

# **PART 1 – THE CONSTITUTION**

## **A - SUMMARY AND EXPLANATION**

**LAST FULL REVIEW: JUNE 2018**

Version 24.3

Date Revised 23/04/24

## **A. Summary and Explanation**

### **1. The Council's Constitution**

- 1.1 The Constitution of the Royal Borough of Windsor and Maidenhead sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Many of these processes are required by law, while others are a matter for the Council to choose.
- 1.2 The Constitution contains a number of parts, which set out the rules and procedures governing the Council's business. The Constitution provides a single point of reference for the overall way in which decisions are made.
- 1.3 Article 1 of the Constitution commits the Council to promote democratic local communities which are environmentally sustainable, prosperous and safe, providing equalities of opportunity and empowering all our communities.

Other Articles explain who are the Members of the Council, rights of residents and how key parts of the Council operate. The Articles are:

- Article 2 - Members of the Council
- Article 3 - Residents and the Council
- Article 4 - The Council meeting
- Article 5 - Chairing the Council
- Article 6 - The Cabinet
- Article 7 - Regulatory and other Panels
- Article 8 - Councillor Standards Panel
- Article 9 - Joint arrangements
- Article 10 - Overview and Scrutiny of Decisions
- Article 11 - Officers
- Article 12 - Decision making
- Article 13 - Finance, contracts and legal matters
- Article 14 - Review and revision of the Constitution
- Article 15 - Suspension, Interpretation and Publication of the Constitution

### **2. HOW THE COUNCIL OPERATES**

- 2.1 The Council is composed of 41 Councillors (also referred to sometimes as 'Members') elected every four years. Councillors are democratically accountable to residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.
- 2.2 Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties.

- 2.3 The Council currently operates a Leader and Cabinet (Executive) structure. Some Councillors have specific responsibilities for an area of the Council's activities (a portfolio).
- 2.4 All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year. The Council will elect from its Councillors a Leader at the Annual Council following ordinary local elections or at any other Council meeting following the death or disqualification or resignation, or if removed from office by resolution. The Leader will appoint members to a Cabinet. The Council will also appoint the Chair and Members of the Regulatory, other Committees and Council Panels for each year. If during the municipal year the Chair or Vice-Chair of a Committee or Panel were to step down, then nominations would be determined by the Group Leaders in consultation with the Monitoring Officer. This however will not apply to Overview & Scrutiny Panels, who appoint their own Chairs and Vice-Chairs, in accordance with Part 4 of the Constitution. The Council will undertake the business reserved to it by these Articles and, with the Overview and Scrutiny Panels, will hold the Cabinet to account. It will have responsibility to oversee all activities of the Committees and Panels it appoints.
- 2.5 Public involvement in the Council meetings will be maintained by Public Questions and by the provision to bring Petitions to the Council in accordance with Part 7G – Petitions Protocol. There is also the right to speak at Development Management Committees, and at the Chair's discretion, at the Cabinet, other Committees and Panels. The Council supports the principle of transparency and encourages the filming, recording and photographing of meetings open to the public. Details are set out in Part 7H – Filming and Recording Protocol.

### **3. HOW DECISIONS ARE MADE**

- 3.1 The Council is responsible for setting the Budget and overall policy framework.
- 3.2 The Cabinet is the part of the Council which is responsible for most day-to-day decisions which are made in line with the Council's overall policies and budget. The Cabinet is made up of the Leader elected by the Council and up to 9 other Councillors whom he/she appoints. When major decisions are to be discussed or made, these are published in the Cabinet's forward plan in so far as they can be anticipated and may be considered by the appropriate Overview and Scrutiny Panel before they are considered and determined by Cabinet. If these major decisions are to be discussed with Council Officers at a meeting of the Cabinet, this will generally be open for the public to attend except where personal or confidential matters are being discussed.

3.3 The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

3.4 The Cabinet for the current municipal year is set out in Part 9B. The roles of the Cabinet members are set out in Part 9C of this Constitution.

#### **4. OVERVIEW AND SCRUTINY**

4.1 The three Overview and Scrutiny Panels support the work of the Cabinet and the Council as a whole. They allow residents to have a greater say in Council matters by holding public inquiries into matters of local concern. They may make reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery.

4.2 The Overview and Scrutiny Panels also monitor the decisions of the Cabinet. They can 'call-in' a decision which has been made by the Cabinet but not yet implemented. This enables the Panel to consider whether the decision is appropriate. It may recommend that the Cabinet reconsider the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

4.3 Overview and Scrutiny Panels can receive requests to consider issues through local Councillors (Councillor Calls for Action). The Overview and Scrutiny Panels have the power to set up sub-panels to look into specific issues if required.

#### **5. THE COUNCIL'S STAFF**

5.1 The Council's staff (called 'Officers') give advice, implement decisions and manage the day-to-day delivery of its services. Some Officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between Officers and Members of the Council and is included in the Constitution (Part 7D).

#### **6. RESIDENTS' RIGHTS**

6.1 Residents have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights. Where members of the public use specific Council services, for example as a parent of a school pupil, they have additional rights. These are not covered in this Constitution but are available from the relevant Council service directly.

6.2 Residents have the right to:

- a) Vote at local elections if they are registered;

- b) Contact their local Councillor about any matters of concern to them;
- c) Obtain a copy of the Constitution;
- d) Attend meetings of the Council and its Cabinet, Committees, and Panels except where, for example, personal or confidential matters are being discussed;
- e) Petition to request a referendum on a mayoral form of executive;
- f) Participate in the Council meeting during public questions, other meetings, speak on planning applications, present petitions and contribute to Overview and Scrutiny investigations;
- g) Complain to the Council about any of its services under the Council's Complaints Policy and Procedure which can be found on the Council's website;
- h) Find out, from the Cabinet's forward plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or Officers;
- i) Attend meetings of the Cabinet where key decisions are being discussed or decided;
- j) Complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- k) Complain to the Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Councillors' Code of Conduct;
- l) Inspect the Council's accounts and make their views known to the external auditor;
- m) Any member of the public can ask a local Councillor to refer an issue to the relevant Overview and Scrutiny Panel for consideration (Councillor Call for Action).

6.3 The Council welcomes participation by its residents in its work. Further information on your rights as a resident, and residents' rights to inspect agendas and reports and to attend meetings is available from Democratic Services.

6.4 The public also has rights to inspect information held by the Council under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. More information on this is available on the Council's web site at [www.rbwm.gov.uk](http://www.rbwm.gov.uk).

# **PART 1 – THE CONSTITUTION**

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## 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 The Constitution

The Constitution, and all its appendices, is the Constitution of the Royal Borough of Windsor and Maidenhead.

### 1.3 Purpose of the Constitution

The purpose of the Constitution is to:

<b>Principle</b>	<b>What it means in this Constitution</b>
Enhance service performance	Making sure that decision-making leads to improvements in the quality of services to local people
Ensure accountability	Ensuring mechanisms for those responsible to be held to account for them
Increase transparency	Having streamlined and simplified clear decision-making responsibilities which are open to the public.
Enable community representation	Enabling Councillors to represent local communities effectively
Increase community involvement and engagement	Including and involving the public in the decisions that affect their lives and enabling the development of effective partnership working with other public, private and voluntary bodies
Encourage corporate working	Encouraging a partnership approach between the Cabinet and Overview and Scrutiny Panel, Officers and Councillors



<b>Principle</b>	<b>What it means in this Constitution</b>
	and better corporate working on cross cutting issues

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

Where the Constitution permits the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

## Article 2 – The Members of the Council

### 2.1 Composition and eligibility

- a) Composition. The Council will comprise 41 Councillors, otherwise called Members. One or more Councillors will be elected by the voters of each Ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- b) Eligibility. Only registered voters of the Royal Borough or those living or working there or occupying property in the area will be eligible to hold the office of Councillor.

### 2.2 Election and terms of Councillors

The regular election of Councillors will be held on the first Thursday in May every four years from 2003. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election. By-elections are held at the request of two electors from the current register of electors when a casual vacancy arises for any seat, unless the vacancy arises within six months of the ordinary elections for that seat.

### 2.3 Roles and functions of all Councillors

A Councillor may have up to five main roles. They perform one or more of the following duties:-

- i) Community leadership and representation;
- ii) Executive decision-making;
- iii) Policy development and review;
- iv) Overview and Scrutiny;
- v) Quasi-judicial and regulatory decision making.

Taken together, these roles enable Councillors to:-

- i) Collectively in meetings of the Council be the ultimate policymakers and carry out a number of strategic and corporate management functions;
- ii) Represent the communities of their wards, bringing their views into the Council's decision-making process and represent the Council to those communities, i.e. become an advocate of, and for, their communities.
- iii) Respond to Constituents' enquiries and representation fairly and impartially, deal with individual case work and otherwise effectively represent the interests of their wards and individual Constituents;
- iv) Participate in the governance and management of the Council;
- v) Represent the Council on other bodies and

- vi) maintain the highest standards of conducts and ethics.

## **2.4 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 8E of this Constitution.

Further duties of all councillors can be found in Part 9C of this Constitution

## **2.5 Conduct**

Councillors will at all times observe the Councillors’ Code of Conduct, the Councillor/Officer Protocol and the Councillors’ Social Media Protocol as set out in Part 7A, 7D and 7I of this Constitution.

## **2.6 Allowances**

Councillors will be entitled to receive allowances in accordance with the Councillors’ Allowances Scheme set out in Part 9 A of this Constitution.

## Article 3 – Citizens and the Council

### 3.1 Introduction

Citizens have a number of rights and responsibilities. The following list is a general summary of rights in terms of information, the opportunity to participate and the ability to make complaints. (For more detail see Access to Information Rules in Part 8E of this Constitution).

Citizens also have the following rights:

### 3.2 Information.

Citizens have the right to:

- i) Attend meetings of the Council and its Committees, Forums and Panels except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private.
- ii) Find out from the forward plan what key decisions will be taken by the Cabinet and when.
- iii) Attend meetings of the Cabinet when key decisions are being considered.
- iv) See reports and background papers, and any records of decisions made by the Council, the Cabinet and non-executive committees of Council.
- v) Inspect the Council's accounts and make their views known to the external auditor.
- vi) Access information held by the Council, under the Freedom of Information Act 2000 and Environmental Information Regulations 2004. Further information on these rights is available on the Council's website <http://www.rbwm.gov.uk>

### 3.3 Participation.

Citizens have the right to ask public questions at Council and may be invited to participate in public Cabinet meetings, and contribute to investigations by the Overview and Scrutiny Panels. They have the right to speak at Development Management Committees in accordance with Part 6 and Part 7F of this Constitution.

### 3.4 Complaints.

Citizens have the right to complain to:

- i) The Council itself under its complaints scheme.  
[Make a complaint | Royal Borough of Windsor and Maidenhead \(rbwm.gov.uk\)](http://www.rbwm.gov.uk)
- ii) The Ombudsman after using the Council's own complaints scheme.  
<https://www.lgo.org.uk/make-a-complaint>
- iii) The Monitoring Officer about a breach of the Councillors' Code of Conduct.

[Council structure | Royal Borough of Windsor and Maidenhead \(rbwm.gov.uk\)](#)

### **3.5 Citizens' responsibilities**

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

## **Article 4 – The Full Council**

### **4.1 Introduction**

The full Council is a formal meeting of all Councillors and the Mayor. The full Council is required by law to take certain important decisions including setting the Council's budget and Council Tax, and approving a number of key plans and strategies, which together form the Policy Framework (listed below). The full Council must also by law take decisions on a number of other specific matters.

The full Council provides a central forum for debate and gives the opportunity for Councillors and, at designated meetings throughout the year, members of the public, to ask questions about the Council or matters affecting the Borough.

There are four types of full Council meetings:

1. The Annual Meeting
2. Ordinary meetings
3. Extraordinary meetings
4. The Budget meeting

These meetings will be conducted in accordance with the procedure rules set out in Part 2 C Council Rules of Procedure.

### **4.2 Functions of the Council**

The functions and responsibilities of the Council are set out in:-

- a) Part 2 A: Council Terms of Reference;
- b) Part 2 B: Responsibility for Council Functions.

### **4.3 The Budget and Policy Framework**

#### Budget

The budget includes the allocation of financial resources to different services and projects, the Housing Revenue Account, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

### The Policy Framework

The Policy Framework is set out in Part 2 A as part of the functions of Council.

### Budget & Policy Framework Procedure

The Budget and Policy Framework Rules of Procedure set out in Part 3 B of this Constitution ensure consultation with Councillors who are not members of the Cabinet on initial proposals for these plans so that their views can feed into the development of these plans and strategies.

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

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

#### **Ceremonial role**

The Royal Borough's Mayor is elected each year at the Annual Meeting as the first citizen of the Royal Borough, along with the Deputy Mayor. The Mayor represents the Royal Borough and carries out a full range of ceremonial duties on behalf of the Council.

#### **Chairing the Council meeting**

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

1. To uphold and promote the purposes of the Constitution and to interpret the Constitution when necessary, on the advice of the Council's Monitoring Officer in accordance with, where specified, the wishes of the majority of the Council.
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 in the Cabinet are able to hold the Cabinet to account.
4. To promote public involvement in the Council's activities.
5. To attend such civic and ceremonial functions as the Council and he/she determines appropriate.
6. To determine any matter referred to him/her under the urgency provisions of the Access to Information Procedure Rules (Part 8E) or the Budget and Policy Framework Procedure Rules (Part 3) of the Constitution; and
7. To be consulted on any matter to which consultation with the Mayor is required under this Constitution.

Further duties of the Mayor and Deputy Mayor are specified in Part 9C.



## **Article 6 - The Cabinet**

### **6.1 Role**

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

### **6.2 Form and Composition**

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

### **6.3 Leader**

The Council will elect a Leader from its Councillors at Annual Council, following ordinary local elections or at any other Council meeting following the death or disqualification or resignation, or if removed from office by resolution.

Once appointed the Leader will be responsible for:-

- a) Determining the size of Cabinet;
- b) Appointing the Members of Cabinet;
- c) Allocating portfolios for areas of responsibilities to the various Cabinet Members;
- d) Allocating decision-making powers to the Cabinet and individual Cabinet Members;
- e) Removing and replacing Cabinet Members.

The Leader for the current municipal year is specified in Part 9B and their duties are specified in Part 9C.

During the Leader's term of office, he/she will automatically cease to be Leader upon death or disqualification or resignation or if removed from office by a Resolution of the Council.

### **6.4 Other Cabinet Members**

The Leader will appoint the Cabinet Members for a period of not more than one year, subject to the rules as set out below. The names and portfolios of the Cabinet Members will be announced to the Council by the Leader at the first available Council meeting.

Only Councillors may be appointed to the Cabinet. There may be no co-optees and no deputies or substitutes for Cabinet Members. Neither the Mayor nor Deputy Mayor of the Council may be appointed to the Cabinet.

Cabinet Members shall hold office until:

- a) they resign from office; or
- b) they are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- c) they are no longer Councillors; or
- d) they are removed from office by the Leader who must give written notice of any removal to the Monitoring Officer. The removal will take effect two working days after receipt of the notice by the Monitoring Officer.

## **6.5 Proceedings of the Cabinet**

Proceedings of the Cabinet shall take place in accordance with the Executive Procedure Rules set out in Part 3A of this Constitution.

## **6.6 Responsibility for functions**

The Council will maintain a list in Part 9B of this Constitution setting out which individual Members of the Cabinet (if any), Committees, Forums or Panels of the Cabinet, Officers or joint arrangements are responsible for the exercise of particular executive or particular Council functions.

## **6.7 Deputy Leader**

The Leader shall appoint one Cabinet Member as Deputy Leader. Wherever this Constitution refers to 'the Leader", the reference shall be taken to include reference to 'the Deputy Leader' whenever he/she substitutes for the Leader. The appointed Deputy Leader will act as Leader if the latter is unable to act or the post becomes vacant.

## **6.8 Leader and Deputy Leader of the Opposition**

The next largest opposition group of Councillors shall appoint a Councillor to the position of Leader of the Opposition, being the leader of the next largest group of Councillors. The Leader of the opposition can appoint a Deputy Leader of the Opposition.

The duties of the Leader of the Opposition are specified in Part 9C.

## **6.9 Cabinet Members for current municipal year**

The members of Cabinet for the current municipal year shall be specified in Part 9B of this Constitution. The duties of Councillors with such special responsibilities are specified in Part 9C.

## **Article 7 - Regulatory and other Committees**

### **7.1 Regulatory and other Panels**

The Council will appoint a number of committees and panels to carry out its regulatory functions. The Terms of Reference of these are set out in Part 6.

7.2 The Council in the case of Committees or the parent committee in the case of sub-committees or panels will, in the case of sub-committees or panels, appoint the Councillors to serve on the committee, sub-committee or panel subject to the right of a political group within the meaning of the Local Government and Housing Act 1989 and any regulations made under that Act to make nominations for those appointments at the meeting that makes the appointments before the appointments are made.

7.3 The members of such committees and panels for the current municipal year shall be specified in Part 9B of this Constitution.

## **Article 8 – Councillor Standards Panel**

### **1.1 Introduction**

The Council will establish a Councillor Standards Panel. Its role will include the promotion and maintenance of high standards of conduct by Councillors.

### **1.2 The Role and Function of the Councillor Standards Panel**

The Terms of Reference are set out in Part 6.

## **Article 9 - Joint Arrangements**

### **9.1 Arrangements to promote well being**

The Council and 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;
- c) exercise on behalf of that person or body any functions of that person or body.

The above is subject to the provisions of Article 9.2 and in accordance with any limitations imposed by legislation.

### **9.2 Joint Arrangements**

- a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive 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 as a whole.
- c) Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the Council.
- d) The Cabinet may appoint members to a joint committee from outside the Cabinet where the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint committee any Councillor who is a member for a Ward which is wholly or partly contained within the area.

In this case, the political balance requirements do not apply to such appointments.

- e) Details of any joint arrangements include any delegations to joint committees are found in the Part 6 of this Constitution.

### **9.3 Access to Information**

The Access to Information Rules in Part 8E of this Constitution apply:

- a) 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.
- b) If the joint committee contains members who are not on the executive 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 executive of another local authority.
- b) The Cabinet may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.
- c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

#### **9.5 Contracting out**

The Council, for functions which are not 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, 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.

#### **9.6 Joint Arrangements**

A list of the Council's current joint arrangements and partnerships can be accessed on the [Council's website](#).

#### **9.7 Principles for Partnership**

New partnerships or joint arrangements shall be commissioned on the basis of the principles and framework as set out in the Partnership Protocol in Part 7J of this Constitution.

## **Article 10 – Overview and Scrutiny Panels**

### **10.1 Introduction**

The Council has established three Overview and Scrutiny Panels which meet in public, subject to the Access to Information rules, to discuss and make recommendations on the development of the plans and strategies set out in Article 4 and on reports going to Cabinet and hold the Cabinet to account for its actions. The Overview and Scrutiny Panels also have a key role in considering other matters of local concern not necessarily just within the Council's areas of responsibility but affecting the Royal Borough and its communities.

### **10.2 Terms of reference**

The Overview and Scrutiny Panels will together and singly discharge the functions conferred by Section 21 of the Local Government Act 2000 or regulations under Section 32 of the Local Government Act 2000. The Overview and Scrutiny Panels may appoint such sub-panels as they consider necessary or appropriate to carry out, effectively, its functions. Each sub-panel will be politically balanced, will produce Terms of Reference for agreement by the relevant Overview and Scrutiny Panel, including the period during which the sub-Panel shall meet, its membership and its proposals for investigation and reporting.

### **10.3 Role, Scope and Membership**

10.3.1 Within its terms of reference, the Overview and Scrutiny Panels may:

- i) Review and/or scrutinise decisions to be made by Cabinet and made by it or actions taken in connection with the discharge of any of the Council's functions.
- ii) Make reports and/or recommendations to the full Council and/or the Cabinet in connection with the discharge of any functions.
- iii) Consider any matter affecting the area or its inhabitants.
- iv) Exercise the right to call-in, for reconsideration, decisions made in respect of which no steps have been taken to implement the decision.

10.3.2 The role, scope and membership of the individual Overview and Scrutiny Panels are described in Part 4B – Terms of Reference for Overview and Scrutiny:

10.3.3 The members of any Overview and Scrutiny Panel or any sub-panels shall not include the Mayor or any members of Cabinet.

### **10.4 Specific functions**

- a) **Policy development and review.**

The Overview and Scrutiny Panel may:

- i) Assist the Council and the Cabinet in the development of its budget and analysis of the draft plans to be submitted to Council under Article 4.
- ii) Conduct such necessary research and investigation in the analysis of the policy issues and the possible options for the plans to be submitted to Council as above.
- iii) Question relevant members of Cabinet and the relevant Executive Director(s) about issues and proposals affecting the area.
- iv) Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interest of local people are enhanced by collaborative working.

b) **Scrutiny.**

The Overview and Scrutiny Panels may:

- i) Review and scrutinise the decisions to be made by Cabinet and which have been made by the Cabinet 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 Executive Directors about their decisions, 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 Council arising from the outcome of the Scrutiny process.
- v) Review and scrutinise the performance of the relevant bodies in the area and invite reports from them to address an Overview and Scrutiny Panel and local people about their activities and performance.
- vi) Question and gather evidence from any person or organisation (with that person/organisation's consent).
- vii) Consider any petitions to hold an Officer to account and to hear an appeal in relation to a petition.

c) **Finance.**

In carrying out its activities, the Overview and Scrutiny Panels will operate within such budget and allocation of officer time as the Council shall provide.



(d) **Annual report.**

The Overview and Scrutiny Panels will report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

**10.5 Proceedings of the Panels**

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

**10.6 Scrutiny Officer**

As required by Law, the Council has designated a statutory “Scrutiny Officer” whose functions are to promote the role of the Council’s Overview and Scrutiny Panels, to provide support to them and their members and provide support and guidance to Council Members and Officers generally about the functions of the Overview and Scrutiny Panels.

## Article 11 - Officers

### 11.1 Definition

The use of the title “officers” in the Constitution means all of the employees of the Council and includes those staff who are engaged in any short term, agency or other non-employed capacity. Consultants may be ‘officers’ when they are recruited as an integral part of the Council’s business or operations and the contractual relationship is deemed by the Council to be sufficiently similar but not amount to employment.

### 11.2 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) **Senior Officers.** The Corporate Leadership team of the Council will comprise of the following posts:

Post	Functions and areas of responsibility
Chief Executive (Head of Paid Service)	Overall Corporate Management and operational responsibility (including overall management responsibility for all Officers)
	Provision of professional advice to all parties in the decision making process.
	Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council’s decisions.
	Representing the Council on partnerships and external bodies (as required by statute or the Council).
	Strategy, Communications
Executive Director of Adult Services, Health & Communities	Adult Social Care, Commissioning, Public Health, Communities & Transformation
Executive Director of Children’s Services & Education	Children’s Social Care, Safeguarding (Child Protection), Schools, Youth Offending Team and Youth Services.

<b>Post</b>	<b>Functions and areas of responsibility</b>
Executive Director of Resources and S151 Officer	Finance, Library and Resident Services, Revenues and Benefits, HR, Corporate Projects, IT, Legal Services & Governance.
Executive Director of Place Services	Planning, Neighborhood Services, Infrastructure, Sustainability, Transport, Parking, Economic Growth, Housing, Public Protection & Environmental Health
Assistant Director of Housing and Public Protection	Housing, Trading Standards, Licensing, Environmental Health
Assistant Director of Placemaking Partnerships and Sustainability	Sustainability, Economic Growth
Assistant Director of Planning	Planning, Planning Policy
Deputy Director of Finance	Finance, Audit
Assistant Director of Revenues, Benefits, Library and Resident Services	Council Tax, Library and Resident Services, Revenues and Benefits
Assistant Director of Human Resources, Corporate Projects and IT	HR, IT, Corporate Projects
Assistant Director of Commissioning – Children and Adult Services	
Deputy Director of Law & Governance and Monitoring Officer	Legal Services, Democratic Services, Civic
Assistant Director of Strategy & Engagement	Communications, Strategy, Policy & Performance
Assistant Director of Neighbourhoods	Transport, Parking, Leisure, Highways

<b>Post</b>	<b>Functions and areas of responsibility</b>
Consultant in Public Health	
Executive Director of Public Health for Berkshire East	

c) The following posts will have the allocated statutory designation:

<b>Post</b>	<b>Designation</b>
Chief Executive	Head of Paid Service
Monitoring Officer	Monitoring Officer
Executive Director of Resources	Chief Finance Officer (s.151 Officer)
Executive Director of Children's Services	Executive Director of Children's Services
Executive Director of Adult Services, Health and Communities	Executive Director of Adult Social Services
Principal Democratic Services Officer – Overview & Scrutiny	Scrutiny Officer

### **11.3 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.

### **11.4 Conduct**

Officers will comply with the Councillor / Officer Protocol set out in Part 7 E.

### **11.5 Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Procedure Rules set out in Part 8B of this Constitution.



## Article 12 - Decision Making

### 12.1 Responsibility for decision making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 2B, Part 3A and Part 5 of the Constitution.

### 12.2 Principles of decision making

The Council has adopted the following principles to underpin all decision-making in the Council:

- proportionately (the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from Officers;
- consideration of the legal and financial implications
- respect for human rights and consideration of all other relevant duties, e.g. equalities;
- a presumption to favour of openness and inclusive decision-making;
- clarity of aims and desired outcomes in compliance with the Council's adopted Plans and Strategies;
- the giving of reasons for the decision and the proper recording of those reasons

When the Cabinet or Officers take an executive decision it will include consideration of any alternative options considered and rejected, and a record of the decision will be maintained in accordance with Part 4 of the Local Authorities (Executive Arrangements) (Access to Information) England Regulations 2012 and The Openness of Local Government Bodies Regulations 2014.

### 12.3 Types of decision

- a) **Decisions reserved to full Council.** Decisions relating to the functions listed in Article 4.2 will be made by the full Council and not delegated.
- b) **Key decisions** - A key decision is an executive decision which is likely:
  - 1) To result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates. The Council has decided that the relevant threshold at or above which the decision is significant will be £500,000 for capital expenditure and £500,000 for revenue expenditure. A budget heading is, for the purposes of this Article, the budget head set out each year in the annual budget book in the Service Summary.

Money delegated to schools as part of the Scheme of Financial Management of Schools exercise is exempt from these thresholds, once it is delegated to the school.

The financial amounts given above will be reviewed each year.

- 2) To be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the local authority.

#### **12.4 Decision-making by the Council**

Subject to Article 12.8, the Council meeting will follow the Council Rules of Procedure set out in Part 2C of this Constitution when considering any matter.

#### **12.5 Decision-making by the Cabinet**

Subject to Article 12.8, the Cabinet will follow the Procedure Rules for Cabinet set out in Part 3 A of this Constitution when considering any matter.

#### **12.6 Decision-making by the Overview and Scrutiny Panels**

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

#### **12.7 Decision-making by other Committees, Forums and Panels established by the Council.**

Subject to Article 12.8, other Council Committees, Forums and Panels will follow those parts of the Council Rules of Procedures set out in Part 2 C of this Constitution as apply to them.

#### **12.8 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.

#### **12.9. Decision making by officers**

All decisions taken by officers under the Council's Officer Delegation Scheme will be taken in accordance with the principles set out in this article.

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

All decisions of the Council and its committees and sub-committees; the Cabinet and any committee or sub-committee of Cabinet; individual Cabinet Members exercising delegated powers; and any officers exercising delegated powers will be recorded in accordance with Part 8 E - Access to Information Procedure Rules.



## **Article 13 - Finance, Contracts and Legal Matters**

### **13.1 Financial management**

The management of the Council's financial affairs will be conducted in accordance with the Finance Procedure Rules, as set out in Part 8 C of this Constitution.

### **13.2 Contracts**

Every contract made by the Council will comply with the Contract Procedure Rules set out in Part 8 A of this Constitution.

### **13.3 Legal Proceedings**

The Monitoring Officer is authorised to institute, participate in or settle 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 Monitoring Officer considers that such action is necessary to protect the Council's interests.

The Monitoring Officer has delegated powers to authorise officers to appear in court or tribunals on the Council's behalf.

### **13.4 Authentication of documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed the Monitoring Officer 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.

### **13.5 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 or by Council.

### **13.6 Formal Deeds**

The Monitoring Officer is authorised to sign any formal deeds on behalf of the Council.

### **13.7 Dealing, Acquisition or disposal of Land and Real Property**

Every dealing, acquisition or disposal of land and real property made by the Council will comply with the Property Procedure Rules set out in Part 8D of the Constitution.

## **Article 14 - Review and Revision of the Constitution**

### **14.1 Duty to monitor and review the Constitution**

The Constitution Working Group shall, as part of its ordinary work and together with the Chief Executive and the Monitoring Officer, monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

### **14.2 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 Councillor and Officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with him/her by Councillors, Officers, the public and other relevant stakeholders;
4. compare practices in this Council with those in other comparable authorities, or national examples of best practice.

### **14.3 Changes to Constitution**

Changes to the Constitution will only be (i) made by full Council or (ii) made by full Council after consideration of the proposal by the Constitution Working Group established to monitor and review the constitution.

Changes of an editorial nature as may seem appropriate to make the Constitution internally consistent, up-to-date and readily understandable can be made by the Monitoring Officer in consultation with the Chair of the Constitution Working Group.

Changes will be recorded in Part 9D which shall include the change, reasoning for change and authority for the change.

### **14.4 Change from a Leader and Cabinet form of executive to alternative arrangements, or vice versa.**

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

## **Article 15 - Suspension, Interpretation and Publication of the Constitution**

### **15.1 Suspension of the Constitution**

The Articles of this Constitution may not be suspended. However some rules may be suspended but only by the full Council to the extent permitted within those rules and the law. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.

### **15.2 Procedure to suspend.**

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

### **15.3 Rules capable of suspension.**

The following Rules may be suspended in accordance with this Article 15.2:

All Council Procedure Rules except Part 2 C17.4 and C18.2 – as stated in Council Procedure Rule Part 2 C24.

Contract Procedure Rules as provided in Contract Procedure Rule Part 8A Part 5.

### **15.4 Interpretation**

The ruling of the Mayor, advised by the Monitoring Officer, as to the construction or application of this Constitution or as to any proceedings of the Council shall only be challenged at a meeting of the Council following a Motion to that effect in accordance with Council Procedure Rule Part 2 C27. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

### **15.5 Publication**

- a) The Monitoring Officer will give a printed copy of this Constitution to each Member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the Councillor first being elected to the Council or refer the Councillor to the copy available on the Council's web site.
- b) The Monitoring Officer will ensure that copies are available for inspection at Council Offices, libraries and other appropriate locations and on the Council's web site, and can be purchased by members of the local press and the public on payment of a reasonable fee.

- c) The Monitoring Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

