

## PART 2

### Article 1 – The Constitution

#### 1.01 Powers of the Council

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

#### 1.02 The Constitution

This Constitution is the Constitution of the Flintshire County Council.

**Deleted:** and all its appendices,

#### 1.03 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 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.

**Deleted:** review or

**Comment [FCC1]:** As Cabinet reviews its decisions after call in by O&S

**Deleted: Interpretation and**

**Comment [FCC2]:** As does not deal with interpretation.

**Deleted:** 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.

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**Comment [FCC3]:** As not a legal requirement and not practical.

#### 1.04 Review of the Constitution

The Council will monitor and evaluate the operation of the Constitution as set out in Article 18.

## Article 2 – Members of The Council

### 2.01 Composition and eligibility

- (a) **Composition.** The Council will comprise 70 members, otherwise called Councillors. Councillors will be elected by the voters of each electoral division in accordance with a scheme drawn up by the Boundary Commission in Wales and approved by the National Assembly.
- (b) **Eligibility.** Only registered voters of the County Council or those living or working in the area will be eligible to hold the office of Councillor.

### 2.02 Election and terms of Councillors

The regular election of Councillors will normally be held every four years on the first Thursday in May, except as otherwise directed by the Welsh Government. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

**Deleted:** Assembly

**Comment [FCC4]:** As out of date

### 2.03 Roles and functions of all Councillors

- (a) **Key roles.** All Councillors will:
  - (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
  - (ii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making by the Council and its partnerships;
  - (iii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
  - (iv) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
  - (v) balance different interests identified within the electoral division and represent the electoral division as a whole;
  - (vi) contribute to the continual improvement of Council services through the Performance Improvement process;
  - (vii) participate in the governance and management of the Council; and
  - (viii) maintain the highest standards of conduct and ethics.

**(b) Rights and duties**

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
- (iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.
- (iv) In the event of a disagreement as to whether a Councillor is entitled to access to any particular document, or information, the matter shall be determined by the Head of Legal & Democratic Services in accordance with the Delegation to Officers at Part 3 Section C.

**2.04 Conduct**

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.

**2.05 Allowances**

Councillors will be entitled to receive allowances in accordance with the Member Remuneration Schedule set out in Part 6 of this Constitution.

**Deleted:** s' Allowances Scheme

**Comment [FCC5]:** As out of date.

## Article 3 – Citizens and The Council

### 3.01 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 in **Part 4** of this Constitution:

- (a) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.
- (b) **Information.** Citizens have the right to:
  - (i) attend meetings of the Council, the Cabinet and their Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (ii) find out from the forward work programme what decisions will be taken by the Cabinet or Council and which issues the Overview and Scrutiny Committees will be considering, and when these matters will be discussed;
  - (iii) see reports and background papers (except where they contain confidential, or exempt information) and any records of decisions made by the Council and the Cabinet; and
  - (iv) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Complaints.** Citizens have the right to complain:
  - (i) to the Council itself under its complaints scheme;
  - (ii) to the Ombudsman about any injustice they have suffered as a result of maladministration, but they are encouraged to use the Council's own complaints scheme first;
  - (iii) to the Ombudsman where they believe a Member or co-opted Member of the Council has breached the Member's Code of Conduct.

### 3.02 Citizens' responsibilities

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

## Article 4 – The Full Council

### 4.01 Meanings

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

(1)	(2)
<b>Plans, schemes and strategies</b>	<b>Reference</b>
Single Education Plan	The Single Education Plan (Wales) Regulations 2006 (SI 2006/877 (W82))
Best Value Performance Plan	Section 6(1) of the Local Government Act 1999 (c27)
Community Strategy	Section 4 of the Local Government Act 2000 (c22)
Crime and Disorder Reduction Strategy	Section 5 and 6 of the Crime and Disorder Act 1998 (c37)
Health and Safety Well Being Strategy	Section 24 of the National Health Service Reform and Health Care Professions Act 2002 (c17)
Local Transport Plan	Section 108 of the Transport Act 2000 (c38)
Plans and alterations which together comprise the Development Plan	Section 10A of the Town and Country Planning Act 1990 (c8)
Welsh Language Scheme	Section 5 of the Welsh Language Act 1993 (c38)
Youth Justice Plan	Section 40 of the Crime and Disorder Act 1998 (c37)
Young People's Partnership Strategic Plan and Children and Young Peoples Framework Partnership	Section 123, 124 and 125 of the Learning and Skills Act 2000 (c21)
Housing Strategy	Section 87 of the Local Government Act 2003 (c26)

The Council has resolved that in addition to the plans and strategies referred to above it will reserve to itself the adoption or approval of the:-

- Corporate Plan
- Schools' Admissions Policy

(b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, 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.

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

#### 4.02 Functions of the full Council

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework, the budget and any application to the National Assembly for Wales in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of 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;
- (d) appointing the Leader;
- (e) deciding the size and the terms of reference for Committees and deciding the allocation of seats to Political Groups in accordance with the political balance rules and appointment to Committees of those Members, if any, who are not Members of any Political Group.
- (f) appointing representatives to outside bodies unless the appointment is an Executive Function or has been delegated by the Council;
- (g) adopting a Remuneration Schedule under Article 2.05;
- (h) As a result of Section 38 of the Localism Act 2011 for each financial year beginning with 2012/13 approve pay policy statements each financial year.
- (i) changing the name of the area.
- (j) confirming the appointment of the Head of Paid Service and any Chief Officers;
- (k) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;

**Deleted:** n allowances scheme

**Comment [FCC6]:** As now  
Remuneration Schedule

- (l) all local choice functions set out in **Part 3** of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet; and
- (m) all other matters which, by law, must be reserved to Council.

#### 4.03 **Council meetings**

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) special meetings.

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

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

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

## **Article 5 – Chairing the Council**

### **5.01 Role and function of the Chair**

The Chair and Vice Chair will be elected by the Council annually.

The Chair of Council and in their absence, the Vice-Chair, will have the following roles and functions:

1. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
2. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
3. to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold the Cabinet and Committee chairs to account;
4. to promote public involvement in the Council's activities;
5. to be the conscience of the Council; and
6. to attend such civic and ceremonial functions as the Leader and he/she determines appropriate. The Leader may accompany the Chair/Vice Chair of the Council to any civic or ceremonial functions or attend such functions in place of the Chair/Vice Chair.



## Article 6 – Overview and Scrutiny Committees

### 6.01 Terms of reference

The Council will appoint the Overview and Scrutiny Committees set out in the left hand column of the table below to discharge the functions conferred by section 21 of the Local Government Act 2000 in relation to the matters set out in the right hand column of the same table.

Committee	Scope
Corporate Resources 15 Elected Members	Corporate Management and Governance, organisational design/Flintshire Futures Programme, monitoring finance but not specific control issues which are within the remit of the Audit Committee, Revenue and Capital Budget monitoring, Asset Management, Strategy and Planning, People Strategy and Single Status, Strategic Assessment of Risks and Challenges, Overview and Coordination of the Performance Management, Performance and Policy development for all 4 Corporate Services: HR and OD, ICT and Customer Services, Finance, Legal & Democratic Services.
Community Profile & Partnerships 15 Elected (Statutory Crime & Disorder Committee)	Community Strategy and Leadership initiatives. All external and regional collaboration and partnership working with other public service bodies. Local Service Board. Community Safety Partnership. Statutory Crime & Disorder Committee, thus relationship with the Police, Fire, Probation etc, Voluntary Sector compact, Clwyd Theatre Cymru, Cross Cutting Policy issues, the Outcome Agreement, but excluding issues specifically remitted to another committee (eg. NWRWTP, TAITH or DCELLS)
Environment 15 Elected Members	All services provided by the Environment Directorate including: Assets & Transportation, including TAITH, highways, engineering and energy issues but not valuation/estates which are specifically remitted to the Corporate Resources OSC. Planning, including planning and environmental strategy, development control, minerals and waste planning, countryside and the environment. Public Protection, including community, health protection and environmental protection. Regeneration, including Communities First, economic development & tourism, enterprise and the Regeneration Partnership. Street Scene Services, including AD Waste, environmental and waste management, neighbourhood services and the vehicle fleet. Performance and Policy. Development within the Environment Directorate.

Housing 15 Elected Members	All housing services provided by the relevant divisions of the Community Services Directorate eg. Housing Management, Housing Strategy, Stock Ballot progress and ongoing work relating to the future of the housing stock. Neighbourhood housing renewal areas. Performance and policy development for the Housing Service.
Lifelong Learning 15 Elected Members (5 Statutory Co-Opted Members)	All services provided by the Lifelong Learning Directorate: Education – school organisation, School Improvement, Early Years, Special Educational needs. Adult and Community Learning, Youth Services Libraries, Culture and Heritage including archives, records management and museums. Leisure Services, including leisure and sports centres, swimming pools and recreational facilities/activities. Relations with external education providers/partners – Deeside College, Glyndwr University etc on service specific issues. Relations with DCELLS, Children and Young People's Partnership (jointly with S & HC O&S). Performance and policy development for services within the Lifelong Learning Directorate.
Social and Health Care 15 Elected Members	Services provided by the Community Services Directorate relating to: Social Services to Adults, Social Services to Children, Social & Health Care Strategy Development, Children and Young People's Partnership (jointly with Lifelong Learning O&S). Monitoring service delivery by the Health Services Providers and Voluntary sector including the relationship with Betsi Cadwaladr UHB. Health Social Care and Well-being partnership and the Good Health Good Care Strategy. Policy and Performance development within the Social Care and Development and Resources Division of the Community Services Directorate.

In addition to the above Overview & Scrutiny Committees, the following terms of reference relating to Overview & Scrutiny have been given by the Council to the Constitution Committee

Committee	Scope
Constitution (as it relates to Overview & Scrutiny) <del>21</del> Elected Members	Allocating, co-ordinating and prioritising the work of the Overview & Scrutiny Committees where necessary. Dealing with matters of common interest to overview and scrutiny. <u>Identification/allocation of appropriate Scrutiny Chair for consent/consultation purposes.</u> The examination and development of good scrutiny practice. The promotion, effective development and maintenance of a high profile Overview and Scrutiny Function to ensure maximum opportunity for non-Cabinet member engagement. Liaison with and responding to the Welsh Assembly Government on emerging legislation relevant to O&S.

Deleted: 15

## 6.02 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 Council's or Cabinet's functions;
- ii) make reports and/or recommendations to the full Council and/or the Cabinet; and/or any joint Committee.
- iii) consider any matter affecting the Council area or its inhabitants; and
- iv) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Cabinet.

## 6.03 Specific functions

(a) **Policy development and review.** Overview and Scrutiny Committees may:

- i) assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;
- ii) conduct research, community and other consultation 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 members of the Cabinet and/or Committees and Chief Officers 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 Cabinet and/or Committees and Council officers both 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 members of the Cabinet and/or Committees and chief officers 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 Cabinet and/or appropriate Committee and/or 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).

(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 full Council through the Constitution Committee on their workings and make recommendations for future work programmes and amended working methods if appropriate.

**Deleted:** Overview and Scrutiny Co-ordinating Committee

**Comment [FCC7]:** To update

(e) **Officers.** Overview and Scrutiny Committees may exercise overall responsibility for the work programme of the officers employed to support their work.

#### 6.04 Proceedings of Overview and Scrutiny Committees

Overview and Scrutiny Committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

## **Article 7 - The Audit Committee**

### **7.01 Role**

The Audit Committee's role and functions will be to:

- (a) Review the effectiveness of the Authority's systems of corporate governance, internal control and risk management systems, and to make reports and recommendations to the County Council on the adequacy and effectiveness of those arrangements;
- (b) Oversee the financial reporting process to ensure the balance, transparency and integrity of published financial information, and to review the financial statements prepared by the authority;
- (c) Monitor the performance and effectiveness of the internal and external audit functions within the wider regulatory context.
- (d) Review and scrutinise the County Council's financial affairs, and to make reports and recommendations on them.

#### **A. Internal Control**

- Evaluate whether management is setting the appropriate "control culture" by communicating the importance of internal control and risk management.
- Understand the internal control systems implemented by management for the approval of transactions and the recording and processing of financial data.
- Understand the controls and processes implemented by management to ensure the financial statements derive from the underlying financial systems, comply with relevant standards and requirements, and are subject to appropriate management review.
- Evaluate the overall effectiveness of the internal control and risk management frameworks and consider whether recommendations made by the internal and external auditors have been implemented by management.
- Consider how management is held to account for the security of computer systems and applications, and the contingency plans for processing financial information in the event of a systems breakdown or to protect against computer fraud or misuse.
- Consider the annual draft statement on internal control and make appropriate recommendations/observations to the Cabinet prior to its submission to the Council's Regulators.

#### **B. Compliance with Law and Regulations**

- Keep under review the Council's financial regulations and contract standing orders and all other corporate directions concerning financial control.
- Receive reports on all fraud identified and any other special investigations, and action taken.
- Obtain regular updates from management and legal advice regarding compliance matters, and be satisfied that all compliance matters have been considered in

preparing the financial statements.

**C. Financial Reporting**

- Consider the draft annual Statement of Accounts, together with the underlying accounting policies prior to their submission to the Wales Audit Office and again afterwards prior to recommending their approval to the Council.
- Gain an understanding of the current areas of greatest financial risk and how these are being managed.
- Meet with management and external auditors to review the financial statements, the key accounting policies and judgements, significant accounting and reporting issues and their impact on financial reports, and the results of the audit.
- Ensure that significant adjustments, unadjusted differences, disagreements with management and critical accounting policies and practice are discussed with the external auditor.
- Review the other sections of the Annual Report and the Statements of Accounts and consider whether the information is understandable and consistent with members' knowledge of the Authority and operations and lacks bias.

**D. External Audit**

- Ensure that the annual audit is undertaken in compliance with statutory requirements.
- Review the external auditors' proposed audit scope and approach for the current year in the light of the Authority's present circumstances and changes in regulatory and other requirements arising from Government, Assembly or Council initiatives.
- Receive all audit reports, and the annual audit letter, issued by the external auditor, and ensure that all agreed recommendations are implemented.
- Review on an annual basis the performance of external audit and co-ordinate any feed back requested from the Audit Commission.
- Discuss with the external auditor any audit problems encountered in the normal course of audit work, including any restriction on audit scope or access to information.
- Meet separately with the external auditors to discuss any matters that the committee or auditors believe should be discussed privately. Ensure the auditors have access to the chair of the audit committee when required.

**E. Internal Audit**

- Promote the role of internal audit within the Council, as a key element of its control environment.
- Review, approve and monitor the delivery of the internal audit plan and the risk assessment exercise on which the plan is based, and ensure it considers changes arising from Government, Assembly or Council initiatives.
- Receive summaries of all internal audit reports issued, highlighting key recommendations and recommendations of reports with corporate control implications.
- Monitor the implementation of agreed recommendations contained within internal

audit reports.

- Ensure that no management restrictions are placed in the scope of audit's examinations.
- Meet separately with the Head of Internal Audit to discuss any matters that the committee or internal auditors believe should be discussed privately.
- Keep under review the organisational structure and resource requirements of the Internal Audit Section.
- Discuss with the external auditor the standard of work of internal audit staff.
- Evaluate on an annual basis the performance and effectiveness of internal audit and its compliance with best practice.

#### **F. General**

- Request the attendance at the Committee of any Director, or the submission of a report from any Director, to provide further explanation in connection with any of the above terms of reference.
- Arbitrate in the event of any failure to agree between a Director and internal audit.
- Keep under review the joint working arrangements of the Council's internal and external auditors.
- Evaluate the committee's own performance, both of individual members and collectively, on a regular basis.

The Audit committee will keep the above terms of reference under annual review and propose any amendment to the County council.

### **7.02 Form and Composition**

The Chair and Vice-Chair of the Audit Committee will be chosen by the Committee itself at its first meeting following each annual general meeting. The Chair and Vice Chair of the Audit Committee will be chosen from amongst the opposition group(s), non aligned Councillors or lay member on the Council (that is to say from amongst the group(s) none of whose members are included in the Cabinet). The County Council shall appoint one person who is neither a serving Councillor nor an officer of the County Council or any other Council to serve as a lay member of the Committee with full voting rights. The lay member's term of office shall be from the first County Council meeting following the annual general meeting following the County Council elections until the first County Council meeting after the annual general meeting following the next County Council elections.

It is the express wish of the Council that there should be continuity of membership of the Audit Committee so as to build up a body of expertise and maintain a consistency of approach.

In recognising the express wish of the Council, but observing the requirements of the legislation for political balance, the Audit Committee will comprise 7 Members with the seats allocated in accordance with the legislation to the appropriate political groups. Any proposed substitution shall comply with Council Procedure Rule 22.4 and the proposed substitute shall have attended relevant training. Substitutes will only be permitted where the Audit Committee at the commencement of its meeting agrees that good reasons exist for substitution.

## **Article 8 – The Cabinet**

### **PART 1: Cabinet Arrangements**

#### **THE ROLE OF THE CABINET**

##### **8.01 Role**

The Cabinet will carry out all of the local Authority's functions which are not the responsibility of any other part of the local Authority, whether by law or under this Constitution.

##### **8.02 Form and composition**

The Cabinet will consist of the Cabinet Leader together with at least 2, but not more than 9, Councillors appointed to the Cabinet by the Cabinet Leader.

##### **8.03 Leader**

The Leader will be a Councillor elected to the position of Leader by the Council. The Leader will hold office until:

- (a) he/she resigns from the office; or
- (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); or
- (c) he/she is no longer a Councillor; or
- (d) the next Annual Meeting of the Council save that the Council may remove the Leader from office at an earlier date but only in the event of a change in political control of the Council.

##### **8.04 Other Cabinet members**

The Leader may, if he/she considers it appropriate so to do, appoint one of the other Cabinet members to the position of Deputy Leader and such Cabinet Member shall hold the office of Deputy Leader until removed from office by the Leader who must give written notice of any such removal to the Democracy and Governance Manager. The removal may be either from the office of Deputy Leader only or from the office of Deputy Leader and the Cabinet. The removal will take effect two working days after receipt of the notice by the Democracy and Governance Manager or the happening of any of the events specified at 8.04(a), (b), (c) or (d) set out below. Any Deputy Leader and all other Cabinet members shall hold office as Cabinet members until:

- (a) they resign from office; or



(b) they are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or

(c) they are no longer Councillors; or

(d) they are removed from office by the Leader who must give written notice of any removal to the Democracy and Governance Manager. The removal will take effect two working days after receipt of the notice by the proper officer.

Following the vacation of office or removal from office by the Leader, the Leader may appoint such Members to the Cabinet as he/she thinks fit provided that the maximum of 9 other Cabinet Members is not exceeded and the Leader shall give notice of such appointment to the Democracy and Governance Manager. The appointment shall take effect two working days after receipt of the notice by the Democracy and Governance Manager.

#### **8.05 Proceedings of the Cabinet**

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

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

The Leader will maintain a list in Part 3 of this Constitution setting out which individual members of the Cabinet, Committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular Executive Functions.

# Article 9 – Planning and Development Control Committee

## 9.01 Role

The role of the Planning and Development Control Committee is as follows:-

1. To determine applications submitted to the Council in its capacity as local and mineral planning Authority except where such applications are otherwise determined in accordance with the Council's Scheme of Delegation.
2. To determine all applications for planning permission, listed building consent and advertisement consent except where any such applications have been determined in accordance with the Council's Scheme of Delegation other than where any such applications have been determined in accordance with the Executive Arrangements.
3. To determine any issues relating to the processing, consideration or determination of the types of application referred to in the preceding paragraphs, including the Council's position on "called in applications" (within the terms of section 77 of the Town and Country Planning Act 1990), and in relation to appeals against the non determination of applications, except where such issues have been determined under the Council's Scheme of Delegation other than where such issues have been determined under the Executive Arrangements.
4. To determine any policy issues relating to the discharge of the Council's development control function, including tree preservation orders, hedgerow protection, and enforcement action, where such issues are to be determined by the Chief Officer in accordance with the Scheme of Delegation and to itself determine any such matters which are not so delegated.
5. To keep under review the Council's performance in the discharge of its development control function..

## 9.02 Form and Composition

The Committee will consist of 21 Councillors, and its composition will be politically balanced.

## 9.03 Substitutes

Substitution at individual meetings of the Planning Committee are only permitted in accordance with Council Procedure Rule 25.

**Comment [FCC8]:** Current wording introduces uncertainty into whether application should be deferred which is a matter for the Committee itself to decide

### **Deleted: 9.04 Late Observations¶**

A deadline should be imposed for the inclusion of late observations received on the day of the meeting. Where such observations are received following that deadline which would have significant impact on the application, the item should be deferred to the next meeting by the Chairman of the Committee.

## Article 10 – The Standards Committee

### 10.01 Standards Committee

The Council will establish a Standards Committee.

### 10.02 Composition

(a) **Membership.** The Standards Committee will be composed of 9 members. Its membership will include:

- i. 5 ‘independent’ members, who are not either a Councillor or an officer or the spouse of a Councillor or an officer of this Council or any other relevant Authority as defined by the Act, appointed in accordance with the procedure set out in the Standards Committees (Wales) Regulations 2001;
- ii. 3 Councillors other than the Leader and cabinet members;
- iii. 1 Member of a Community Council wholly or mainly in the Council's area (a ‘community council member’).

(b) **Term of office.**

- i. Independent members are appointed for a period of no more than six years and may be reappointed for a second term. Where there are two terms of office they cannot exceed 10 years in total.
- ii. Members of the local Authority who are members of the Standards Committee will have a term of office of no more than four years or the next ordinary local government election following their appointment, whichever is the shorter. They may be reappointed for a second term.

(c) **Quorum.** A meeting of the Standards Committee shall only be quorate when:

- i. at least three members are present, and
- ii. at least half the members present are independent members

(d) **Voting.** Independent members and Community Council members will be entitled to vote at meetings as well as Councillors;

(e) **Community Committee members.** A Community Council Member shall not take part in the proceedings of the Standards Committee when any matter relating to their community council is being considered;

(f) **Chairing the Committee.**

- i. Only an independent Member of the Standards Committee may be the Chair.
- ii. The Chair will be elected by the members of the Standards Committee.

(g) **Community Councils Sub-Committee.** The Standards Committee may include a Sub-Committee to exercise the function set out in Article 10.03 (h) below. Such Sub-Committee will include at least one independent Member and one community Council Member.

(h) The Council Procedure Rules should apply to this Committee in the same way as they apply to other Committees.

### **10.03 Role and Function**

The Standards Committee will have the following roles and functions:

(a) promoting and maintaining high standards of conduct by Councillors, co-opted members and church and parent governor representatives;

(b) assisting the Councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;

(c) advising the Council on the adoption or revision of the Members' Code of Conduct;

(d) monitoring the operation of the Members' Code of Conduct;

(e) advising, training or arranging to train Councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct;

(f) granting dispensations to Councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct;

(g) determining requests for representation in proceedings under the Council's Indemnity Scheme for Members and Officers.

(h) dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter referred to that officer by the Public Services Ombudsman for Wales.

(i) the exercise of (a) to (h) above in relation to the Community Councils wholly or mainly in its area and the members of those community councils.

## **ADDITIONAL ROLE OF STANDARDS COMMITTEE**

The Standards Committee shall maintain an Overview of the operation and maintenance of the Council's

- (i) confidential reporting procedure
- (ii) complaints handling procedures
- (iii) responses to Ombudsman's investigations
- (iv) the Council's planning code of conduct
- (v) the Council's Constitution

insofar as they relate to issues concerning Members and shall report thereon to the Cabinet.

## **Article 11 – The Licensing Committee**

### **11.01 Licensing Committee**

The Council is required by the Licensing Act 2003 to establish a Licensing Committee.

### **11.02 Composition**

The Licensing Committee will consist of between 10 and 15 Members and be politically balanced. The Chair and Vice-Chair of the Licensing Committee may be chosen from any group or non-aligned Councillors.

### **11.03 General Role**

The role of the Licensing Committee will be as follows:-

1. To draft, consult upon and recommend to the County Council a Licensing Act Policy every 5 years, a Gambling Act Policy every three years and policies regarding Private Hire and Hackney Carriage Licensing as and when required. To keep such Policies under review, recommending any revisions necessary to the County Council.
2. To determine applications for licensable activities under the Licensing Act 2003 including premises licenses, personal licences and club premises certificates.
3. To determine applications under the Gambling Act 2005 for premises licences and permits.
4. To determine applications under the Private Hire/Hackney Carriage licensing regime and to determine whether individuals are ‘fit and proper persons’ to hold licences.
5. Any other matters delegated to the Committee from time to time.

### **11.04 Sub-Committees**

The Committee may delegate its functions to one or more Sub-Committees established by it, or in a limited number of circumstances to an officer of the Authority. A Sub-Committee must comprise 3 Members and a number of Sub-Committees or officers with delegated powers can, if required to do so, operate at the same time. The following delegations have been granted:-

<b>Licensing Act Matters</b>	<b>Full Committee</b>	<b>Sub-Committee</b>	<b>Health, Safety and Licensing Manager</b>
Application for personal licence		If Police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises		If relevant	If no relevant

licence/club premises certificates		representation made	representation made
Application for provisional statement		If relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a Police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a Police objection	All other cases
Applications for interim authorities		If a Police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.			All cases
Decision to object when local Authority is a consultee and not the relevant Authority considering the application		All cases	
Determination of a Police objection to a temporary event notice		All cases	
<b>Gambling Act Matters</b>	<b>Full Council</b>	<b>Licensing Sub-Committee</b>	<b>Officers</b>
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting – when appropriate			X
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Application for transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission

Application for a provision statement		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Review of a premises licence		X	
Application for club gaming/ club machine permits		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	
Determination as to whether a person is an Interested Party			X
Determination as to whether representations are relevant			X
Determination as to whether a representation is frivolous, vexatious or repetitive			X
<b><u>Private Hire/Hackney Carriage Matters</u></b>	<b><u>Full Licensing Committee</u></b>	<b><u>Licensing Sub Committee</u></b>	<b><u>Officers</u></b>
<u>Changes to Policy and Strategy or the setting of licence fees</u>	<u>X</u>		
<u>Determining applications that are not contentious</u>			<u>X</u>
<u>Determining contentious applications (contentious means those applicants that have relevant convictions or other sanctions as identified by CRB checks, driving licence irregularities or medical conditions that may affect driving. Also includes those who are convicted of offences while licensed or develop relevant medical conditions while licensed).</u>		<u>X</u>	
<u>Determining the suitability of vehicles to be licensed if other</u>		<u>X</u>	



than conventional vehicles				
Power to licence hackney carriages and private hire vehicles – (a) as to hackney carriages, the Town Police Clauses Act 1847 (19 & 11 Vict. C89), as extended by Section 171 of the Public Health Act 1875 (38 & 39 Vict. C55), and Section 151 of the Transport Act 1985 (c67); and Section 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 (c57) (b) as to private hire vehicles, Sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976			X	<b>Comment [FCC9]:</b> To reflect current practice
Power to license drivers of hackney carriages and private hire vehicles - Sections 51, 53, 54, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976			X	<b>Comment [FCC10]:</b> To reflect current practice
Power to license operators of hackney carriages and private hire vehicles - Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976			X	<b>Comment [FCC11]:</b> To reflect current practice

## 11.05 Procedures

The Committee may regulate its own procedure and that of its Sub-Committees, subject to any regulations, in relation to the conduct of hearings, access to the public and publicity. Any procedures adopted must comply with Human Rights Legislation.

## **Article 12 - Appeals Committee**

12.01 The Council shall identify a pool of appropriately qualified Members to serve upon Appeals Committees as and when required.

12.02 The Democracy and Governance Manager shall from time to time select from such pool of Members, Appeals Committees which will number not less than three, nor more than nine in total, to hear and determine any and all appeals which may be properly brought either at law or under Council policies/procedures for the time being in force against:-

- (a) the exercise of or failure to exercise any power, duty or function;
- (b) the grant or refusal of any licence, permission, request, or approval howsoever expressed;
- (c) disciplinary actions where the right of appeal under Council procedures for the time being in force lies to elected Members.

12.03 It shall be a condition of any Member accepting selection to any particular Appeals Committee that such Member shall regard themselves as absolutely bound to observe the rules of natural justice and in particular shall not, without the consent of the parties, continue to sit upon the Committee hearing a particular appeal if that Member is absent for any substantial part of the proceedings.

12.04 Subject to any overriding requirement of statute any particular Appeals Committee shall have full power to hear and determine the appeal in question and the decision of the Appeal Committee shall be final and binding.

12.05 The Democracy and Governance Manager shall have power in consultation with the appropriate Chief Officer to identify and select such other "independent" Members as may from time to time be required by statute or regulations to sit together with elected Members in the hearing of any appeal.

12.06 The proceedings of the Appeal Committee shall be minuted and regardless of whether or not the case for the Council is presented by a legally qualified person the Committee shall be entitled to have as their adviser and clerk such appropriately qualified person as the Head of Legal & Democratic Services shall appoint and for the avoidance of doubt the identity of the appointee may vary from Committee to Committee.

12.07 The Committee shall have power to determine its own procedure upon any particular occasion subject to the general expectation that:-

- (i) It will consider whether or not to resolve to exclude the press and the public and if so state the ground or grounds.
- (ii) The Council will outline the history of the matter in an opening speech.
- (iii) The Council shall then call such witnesses as it shall consider necessary to provide the

Committee will all such evidence as may reasonably be required and those witnesses shall be liable to cross examination by the Appellant and independent questioning by the Committee.

(iv) At the close of the Council's case the Appellant shall be entitled to: -

Make a brief opening statement.

Call such witnesses as the Appellant may consider appropriate in support of the Appellant's case such witnesses shall be liable to cross examination by the Council's representative and/or the Committee.

(v) At the close of the Appellant's case the Committee shall have the power to direct that further evidence be received in respect of any particular matter or matters whether or not that involves the recalling of any witness already heard.

(vi) At the close of any independent examination on the part of the Committee the Council's representative shall sum up the issues on behalf of the Council and therefore the Appellant shall be entitled to sum up the Appellant's case.

(vii) The Committee shall then proceed to determine in the absence of the parties but in the presence, if so required, of their clerk/adviser, the issues and arrive at their decision.

(viii) When the Committee have arrived at their decision the parties shall be invited to return to the Committee's presence when the decision shall be announced and any consequential matters shall be addressed.

## Article 13 – Constitution Committee

13.01 The Council will maintain a Constitution Committee comprising representatives from all of the political groups on the Council. The Committee will consist of ~~21~~ Members, politically balanced, with each Group Leader nominating representatives from his/her political group. It is not a standing committee of the Council and will only have power to make recommendations to the County Council.

Deleted: 17

13.02 The Constitution Committee shall consider reports from the Monitoring Officer in relation to any changes required or proposed as a result of his review of the Constitution prior to proposals being considered by the County Council.

Deleted: annual

13.03 Any Member shall be entitled to propose items for consideration by the Constitution Committee relating to the contents of the Constitution.

13.04 The Constitution Committee will consider matters relating to corporate governance including the consideration of a Code of Corporate Governance to be adopted by the County Council and its future maintenance and review.

Comment [FCC12]: Inserted Governance to reflect current practice

13.05 The Constitution Committee has power to review, revoke and amend and create bye-laws for Flintshire.

## Article 14 – Democratic Services Committee

- 14.01 The Council is required by the Local Government (Wales) Measure 2011 to have a Democratic Services Committee. The committee consists of 21 members, politically balanced, with each Group Leader nominating representatives from his/her political group.
- 14.02 The Democratic Services Committee can not include more than one member of the Council's Cabinet. The Chair of the Democratic Services Committee must be appointed by the County Council and must not be a member of any of the political groups that are represented in the Cabinet.
- 14.03 The Democratic Services Committee shall:-
- a. Designate one the Council's officers as the Head of Democratic Services
  - b. Review the adequacy of provision by the authority of staff, accommodation and other resources to discharge Democratic Services functions.
  - c. Make reports and recommendations to the authority in relation to such provision.
- 14.04 The Committee has the power to require the attendance of any Members or officers of the Council to answer questions and to invite anyone else it likes to do so also.
- 14.05 The Democratic Services Committee must have regard to guidance from Welsh Ministers when exercising its functions.
- 14.06 Any reports presented to the Democratic Services Committee by the Head of Democratic Services must be considered by the Committee within 3 months. Similarly any report made by the Democratic Services Committee must be considered by the full Council within 3 months.

**Comment [FCC13]:** Article 14 new to reflect current practice and Local Government (Wales) Measure 2011

## **Article 15 – Joint Arrangements**

### **15.01 Arrangements to promote well being**

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

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

### **15.02 Joint arrangements**

- (a) The Council or the Cabinet may establish joint arrangements with one or more local authorities and/or their Cabinets to exercise functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint Committee with these other local authorities.
- (b) 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 either Cabinet members or non-Cabinet members as it deems appropriate to the joint Committee 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.

### **15.03 Access to information**

- (a) The Access to Information Rules in Part 4 of this Constitution apply.
- (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.

#### **15.04 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.

#### **15.05 Contracting out**

The Council and the Cabinet 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, or under contracting arrangements where the Contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

## **Article 16 – Officers**

### **16.01 Management structure**

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

(b) **Chief Officers.** The full Council will engage persons for the following posts, who will be designated chief officers:

#### **CHIEF EXECUTIVE (AND HEAD OF PAID SERVICE)**

##### **JOB PURPOSE**

Provide leadership to the Council's Management Team and all employees; ensure that the Council has the appropriate structure, staff and other resources needed to deliver high quality, cost effective services to the people of Flintshire; work closely with elected Members to ensure the realisation of the Council's culture, vision, policies and programmes; work with partners and others to realise Flintshire's full potential.

#### **DIRECTOR OF COMMUNITY SERVICES**

##### **JOB PURPOSE**

As a member of the Corporate Management Team, personally and actively contribute to and guide strategic management of Flintshire County Council to ensure achievement of the corporate aims and to constantly strive for organisational excellence.

To act as the statutory Director of Social Services under Section 6 of the Local Authority Social Services Act 1970.

Provide strategic leadership, guidance and professional advice on strategic and operational management responsibilities of the Community Services Directorate to ensure effective and integrated management of the Council.

#### **DIRECTOR OF LIFELONG LEARNING**

##### **JOB PURPOSE**

As a member of the Corporate Management Team, personally and actively contribute to and guide strategic management of Flintshire County Council to ensure achievement of the corporate aims and to constantly strive for organisational excellence.

Provide strategic leadership, guidance and professional advice on strategic and operational management responsibilities of the Life Long Learning Directorate to ensure effective and integrated management of the Council.



## **DIRECTOR OF ENVIRONMENT**

### **JOB PURPOSE**

As a member of the Corporate Management Team, personally and actively contribute to and guide strategic management of Flintshire County Council to ensure achievement of the corporate aims and to constantly strive for organisational excellence.

Provide strategic leadership, guidance and professional advice on strategic and operational management responsibilities of the Environment Directorate to ensure effective and integrated management of the Council.

## **HEAD OF FINANCE**

### **JOB PURPOSE**

- (a) To oversee the work of, and to manage, the Corporate Finance Manager, Pension Funds Manager, Revenues & Benefits Manager and Internal Audit Manager or any alternative temporary posts reporting directly to this post.
- (b) To act as the Council's responsible Chief Financial Officer under Section 151 of the Local Government Act 1972 and Section 114 of the Local Government Finance Act 1988.
- (c) To act as the Treasurer and Administrator to the Clwyd Pension Fund.
- (d) To contribute, as a member of the Corporate Management Team, to the corporate management of the Council.
- (e) To contribute as a member of the Senior Management Team, to the management of the Directorate.

## **HEAD OF LEGAL AND DEMOCRATIC SERVICES**

### **JOB PURPOSE**

- (a) To oversee the work of, and to manage, the managers within Legal Services and Democratic Services or any alternative temporary posts reporting directly to this post.
- (b) To act as the Council's Principal Legal Adviser.
- (c) To act as the Council's Monitoring Officer to ensure the lawfulness and fairness of decision making within the Council, monitor, review and maintain the Council's Constitution and promote and maintain high standards of conduct in public life.
- (d) To contribute, as a Member of the Corporate Management Team, to the corporate management of the Council.
- (e) To contribute, as a member of the Senior Management Team, to the management of the Directorate.

- (c) **Head of Paid Service, Monitoring Officer and Chief Finance Officer.**

Deleted: ial

The Council will designate the following posts/officers as shown:

Post/Officer	Designation
Chief Executive	Head of Paid Service
Head of Legal & Democratic Services	Monitoring Officer
Head of Finance	<u>Chief Finance Officer</u>

**Deleted:** Section 151 Officer

**Comment [FCC14]:** Clarification

Such posts will have the functions described in Article 15.02–15.04 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 of this Constitution.

#### 16.02 Functions of the Head of Paid Service

(a) **Discharge of functions by the Council.** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, 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.

#### 16.03 Functions of the Monitoring Officer

(a) **Maintaining the Constitution.** The Monitoring Officer will monitor and review the operation of the constitution and make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1.

(b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to 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 will give rise to or 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) **Receiving reports.** The Monitoring Officer will receive and act on reports made by the Ombudsman in respect of Code of Conduct matters and decisions of the case tribunals.

(e) **Conducting investigations.** The Monitoring Officer will conduct investigations into matters referred by the Ombudsman in relation to Code of

Conduct matters and make reports or recommendations in respect of them to the Standards Committee.

(f) **Advising whether decisions of the Cabinet are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.

(g) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and Authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.

(h) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

#### 16.04 Functions of the Chief Finance Officer

(a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council or to the Cabinet in relation to 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 under section 151 of the Local Government Act 1972 for the administration of the financial affairs of the Council.

**Comment [FCC15]:** Clarification

(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.

#### 16.05 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.

## Article 17 – Decision Making

### 17.01 Responsibility for decision making

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

### 17.02 Principles of decision making

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

#### PRINCIPLES OF DECISION MAKING

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights (see below for further details);
- (d) a presumption in favour of openness; and
- (e) clarity of aims and desired outcomes.

### 17.03 Decisions reserved to full Council

Decisions relating to the functions listed in Articles [4.01](#) and 4.02 will be made by the full Council and not delegated.

**Comment [FCC16]:** Inserted 4.01 to clarify

### 17.04 Decision making by the full Council

Subject to Article 16.08, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### 17.05 Decision making by the Cabinet

Subject to Article 16.08, the Cabinet will follow the Cabinet Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### 17.06 Decision making by Overview and Scrutiny Committees

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

### 17.07 Decision making by other Committees and Sub-Committees established by the Council

Subject to Article 16.08, other Council Committees and Sub-Committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

#### **17.08 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.

## Article 18 – Finance, Contracts and Legal Matters

### 18.01 Financial management

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

### 18.02 Contracts

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

### 18.03 Legal proceedings

The Head of Legal & Democratic Services is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Head of Legal & Democratic Services considers that such action is necessary to protect the Council's interests.

### 18.04 Authentication of documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Legal & Democratic Services or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite Authority to some other person. Notwithstanding any arrangements set out within the Contract Procedure Rules which may require particular forms of contract for contracts of a lesser value, the Council expressly resolves that any contract with a value exceeding £50,000 entered into on behalf of the local Authority in the course of the discharge of a Executive Function shall be made in writing. Such contracts must either be signed by at least two officers of the Authority or made under the common seal of the Council attested by at least one officer.

### 18.05 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 & Democratic 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 Head of Legal & Democratic Services should be sealed. The affixing of the Common Seal will be attested by the Head of Legal & Democratic Services or

Principal Solicitor, together with the Council Chairman or Vice Chairman

**Comment [FCC17]:** To reflect current practice

**Deleted:** some other person authorised by him/her.

## Article 19 – Review and Revision of the Constitution

### 19.01 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 Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:

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

### 19.02 Changes to the Constitution

The process for changes to the Constitution differs depending upon whether the change is one of substance, or a minor, or a consequential change. Changes of substance need to be approved by the full Council. This will normally be after consideration by the Constitution Committee and it making a recommendation to the County Council. Minor or consequential changes to the Constitution can be made by the Head of Legal & Democratic Services/Monitoring Officer under delegated powers provided:-

1. The Chair of the Constitution Committee and the political Group Leaders have been consulted; and
2. None of those consulted under (1) above require the proposed change to be reported to County Council.

Where the change is consequential on a Cabinet decision and in exercising an Executive function the Constitution can be updated by the Head of Legal & Democratic Services following the expiry of the call-in process.

**Comment [FCC18]:** To enable the Constitution to be promptly updated

## Article 20 – Suspension, Interpretation and Publication of the Constitution

### 20.01 Suspension of the Constitution

(a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules specified in them and set out in Part 4 may be suspended by the full Council to the extent permitted within those Rules and the law.

(b) **Procedure to suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

### 20.02 Interpretation

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

### 20.03 Publication

(a) The Head of Legal & Democratic Services will ensure that printed copies are available for inspection at Council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.

(b) The Head of Legal & Democratic Services will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

**Comment [FCC19]:** As Constitution available on Infonet.

**Deleted:** (a) The Head of Legal & Democratic Services will provide a disk containing the Constitution to each Member of the Authority and each new Member upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council.

**Deleted:** b

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