

## **PART 2 – ARTICLES**

### **Article 1 – The constitution**

#### **1.1 Powers of the council**

The council will exercise all its powers and duties in accordance with the law and this constitution.

#### **1.2 Purpose of the constitution**

The purpose of the constitution is to:

- a) enable the council to provide clear leadership to the community in partnership with citizens, businesses and other organisations
- b) support the active involvement of citizens 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
- h) provide a means of improving the delivery of services to the community.

#### **1.3 Principles of decision making**

All decisions of the council will be made in accordance with the following principles:<sup>2</sup>

- a) the link between strategy and implementation must be maintained
- b) decision making generally, whether by individual officers, individual cabinet members or the cabinet collectively, should have reference to the policy framework
- c) respect for human rights, law and probity

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<sup>2</sup>(a) and (b) local additions; (c) to (g) statutory guidance; (c) law and probity added to modular constitution principle.

- d) due consultation and the taking of professional advice from officers
- e) proportionality (i.e. the action must be proportionate to the desired outcome)
- f) a presumption in favour of openness
- g) clarity of aims and desired outcomes
- h) consideration of the likely climate consequences and the likely equality (including socio-economic disadvantage and health inequality) consequences of the relevant decision and therefore reports for decision should include advice from officers of the likely climate and equality impacts of that decision.

#### 1.4 Interpretation 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.

#### 1.5 Changes to the constitution

- a) Subject to b) and c) below, any changes to the constitution which can only be approved by the council assembly will require the prior consideration of the proposal by the constitutional steering panel.
- b) The constitution and its appendices will be changed as follows:

| Part      | Title                       | Changes by:   |
|-----------|-----------------------------|---|
| <b>1.</b> | <b>Introduction</b>         | Agreed by council assembly, subsequently updated by the proper constitutional officer as necessary. Changes notified to all members by proper constitutional officer.   |
|           | Decision making structure   | Maintained and published by the proper constitutional officer.  |
| <b>2.</b> | <b>Articles</b>             | Agreed by council assembly.<br>Exception – in article 10.02, head of paid service to determine and publicise a description of overall departmental structure showing the management structure.  |
| <b>3.</b> | <b>Who takes decisions?</b> | Any executive function or local choice function to be discharged by the cabinet: Agreed by the leader<br>Any other function: Agreed by council assembly.<br>Exceptions – proper constitutional officer to:<br>(1) update list of plans and strategies to be agreed by cabinet (in Part 3B)<br>(2) update the details of cabinet members<br>(3) maintain Part 3S: Appointments to outside bodies, as required. |
| <b>4.</b> | <b>Procedure rules</b>      |   |
|           | Access to information       | Agreed by council assembly.   |
|           | Budget and policy framework | Agreed by council assembly.   |
|           | Council assembly            | Agreed by council assembly.   |
|           | Committee                   | Agreed by council assembly.   |

| Part      | Title  | Changes by:  |
|-----------|--|--|
|           | Individual ward councillors                                      | Agreed by council assembly.  |
|           | Cabinet  | Agreed by council assembly.  |
|           | Overview and Scrutiny  | Agreed by council assembly.  |
|           | Contract standing orders (CSOs)                                  | Agreed by council assembly, with minor changes (as defined in the CSOs) being made by the monitoring officer, after consultation with the chief finance officer. Changes notified to all members by proper constitutional officer. |
|           | Financial standing orders (FSOs)                                 | Agreed by council assembly, with minor changes (as defined in the FSOs) being made by the chief finance officer, after consultation with the monitoring officer. Changes notified to all members by proper constitutional officer. |
|           | Officer employment   | Agreed by council assembly.  |
| <b>5.</b> | <b>Codes</b>   |  |
|           | Code of conduct  | Agreed by council assembly.  |
| <b>6.</b> | <b>Protocols</b>   |  |
|           | Member and officer   | Agreed by council assembly.  |
|           | Communication  | Agreed by council assembly.  |
|           | Members' allowances scheme                                       | Agreed by council assembly.  |
| <b>7.</b> | <b>Other information</b>   |  |
|           | List of councillors  | Maintained and published by the proper constitutional officer.   |
|           | Overall departmental structure showing the management structure. | Determined and published by the chief executive (Article 10.02).   |
|           | Glossary   | Maintained and published by the proper constitutional officer.   |
|           | Index  | Maintained and published by the proper constitutional officer.   |
|           | Other  | Background information on constitution and decision making including flow charts. Maintained and published by the proper constitutional officer.   |

- c) Any minor typographical or non-contentious housekeeping changes to the constitution can be made by the proper constitutional officer. These changes will be notified to all members.
- d) For the purpose of the constitution the proper constitutional officer will be designated by the chief executive and will include his/her authorised representative.

## Article 2 – Members of the council

### Roles and functions of all councillors

2.1 All councillors will:

- a) represent their communities and bring their views into the council's decision making process, i.e. become the advocate of and for their communities

- b) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances
- c) balance different interests identified within the ward or electoral division and represent the ward or electoral division as a whole
- d) maintain the highest standards of conduct and ethics
- e) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making functions
- f) sit on council assembly.

## **Article 3 – Council assembly**

### **3.1 Council assembly**

All councillors sit on the council assembly. The assembly is chaired by the Mayor of Southwark.

The council assembly is responsible for approving the budget, agreeing the policy framework, making constitutional decisions and deciding on local legislation.

## **Article 4 – Role and function of the Mayor**

### **4.1 Title of the person chairing council assembly meetings**

The person elected to chair the meetings of the council assembly shall be referred to as the Mayor.

### **4.2 Role and function of the Mayor**

The Mayor will be elected by the council at the annual council assembly meeting. The Mayor may then appoint a Deputy Mayor.

The Mayor will have the following roles and functions:

- a) to uphold and promote the purposes of the constitution and to interpret the constitution when necessary
- b) to preside over meetings of the council assembly so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community
- c) to ensure that the council assembly 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
- d) to promote public involvement in the council's activities
- e) to attend such civic and ceremonial functions as the council and the Mayor determine appropriate

- f) to receive any request from the leader for a council assembly meeting to be convened to reconsider a decision in respect of the budget and policy framework, in accordance with the council's conflict resolution mechanism.

#### **4.3 Role of the Deputy Mayor**

The Deputy Mayor may, if for any reason the Mayor is unable to act or the office of Mayor is vacant, discharge all the functions which the Mayor might otherwise discharge, except that the Deputy Mayor shall not take the chair at a meeting of the council assembly unless specifically appointed by the meeting to do so.

### **Article 5 – Overview and scrutiny committee and commissions**

- 5.1 The council will appoint an overview and scrutiny committee to discharge the functions conferred by section 9A of the Local Government Act 2000. The overview and scrutiny committee will appoint commissions and determine their terms of reference.

The overview and scrutiny committee will also discharge those functions of the council relating to the scrutiny of the health service contained in the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013, except where a function is reserved to the council.

Where an NHS body or health service provider consults the council and another authority or authorities about a proposal for a substantial development of or variation to the health service affecting each council's area, the overview and scrutiny committee will appoint a joint overview and scrutiny committee with the other authority or authorities for the purposes of that consultation.

- 5.2 Within their terms of reference, the overview and scrutiny committee and its commissions will:
- a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the council's functions
  - b) make reports and/or recommendations to council assembly and/or the cabinet in connection with the discharge of any functions
  - c) consider any matter affecting the area or its inhabitants.
- 5.3 For the purpose of this constitution, scrutiny commissions are considered as sub-committees

#### **5.4 Specific functions**

##### **1. Policy development and review**

Overview and scrutiny committee and its commissions may:

- a) assist council assembly and the cabinet in the development of its budget and policy framework by in-depth analysis of policy issues
- b) conduct research, community and other consultation in the analysis of policy issues and possible options

- c) consider and implement mechanisms to encourage and enhance community participation in the development of policy options
- d) question members of the cabinet and chief officers about their views on issues and proposals affecting the area
- e) 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.

## 2. **Health and wellbeing**

Overview and scrutiny committee and its commissions must acknowledge, and respond to, a referral of a matter for review and scrutiny received from a local Healthwatch organisation.

Overview and scrutiny committee and its commissions may:

- a) review and scrutinise the work of the Health and Wellbeing Board
- b) review and scrutinise any matter relating to the planning, provision and operation of the health service in its area (but in doing so it must invite comments from interested parties and consider information provided by a Local Healthwatch organisation or contractor)
- c) make reports and recommendations to a NHS body or health service provider and the council on any matter it has scrutinised
- d) consider consultations from a NHS body or health service provider and to make comments
- e) question members or employees of a NHS body or health service provider.

## 3. **Scrutiny**

Overview and scrutiny committee and its commissions may:

- a) review and scrutinise the decisions made by and performance of the cabinet and council officers both in relation to individual decisions and over time
- b) review and scrutinise the performance of the council in relation to its policy objectives, performance targets and/or particular service areas
- c) consider referrals from members on any of the functions of the committee
- d) question members of the cabinet and chief officers and relevant partner authorities about their decisions and performance, whether generally in comparison with local area agreements, service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects
- e) make recommendations to the cabinet and/or council assembly arising from the outcome of the scrutiny process or refer entire reports

produced as the result of the scrutiny process to be debated and noted at council assembly

- f) give notice of its recommendations to the cabinet and/or council assembly and publish recommendations
- g) give notice of its recommendations to the relevant partner authority
- h) 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/sub-committee and local people about their activities and performance
- i) question and gather evidence from any person (with their consent).

#### 4. **Crime and disorder**

Overview and scrutiny committee and its commissions may:

- a) act as the crime and disorder committee within the meaning of section 19 of the Police and Justice Act 2006
- b) review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions
- c) make reports or recommendations to the local authority with respect to the discharge of those functions
- d) make recommendations to the cabinet and/or council assembly with respect to any matter which is a local crime and disorder matter in relation to a member of the authority
- e) consider any crime and disorder matters referred by any member of the council.

#### 5.5 **Annual report**

The overview and scrutiny committee will report annually to council assembly on the workings of the overall scrutiny function, and may make recommendations for future work programmes and amended working methods if appropriate.

#### 5.6 **Key tasks of the chair of overview and scrutiny committee**

The Overview and scrutiny committee chair will:

- a) lead the scrutiny function
- b) propose a programme of work devised in consultation with senior management
- c) achieve a balance of service interests
- d) achieve broad coverage across all services over time

- e) propose arrangements for the involvement of community or other non-councillor representatives
- f) own and present the resulting reports (to the council assembly or the cabinet, including any minority views which might be reported separately).

## **Article 6 – The cabinet**

### **6.1 Role**

The cabinet will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this constitution. The role and functions of the cabinet are set out in part 3B of this constitution.

### **6.2 Form and composition**

The cabinet will consist of the leader together with no less than two and no more than nine councillors appointed to the cabinet by the leader.

### **6.3 Leader**

The leader will be a councillor elected to the position of leader by the council assembly. The leader will hold office until:

- a) he/she resigns from the office by giving notice in writing to the monitoring officer
- b) he/she is suspended from being a councillor under part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension)
- c) he/she is no longer a councillor
- d) he/she is removed from office by resolution of the council assembly.
- e) his/her term of office ends.

The leader's term of office shall commence from the day of his/her election, which will be held at the first annual meeting of the council following the ordinary elections or if a vacancy occurs, the next meeting of the council and will end at the start of the first annual meeting of the council following the next ordinary elections.

### **6.4 Other cabinet members**

Other cabinet members shall be appointed by the leader and hold office until:

- a) they resign from office by giving notice in writing to the leader and the monitoring officer
- 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)



- c) they are no longer councillors
- d) they are removed by the leader.

If a cabinet member ceases to be a member of the cabinet because of reasons (a) to (d) above, the leader has the discretion as to whether or not to appoint a replacement.

During the course of the year the leader has the discretion to change cabinet portfolios.

The leader also has the discretion to change the membership of cabinet committees during the course of the year. Before the leader removes a member of the cabinet he/she will consult with the deputy leader.

The leader shall immediately communicate any such changes to the monitoring officer who shall circulate a formal notification to all members.

The leader can appoint two councillors to share one portfolio position, provided the total number of cabinet members does not exceed nine councillors. Within that portfolio, the leader will split the responsibilities between the two councillors to enable clear lines of accountability on different issues and enable clarity around individual decision making.

Both members in a job share will be able to attend, participate in and vote at cabinet as full cabinet members.

#### **6.5 Deputy leader of the council**

The leader shall appoint one of the members of the cabinet to be his/her deputy.

The leader may, if he thinks fit, remove the deputy leader from office. Where a vacancy occurs in the office of deputy leader, the leader must appoint another person in his/her place.

The deputy leader shall hold office until:

- a) he/she resigns from office by giving notice in writing to the leader and the monitoring officer
- b) he/she is suspended from being a councillor under part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension)
- c) he/she is no longer a councillor
- d) he/she is removed by the leader.

#### **6.6 Non-availability of leader and deputy leader**

If for any reason the leader is unable to act or the office of leader is vacant, the deputy leader must act in his/her place.

If for any reason:

- a) The leader is unable to act or the office is vacant, and
  - b) The deputy leader is unable to act or the office of deputy leader is vacant,
- the cabinet must act in the leader's place or must arrange for a member of the cabinet to act in his/her place.

#### **6.7 Who may make executive decisions**

The executive functions of the council may be discharged by:

- a) the cabinet as a whole
- b) a committee of the cabinet
- c) an individual member of the cabinet
- d) an officer
- e) joint arrangements
- f) another local authority.

#### **6.8 Delegation by the leader**

At the annual meeting of the council, the leader will present to the council a written record of delegations made by him/her for inclusion in the council's scheme of delegation at part 3 of this constitution. The document presented by the leader will contain the following information about executive functions in relation to the coming year:

- a) the extent of any authority delegated to cabinet members individually, including details of the limitation on their authority
- b) the terms of reference and constitution of such cabinet committees as the leader appoints, the names of cabinet members appointed to them, the vice-chair of the committees and the frequency of its meetings
- c) the nature and extent of any delegation of executive functions to any other authority or any joint arrangements and the names of those cabinet members appointed to any joint committee for the coming year
- d) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

During the course of the year the leader may provide written notice of any change to the delegation of executive functions to the monitoring officer, who shall circulate a formal notification to all members.

#### **6.9 Key tasks of cabinet members**

Cabinet members will participate in the cabinet and implement agreed policies by taking responsibility for any portfolio allocated by the authority, including providing a lead on and proposing new policy, strategy, programming, budget and service

standards, and leading performance review, as well as acting as spokespersons within and outside the authority for the service/function.

#### **6.10 Deputy cabinet members**

Other members of the council may, from time to time, be designated by the leader as deputy cabinet members to work with cabinet members on specific tasks or duties. Such a deputy cabinet member will not be a cabinet member and may not exercise any delegated powers given to the cabinet member, but may work closely with the relevant cabinet member. Whilst a deputy cabinet member may be a member of a committee, scrutiny committee or scrutiny sub-committee, he or she will not be permitted to take decisions or scrutinise any of their own deputy cabinet member tasks or duties. Deputy cabinet members shall not be the chair or vice-chair of a committee or sub-committee which takes decisions or scrutinises matters relating to their tasks or duties. The chairs of the licensing and planning committees shall not be deputies.

The leader shall notify the monitoring officer of the appointment of a deputy, including the responsibilities allocated and the period for which the deputy will act.

### **Article 7 – Regulatory and other committees**

#### **7.1 Regulatory and other committees**

The council will appoint committees to undertake non-executive functions. Council assembly will delegate powers to these committees to discharge their relevant functions.

#### **7.2 Key tasks of chairs of regulatory and other committees**

Chairs of the authority's committees will take specific responsibility for the development of that committee's work plan and represent the service or function of the committee within and outside the authority as necessary to enable it to deliver its objectives consistently to corporate standards.

### **Article 8 – Multi-ward areas**

#### **8.1 Composition of multi-ward areas**

The council will establish multi-ward areas as set out in the table below. The boundaries of the multi-ward areas have been drawn to reflect the borough's communities as far as possible. Multi-ward areas do not need to be politically balanced. They include members of the local authority who are members for the electoral wards contained within the area. Multi-ward areas are not formal area committees and have no decision making powers.

#### **Multi-ward areas divided by geographical areas**

| <b>Multi-ward area</b> | <b>Electoral wards</b>   |
|------------------------|--|
| North-west             | Borough & Bankside, London Bridge & West Bermondsey, St George's and Chaucer wards |
| North-east             | North Bermondsey, South Bermondsey, Rotherhithe and Surrey Docks wards             |
| West-central           | North Walworth, Newington, Camberwell Green, St Giles and Faraday wards            |

| <b>Multi-ward area</b> | <b>Electoral wards</b>   |
|------------------------|--|
| East-central           | Old Kent Road, Peckham, Rye Lane, Nunhead & Queen's Road and Peckham Rye wards   |
| South                  | Champion Hill, Goose Green, Dulwich Hill, Dulwich Village and Dulwich Wood wards |

## 8.2 Community champions

There will be one community champion appointed by council assembly for each of the multi ward areas.

The main function of community champions is to scrutinise funding applications to the democracy fund and to provide an overview and guidance for meetings organised through ward meetings. The role of community champions will include, but not limited to:

- a) to be a panel member to assess democracy fund applications
- b) to make recommendations to chief officer for awarding democracy fund events
- c) to work with officers to ensure funding outcomes are met
- d) to ensure ward meetings are taking place and staying within budget
- e) to receive quarterly reports on meetings organised through ward funding
- f) to support and coordinate the annual residents conference
- g) to produce an annual report on use of ward and democracy funds
- h) to chair multi-ward area meetings
- i) to act as lead councillor for the relevant Area Housing Forum
- j) attendance at community champion meetings – held regularly to review progress of the empowering communities programme
- k) community engagement – working with the local community and wards in their area to encourage maximum participation in the empowering communities programme.

## Article 9 – Joint arrangements

The Local Government Act 2000 and regulations enable local authorities to make use of joint arrangements with other authorities and delegate to other local authorities.<sup>3</sup>

### 9.1 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:

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<sup>3</sup> A detailed schedule of arrangements with other authorities will be partly dependent on decisions taken by other councils.

- a) enter into arrangements or agreements with any person or body
- b) cooperate with, or facilitate or coordinate the activities of, any person or body
- c) exercise on behalf of that person or body any functions of that person or body.

## **9.2 Joint arrangements**

- a) The council may establish joint arrangements with one or more local authorities and/or their cabinets to exercise functions which are not executive functions in any of the participating authorities. 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 executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- c) The cabinet may appoint only cabinet members to a joint committee under paragraph b) above, and those members need not reflect the political composition of the local authority as a whole.
- d) 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.

## **9.3 Access to information**

- a) The access to information procedure rules in part 4 of this constitution apply to joint arrangements.
- b) If all the members of a joint committee are members of the cabinet in each of the participating authorities then its access to information regime is the same as that applied to the cabinet.
- c) If the joint committee contains members who are not on the cabinet of any participating authority then the access to information rules in part VA of the Local Government Act 1972 will apply.

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

- a) The council may delegate non-executive functions to another local authority or, in certain circumstances, the cabinet of another local authority.
- b) The cabinet may delegate executive 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.

## 9.5 Contracting out

The council, for functions which are not executive functions, and the cabinet, for executive functions, 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,<sup>4</sup> 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.

## Article 10 – Officers

### 10.1 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 council will engage, on the advice of the head of paid service, persons for the posts designated as chief officers for prescribed service portfolios. 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.
- c) **Head of paid service, monitoring officer, chief finance officer and scrutiny officer.** The council assembly will designate the following posts as shown:

| <b>Post</b>  | <b>Designation</b>    |
|--|-----------------------|
| Chief executive                                      | Head of paid service  |
| Assistant chief executive – governance and assurance | Monitoring officer    |
| Strategic director of finance and governance         | Chief finance officer |
| Head of overview and scrutiny                        | Scrutiny officer      |

Such posts will have the functions described in article 10.2 – 10.5 below.

### 10.2 Functions of the head of paid service

- a) **Undertaking duties of head of paid service.** The head of paid service shall undertake all duties designated under section 4 of the Local Government and Housing Act 1989. These are personal functions and must be undertaken by the head of paid service personally. Where the head of paid service is also the chief executive he/she may delegate other functions that are not included in section 4.
- b) **Discharge of functions by the council.** The head of paid service will report to council assembly 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.

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<sup>4</sup> Government guidance suggests that councils may wish to make clear those functions to which this section currently or potentially applies.

- 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.

### 10.3 Functions of the monitoring officer

- a) **Legal proceedings.** The monitoring officer 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 he/she considers that such action is necessary to protect the council's interests.
- 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 council assembly (or to the cabinet in relation to an executive function) if he/she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- c) **Supporting the standards committee.** The monitoring officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the standards committee.
- d) **Conducting investigations.** The monitoring officer will arrange for investigations into matters referred to him or her and make reports or recommendations in respect of them to the standards committee.
- e) **Advising whether executive 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.
- f) **Providing advice.** The monitoring officer will provide advice on the scope of powers and authority to take decisions, maladministration, impropriety, probity, and budget and policy framework issues to all councillors and to officers. The monitoring officer shall also provide advice to officers and members in relation to interests.
- g) **Appointment of a deputy.** The monitoring officer shall appoint a deputy to act in his/her absence and when the monitoring officer is unable to act as defined in section 5 of the Local Government and Housing Act 1989.
- h) **Restrictions on posts.** The monitoring officer cannot be the chief finance officer or the head of paid service.
- i) **Proper officer for freedom of information.** The monitoring officer will act as the "qualified person" for the purposes of freedom of information requests and application of the public interest tests.

### 10.4 Functions of the chief finance officer

- a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the head of paid service and the monitoring officer, the chief finance officer will report to the council assembly or to the cabinet in relation

to an executive function and the council's external auditor if he/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.

#### 10.5 Functions of the scrutiny officer

- a) To promote the role of the authority's overview and scrutiny committee or committees.
- b) To provide support to the authority's overview and scrutiny committee or committees and the members of that committee or those committees.
- c) To provide support and guidance to:
  - i. members of the authority
  - ii. members of the cabinet of the authority, and
  - iii. officers of the authority

in relation to the functions of the authority's overview and scrutiny committee or committees.

- d) **Restrictions on functions.** The scrutiny officer may not be the head of paid service, monitoring officer or chief finance officer.

#### 10.6 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.

## Article 11 – Documents

### 11.1 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 monitoring officer or other person authorised by him/her, unless any enactment is otherwise authorised or required, or the council has given requisite authority to some other person.



Any contract, other than ones to which contract standing orders apply, with a value exceeding the current threshold for services/supplies under the Public Contracts Regulations 2015 EU public procurement directive entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing and must be either:

- a) signed by at least two officers of the authority
- b) made under the common seal of the council (which for the avoidance of doubt can include an electronic seal) attested by at least one officer.

#### 11.2 Common seal of the council

The common seal of the council will be kept in a safe place in the custody of the monitoring officer. 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 monitoring officer should be sealed. The affixing of the common seal will be attested by the monitoring officer or some other person authorised by him/her.

## Article 12 – Suspension and publication of the constitution

#### 12.1 Suspension of the constitution

**Limit to suspension.** The articles of this constitution may not be suspended. The procedure rules listed in the council assembly procedure rules may be suspended by the council assembly to the extent permitted within the rules and the law.

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.

#### 12.2 Publication

- a) The proper constitutional officer will make copies of this constitution available to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on their first being elected to the council. Printed copies of the constitution are available to members on request.
- b) The proper constitutional officer will ensure that the introduction to the constitution is made widely available within the area and is updated as necessary.
- c) The constitution will be published on the council's website.