

## **Part 2**

### **Articles of the Constitution**

## **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**

This Constitution, and all its appendices, is the Constitution of the Douglas Borough Council ("the Council"). The Constitution ensures that the Council's decision making and governance arrangements help it to achieve its corporate aims, objectives and priorities effectively and efficiently. It also ensures that the Council meets its legal duties.

### **1.3 Purpose of the Constitution**

The purpose of the Constitution is to:

- (a) enable the Council to provide clear leadership to the community in partnership with the public, businesses and other organisations;
- (b) support the active involvement of the public in the process of local authority decision-making;
- (c) help Members represent their constituents effectively;
- (d) enable decisions to be taken efficiently, effectively and transparently, with due regard to probity and equity;
- (e) create an effective means of holding decision-makers to public account;
- (f) ensure that no one will review a decision in which he or she was directly involved;
- (g) ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions; and
- (h) provide for the effective and improving delivery of services to the community.

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

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option that 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 13.

### **1.5 Revocation**

The provisions of this Constitution take effect on 1 May 2012 and all other Standing Orders, Financial Regulations and Schemes of Delegation shall be revoked, although the validity of anything done under those arrangements prior to that date shall not be affected. This Constitution shall continue in full force and effect until such time as it is amended or revoked by the Council.

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

### **2.1 Composition and Eligibility**

#### **(a) Composition**

The Council comprises 18 Councillors, otherwise called Members. Three Members will be elected by the voters of each ward.

In addition to the elected Members, the Council appoints to each of the Housing, Standards and Pensions Committees an Independent Member.

#### **(b) Eligibility**

Only registered voters who are 18 years of age and over on the day of the election will be eligible to hold the office of Member.

### **2.2 Election and Terms of Office of Members**

The regular election of Members will be held on such a day in April as determined by the Government under the Local Elections Act 1986 every four years. A Member will be elected for a four year term. If a Council seat becomes vacant for any reason, there will be a by election to elect a new Councillor to fill the vacancy for the remainder of the four year term for that seat.

Where a vacancy occurs within 6 months before the day on which the members would normally have retired, a by-election will not be held as above, unless the total number of unfilled vacancies in the Council exceeds one third of the Members.

Independent Members shall be appointed by the Council on the recommendation of the appropriate Committee following advertising of the vacancy and the selection by the Committee of a preferred candidate.

The appointment of Independent Members will be for a two-year period, concurrent with elected Members' terms of office, and may be extended for a further term of two years. The appointments shall be advertised as vacant, and applications invited, at least every four years.

### **2.3 Roles and Functions of all Members**

#### **(a) Key Roles**

All elected Members will:

- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate functions, taking a Borough-wide view;
- (ii) represent their communities and constituents whose views they will bring into the Council's decision making process;
- (iii) balance different interests identified within their Ward and represent their Ward as a whole;
- (iv) respond to constituents' enquiries and representations, fairly and impartially;
- (v) participate in the governance of the Borough and management of the Council;
- (vi) be available to represent the Council on other bodies; and
- (vii) maintain the highest standards of conduct and ethics, and show respect for fellow Members, Officers and the community;

(viii) attend meetings to which they are appointed or, if they are unable to attend, present their apologies with their reason for absence.

**(b) Rights and Duties**

(i) Members 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. The Chief Executive may refuse inspection of documents where the documents are, or in the event of legal proceedings would be, protected by privilege or where access is sought for improper or ulterior motives<sup>1</sup>;

(ii) Members will not make public any information that is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Member or officer entitled to know it;

(iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Procedure Rules in Part 4 of this Constitution;

(iv) No Member can issue an order or make a contract or any other arrangements binding upon the Council for works to be carried out or for any goods or services to be purchased by or on behalf of the Council;

(v) A Member does not have any right to inspect or enter any land unless specifically authorised to do so by the Council.

**(c) Independent Members**

Independent Members of Committees should demonstrate the knowledge and skills necessary to perform these roles, and to fulfil the requirement for an independent input to the respective Committees’ decision making processes.

**2.4 Conduct**

Members will at all times observe the Members’ Code of Conduct set out in Part 5 of this Constitution.

The Council is required to maintain and update a Register of Interests of its Members and Independent Committee Members. The Register is available for public inspection at the Council’s offices.

**2.5 Allowances**

Members, including Independent Members of committees, will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 6 of this Constitution.

**2.6 Appointment of Independent Members**

In order to promote public confidence in the good governance and standards of the Council, the Council appoints Independent Members to the Standards Committee and the Pensions Committee, who have no other link to the Council.

The Council also appoints an Independent Member to the Housing Committee, which Independent Member shall be a tenant or resident of a Council-owned property.

All Independent Members’ positions will be advertised at least every four years and applications considered by the respective Committee which will produce a recommendation to the Council.

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<sup>1</sup> See the Access to Information Procedure Rules and the Protocol for Member/Officer Relations.

## **Article 3 - The Public and the Council**

### **3.1 The Rights of Members of the Public**

Members of the public have the following rights:

#### **(a) Voting**

A member of the public who is on the electoral roll for the Borough has the right to vote in local elections.

#### **(b) Information**

A member of the public has the right to:

- (i) attend meetings of the Council except where confidential or exempt information is likely to be disclosed, and that part of the meeting is therefore held in private;
- (ii) see reports and background papers, and any records of decisions made by the Council unless they contain confidential or exempt information; and
- (iii) inspect the Council's accounts and make their views known to the external auditor.

(These rights are explained in more detail in the Access to Information Procedure Rules in Part 4 of this Constitution.)

#### **(c) Complaints**

A member of the public has the right to complain to:

- (i) the Council itself under its complaints procedure<sup>2</sup>;
- (ii) the Council's Standards Committee about a breach of the Members' Code of Conduct.

### **3.2 Responsibilities**

A member of the public who is violent, abusive or threatening to any other person whilst at a meeting or on Council-owned property or who wilfully harms property owned by the Council may be excluded by the Chief Executive from any meetings or any property owned by the Council.

### **3.3 Equal opportunities**

In all its dealings with members of the public the Council will endeavour to provide the highest level of services and aim to distribute those services fairly across the community except where they need to (or by law must) be targeted to meet special needs, regardless of age, gender, marital status, disability, colour, race, nationality, ethnic and national origin, religious beliefs or sexual orientation and will thoroughly investigate any complaint of non-compliance with this policy.

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<sup>2</sup> The Complaints Procedure is set out in Part 5 of this Constitution

## **Article 4 - The Full Council**

### **4.1 Meanings**

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

The policy framework comprises the following plans and strategies:

- Corporate Plan
- Douglas Community Partnership Charter
- Housing Strategy
- Capital Strategy
- Asset Management Strategy
- Treasury Management Policy
- Risk Management Strategy – Intranet only
- Procurement Strategy
- Equalities Policy
- Medium Term Financial Strategy
- Anti Fraud and Corruption Policy

#### **(b) Budget**

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Rate base, setting the Council Rate and decisions relating to the control of the Council's borrowing requirements and the control of its capital expenditure.

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

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) formulating, amending, approving and adopting the Policy Framework and the Budget;
- (c) agreeing and/or amending the terms of reference for Committees and deciding on their composition;
- (d) appointing the Chairs of all Committees, and appointing the members of the Standards Committee and the Pension Committee;
- (e) appointing the Council Leader;
- (f) electing the Mayor annually;
- (g) appointing Members to be representatives of the Council unless the appointment has been delegated by the Council;
- (h) delegating functions to other public authorities or their executives and deciding whether or not to accept such a delegation from another public authority;
- (i) management of the Members allowance scheme under Article 2.5;
- (j) conferring the title of Honorary Freeman;

- (k) confirming the appointment of the Chief Executive (Head of Paid Service);
- (l) determining any delegation to officers which does not fall within the purview of any Committee;
- (m) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal bills; and
- (n) all other matters that by law must be reserved to Council.

In addition to the above, the full Council may exercise the powers delegated to a committee, sub-committee or officer before any decision has been made on the substantive matter.

#### **4.3 Council Meetings**

There are three types of Council meetings:

- (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.

#### **4.4 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 Executive.

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

### **5.1 The Mayor**

The Municipal Borough of Douglas came in to being in 1896, and has had a Mayor since that time.

The Mayor is the first citizen of the Town.

### **5.2 Ceremonial Role**

The Mayor and in his/ her absence, the Deputy Mayor will have the following roles and functions:

- as Douglas' first citizen will act as the non-political and ceremonial head of the Town;
- the office of Mayor of Douglas, together with the resources which the Office represents, are intended to benefit both the Town and its public;
- The Mayor as "first citizen" will endeavour to focus engagement on promoting the Council's vision and Corporate Plan whilst undertaking this traditional and civic role.

### **5.3 Civic Duties**

In addition to the ceremonial role the Mayor and in his/her absence the Deputy Mayor will have the following responsibilities:

- to uphold and promote the purposes of the Constitution;
- to chair and preside over meetings of the Council so that its business can be carried out effectively and with regard to the rights of Members and the rest of the community;
- 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 Executive are able to hold the Executive Members to account;
- to promote public involvement in the Council's activities;
- to attend such civic and ceremonial functions as the Council and he/she considers appropriate.

### **5.4 The Deputy Mayor**

The Deputy Mayor will have the following responsibilities:

- to assist and deputise for the Mayor in carrying out the responsibilities of that Office;
- to attend such civic and ceremonial functions as the Council and the Mayor may determine to be appropriate.

### **5.5 Election of Mayor**

- (a) The election of the Mayor is to be decided by a majority of the Members present and voting on the matter at the meeting. The election will take place at the Special Private Council Meeting convened on the last Friday in March under Standing Order 7.
- (b) the out-going Mayor, as he/she continues in office until his/her successor becomes entitled to act, is required to preside, if present at the meeting, is entitled to vote in the election, and in the event of an equality of votes, may exercise a second or casting vote. If the out-going Mayor is not present at the meeting, then the Deputy



Mayor will preside. He/she will have the same voting rights i.e. an initial vote and, in the event of equality of voting, a second or casting vote, as the Mayor.

- (c) Problems (legally) may arise if the outgoing Mayor or Deputy Mayor is a candidate for the post again (ie a second or subsequent term), as he/she has a direct interest. The Mayor/Deputy Mayor should therefore absent him/herself from the Chair of the meeting during the election, but may remain within the meeting and may vote in the election.
- (d) should the outgoing Mayor in an election year be defeated at the polls preceding the Annual Meeting, he/she will still preside at the Annual Meeting until his/her successor has been elected and has made the necessary declaration of acceptance of office but shall only have a casting vote.

## **Article 6 - The Executive**

### **6.1 Role**

The Executive 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. Specific responsibilities of the Executive and individual Executive Members are set out in Part 3.

### **6.2 Form and Constitution**

The Executive Committee will consist of the Leader, the Chairs of:

- Environmental Services Committee;
- Regeneration and Community Committee; and
- Housing Committee;

and one other Member elected by the Council, who shall be neither a Member nor Chair of any of those three Committees, nor the Mayor nor Leader of the Council.

At any meeting of the Executive Committee, if a Committee Chair is unable to attend, the Vice-Chair of that Committee may attend as a substitute.

### **6.3 Leader**

The Leader will be a Councillor elected to the position of Leader by the Council. The Leader will hold office for two years or until the date of the private Council meeting that takes place under Standing Orders 8 and 81 unless:

- (a) he/she resigns from the office;
- (b) he/she is no longer a Councillor; or
- (c) he/she becomes Mayor.

### **6.4 Other Executive Members**

Other Executive Members will hold office for two Municipal Years unless:

- (a) they resign from office;
- (b) they are no longer Councillors; or
- (c) he/she becomes Mayor.

### **6.5 Proceedings of the Executive**

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

### **6.6 Responsibility for Functions**

The Council will maintain a list in Part 3 of this Constitution setting out which individual Members of the Executive are responsible for the exercise of particular functions.

Some functions must be carried out by full Executive and these functions are shown in part 3 of this Constitution.

### **6.7 Committees**

The Council will appoint Committees to provide advice and guidance to the Executive on the development of policy. Such Committees will be made up of Members as selected by the Executive and generally will not be public meetings, although the Chair may invite persons with particular expertise to a meeting.

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

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

The Council will appoint the Committees set out in Part 3 of this Constitution entitled “Responsibility for Functions and Scheme of Delegation” to discharge the functions described in that Part.

### **7.2 These Committees include:**

Pensions Committee

Standards Committee

## **Article 8 – The Standards Committee**

### **8.1 Standards Committee**

The Council will appoint a Standards Committee, which will be tasked with promoting and maintaining high standards of conduct within the Council and assisting Members in observing the Code of Conduct.

### **8.2 Composition**

#### **(a) Membership**

The Standards Committee will comprise:

- a Chair appointed by the Council;
- three Council Members appointed by the Council;
- one person appointed by the Council who is not a Member or Officer of the Council or any other body having a Standards Committee (the Independent Person);

#### **(b) Independent Person**

The Independent Person will be entitled to vote at meetings and will be reckoned in calculation of the quorum.

### **8.3 Proceedings of the Standards Committee**

Proceedings of the Standards Committee shall take place in accordance with the Council Procedure Rules, as set out in Part 4 of the Constitution.

### **8.4 Roles and Functions**

The terms of reference for the Standards Committee are set out in Part 3 of this Constitution, entitled “Responsibility for Functions”, and include the following roles and functions:

- (a) To promote and maintain high standards of conduct and behaviour in all areas of Council activity;
- (b) To advise the full Council on the adoption or revision of the Members’ Code of Conduct;
- (c) To assist Members to observe the Members’ Code of Conduct;
- (d) To monitor the operation of the Members’ Code of Conduct;
- (e) To advise, train, or arrange training on any aspect of conduct and behaviour relating to the Members’ Code of Conduct;
- (f) To support the Chief Executive, and Assistant Town Clerk (as Governance/Monitoring Officer) in discharging his/her duties in relation to ethical governance and the Members’ Code of Conduct;
- (g) To consider any report referred to it by the Chief Executive, Assistant Town Clerk, or other investigating officer;
- (h) To ensure the Council’s ‘Complaints against Members’ Procedure operates effectively and, in particular:
  - Receive and review regular reports on its operation;

- Adjudicate on unresolved complaints against Members and hold hearings to consider complaints and alleged breaches of the Members' Code of Conduct;
  - Review information gained from the operation of the system;
- (i) To oversee and monitor the operation of the Council's Whistle-Blowing Policy and procedures;
- (j) To approve and revise protocols on relations between Members and employees and to monitor such protocols;
- (k) To review and monitor the keeping of the Register of Members' Interests;
- (l) To review and monitor the guidance to Members on gifts and hospitality;
- (m) To report to Council annually on the work of the Standards Committee;
- (n) To assist in the recruitment of an Independent Member for the Standards Committee.

## **Article 9 - Joint Arrangements**

### **9.1 Arrangements to Promote the Area**

To promote the economic, social or environmental well-being of its area, the Council may:

- (a) enter into arrangements or agreements with any person or body;
- (b) work with any person or body, or help them with their activities or the coordination of those activities; and
- (c) exercise on behalf of that person or body any functions of that person or body, in accordance with any legislative constraints imposed upon the Council.

### **9.2 Joint Arrangements**

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executive bodies 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) Details of any joint arrangements, including any delegations to joint committees, will be found in the Council's Scheme of Delegation in Part 3 of this Constitution.

### **9.3 Access to Information**

The Access to Information Procedure Rules in Part 4 of this Constitution apply.

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

- (a) The Council may, by agreement, delegate functions to another public authority or, in certain circumstances, the executive body of another public authority and also accept such a delegation from another public authority.
- (b) Only the full Council can decide to delegate functions to another public authority or accept delegated functions from another public authority.

### **9.5 Contracting out**

The Council may contract with another person for them to carry out functions that could be performed by an officer. The functions must be under contracting arrangements providing for the person to act as the Council's agent, but ensuring that, there will not be any delegation of the Council's discretionary decision making powers.

### **9.6 Partnership Working**

The Council will be working with existing partners and creating new partnerships that will assist the Council in fulfilling its corporate vision and objectives. In addition the way in which the Council delivers some of its services and functions to the public and the community will change in order to ensure value for money is delivered. In part this will be achieved through more creative and effective partnership working and one of the Council's partnerships is:

#### **The Douglas Community Partnership**

A 'Cleaner Safer Greener' Charter was developed by the Council and supported by five Government Departments. This development and facilitation of workshops to discuss antisocial behaviour and local environmental quality legislation led to the formation of the Douglas Community Partnership (DCP). The DCP is a strategic group committed to improving the quality of life within the Borough of Douglas for all persons. The membership comprises representatives from:

- Douglas Borough Council
- Department of Infrastructure
- Department of Health and Social Care
- Department of Environment, Food and Agriculture
- Department of Education and Children
- Department of Home Affairs via IOM Fire and Rescue Service and the Douglas Neighbourhood Policing Team

The Douglas Community Partnership aims to improve the quality of life in Douglas.

A strategic plan was developed by the Partnership using all the research and baselines available from the studies to ensure a strategic approach is implemented, so the Borough of Douglas is a Clean, Safe and Green place to live, work and enjoy, and that quality of life within the Borough is constantly improved.

### **9.7 Working with Third Sector Organisations - Policy**

Approved by Executive Committee 1<sup>st</sup> March 2013 and by Council 13<sup>th</sup> March 2013.

That the Council will engage with a Third Sector Organisation in the provision of service delivery, where appropriate, providing that the Third Sector Organisation:

- (a) is based on the Island and is delivering services in Douglas;
- (b) is non-Governmental;
- (c) is value-driven for the social good;
- (d) is not party political;
- (e) is re-investing any financial surpluses to further social, environmental or cultural objectives that bring a significant community benefit to Douglas;
- (f) is capable, and has the capacity of providing the service(s) to the standards required in the public sector, and of the Council in particular;
- (g) has the sustainable appropriate skills, knowledge infrastructures, and resources in place to realise full potential; and
- (h) is shown to deliver 'value for money' in the provision of the service(s) involved.

## Article 10 – Officers

### 10.1 Management Structure

#### (a) General

The Council may engage such employees (referred to as Officers) as it considers necessary to carry out its functions.

#### (b) Chief Officers

The Council will engage persons for the following posts, who will be designated Chief Officers, with the responsibilities set out below:

Post	Functions and Areas of Responsibility
Town Clerk & Chief Executive	<p>As Head of Paid Service overall management responsibility for all officers.</p> <p>As a member of the Chief Officers Management Team the overall corporate management and operational responsibility.</p> <p>Provision of professional and legal advice and guidance on policy formulation to all parties and independent Members in the decision making process.</p> <p>Together with the Assistant Town Clerk, responsibility for a system of record keeping for all the Council's decisions.</p> <p>Representing the Council on partnership and external bodies (as required by statute or the Council).</p>
Chief Officers x 3 (Director of Finance, Director of Environment and Regeneration, Director of Housing and Property)	<p>As members of the Chief Officers Management Team the overall corporate management and operational responsibility.</p> <p>Provision of professional advice and guidance on policy formulation to all parties and independent Members in the decision making process.</p> <p>To oversee the management of services.</p>

#### (c) Assistant Chief Officers

The Council will engage persons for the following posts, and their responsibilities will be as set out in the table "Assignment of Responsibilities by Council and Committee" in Part 3 of this Constitution:

Assistant Town Clerk;

Assistant Chief Officer (Human Resources);



Assistant Chief Officer (Regeneration);  
Assistant Chief Officer (Finance);  
Assistant Chief Officer (Income);  
Assistant Chief Officer (Environment);  
Assistant Chief Officer (Housing and Property).

(d) **Head of Paid Service, Responsible Financial Officer, and Governance/Monitoring Officer**

The Council will designate the following posts as shown:

<b>Post</b>	<b>Designation</b>
Chief Executive	Head of Paid Services and Proper Officer
Director of Finance	Responsible Financial Officer
Assistant Town Clerk	Governance/ Monitoring Officer

The designated officers' duties are described in Article 10.2 - 10.4.

(e) **Structure**

The Head of Paid Service will determine and publicise a description of the overall departmental management structure of the Council. This is set out at Part 7 of this Constitution.

10.2 **Functions of the Head of Paid Service (Chief Executive)**

(a) **Discharge of Functions by the Council**

The Head of Paid Service will report to the Executive on the manner in which the discharge of the Council's functions is co-ordinated, the organisation of officers and the resources required for the discharge of functions.

10.3 **Functions of the Responsible Financial Officer (Director of Finance)**

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

After consulting the Head of Paid Service, the Responsible Financial Officer will report to the full Council and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

(b) **Administration of financial affairs**

The Responsible Financial Officer will have responsibility for the administration of the financial affairs of the Council.

(c) **Contributing to corporate management**

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

(d) **Providing advice**

The Responsible Financial Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all Members and will support and advise Members and officers in their respective roles.

(e) **Give financial information**

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

#### 10.4 **Functions of the Governance/Monitoring Officer (Assistant Town Clerk)**

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

The Governance/Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, officers and the public.

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

After consulting the Head of Paid Service and the Responsible Financial Officer, the Governance/Monitoring Officer will report to the full Council if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

##### (c) **Supporting the Standards Committee**

The Governance/ Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

##### (d) **Conducting investigations**

The Governance/Monitoring Officer will conduct investigations into matters referred by the Standards Committee and make reports or recommendations in respect of them to the Standards Committee

##### (e) **Providing advice**

The Governance/Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all Members.

#### 10.5 **Conduct**

Officers will comply with the Officers' Code of Conduct set out in Part 5 of this Constitution.

#### 10.6 **Employment**

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

## **Article 11 - Decision Making**

### **11.1 Responsibility for decision making**

The Council's arrangements for the delegation of its functions by a Committee, Sub-Committee, an officer or another local authority are set out in Part 3 of this Constitution. These arrangements describe who is to be responsible for particular areas of the Council's work and for taking particular decisions.

### **11.2 Principles of Decision Making**

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

- (a) the rule of law;
- (b) decisions being taken on the basis of due consultation and the taking of professional advice from officers and/or appropriately qualified consultants;
- (c) proportionality (i.e. the action must be proportionate to the desired outcome);
- (d) a presumption in favour of openness;
- (e) respect for human rights and equality issues (see below for further details);
- (f) having due regard to appropriate national, strategic, local policy and guidance; and
- (g) clarity of aims and desired outcomes.

### **11.3 Decision making by the full Council**

Subject to Article 11.5 the Council Meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### **11.4 Decision making by other Committees established by the Council**

Subject to Article 11.5 other Council Committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

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

The Council, a Council body, a Member or an Officer may from time to time act as a tribunal and exercise quasi judicial decision making. When so acting, the body or individual will adopt and follow procedures so as to ensure all legal requirements including the rules of natural justice and The Human Rights Act, are complied with. Details of the procedure applying to any such body can be made available on request.

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

The Council may delegate responsibility for some decision making to Officers of the Council. The responsibilities delegated to Officers are set out in the Responsibility of Functions in Part 3.

## **Article 12 - Finance, Contracts and Legal Matters**

### **12.1 Financial Management**

The Financial Procedure Rules set out in Part 4 of this Constitution shall apply to the management of the Council's financial affairs.

### **12.2 Contracts**

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

### **12.3 Legal Proceedings**

The Chief Executive is authorised to start, 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 Chief Executive considers that such action is necessary to protect the Council's interests including:

- (a) enforcing any breach of any statute, byelaw or order for which the Council is the enforcing authority;
- (b) recovering monies due to the Council;
- (c) recovering possession of the Council's land;
- (d) appealing against any decision or matter affecting the interests of the Council; and
- (e) influencing the outcome of any application to another body where the Council has a right to be heard.

### **12.4 Authentication of Documents**

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

### **12.5 Common Seal of the Council**

- (a) The Common Seal of the Council will be kept in a safe place in the custody of the Assistant Town Clerk. 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 Chief Executive should be sealed. The Mayor, Deputy Mayor, the Chief Executive or Officer delegated by the Chief Executive will attest the affixing of the Common Seal.
- (b) Every sealing of a document will be recorded and consecutively numbered in a book or register kept for the purpose by the Assistant Town Clerk. The entry in the book or register will be signed or initialled by the person who attests the seal.

## **Article 13 - Review and Revision of the Constitution**

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

The Assistant Town Clerk will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. Any monitoring and review shall be in accordance with the provisions of the Protocol for the Monitoring and Review of the Constitution set out in Part 5 of this Constitution.

### **13.2 Changes to the Constitution**

#### **(a) Approval**

Changes to the Constitution will only be approved by the full Council after consideration by the Executive Committee of a proposal from the Chief Executive.

### **13.3 Changes to the Scheme of Delegation**

(a) Changes to Part 3 of the Constitution (except those specified in (b) below) can only be approved by full Council after consideration of a recommendation by the Executive.

(b) Changes to Part 3 (functions delegated to employees) and changes to Executive Portfolios will be made by the Executive.

### **13.4 Calendar of Business and Schedule of Meetings**

At its Annual Meeting the Council will approve its planned Calendar of Business and Schedule of Meetings, but nothing in this paragraph will prevent amendments being made to it during the following 12 months in accordance with Part 4 of the Constitution.

## **Article 14 - Suspension, Interpretation and Publication of the Constitution**

### **14.1 Suspension of the Constitution**

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

The Articles of this Constitution may not be suspended. The Rules specified in Part 4 may be suspended by the 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 full Council 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.

### **14.2 Interpretation**

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

### **14.3 Publication**

(a) The Chief Executive will give a printed copy of this Constitution to each Member upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council.

(b) The Chief Executive will ensure that copies are available for inspection at the Town Hall and can be purchased by members of the local press and the public on payment of a reasonable fee. The Chief Executive will also ensure that a copy is available for public viewing on the Council's Website.

(c) The Chief Executive will ensure that the summary of the Constitution is made widely available within the Borough, both in print and on the Council's website and is updated as necessary.

### **14.4 Previous Standing Orders**

All Standing Orders previously made by the Council are revoked and this Constitution will take effect on the date specified by the Council on approval.