation.

Maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public. The Monitoring Officer's Protocol is set out in Part 5.

Contribute to the promotion and maintenance of high standards of conduct through provision of support and advice to the Policy Finance and Development Committee.

Receive and act on complaints received regarding Councillor conduct and will conduct investigations into matters in accordance with the adopted procedure set out in Part 5 of this Constitution and make reports or recommendations in respect of them to the Policy Finance and Development Committee.

To maintain the "Register of Interests" for Councillors

The Monitoring Officer will ensure that decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

(b) **Providing advice**

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.

The Monitoring Officer will oversee **vires** (legality) issues.

The Monitoring Officer will ensure sound advice is given to all Members on these potentially difficult questions and to ensure that regular updates are sought. The Monitoring Officer will also be obliged to maintain a register of gifts and hospitality.

(c) **Restrictions on post**

The Monitoring Officer cannot be the Chief Financial Officer or the Head of Paid Service.

**9.04 Functions of the Chief Financial Officer (section 151 Officer)**

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

After consultation with the Head of Paid Service and the Monitoring Officer, the Chief Financial Officer will report to the full Council and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss of deficiency or if the council is about to enter an item of account unlawfully. [s.114 Local government finance Act, 1988].

(b) **Administration of financial affairs**

The Chief Financial Officer will have responsibility for the administration of the financial affairs of the Council. (s.151 Local Government Act, 1972).

(c) **Contributing to corporate management**

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

(d) **Providing advice**

The Chief Financial Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.

(e) **Giving financial information**

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

(f) **Restrictions on post**

The Chief Financial Officer cannot be the Monitoring Officer.

**9.05 Duty to Provide Sufficient Resources to the Monitoring Officer and Chief Financial Officer**

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



## **9.06 Conduct**

Officers will comply with the Officer's Code of Conduct and the Officer and Member Relations protocol as set out in Part 5 of this Constitution.

## **9.07 Employment**

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

## **Article 10 - Decision Making**

Explanatory comment: This Article explains the principle of decision making and delegation in the Council

### **10.01 Responsibility for Decision Making**

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions

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

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

- (a) the action to be taken shall be proportionate to the desired outcome
- (b) to have due regard to consultation and the consideration of professional advice from officers
- (c) respect for human rights
- (d) presumption in favour of openness, helpfulness and consistency
- (e) clarity of aims and desired outcomes
- (f) consideration of available options and giving reasons for decisions
- (g) only relevant matters to be taken into account, as advised by Officers and the Chair
- (h) meeting the Council's priorities

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

Subject to Article 10.05, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

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

Subject to Article 10.05, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

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

The Council, a Councillor or an officer acting as a panel or tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

### **Article 11 - Finance, Contracts and Legal Matters**

Explanatory comment: This Article refers to the Council's Finance and Contract rules which are contained in Part 4 of this Constitution and the authority to institute, defend or participate in legal proceedings.

#### **11.01 Financial Management**

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

#### **11.02 Contracts**

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

#### **11.03 Legal Proceedings**

The Head of Corporate Resources in consultation with the Head of Paid Service and/or the Director of Services is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Head of Corporate Resources considers that such action is necessary to protect the Council's interests. The rules and procedures in respect of legal proceedings brought by and against the Council are set out in the Legal Proceeding rules in Part 4 of this Constitution.

#### **11.04 Authentication of Documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Chief Executive or Director of Services or Head of Corporate Resources or any other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

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

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Corporate Resources. A resolution of the Council, or any part of it, will be sufficient authority for sealing any document necessary to give effect to that resolution. The Contract Procedure Rules sets out those documents are required to be sealed.

The affixing of the Common Seal will be attested by the Mayor (or some other member authorised by him/her) and by the Chief Executive or Director of Services or the Head of Corporate Resources or some other person authorised by them. A record of the sealing shall be entered into a written register (the Deed Register) that will be kept in a safe place and maintained for that purpose and the persons attesting the document shall sign their names against the relevant entry in the Deed Register.

### **Article 12 - Review and Revision of the Constitution**

Explanatory comment: This Article sets out how the Constitution will be monitored and reviewed as necessary

### **12.01 Duty to Monitor and Review the Constitution**

The Constitutional Task Group in consultation with the Head of Paid Service and the Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

#### **Protocol for Monitoring and Review of Constitution By Monitoring Officer**

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

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



## **12.02 Changes to the Constitution**

### **a) Approval**

Changes to the Constitution will only be approved by the Council after consideration of the proposal by the Constitutional Task Group in consultation with the Head of Paid Service and Monitoring Officer. The Monitoring Officer in consultation with the Head of Paid Service is authorised to make such changes as are necessary following legislative changes and any minor procedural and operational change which are to be reported to the next Constitutional Task Group meeting.

### **b) Changes from adopted Committee Style Arrangements to a Mayoral Form of Executive**

The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and must hold a binding referendum.

### **c) Changes from adopted Committee Style Arrangements to a Leader and Cabinet Form of Executive**

The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

## **Article 13 - Suspension, Interpretation and Publication of the Constitution**

Explanatory comment: This Article ensures that the Articles of the Constitution may not be suspended. This provides certainty and stability to fundamental aspects of the Council's governance. However Rules of Procedure may be suspended as set out in 13.01

## **13.01 Suspension of the Constitution**

### **(a) Limit to suspension**

The Articles of this Constitution may not be suspended. The Rules specified in Part 4 may be suspended by the Council and committees to the extent permitted within those Rules and the law.

### **(b) Procedure to suspend**

A motion to suspend any rules capable of suspension may be moved with or without notice provided that half of the whole number of Councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1 but shall not extend beyond the meeting.

(c) **Rules capable of suspension**

All of the Council Procedure Rules set out in Part 4, except Rule 16.6 (right to require individual vote to be recorded and recorded vote for budget setting ) and Rule 22 (suspension), need to revert back to this may be suspended in accordance with this Article but in every case only upon a request of two thirds of the Councillors present and voting.

**13.02 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.

**13.03 Publication**

- (a) The Chief Executive will give a printed copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.
- (b) The Chief Executive will ensure that copies are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Chief Executive will ensure that the Constitution is made available on the Council's website and is updated as necessary.