

# ARTICLES OF THE CONSTITUTION

## CONTENTS

WHITE PAPER

<b>Rule</b>	<b>Reference</b>
Access to information	A12.03
Allowances	A2.05
Appointment of deputy mayor & executive members	A5.03
Area committees - access to information	A11.04
Area Committees and Forums	A11
Area Committees	A11.01
Arrangements to promote well being	A12.01
Authentication of documents	A15.04
Chairing the Full Council	A7
Changes to the Constitution	A16.02
Citizens and The Council	A3
Citizens' rights	A3.01
Citizens' responsibilities	A3.02
Common Seal of the Council	A15.05
Composition and eligibility	A2.01
Conduct	A2.04
Conduct	A13.06
Conflicts of interest - membership of area committees	A11.03
Constitution	A1
Contracting out	A12.05
Contracts	A13.02
Decision making by Officers	A14.09
Decision making by the full Council	A14.04
Decision making by the executive	A14.05
Decision Making	A14
Decision making by other committees	A14.07
Decision making by Council bodies acting as tribunals	A14.08
Decision making by overview and scrutiny committees	A14.06
Decisions	A14.03
Delegation to and from other local authorities	A12.04
Duty to monitor and review the constitution	A16.01
Duty to provide sufficient resources to the monitoring	A13.05
Election and terms of councillors	A2.02
Employment	A13.07
Executive members on area committees	A11.05
Finance, Contracts and Legal matters	A15
Financial management	A15.01
Form, composition, delegations and function	A11.02
Full Council meetings	A4.03
Full Council	A4
Functions of the chief finance officer	A13.04

Functions of the full Council	A4.02
Functions of the head of paid service	A13.02
Functions of the monitoring officer	A13.03
Independent oversight	A10.2
Interpretation	A17.02
Interpretation and Review of the Constitution	A1.04
Joint arrangements	A12.02
Joint Arrangements	A12
Key decisions - the two tests	A6 & A14.10
Legal proceedings	A15.03
Lord Mayor	A7
Management structure	A13.01
Mayor and executive	A5
Mayor – roles and responsibilities	A5.01
Mayor – election of	A5.02
Mayor and executive roles – casual vacancies	A5.04
Mayor – responsibility for functions	A5.05
Meanings	A4.01
Members of The Council	A2
Officers	A13
Overview and Scrutiny Committees	A8
Powers of Bristol City Council	A1.01
Principles of decision making	A14.02
Proceedings of overview and scrutiny committees	A8.04
Publication	A17.03
Purpose of the Constitution	A1.03
Regulatory and other committees	A9
Responsibility for functions	A4.04
Responsibility for decision making	A14.01
Review and Revision of the Constitution	A16
Role and function of the Lord Mayor	A7 <del>5.01</del>
Specific functions	A8.03
Standards	A10
Suspension of the Constitution	A17.01

# **Article 1 – The Constitution**

## **A1.01**

### **Powers of Bristol City Council**

Bristol City Council will exercise all its powers and duties in accordance with the law and this constitution.

## **A1.02**

### **The Constitution**

This constitution, and all its appendices, is the constitution of Bristol City Council.

## **A1.03**

### **Purpose of the Constitution**

The purpose of the constitution is to:

- (1) enable the council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- (2) support the active involvement of citizens in the process of local authority decision-making;
- (3) help councillors represent their constituents more effectively;
- (4) enable decisions to be taken efficiently and effectively;
- (5) create a powerful and effective means of holding decision-makers to public account;
- (6) ensure that no one will review or scrutinise a decision in which they were directly involved;
- (7) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- (8) provide a means of improving the delivery of services to the community.

## **A1.04**

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

Where the constitution permits the council to choose between different courses of action, the council will always choose that option which it thinks is closest to the purposes stated above. The council will monitor and evaluate the operation of the constitution as set out in Article 16.

# Article 2 – Members of The Council

## A2.01

### Composition and eligibility

#### (a) Composition

Bristol City Council will comprise a directly elected mayor and 70 councillors. The mayor will be elected by the voters of the whole city and two councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Electoral Commission.

The mayor is classed as a member of the council as explained in Article 5.02. The term “members of the council” includes the mayor and all councillors

#### (b) Eligibility

Anyone who is over 18 and lives, works or occupies land as owner or tenant in Bristol may stand as a candidate in an election for elected mayor.

Only registered voters of the city of Bristol or those living or working there will be eligible to hold the office of councillor.

## A2.02

### Election and terms of councillors

#### Election and terms of the mayor and councillors

The mayor will be elected on 15 November 2012 and thereafter commencing in May 2016, on the first Thursday in May every four years.

Until 2016, the ordinary election of a third (or as near as may be) of all councillors will be held on the first Thursday in May in each year other than in every fourth year where there will be no regular election.

The usual terms of office of the mayor and councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later. However this is subject to the introduction of whole council elections in 2016, whereupon all councillors shall be subject to

elections, with further elections occurring on a four year cycle.

## **A2.03**

### **Roles and functions of the mayor and all councillors**

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

##### **The Mayor :**

- (i) Is responsible for all executive decisions except where these are reserved to Full Council as a result of legislative requirements or local choice; and
- (ii) Represents the whole City and all communities who live and work in the City, and will bring their views into the decision-making process by encouraging active citizen engagement and involvement;

##### **The Mayor and councillors :**

- (i) are collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (ii) contribute to the good governance of the city and actively encourage community participation and citizen involvement in decision making;
- (iii) represent the whole community, with a special responsibility for councillors to represent the interests of their ward and of individual constituents whether or not they voted for them;
- (iv) respond to constituents' enquiries and representations, fairly and impartially and act as an advocate for constituents in resolving particular concerns or grievances;
- (v) participate in the governance and management of the council;
- (vi) be available to represent the council on other bodies; and
- (vii) maintain the highest standards of conduct and

ethics.

**(b) Rights and duties**

- (i) The Mayor and 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) The Mayor and councillors will not make public information which is confidential or exempt without the consent of the council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
- (iii) For these purposes, “*confidential*” and “*exempt*” information are defined in the **Access to Information Rules** (APR) in part 4 of this constitution.

**A2.04  
Conduct**

The Mayor and councillors will at all times observe the **Members’ Code of Conduct** and the **Protocol on Member / Officer Relations** set out in part 5 of this constitution and any other codes and protocols approved by the full Council.

**A2.05  
Allowances**

The Mayor and councillors will be entitled to receive allowances in accordance with the **Members’ Allowances Scheme** set out in part 6 of this constitution.

# Article 3 – Citizens and The Council

## A3.01

### Citizens' rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the **Access to Information Rules** (APR) in part 4 of this constitution:

#### (a) Voting and petitions

Citizens on the electoral roll for the City of Bristol have the right to vote.

#### (b) Information

Citizens have the right to:

- (i) attend meetings of the full Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (ii) attend public meetings of the executive when key decisions are being considered except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (iii) find out from the forward plan what key decisions will be taken by the executive and when;
- (iv) see reports and background papers, and any records of decisions made by the full Council, the Mayor the executive and committees except where they contain confidential or exempt information; and
- (v) inspect the council's accounts and make their views known to the external auditor.

### **(c) Participation**

Citizens have the right to ask questions, submit statements and present petitions at meetings of the full Council, public meetings of the executive, and at most committee meetings.

### **(d) Complaints**

Citizens have the right to complain to:

- (i) the council under its complaints scheme;
- (ii) the ombudsman after using the council's own complaints scheme;
- (iii) the Council's Monitoring Officer about a breach of the councillors' code of conduct.

## **A3.02**

### **Citizens' responsibilities**

In return for their rights, the Council expects that citizens will conduct themselves in a reasonable way when dealing with Council officers, the Mayor and Councillors, and when using Council facilities. They are asked to:

- i. Have regard to the rules and procedures that Council staff must follow.
- ii. Recognise that the Council has obligations to all its citizens and has to strike a balance between them.
- iii. Behave with due courtesy, tolerance and respect.

# Article 4 – The Full Council

## A4.01 Meanings

- (a) “Full Council” is the formal meeting of the mayor and all the councillors.
- (b) Policy Framework

The policy framework means the following plans and strategies:

(i) reserved to Full Council as required by law :-

<b>Plans and strategies</b>	<b>Reference</b>
Annual Library Plan	<i>Public Libraries &amp; Museums Act 1964</i>
Sustainable Community Strategy	<i>Local Government Act 2000</i>
Crime and Disorder Reduction Strategy	<i>Crime and Disorder Act 1998</i>
Licensing Policy statement	<i>Gambling Act 2005</i>
Local Transport Plan	<i>Transport Act 2000</i>
Plans and Strategies which together comprise the Development Plan	<i>Town and Country Planning Act 1990</i>
Youth Justice Plan	<i>Crime &amp; Disorder Act 1998</i>

(ii) reserved to Full Council as a matter of local choice

- Corporate plan;
- Cultural Strategy;
- Housing Strategy;
- Equalities Policy;
- Community Cohesion Strategy;
- Single Equality Scheme.

Council may, from time to time, add to or change the above list of plans and strategies reserved to Full Council so as to comply with the law or as a matter of local choice where discretion is available.

**(c) 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 control of its capital expenditure and the setting of virement limits.

**A4.02**

**Functions of the full Council**

Only the full Council will exercise the following functions:

- (a) adopting and changing the constitution (save for minor corrections see Article 16.02);
- (b) making procedural rules (standing orders) as to contracts;
- (c)
  - (i) approving or adopting the policy framework or the budget; and
  - (ii) those functions which cannot be the sole responsibility of the executive under paragraph 4 (5) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
- (d) subject to the urgency procedure contained in the **Access to Information Rules** (APR) in part 4 of this constitution, making decisions about any matter in the discharge of an executive 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) agreeing and / or amending the terms of reference for committees, deciding on their composition and making appointments to them unless the function (insofar as it relates to the scrutiny and overview function) has been delegated by the full Council;

- (f) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated to a committee.
- (g) adopting a members' allowances scheme under Article 2.05;
- (h) changing the name of the area, conferring the title of honorary alderman or freedom of the city;
- (i) confirming the appointment of the head of paid service;
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (k) all local choice functions set out in part 3 of this constitution which the full Council decides should be undertaken by itself rather than the executive or officer or committee of the council; and
- (l) all other matters which, by law, must be reserved to the full Council.

#### **A4.03**

##### **Full Council meetings**

There are three types of full Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings (including a meeting to determine the budget);
- (c) extraordinary meetings

and they will be conducted in accordance with the **Council Procedure Rules** (CPR) in part 4 of this constitution.

#### **A4.04**

##### **Responsibility for functions**

The full Council will maintain in part 3 of this constitution the responsibilities for the full Council's functions which are not the responsibility of the executive.

# Article 5 – The Mayor and the Executive

## A 5.01

### The roles and responsibilities of the Mayor

The Mayor is responsible for all of the Council's executive functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution. The Mayor will also:

- i. Recommend to Full Council the Policy Framework and Council Budget for approval and any subsequent amendments;
- ii. Make all executive decisions within and in furtherance of the agreed Policy Framework and Budget;
- iii. Recommend to Full Council the making of bye-laws; and

In exercising this role the Mayor will:

- i. In accordance with the Local Government Act 2000, appoint between two and nine serving councillors, one of whom must be appointed as the Deputy Mayor with the others known as Executive Members
- ii. Inform Full Council and the Monitoring Officer of appointments to Deputy Mayor and Executive Members.
- iii. Indicate the areas of responsibility undertaken by the Deputy and Executive Members and make this information publically available. These areas of responsibility may be varied by the Mayor from time to time.
- iv. Determine the scheme of delegation for Executive functions known as the 'Mayor's Scheme of Delegation' and maintain a written record of delegations to be publically available.
- v. Inform the Monitoring Officer of changes to the Mayor's Scheme of Delegations.
- vi. Create and publish the Mayor's Forward Plan of Key Decisions.
- vii. Schedule and Chair meetings of the Executive.

## **A5.02 Election of a Mayor**

The Mayor will be a person elected to that position by the electors of the City in the Mayoral Election. In the event that a serving Councillor of the Council is elected as Mayor, a vacancy shall be declared in that person's council seat and a by-election shall be held (if required) in accordance with the relevant legislation.

The term of office of the Mayor will normally be four years. S/he will take office on the fourth day after his/her election and will continue in office until the fourth day after his/her successor is elected, unless s/he dies, is disqualified or resigns.

The Mayor is a Member of the Council and is to be treated as a Member of the Council or a councillor for the purposes of such laws as are specified by the Secretary of State in regulations and orders. Currently the principal provisions that relate are:

- i. schemes for basic, attendance and special responsibility allowances for local authority members
- ii. the Local Authorities (Members' Interests) Regulations
- iii. Local Authorities (Indemnities for Members and Officers) Regulations
- iv. Code of Conduct for members

## **A5.03 Appointment of Deputy Mayor and Executive Members**

The Mayor shall appoint a Deputy Mayor and between one and eight Executive Members - who will be councillors.

The Mayor may replace Executive Members and the Deputy Mayor at any time but otherwise the Deputy Mayor shall remain in post for the duration of the Mayor's term of office unless:

- a) s/he resigns from office;
- or
- b) s/he is no longer a Councillor.

The Deputy Mayor shall have authority to exercise the Mayor's powers only in the event that the Mayor is unable to act at any time. If at any time the Mayor is unable to act or if the office of Mayor is vacant, the

Deputy Mayor shall act in his or her place.

#### **A5.04**

#### **Casual vacancies in the Mayor and Executive roles**

The Mayor may appoint a councillor to fill any position or vacancy which may arise in the Executive from time to time.

The provisions of Paragraph 1(8) of Schedule 1 of the Local Government Act 2000 shall apply if for any reason the Mayor is unable to act in the office of Mayor, or the office of Mayor is vacant AND the Deputy Mayor is unable to act or of the office of the Deputy Mayor is vacant. In this event the Executive collectively must act in the Mayor's place or must arrange for a member of the Executive to act in his/her place.

#### **A5.05**

#### **Responsibility for functions**

As described above the Mayor will maintain a scheme of delegations that describe the portfolio of key responsibilities for the Deputy Mayor and Executive Members. The Mayor may provide for discharge of executive functions by:

- (i) The Mayor
- (ii) Deputy Mayor
- (iii) Executive Members
- (iv) Through collective meetings of the Executive
- (v) An officer of the Council
- (vi) A neighbourhood committee
- (vii) Joint arrangements; or
- (viii) Another authority.

Matters not reserved (i.e. as defined in the Mayor's Scheme of delegation) are delegated to the appropriate Strategic Director.

Unless the Mayor decides otherwise, the Deputy Mayor and individual Executive Members, when exercising delegated functions, may arrange for the discharge of any of those functions under (iv), (v), (vi) and (vii) above.

The Mayor may place limitations on delegations under (ii), (iii), (v) & (vi).

Where executive functions have been delegated, this does not prevent them from being discharged by the person or body who delegated them.

Any decision which is a responsibility of the Mayor can be taken as an individual decision taking into account the following:

- i. Decisions should be taken in public unless there are clear lawful reasons justifying otherwise (the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012).
- ii. Regulations and guidance from Government require that decisions should be taken on the basis of due consultation and professional advice from officers. The accepted approach is via a written report.
- iii. If the issue is not a 'Key decision' the decision notice and report should be published as soon as practicable after the decision is made.
- iv. If the decision is a 'Key decision' the report must be published 5 clear days before the decision is made and the decision notice as soon as practicable after the decision is made.
- v. All decisions are subject to call-in unless defined as urgent.

## **A5.06**

### **Proceedings of the Executive**

Proceedings of the Executive will take place in accordance with the Mayor & Executive Procedure Rules set out in Part 4 of this constitution.

## Article 6 – Key Decisions

Key Decisions are those that meet criteria laid down in legislation and the Council's criteria. Key Decisions will be recorded on the Mayor's Forward Plan of Key Decisions. Details regarding the procedure for Key Decisions are given in the Access to Information Procedure Rules in the supporting documents to this Constitution.

The Council's definition of Key Decision is an executive decision, which is likely:

- to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
- to be significant in terms of its effects on communities living or working in two or more wards in the City.

Expenditure or savings will be regarded as significant if:

- (a) In the case of additional recurrent revenue expenditure, it is not included in the approved revenue budget, and would cost in excess of £500,000 p.a.;
- (b) In the case of reductions in recurrent revenue expenditure, the provision is not included in the approved revenue budget, and savings of over £500,000 p.a. would be achieved;

# **Article 7 – The Lord Mayor and Chairing The Full Council**

The Lord Mayor will be elected annually.

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

## **CHAIRING THE FULL COUNCIL MEETING**

The Lord Mayor will have the following responsibilities:

- (1) to uphold and promote the purposes of the constitution, and to interpret the constitution when necessary;
- (2) to preside over meetings of the full Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- (3) to ensure that the full Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the executive are able to hold the executive and committee chairs to account;
- (4) to promote public involvement in the activities of the full Council;
- (5) to be the conscience of the full Council; and
- (6) to attend such civic and ceremonial functions as the full Council and he/she determines appropriate.

# Article 8 – Overview and Scrutiny Committees

## A8.01

### Terms of reference

The full Council will appoint such overview and scrutiny committees as it wishes to comply with legislative requirements.

## A8.02

### General role

Within their terms of reference, overview and scrutiny committees will:

- (i) review and / or scrutinise decisions made or actions taken in connection with the discharge of any of the functions of the full Council;
- (ii) make reports and / or recommendations to the full Council and / or the executive and / or any policy, joint or area committee in connection with the discharge of any functions;
- (iii) consider any matter affecting the area or its inhabitants; and
- (iv) exercise the right to *call-in*, for reconsideration, decisions made but not yet implemented by the executive and / or any policy or area committees.

## A8.03

### Specific functions

#### (a) Policy development and review

Overview and scrutiny committees may:

- (i) assist the full Council and the Mayor and executive in the development of its budget and policy framework by in-depth analysis of policy issues;
- (ii) conduct research, consultation (including with the community) in the analysis of policy issues and possible options;

- (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (iv) question the Mayor, members of the executive and / or committees and strategic/service directors about their views on issues and proposals affecting the area; and
- (v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

**(b) Scrutiny**

Overview and scrutiny committees may:

- (i) review and scrutinise the decisions made by and performance of the Mayor, the executive and / or committees and council officers in relation to individual decisions and over time;
- (ii) review and scrutinise the performance of the council in relation to its policy objectives, performance targets and / or particular service areas;
- (iii) question the Mayor, members of the executive and / or committees and Strategic Directors/Service Directors about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (iv) make recommendations to the Mayor, the executive and / or appropriate committee and / or the full Council arising from the outcome of the scrutiny process;
- (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee and local people about their activities and performance; and
- (vi) question and gather evidence from any person (with

their consent).

- (vii) consider matters referred by councillors (under the “councillor call for action” process.

**(c) Finance**

Overview and scrutiny committees may exercise overall responsibility for the finances made available to them.

**(d) Annual report**

Overview and scrutiny committees must report annually to the full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

**(e) Officers**

In accordance with the Local Government Act 2000 (1A 9FB) the Council will designate one of its officers to be responsible for promoting the role of the authority’s overview and scrutiny arrangements, providing support to the authority’s overview and scrutiny committee and their members and to provide support and guidance to

- (i) members of the authority
- (ii) members of the executive of the authority
- (iii) officers of the authority

in relation to the functions of the authority’s overview and scrutiny arrangements.

Overview and scrutiny committees may exercise overall responsibility for the work programme of the officers employed to support their work.

The Council will also ensure that appropriate officer support is provided to enable the overview and scrutiny function to deliver agreed work programmes and responsibilities.

**A8.04**

**Proceedings of overview and scrutiny committees**

Overview and scrutiny committees will conduct their proceedings in accordance with the **Overview and Scrutiny Procedure Rules (OSR)** set out in part 4 of this constitution.

# Article 9 – Regulatory and other committees

## A9.01

### Regulatory and other committees

The full Council will appoint relevant committees, details of which are contained in part 3 - **Responsibility for Council Functions (RF)**

# Article 10 - Maintaining Standards

## A10.01

### Committee arrangements

The Audit Committee, which is established annually by full Council will make appropriate arrangements to:

- assist the Council in its statutory duty to promote and maintain high standards of conduct by members and co-opted members
- advise council on the adoption or revision of the code of conduct for members and associated codes and protocols and be responsible for their going monitoring
- advise and provide training in relation to the code of conduct
- consider and determine allegations of member misconduct where the Monitoring Officer refers a case for committee consideration
- consider Group Whip nominations for the conferring of the title of “honorary alderman” or “honorary alderwoman”
- monitor the members register of interests

## A10.02

### Independent oversight

In accordance with the requirements of the Localism Act 2011, the Monitoring Officer will appoint one “independent person” to assist him in reviewing allegations of serious misconduct against individual members.

# Article 11 – Area Committees and Forums

## A11.01

### Area committees

The full Council may appoint area committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making.

The full Council has appointed an area committee known as a “Neighbourhood Committee” for each of the following 14 areas (each to be known as a “Neighbourhood”):

- Avonmouth and Kingsweston wards
- Henbury and Southmead wards
- Henleaze, Westbury-on-Trym and Stoke Bishop wards
- Horfield and Lockleaze wards
- Redland, Cotham and Bishopston wards
- Frome Vale, Hillfields and Eastville wards
- Cabot, Clifton and Clifton East wards
- Ashley, Easton and Lawrence Hill wards
- St George East and St George West wards
- Brislington East and Brislington West wards
- Bedminster and Southville wards
- Knowle, Filwood and Windmill Hill wards
- Hengrove and Stockwood wards
- Hartcliffe, Bishopsworth and Whitchurch Park wards

## A11.02

### Form, composition, delegations and function

The full Council and the executive will include details of the form, composition, delegations and area committees in part 3 of this constitution, including the functions delegated showing which are the responsibility of the executive and which are not, the composition and membership of the committees, budgets and any limitations on delegation.

#### (a) Membership of Neighbourhood Committees

The membership of each Neighbourhood Committee comprises the councillors elected to serve the wards in the Neighbourhood.

## **(b) Functions of Neighbourhood Committees**

The Terms of Reference of Neighbourhood Committees are set out in Part 3 of the Constitution.

Full Council shall determine the non-executive functions to be exercised by Neighbourhood Committees. These functions will be set out in Part 3 of the constitution.

The Mayor shall determine the executive functions that may be exercised by Neighbourhood Committees as set out in the Mayor's Scheme of Delegation in Part 3 of the constitution.

### **A11.03**

#### **Conflicts of interest – membership of area committees and overview and scrutiny committees**

##### **(a) Conflict of interest**

If an overview and scrutiny committee 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 overview and scrutiny committee meeting unless a dispensation to do so is given by the Audit Committee.

##### **(b) General policy reviews**

Where the overview and scrutiny committee is reviewing policy generally the member must declare their interest before the relevant agenda item is reached, but need not withdraw.

### **A11.04**

#### **Area committees – access to information**

Area committees will comply with the **Access to Information Rules** (APR) in part 4 of this constitution.

Agendas and notices for area committee meetings which deal with both functions of the executive and functions which are not the responsibility of the executive will state clearly which items are which.

## **A11.05**

### **Members of the executive on area committees**

A member of the executive may serve on an area committee if otherwise eligible to do so as a councillor.

# Article 12– Joint Arrangements

## A12.01

### Arrangements to promote well being

The full Council or the Mayor, 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.

## A12.02

### Joint arrangements

- (a) The full Council may establish joint arrangements with one or more local authorities and / or their executives to exercise functions that are not executive functions in any of the participating authorities, or advise the full Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Mayor may establish joint arrangements with one or more local authorities to exercise functions that are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below, the Mayor may only appoint executive members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Mayor may appoint members to a joint committee from outside the executive 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 Mayor may appoint to the joint committee any councillor who is a member for an ward which is wholly or partly contained within the area;

- (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.

### **A12.03**

#### **Access to information**

- (a) The **Access to Information Rules** (APR) in part 4 of this constitution apply.
- (b) If all the members of a joint committee are members of the executive in each of the participating authorities then the access to information regime is the same as that applied to the executive.
- (c) If the joint committee contains members who are not on the executive of any participating authority then the **Access to Information Rules** (APR) in part VA of the Local Government Act 1972 will apply.

### **A12.04**

#### **Delegation to and from other local authorities**

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

### **A12.05**

#### **Contracting out**

The Council or the Mayor 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, subsequent enabling legislation or under contracting arrangements where the contractor acts as the council's agent under usual contracting principles, provided there is no delegation of the full Council's discretionary decision making.

# Article 13– Officers

## A13.01

### Management structure

(a) **General**

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

(b) **Chief Officers**

The full Council will engage chief officers as detailed in part 7 of the constitution.

(c) **Head of paid service, monitoring officer and chief finance officer**

The full Council will approve these statutory posts.

Such posts will have the functions described in Article 13.02–13.04 below.

(d) **Structure**

The head of paid service will determine and publicise a description of the overall departmental structure of the council showing the management structure and deployment of officers. This is set out at part 7 **Management Structure** of this constitution.

## A13.02

### Functions of the head of paid service

(a) **Discharge of functions by the council**

The head of paid service will report to the full Council on the manner in which the discharge of the council's functions is coordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

(b) **Restrictions on functions**

The head of paid service may not be the monitoring officer but may hold the post of chief finance officer if a qualified accountant.

## **A13.03**

### **Functions of the monitoring officer**

#### **(a) Maintaining the Constitution**

The monitoring officer will maintain an up-to-date version of the constitution and will ensure that it is widely available for consultation by members, staff and the public.

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

After consulting with the head of paid service and chief finance officer, the monitoring officer will report to the full Council or to the Mayor in relation to an executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

#### **(c) Supporting Standards arrangements**

The monitoring officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Audit Committee in delivering its responsibilities for standards.

#### **(e) Conducting investigations**

The monitoring officer will conduct investigations or take other action as he sees fit into alleged breaches of the **Members' Code of Conduct**.

#### **(f) Proper officer for access to information**

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

**(g) Advising whether executive decisions are within the budget and policy framework**

The monitoring officer will advise whether decisions of the executive are in accordance with the budget and policy framework.

**(h) 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.

**(i) Proper Officer for access to information.**

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

**(j) Restrictions on posts**

The monitoring officer cannot be the chief finance officer or the head of paid service.

**A13.04**

**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 Mayor in relation to an executive function and the council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the council is about to enter an item of account unlawfully.

**(b) Administration of financial affairs**

The chief finance officer will have responsibility for the administration of the financial affairs of the council.

(c) **Contributing to corporate management**

The chief finance officer will contribute to the corporate management of the council, in particular through the provision of professional financial advice.

(d) **Providing advice**

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

(e) **Give financial information**

The chief finance officer will provide financial information to the media, members of the public and the community.

**A13.05**

**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 officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

**A13.06**

**Conduct**

Officers will comply with the **Officers' Code of Conduct** and the **Protocol on Officer / Member Relations** set out in part 5 **Codes and Protocols** of this constitution.

**A13.07**

**Employment**

The recruitment, selection and dismissal of officers will comply with the **Officer Employment Rules (OER)** set out in part 4 of this constitution.

# Article 14 – Decision Making

## A14.01

### Responsibility for decision making

The council will issue and keep up to date a record of what part of the council or which individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is referred to as the Mayor's Scheme of Delegation which is set out in part 3 of this constitution.

## A14.02

### Principles of decision making

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

(a) **Proportionality**

The action must be proportionate to the desired outcome.

(b) **Due consultation**

(1) It may be appropriate to consult with communities, businesses and other third parties who have an interest in the matter. In some cases, minimum consultation requirements are prescribed by law.

(2) However, it should be remembered that the council is required to act in the interests of the public as a whole, so the decision desired by consultees may not necessarily be the right decision to make.

(c) **The taking of professional advice from officers**

Professional advice from the council's legal, financial and other specialist staff is always essential for the executive.

(d) **Respect for human rights**

The Human Rights Act 1998 is of great importance to local authorities. Any decision which may breach an article or protocol of the Human Rights Act should be subjected to 'anxious scrutiny' and professional advice sought.

**(e) A presumption in favour of openness**

Decisions taken by executive members or by officers should be taken under this presumption. Access to material contributing to a decision should be made available to anyone with a legitimate interest in it unless this would involve disclosing exempt or confidential information.

**(f) Clarity of aims and desired outcomes**

Decision makers must be clear as to what they are seeking to achieve and why. This will often require a thoughtful consideration of other options.

**(g) Due regard to public sector equality duty aims**

The Equality Act 2010 requires that all decisions are taken with due regard to the need to :-

- (i) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Act;
- (ii) advance equality of opportunity between equality groups; and
- (iii) foster good relations between equality groups.

**A14.03**

**(a) Decisions reserved to the full Council**

Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated.

**(b) Key decisions and the Forward Plan**

**(a) *Forward Plan***

Forward plans will be prepared by the Mayor to cover a period of four months, beginning with the first day of any month. The forward plan will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan and will accord with the **Access to Information Rules (APR)**.

**(b) Key decisions**

(i) a “*key decision*” means an executive decision which, is likely:

(a) to result in a local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority’s budget for the service or function to which the decision relates #; or

(b) to be significant in terms of its effects on communities living or working in an area comprising one or more wards or electoral divisions in the area of the local authority. ##

# *the city council’s Financial Regulations (see part 4) set £500,000.*

## *The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 para 8.*

(ii) A decision taker may only make a key decision in accordance with the requirements of the **Executive Procedure Rules** (EPR) set out in part 4 of this constitution.

**A14.04  
Decision making by the full Council**

Subject to Article 14.08, the full Council will follow the **Council Procedures Rules** (CPR) set out in part 4 of this constitution when considering any matter.

**A14.05  
Decision making by the executive**

Subject to Article 14.08, the executive will follow the **Executive Procedures Rules** (EPR) set out in part 4 of this constitution when considering any matter.

#### **A14.06**

##### **Decision making by overview and scrutiny committees**

Overview and scrutiny committees will follow the **Overview and Scrutiny Procedures Rules (OSR)** set out in part 4 of this constitution when considering any matter.

#### **A14.07**

##### **Decision making by other committees and sub-committees established by the full Council**

Subject to Article 14.08, other council committees and sub-committees will follow those parts of the **Council Procedures Rules (CPR)** set out in part 4 of this constitution as apply to them.

#### **A14.08**

##### **Decision making by Council bodies acting as tribunals**

The council, a councillor or an officer acting as a tribunal or in a *quasi judicial* manner or determining / considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a 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.

#### **A14.09**

##### **Decision making by Officers**

Officers may have delegated powers by the full Council or by the executive to take managerial and operational decisions - see **Responsibility for Functions** - part 3.

#### **A14.10**

##### **Record of decisions**

All decisions of the Council and its committees and sub-committees, the Mayor and Executive Councillors exercising delegated powers, and any officers exercising delegated powers will be recorded in accordance with Part 4B – Access to Information Procedure Rules.

# Article 15 - Finance, Contracts and Legal Matters

## A15.01

### Financial management

The management of the council's financial affairs will be conducted in accordance with the **Financial Procedure Rules** (FPR) set out in part 4 of this constitution.

## A15.02

### Contracts

Every contract made by the council will comply with the **Contracts Procedure Rules** (CON) set out in part 4 of this constitution.

## A15.03

### Legal Proceedings

- (1) The Service Director, Legal and Democratic Services or his delegatee or, in any event a Principal Solicitor or a Service Manager, Legal is authorised:
  - (a) to prepare, negotiate and execute documents and otherwise take any action required to give effect to all resolutions and / or decisions of the full council, the executive, a committee or delegated officer.
  - (b) to institute, defend or act in respect of legal proceedings or other determinations involving the council including power to settle and compromise such matters where necessary to give effect to a resolution and / or decision of the council or where necessary to protect the council's interests.
  - (c) to make and serve notices and other instruments where necessary to give effect to a resolution and / or decision of the council or where necessary to protect the council's interests.

## **A15.04**

### **Authentication of documents**

- (1) Where any document is necessary to any legal procedure or proceedings on behalf of the council, it will be signed by the head of legal services or other person authorised by them, unless any enactment otherwise authorises or requires, or the full Council has given requisite authority to some other person.
  
- (2) Any contract / agreement entered into on behalf of the local authority shall comply with the financial regulations and the procurement regulations.

## **A15.05**

### **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 legal services. A decision of the council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The common seal will be affixed to those documents which in the opinion of the proper officer should be sealed. The affixing of the common seal will be attested by the proper officer or some other person authorised by them.

# Article 16 – Review and Revision of the Constitution

## A16.01

### Duty to monitor and review the constitution

The monitoring officer will monitor and review the operation of the constitution to ensure that the aims and principles of the constitution are given full effect.

### 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 full 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 them by councillors, 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.

## A16.02

### Changes to the Constitution

#### Approval

Changes to the constitution will only be approved by the full Council after consideration of the proposal by the monitoring officer.

# Article 17 – Suspension, Interpretation and Publication of the Constitution

## A17.01

### Suspension of the Constitution

#### (a) Limit to suspension

The Articles of this constitution may **not** be suspended. The **Council Procedure Rules** (CPR) specified below may be suspended by the full Council to the extent permitted within those **Council Procedure Rules** (CPR) and the law.

#### (b) Procedure to suspend

A motion to suspend any **Council Procedure Rules** (CPR) will not be moved without notice unless at least one half of the whole number of councillors are present (35 councillors). 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

**Council Procedure Rules** (CPR) may be suspended in accordance with Article 17.01 provided they are not statutory requirements.

*(CPR which are statutory are indicated as appropriate).*

## A17.02

### Interpretation

(a) The ruling of the Lord Mayor as to questions regarding the construction or application of this constitution as may arise at meetings of the full Council shall be final. Such interpretation will have regard to the purposes of this constitution contained in Article 1.

(b) Any question or dispute as to the construction or application of this constitution other than such as may arise at a meeting of the full Council shall be determined by the monitoring officer in consultation with the head of paid service and (if the monitoring officer thinks fit) the Mayor. The decision of the monitoring officer shall be final. Such interpretation will have regard to the purposes of this constitution contained in Article 1.

- (c) the monitoring officer in consultation with the head of paid service shall have power to make typographical and other corrections and clarification amendments to the constitution (provided they do not make substantive changes to the meaning of the constitution) and to make updating amendments to the constitution where required due to the provisions of new statutes or changes in the council's department structure.

### **A17.03 Publication**

- (a) The head of legal services will ensure a copy of this constitution is available on the council's website. A copy will also be available for inspection at the Council House.

# SCHEDULE 1

## Description of Arrangements

The following parts of this constitution constitute the executive arrangements:

1. Article 5 (The Mayor and Executive) and the Mayor and Executive Procedure Rules (EPR);
2. Article 8 (Overview and Scrutiny committees) and the Overview and Scrutiny Procedure Rules (OSR);
3. Article 1 (Area Committees and Forums);
4. Article 2 (Joint arrangements);
5. Article 14 (Decision making) and the Access to Information Rules (APR);
6. Part 3 (Responsibility for Functions);
7. Part 4 Budget and Policy Framework Rules (BPR)
8. Part 4 Member Forum Procedure Rules