



**LONDON BOROUGH OF  
HARROW**

# **CONSTITUTION**

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# London Borough of Harrow

## The Constitution

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# CONSTITUTION

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September 2021

Updated



# CONSTITUTION OF THE COUNCIL OF THE LONDON BOROUGH OF HARROW

*The Summary and Explanation of the Constitution is also available as a separate leaflet for members of the public and is available at reception desks in the Civic Centre and at Public Libraries*

The Constitution has been prepared by officers in the Legal Services Department.  
Regular updates and replacement pages will be issued.  
Any comments on how the layout and contents can be improved should be sent to the Head of Paid Service.

**Please note:**

~~The Constitution came into effect in May 2002, having been approved by the Council in February 2002.~~

~~The Council has made a number of changes to the Constitution since it was first approved. Minor corrections and amendments have also been made under the procedure of revising the Constitution in Article 15.05.~~

~~This document is available on the Harrow web-site at [www.harrow.gov.uk](http://www.harrow.gov.uk).~~

# PART 1

## Summary and Explanation

# PART I

## SUMMARY AND EXPLANATION

### The Council's Constitution

The Council of the London Borough of Harrow has agreed a Constitution, which 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. Some of these processes are required by law, while others are a matter for the Council to decide.

The Constitution is divided into ~~seven~~ ~~six~~ ~~sixteen~~ articles, which set out the basic rules governing the Council's business. More detailed procedures, codes of practice and protocols are provided in later sections of the Constitution.

### What's in the Constitution?

Article 1 commits the Council:

***To deliver high quality, cost effective services through a partnership with all stakeholders and the community in general.***  
***To govern within a framework of fairness, openness, integrity and accountability.***

Article 3 explains the rights of citizens in relation to the Constitution. Article 2 and 4 to 16 describe how the key parts of the Council operate. These are:

- Members and the Council (Article 2).
- The full Council (Article 4).
- The Mayor (Article 5).
- Overview and Scrutiny Committee and Scrutiny sub-committees (Article 6).
- The Executive (Article 7).
- Regulatory and other Committees (Article 8).
- The Standards Committee (Article 9).
- Area Forums or Area Committees (Article 10).
- Joint arrangements (Article 11).
- Officers (Article 12).
- Decision making (Article 13).
- Finance, contracts and legal matters (Article 14).
- Review, revision and publication of the Constitution (Article 15).
- Interpretation and suspension of the Constitution (Article 16)

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## **How the Council operates**

The Council is composed of 63 councillors 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 that did not vote for them.

Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them on the Code of Conduct.

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 appoints the Overview and Scrutiny Committee, which has the role of checking the actions of the Executive in delivering services and helping the Executive to develop plans and policies. The Council is also responsible for the appointment of chief officers.

Members of the public can present petitions and ask questions at meetings of the Council.

## **How decisions are made**

The Executive is the part of the Council, which is responsible for most day to day decisions. The Executive is made up of the Leader and between two and nine other councillors appointed by the Council, this group is also known as the Cabinet.

When major decisions are to be discussed or made, they must be published in the Council's Forward Plan in so far as they can be anticipated. This Forward Plan will be regularly updated and is available to the public so they can monitor all the important decisions made by the Executive. When these major decisions are to be discussed at a meeting of the Executive (or Cabinet), these meetings will be open to the public to attend, except where personal or confidential matters are to be discussed.

The Executive 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 (unless the matter is so urgent that special arrangements have to apply).

## Overview and scrutiny

The Council has an Overview and Scrutiny Committee, which in turn appoints Scrutiny sub-committees, which support the work of the Executive and the Council as a whole.

The Overview and Scrutiny Committee and Scrutiny sub-committees play a role in the formulation of the policies and strategies of the Council and in the setting of the budget. They can be consulted by the Executive or the Council on forthcoming decisions and the development of policy. They can hold inquiries and public debates, which can lead to reports influencing the Executive.

They can also monitor the decisions of the Executive and have a power to “call-in” decisions of the Executive where they have yet to be implemented. When an Executive decision is “called-in” the Executive can be asked to reconsider its decision. However, the Overview and Scrutiny Committee cannot overrule the Executive.

## Other Committees

~~Further information on other committees can be found in Part 3 of this constitution. There is also a Planning Committee, a Licensing and General Purposes Committee, a Health and Wellbeing Board, a Governance, Audit and Risk Management and Standards Committee, and a Pension Fund Committee and a Standards Committee. More detail about the operation of these Committees can be found in Articles 8 and 9.~~

## ~~The Harrow Partnership Initiative~~

~~The Council has adopted a comprehensive approach to consultation by encouraging community participation in decision-making. The Council consults with stakeholders, residents and service users on a range of activities.~~

~~The Partnership Initiative enables the involvement of a wide number of stakeholders from across sectors, in the planning of services and policy development, including the shaping of the Community Plan.~~

~~A Residents Panel consisting of over 1200 local people represents the Borough's diverse community. The Panel helps to provide the Council with a clear picture of the effectiveness of local services.~~

## The Council's Staff

The Council has people working for it (called “officers”) to give advice, implement decisions and manage the day to day delivery of services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A Protocol included in Part 5 of the Constitution governs the relationship between officers and Members of the Council (Councillors).





## Citizens' Rights

Citizens 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.

Where members of the public use specific council services, for example, as a parent of a school pupil or as a council tenant, they have additional rights. These rights are not covered specifically in the Constitution. The local Citizens Advice Bureau can advise on individuals' legal rights.

The Council welcomes participation by citizens in its work.

For further information on how to attend and participate at meetings, ~~a leaflet is available at the Civic Centre Reception or from libraries. Information is also available from the Reception Office for the Legal Services Department telephone 020 8424 1277, e-mail [democratic.services@harrow.gov.uk](mailto:democratic.services@harrow.gov.uk) or can be found on from~~ the Authority's web site at: [www.harrow.gov.uk](http://www.harrow.gov.uk)

~~For further information on the Partnership Initiative, or if you would like to join the Harrow Residents Panel, please contact Mike Howes on 020 8420 9637 or e-mail [Mike.Howes@harrow.gov.uk](mailto:Mike.Howes@harrow.gov.uk)~~

\* For the purposes of this Constitution, the term Citizens includes (where appropriate) those people who study, work or have businesses in Harrow.

# **PART 2**

## **Articles of the Constitution**

## PART 2

### ARTICLES

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# Article 1

## The Constitution

### Introduction

This Article sets out the fundamental provisions of the Constitution. It confirms that the Authority will act within the law and the provisions of this Constitution, and also that the Authority will monitor and review its Constitution. It also provides for methods of changing the constitution, and for its publication.

Commented [C6]: This covers points from Art 15.

### 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 Council of the London Borough of Harrow.

### 1.3 Purpose of the Constitution

The Council's aim is:

***To deliver high quality, cost effective services through a partnership with all stakeholders and the community in general.***

***To govern within a framework of fairness, openness, integrity and accountability.***

The purpose and principles outlined in the Constitution seek to:

- enable the Council to provide clear leadership to the community;
- work in partnership with citizens, businesses and other organisations;
- support the active involvement of citizens in the process of local authority decision making;
- help Councillors represent their constituents more effectively;
- enable decisions to be taken efficiently and effectively;
- create a powerful and effective means of holding decision makers to public account;
- provide excellent standards of ethics and probity in decision making;

- ensure that those responsible for decision making are clearly identifiable to local people;
- explain the reasons for decisions; and
- provide a means of improving the delivery of services to the community.

#### 1.4 Interpretation of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the above purposes.

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.

#### 1.5 Review and Amendment of the Constitution

The Council will monitor and evaluate the operation of the Constitution and will amend it as appropriate, as set out in Article 15.

Where changes must be approved by full Council, the Monitoring Officer, having first consulted with the Leader of the political groups or their nominees, may present a report direct to Council proposing changes to the Constitution.

Subject to any statutory requirements, the Codes and Protocols and other documents in Part 5 of the Constitution may be amended by the body that created them without Council approval except for the Code of Conduct for Members which is reserved to Council.

#### 1.6 Publication

The constitution is published on the Council's website and updated when amendments are made.

#### 1.8 Change from a Leader and Executive form of governance 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 for a change in the form of governance and shall comply with any statutory requirements in relation to such changes

#### 1.9 Suspension of the Constitution

The Articles of this Constitution may not be suspended. Other Rules and Protocols may be suspended by the body to which they apply (or if no such

body by the Council) to the extent permitted within those Rules, and  
Protocols and the law.

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## Article 2

### Members and the Council

#### Introduction

This Article sets out how Councillors are elected. ~~the composition of the Council, eligibility to stand for election and the form of election to be used.~~

It also includes a statement on the roles and functions of Members of the Council and sets out the rights and duties of Councillors.

#### 2.1 ~~Composition and eligibility~~

##### (a) ~~Composition~~

~~The Council will comprise 63 Members (otherwise called Councillors). Three members will be elected by the voters of each of the 21 wards in the Borough in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.~~

**Commented [C7]:** Take out as included in the introduction.

##### (b) ~~Eligibility~~

~~Only registered voters of the London Borough of Harrow or those living, working or occupying property within the Borough for 12 months before the election will be eligible to hold the office of Councillor. There are legal rules preventing certain people from becoming Councillors.~~

**Commented [C8]:** Not needed in the constitution as part of the election process.

#### 2.22.1 Election and terms of Councillors

The regular election of Councillors will be held on the first Thursday in May every four years beginning in May 2002. The terms of office of Councillors will start on the fourth day after being elected and except for the Leader and Mayor will finish on the fourth day after the date of the next regular election unless they are re-elected.

#### 2.32.2 Roles and Functions of Councillors

##### (a) Key Roles

All Councillors will:

- (i) collectively be the ultimate policy and decision makers;

- (ii) contribute to the good governance of the Council;
- (iii) represent their communities interests (both individuals and local groups) and bring their views into the Council's decision-making process;
- (iv) actively encourage community participation and citizen involvement in decision making;
- (v) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- (vi) balance and effectively represent the interests of their ward and of individual constituents;
- (vii) (for Councillors who are not part of the Executive) scrutinise proposals and decisions and monitor how Council policy is being implemented;
- (viii) be available to represent the Council on other bodies;
- (ix) promote equality and diversity in the Council's policies and practices;
- (x) maintain the highest standards of conduct and ethics.

**(b) Rights and duties**

- (i) Councillors will have 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.
- (iii) Councillors will not divulge information given in confidence, to anyone other than a Councillor or officer entitled to know it.
- (iv) For these purposes, "confidential " and "exempt" information is defined in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (v) Councillors will be given reasonable professional advice and support from officers of the Council in their work as Councillors.
- (vi) When the Council considers it to be in its interests to appoint Councillors to outside bodies, the Council will consider giving an indemnity to the Councillors in so far as legally permissible
- (vii)



against costs incurred while acting in good faith. Councillors will be given reasonable advice, guidance and support from officers of the Council on the responsibilities they take on as a result of representing the Council on outside bodies.

- (viii) Training will be given to Councillors to support them in their duties as Councillors.

## 2.4 — Conduct

~~Councillors and Members will, at all times, observe the Members' Code of Conduct for Councillors and Members and the Protocols set out in Part 5 of this Constitution.~~

## 2.6 — Allowances

~~Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution.~~

## 2.7 — Membership

~~The names and addresses of Councillors by Ward, for the current Municipal Year, are available from Democratic Services and/or the Council website.~~

### 2.82.6 Disclosure and Barring Service

The following posts require ~~require~~ a Disclosure and Barring Service Check.

- Portfolio Holder for ~~Young People and Schools Children's Services~~
- ~~Portfolio Holder for Schools~~
- Portfolio Holder for Adults ~~and Public Health~~
- Scrutiny Leads for ~~People Children~~
- ~~Scrutiny Leads for Adults~~
- Corporate Parenting Panel ~~Members~~
- Adoption Panel
- Fostering Panel
- Secure Accommodation Panel ~~Members~~
- Social Services Appeals Panel ~~Members~~
- School Placement Panel ~~Members~~
- Children and Young People's Partnership ~~Members~~
- ~~Safeguarding Children Board~~
- ~~Adults Safeguarding Adults~~ Board
- Elected Councillors (Members) nominated for the position of/appointed as a Local Authority Governor

**Commented [ST9]:** Taken out as contained elsewhere in the constitution or on the website

**Commented [C10]:** Below is updated to reflect current roles

## Article 3

**Commented [C11]:** Deleted as citizens' rights covered elsewhere in the constitution. Reference is given to this in the introduction.

# Citizens and the Council

## Introduction

~~This Article sets out what citizens can expect from the Council and the responsibilities that come with these rights.~~

### 3.1 Citizens' Rights

~~Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Procedure Rules in Part 4 of this Constitution.~~

#### (a) Voting and Mayoral Petitions

~~Citizens on the electoral roll for the area have the right to vote.~~

~~Citizens may also sign a petition requesting a referendum for an elected Mayor.~~

#### (b) Information

~~Citizens have the right to:~~

- ~~(i) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;~~
- ~~(ii) attend meetings of the Executive except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;~~
- ~~(iii) find out from the Key Decision Schedule what Key Decisions will be taken by the Executive and when;~~
- ~~(iv) see published agendas, reports and background papers, and any records of decisions made by the Council and the Executive (subject to confidential and exempt information not being disclosed);~~
- ~~(v) view obtain a copy of the Council Constitution; and~~
- ~~(vi) inspect the Council's accounts and make their views known to the external auditor.~~

~~They will also have rights under the Freedom of Information Act 2000. The Council produced a Publication Scheme telling people about their rights under the Freedom of Information Act in February 2003.~~

**(c) — Participation**

~~The Council is keen to promote community participation in local issues. The Harrow Partnership provides a platform for joint work between the Council and local community groups, to improve life in the Borough. Specific areas of joint work include those with the voluntary sector, young people, housing and tenants' organisations, older people, local businesses, and other public services like the police and health agencies and the Residents' Panel.~~

~~Citizens also have the right to participate in Council business in the following ways:~~

- ~~• by asking questions of decision makers at meetings;~~
- ~~• by presenting petitions at meetings of the Council, its committees and the Executive;~~
- ~~• by making deputations to committees of the Council and to Advisory Panels of the Executive;~~
- ~~• by contributing to investigations by the Overview and Scrutiny Committee and Scrutiny sub-committees of the Council; by participating in any public sessions.~~

**(d) — Complaints**

~~Citizens have the right to complain to:~~

- ~~(i) — their ward Councillors or Members of the Executive about any Council service;~~
- ~~(ii) — the Council about any Council service under the complaints scheme;~~
- ~~(iii) — the Ombudsman after using the Council's own complaints scheme;~~
- ~~(iv) — the Governance, Audit, Risk Management and Standards Committee if they have evidence which they think shows that a Councillor has not followed the Members' Code of Conduct.~~

### 3.2 Citizens' Responsibilities

Harrow citizens are encouraged to make full use of their roles both as voters and members of the community. In particular by:

- voting in local, London, Parliamentary and European elections;
- respecting the expression of differing opinions in public debate;
- promoting tolerance and respect between their fellow citizens;
- meeting their obligations in relation to the Council, such as paying their council tax, making sure their children attend school, making sure rubbish is disposed of properly, following the dog owners' code in relation to keeping parks and streets cleaner;
- individually and collectively seeking information about the decision-making role of Councillors; and
- respecting the Council procedures which give effect to representative democracy.

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 34

### The Full Council

#### Introduction

This Article defines the functions that are reserved for decision by the full Council.

The Council is responsible for approving the policy framework and the annual revenue and capital budget. The Council also retains responsibility for (i) regulatory functions (which include planning, licensing and health and safety at work); (ii) certain constitutional and quasi-legislative functions (primarily the conduct of elections and making of by-laws) and (iii) most of the local choice functions which the Council is free to decide whether they are the responsibility of full Council or the Executive. The Council also has a role in holding the Executive to account.

#### 4.01 Meanings

(a) **Policy Framework**

The policy framework means the following plans and strategies:

(i) Those required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended):

- ~~Children and Young People's Plan~~
- Community Safety Plan
- Gambling Policy
- ~~Licensing Authority Policy Statement~~
- ~~Licensing Policy~~
- Local Implementation Plan ~~(formerly the Local Transport Plan)~~
- Plans and strategies which together comprise the Development Plan
- ~~Sustainable Community Strategy~~
- Youth Justice Plan

(ii) Further Plans, which the Council considers, should, or legislation requires to, be subject to Council approval:

- Council's Corporate Plan
- Corporate Equalities Objectives
- Licensing Authority Policy Statement
- Corporate Parenting Strategy

**Commented [C12]:** Updated to reflect current legislation and titles of current plans.

**(b) Budget**

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the council tax including decisions relating to the control of the Council's borrowing requirement, the determination and 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 to the Secretary of State for approval to a programme of disposal of 500 or more Council properties 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**

[The functions of full Council are set out in Part 3A of the constitution.](#)

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~~Only the Council will exercise the following functions;~~

- ~~— (a) — adopting and changing the Constitution;~~
- ~~approving or adopting the policy framework and the budget (including setting the Council Tax);~~
- ~~(c) — approving the statement of accounts;~~
- ~~approving any application to the Secretary of State in respect of any Housing Land Transfer;~~
- ~~appointment of the Mayor;~~
- ~~(f) — appointing the Leader of the Executive;~~
- ~~(g) — approving annually the Allocation of Responsibilities in Part 3 of the Constitution;~~
- ~~(h) — subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any Executive functions which are contrary to the policy framework or contrary to or not wholly in accordance with the budget;~~
- ~~(i) — agreeing and/or amending the terms of reference for the Committees of the Council, deciding on their composition and making appointments to them;~~
- ~~adopting the Scheme of Members' Allowances set out in Part 6 of the Constitution;~~
- ~~appointing the independent members of the Standards Committee;~~
- ~~changing the name of the area, conferring the title of honorary alderman or freedom of the Borough;~~
- ~~confirming the appointment of the Head of Paid Service or the dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer;~~
- ~~deciding whether to reject or uphold an appeal against a disciplinary sanction (including dismissal) imposed on an officer by the Chief Officers' Employment Panel;~~
- ~~(o) — making, amending, revoking, re-enacting or adopting by-laws and promoting or opposing the making of local legislation or personal bills;~~
- ~~(p) — determining the meaning of "significant" in relation to "key" decisions (Article 13 refers);~~
- ~~deciding whether to accept a delegation of a non-Executive function or accept a delegation of a non-Executive function from another Authority;~~
- ~~to receive reports and consider recommendations from the Executive, Scrutiny, Standards and other Committees as appropriate;~~
- ~~(s) — making appointments of Members to outside bodies; and~~
- ~~(t) — all other matters which by law must be reserved to Council.~~

#### **4.03 Council Meetings**

**Commented [C13]:** All this is in Part 3A so deleted to avoid repetition.

**Commented [C14]:** This is included in the Council Procedure Rules

~~There are three types of Council meetings:~~

~~(a) the annual meeting;~~

~~(b) ordinary meetings;~~

~~(c) extraordinary 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 allocation of responsibilities to the Cabinet and various Council Committees is found in Part 3 of the Constitution.~~

~~The Council will maintain the Schedule in Part 3A-1 of this Constitution setting out the responsibilities for the Council's functions, which are not the responsibility of the Executive.~~

~~Part 3B lists the allocation of responsibilities to officers of the Council.~~

**Commented [C15]:** Deleted as all included elsewhere in the constitution



## Article 45

### The Mayor

#### Introduction

This Article describes the appointment and role of the Mayor

#### 5.1 Appointment of the Mayor ~~and Deputy Mayor~~

The Mayor ~~and Deputy Mayor~~ will be appointed annually by the Council from amongst the Councillors. ~~The Deputy Mayor will be appointed by the Mayor annually from amongst the Councillors and this will be noted by Council.~~

**Commented [C16]:** Changes made to reflect the correct legal position.

Neither the Mayor nor Deputy Mayor can be a member of the Executive.

The Deputy Mayor may stand-in for the Mayor in respect of all the roles and functions in paragraphs 5.02 and 5.03 whenever the Mayor is unable to act (for example, due to an overlap of events). If the Deputy Mayor is also unavailable to perform a role or function in paragraph 5.02, it shall be open for the Mayor to request a former Mayor of the Borough, still serving as an elected Councillor, to act in his or her place for that particular occasion.

#### 5.2 Ceremonial

- (i) The Mayor shall be the First Citizen of the Borough;
- (ii) The Mayor will promote the Council as a whole and act as a focal point for the community;
- (iii) The Mayor will preside over civic functions;
- (iv) The Mayor will carry out ceremonial duties on behalf of the Authority. He/she will be a symbol of the Authority and of an open society and will perform his/her duties in a manner that develops and reinforces the social cohesion of the Borough;
- (v) The Mayor will promote local charitable and voluntary causes where they benefit the people of Harrow;
- (vi) The Mayor will also personally select a local charity or charities and raise funds specifically for it or them during his or her year of office;
- (vii) The Mayor will promote citizenship and participation;

- (viii) The Mayor will act as a non-partisan ambassador of the Council at notable events, for example, in meeting and greeting international delegations;
- (ix) The Mayor will put forward local people who are deemed to be deserving for national awards and honours (for example, local people who have made a unique or exceptional contribution to the Borough in a voluntary capacity);
- (x) The Mayor will lead the Council's support and activities for Remembrance Sunday and other similar locally marked national events.

### 5.3 Chairing meetings of the Council

The Mayor will have the following responsibilities:

- (i) to uphold and promote the purposes of the Constitution, and to interpret it when necessary;
- (ii) 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;
- (iii) 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 Councillors ~~Members~~ who are not on the Executive are able to hold the Executive Members to account;
- (iv) to promote public involvement in the Council's activities;
- (v) such other duties that may fall to the Mayor to exercise by virtue of statute or this Constitution.

In the absence of the Mayor, the Deputy Mayor will chair meetings of the Council with the agreement of Council. In the absence of both the Mayor and the Deputy Mayor, the Council will, as a first item of business, appoint one of its Members to chair the meeting.

**Commented [C17]:** This is a legal requirement – has to be done at each meeting.

## Article 6

### Overview and Scrutiny Committee and Scrutiny sub-committees

#### Introduction

This Article describes the structure and method of operation of the committees that are to undertake the overview and scrutiny function.

#### 6.1 Terms of Reference

The Council will appoint an Overview and Scrutiny Committee to discharge the functions conferred by section 21 of the Local Government Act 2000.

The Overview and Scrutiny Committee will establish two Call-in Sub-Committees (Call in and Call in Education) to consider Executive decisions taken but not implemented (See Rule 46 of the Overview and Scrutiny Procedure Rules in Part 4 of the Constitution for information about the process for calling in decisions), together with a Performance & Finance Scrutiny Sub-Committee and a Health and Social Care Scrutiny Sub-Committee. The scope of the Committee and each sub-committee is set out in the right hand column of the table below.

The guiding principle for the work of the Overview and Scrutiny Committee and Scrutiny Sub-Committees is that it should be consensual and positive. The emphasis of the work should be on making a proactive and positive contribution to the development of policy and the discharge of the Council's functions. This is best achieved by an inclusive process covering Members, partners, service users and employees.

Commented [C18]: Deleted as information contained in Part 3.

Committee	Scope
Overview and Scrutiny	To oversee a more targeted and proportionate work programme that can help secure service improvement through in depth investigation of poor performance and the development of an effective strategy/policy framework for the council and partners.

Sub-Committee	Scope
Call-In	To exercise the call-in powers and to refer any decision to Council that does not accord with the policy framework or budget.
Call-In (Education)	To exercise the call-in powers in relation to education matters and to refer any decision to Council that does not accord with the policy framework or budget.
Performance and Finance	To be the key driver of the scrutiny function's <u>Overview and Scrutiny Committee's</u> work programme and the body responsible for monitoring the performance of the council and partners in relation to their stated priorities.
Health and Social Care	To be the key driver of the scrutiny function's <u>Overview and Scrutiny Committee's</u> health and social care scrutiny programme and maintain relationships with health and social care colleagues and partners in relation to shared stated priorities, in consultation with the <u>Overview &amp; Scrutiny Committee</u> .

## 6.2 General Role

Within their terms of reference, the Overview and Scrutiny Committee and Scrutiny Sub-Committees other than the Call-In Sub-Committees will have the following roles:

- (a) the strategic development of policy — by supporting the Council and Executive in developing the policy framework and budget for the Council and working with partner organisations on issues that may be outside the remit of the Council;
- (b) reviews of specific services — by making reports and/or recommendations to the full Council, Executive, Portfolio Holders and any Joint or Area Committees on any of their functions;
- (c) the review of policy and decisions developed by others — by reviewing and/or scrutinising decisions made or actions taken in connection with the discharge of any of the Council's functions;

- ~~(d) — the review of issues of concern to local people — by considering any matter affecting the area or its inhabitants and monitoring and scrutinising the activities of others;~~
- ~~(e) — consideration of the Forward Plan and scrutiny prior to key decisions being made, as appropriate;~~
- ~~(f) — scrutiny of decision making processes — by helping to draw up Protocols on how the Executive and Portfolio Holders should make decisions and then checking to see that these have been observed;~~
- ~~(g) — where relevant and appropriate, to receive selected monitoring reports carried out internally and externally on services.~~

~~The Call-In Sub-Committees may call in Executive decisions made but not yet implemented.~~

### **6.3 — Specific Functions**

#### **(a) — Policy development and review**

~~The Overview and Scrutiny Committee and Scrutiny Sub-Committee(s) may:~~

- ~~(i) — assist the Council, the Executive and Portfolio Holders in the development of the 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 mechanisms to encourage and enhance community participation in the development of policy options;~~
- ~~(iv) — question Members of the Executive, Advisory Panels 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**

~~The Overview and Scrutiny Committee and Scrutiny Sub-Committee(s) may:~~

- ~~(i) — review and scrutinise the decisions made by, and performance of, the Executive, Portfolio Holders and/or Committees and~~

~~Council officers both in relation to individual decisions and over longer periods of time;~~

- ~~(i) — review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;~~
- ~~(ii) — require the attendance of and question Members and chief officers about their decisions and performance, or in relation to particular decisions, initiatives or projects;~~
- ~~(iii) — make recommendations to the Executive and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;~~
- ~~(iv) — where partnership working permits, review and scrutinise the performance of other public services in the area, by inviting reports from partners and requesting that they address the Overview and Scrutiny Committee and Scrutiny Sub-Committees about their activities and performance;~~
- ~~(v) — question and gather evidence from any person (with their consent); and~~
- ~~(vi) — carry out the scrutiny of matters relating to the Health and Social Care including those matters delegated to the Health and Social Care Scrutiny Committee.~~

~~(c) — Finance~~

~~The Overview and Scrutiny Committee will exercise overall responsibility for any unallocated resources made available for scrutiny.~~

~~(d) — Annual Report~~

~~The Overview and Scrutiny Committee will report annually to full Council on its workings and make recommendations for future work programmes and amend working methods, if appropriate.~~

~~6.4 — Proceedings of the Overview and Scrutiny Committee and Sub-Committees~~

~~The Overview and Scrutiny Committee and Sub-Committees will conduct their business in accordance with the Committee Procedure Rules set out in Part 4 of this Constitution.~~

## Article 57

### The Executive

#### Introduction

~~This Article sets out the basic composition of the Executive and its role.~~

~~The Rules of Procedure set out and determine how the Executive will operate and include arrangements for meetings, individual decision-making, and the Allocation of Responsibilities.~~

#### 7.1 The Role of the Executive (also referred to as the Cabinet)

~~The Executive will exercise all of the local authority functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.~~

**Commented [C19]:** This has been inserted into the terms of reference.

~~This includes responsibility for the development of proposals for the budget and the financial strategy of the Council, to recommend major new policies and prepare other policies and plans~~

**Commented [C20]:** This is already in terms of reference

~~The Executive will have responsibility for approving the following local choice plans:~~

**Commented [C21]:** This has been inserted into the terms of reference.

- ~~• The Food Law Enforcement Service Plan;~~
- ~~• The Plans and Strategies which comprise the Housing Investment Programme;~~
- ~~• Adult Learning Plan;~~
- ~~• Local Agenda 21 Strategy;~~
- ~~• Quality Protects Management Action Plan;~~

~~and any other non-statutory plans that, from time to time, may be considered their responsibility.~~

#### 7.2 The Form and Composition of the Executive

The Council will appoint the Leader of the Council. The Leader will determine the size and membership of the Executive, will appoint Members to the Executive and appoint one of those Members as the Deputy Leader. When determining the allocation of responsibilities (see Part 3 of the Constitution) the Leader will also determine any delegations to individual Members (of the Executive) who will be known as Portfolio Holders.



The Executive will consist of the Executive Leader together with at least two but not more than nine other Councillors.

The Terms of Reference set out the Executive's functions.

The Rules of Procedure set out and determine how the Executive will operate and include arrangements for meetings, individual decision-making, and the Allocation of Responsibilities.

There may be no co-optees, deputies nor substitution of Executive Members. Neither the Mayor nor Deputy Mayor of the Council may be appointed to the Executive. Members of the Executive may not be Members of the Overview or Scrutiny Committee or one of its sub-committees.

Assistants to portfolio holders may be appointed by the Executive. Assistants will not be members of the Executive and will be unable to exercise any of the delegated powers of the portfolio holder. Assistants will be members of the Council.

### **7.3 — The Leader**

~~The Leader will be a Councillor elected to the position of Leader by the Council.~~

~~The Leader will hold office until one of the following circumstances applies:~~

- ~~(a) — the Council holds its first meeting after the next whole Council elections following his/her election as Leader~~
- ~~(b) — he/she resigns from the office; or~~
- ~~(c) — he or she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he or she may be re-appointed at the end of the period of suspension); or~~
- ~~(d) — he or she is no longer a Councillor; or~~
- ~~(e) — he/she is removed from office by resolution of the Council following which the Council will elect a replacement Leader at the same or subsequent Council meeting.~~

### **7.4 — Other Executive Members**

~~Other Executive Members shall be appointed to the Executive by the Leader and shall continue in their roles on the Executive until one of the following circumstances applies:~~

- ~~(a) — in the case of the Deputy Leader; the end of the term of office of the Leader~~
- ~~(b) — they resign from office; or~~

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- (c) they are suspended from being a Councillor under Part III of the Local Government Act 2000 (although they may be re-appointed at the end of the period of suspension); or
- (d) they are no longer Councillors; or

Commented [j22]: Can no longer be suspended

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The Executive

- (e) the Leader makes changes to the roles of Members of the Executive, or
- (f) they are removed from office by the Leader.

An Appendix to this Article lists the Councillors who have been appointed to the Executive and any portfolio responsibilities they hold.

Commented [C23]: There is no such appendix and this information can be found on the website.

Part 3A of the Constitution includes a full description of the responsibilities of portfolio holders.

#### 7.5 Vacancies in the Executive

Commented [J24]: Moved to terms of reference

If at any time a Member, by virtue of Article 7.04, ceases to be a Member of the Executive, the responsibilities of that Member shall be carried out by the Executive collectively until such time as the Leader has appointed a replacement, or where appropriate, re-appointed the Member concerned.

In the event that all Members of the Executive are removed or have been disqualified from office, the Head of Paid Service shall, in the interim, carry out the Executive functions.

#### 7.6 Temporary Absence of Leader or other Portfolio Holder

In the temporary absence of the Leader or other Portfolio Holder, decisions may be taken in accordance with the Scheme of delegation relating to Portfolio Holders set out in Part 3 of the Constitution and the Delegated Power of Portfolio Holders in the Appendix to the Executive Procedure Rules).

Commented [j25]: Put within terms of ref

#### 7.7 Special Provision to take urgent action in an election year

- (a) That following a Borough Election and until the day of the Annual Council Meeting the Leader or a Portfolio Holder will, if the political group to which they belong do not have a majority of members on the Council, consult and ensure consensus with the Leaders of one or more other groups that together form a majority of members on the Council;
- (b) That following a Borough Election and until the day of the Annual Council Meeting, if the Leader is not re-elected as a Councillor, the powers of the Leader shall be exercised by the Head of Paid Services in consultation with all group Leaders.

## 7.8 — Proceedings of the Executive

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

## 7.9 — Responsibility for Functions

~~The Head of Paid Service will maintain a list in Part 3 of this Constitution setting out which individual Members of the Executive, committees of the Executive, officers or joint arrangements, are responsible for the exercise of particular Executive functions.~~

~~These will usually be agreed each year at the Annual Council Meeting but may also be amended by the Council in the course of the year.~~

## 7.10 — Executive sub-committees

~~The Executive may establish sub-committees to carry out Executive functions. Such committees must consist only of Executive members.~~

## 7.11 — Advisory Panels

~~The Executive may appoint Advisory Panels to assist in the carrying out of Executive functions. Any such panels may not exercise any Executive functions and may only give advice or make recommendations to the Executive, Portfolio Holders or Council as appropriate. Non-Executive Members may be members of such Panels. Specific Procedural Rules apply to these Panels (see part 4 – Advisory Panel and Consultative Forum Procedure Rules) unless specifically approved otherwise by the Executive. The rules on political proportionality will apply to membership of Panels. The terms of reference of all Advisory Panels are set out in Part 3A of the Constitution.~~

## 7.12 — Consultative Forums

~~The Executive may appoint Consultative Forums. These non-decision making bodies shall assist the Executive in consulting with service users, trades' unions and other interested parties. They may make recommendations to the Executive (or elsewhere as appropriate) if a majority of the Council members on the Forum agree. The Procedure Rules for Advisory Panels and Consultative Forums apply to these forums subject to specific changes for membership and method or operation proposed by each Forum and approved by Council. The rules on political proportionality will apply to the appointment of Councillors to the Forums.~~

## 7.13 — Portfolio Holders Assistants

Commented [j26]: Put into the Proper Officer powers

Commented [C27]: Deleted as repetition

Commented [J28]: Moved to p 3.36 with cabinet panels

~~Non-Executive Councillors may be appointed as Portfolio Holder Assistants. Portfolio Holder Assistants may not exercise any of the powers of a Portfolio Holder nor act in the absence of the Portfolio Holder. — Confirmation of the~~

**Commented [j29]:** Put into cabinet procedure rules

appointment of any Portfolio Holder Assistant must be given by the Executive at the next meeting of Cabinet.

#### **7.14 — ~~Non-Executive Cabinet Members and Representatives~~**

~~The Leader may appoint a maximum of 3-4 Non-Executive Members of Cabinet from the Voluntary Sector and from elected Members to sit on Cabinet and up to 1 Representative from the voluntary and community sector to sit with Cabinet. Non-Executive Members of Cabinet may speak but not vote on items before Cabinet in private and public meetings and have commensurate access to documents as full Cabinet Members except for draft Cabinet reports which will be restricted to Portfolio Holders and Non-Executive Members of the majority group.~~

~~Voluntary and community sector Representatives may speak but not vote on items before Cabinet in public meetings. They will not have access to draft papers or part II papers.~~

Commented [j30]: Put in cabinet procedure rules

## Article 8

**Commented [C31]:** Taken out as repetition and included in committee procedure rules.

# Regulatory and Other Committees

## Introduction

~~The Council will establish Committees to discharge certain functions which are reserved for the Council and which the Executive may not determine.~~

### 8.1 — Regulatory and Other Committees

~~The Council will have the following Committees, Sub-Committees and panels:~~

- ~~● Governance, Audit, and Risk Management and Standards Committee~~
- ~~● Licensing and General Purposes Committee
  - ~~> Chief Officers' Employment Panel~~
  - ~~> Licensing Panel~~
  - ~~> NNDR Discretionary Rate Relief Appeals Panel~~
  - ~~> Personnel Appeals Panel~~
  - ~~> Social Services Appeals Panel~~~~
- ~~● Health and Wellbeing Board~~
- ~~● Overview and Scrutiny Committee
  - ~~> Call-In Sub-Committee~~
  - ~~> Call-in Sub-Committee (Education)~~
  - ~~> Performance & Finance Sub-Committee~~
  - ~~> Health and Social Care Scrutiny Sub-Committee~~~~
- ~~● Pension Fund Committee~~
- ~~● Planning Committee~~
- ~~● Standards Committee~~
- ~~●
  - ~~> Assessment Sub-Committee~~
  - ~~> Hearing Review Sub-Committee~~~~

#### Crime and Disorder?

~~These Committees, sub-committees and panels will discharge the functions described in Part 3A of this Constitution.~~

## **8.2 — Membership of Committees of the Council**

~~The Council shall determine the size and membership of the Committees, sub-committees and panels listed above and described in Part 3 of the Constitution and shall appoint Members in accordance with the rules on political proportionality contained in the Local Government and Housing Act 1989 where this applies.~~

~~The Council shall appoint voting co-opted members to the Overview and Scrutiny Committee and, where appropriate, to the Call-in sub-committees in the manner required by Regulations.~~

~~The Council may appoint persons other than Councillors to be non-voting co-opted members to Committees.~~

~~Reserve members may be appointed to Committees and Panels by the Council in the manner prescribed by the Procedural Rules in Part 4 of this Constitution.~~

## **8.3 — Matters reserved for Council**

~~The following matters within the terms of reference of the Licensing and General Purposes Committee must be determined by the full Council but may be the subject of a recommendation by the Committee:~~

- ~~□ power to make, amend, revoke or re-enact by-laws;~~
- ~~□ power to promote or oppose Parliamentary Bills;~~
- ~~□ approval to the Statement of Accounts;~~
- ~~□ confirming the appointment of the Head of Paid Service; and~~
- ~~□ changing the name of the area, confirming the title of honorary alderman or freedom of the Borough.~~

## Article 10

**Commented [C32]:** Deleted as information included in committee procedure rules

# Area Forums or Area Committees and Harrow Partnership Bodies

## Introduction

**This Article sets out the arrangements for area based meetings, consultative bodies and the arrangements for the Harrow Partnership**

### 10.01 Area Forums or Area Committees

The Council may appoint Area Forums or Area Committees.

The membership of any Forum or Committee shall be drawn from the Members for the electoral wards of the Borough covered by that Forum or Committee.

The terms of reference for any Forums shall be as set out in Part 3 of the Constitution as agreed by the Council.

The Council may delegate to Area Committees powers relating to functions reserved to the Council and the Executive may also delegate powers relating to Executive functions. The terms of reference for any Area Committees and all delegations and any limitations and conditions to which those delegations are subject will also be set out in Part 3 of the Constitution.



# Article 11

## Joint Arrangements

Commented [j33]: Remove as in Part 3 terms of reference

### Introduction

**This Article explains the arrangements for those functions that are administered jointly with other local authorities**

#### 11.1 Arrangements to promote well-being

The Council or the Executive, 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.

#### 11.2 Joint Arrangements

- (a) The Council may establish joint arrangements with one or more **other** local authorities 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 joint committees with those other local authorities.
- (b) The Executive 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) If a joint committee is established which exercises both Executive and non-Executive functions, appointments will be made by the Council after the Executive has also agreed them.
- (d) The Executive may only appoint Executive members to a joint committee exercising wholly or partly Executive functions excepts

- (i) 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 this case the members appointed need not reflect the political composition of the local authority as a whole;
  - (ii) where the joint committee is required by [legislation](#) statute; or
  - (iii) where the joint committee has five or more constituent councils.
- (e) Details of any joint arrangements including any delegations to joint committees will be found in the Council's Allocation of Responsibilities in Part 3 of this Constitution.

### **11.3 Access to Information**

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

### **11.4 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 authority.
- (b) The Executive may delegate 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.

### **11.5 Contracting Out**

The Council, for those functions that are not Executive functions, and the Executive, in respect of 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.

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# Article ~~6~~ 12

## Officers

### Introduction

This Article describes the management structure of the Authority and the responsibilities of the statutory and chief officers

'Officers' means all employees and staff engaged by the council to carry out its functions. Those engaged under short term, agency or other non-employed situations as well as those employed on a permanent basis are covered.

### 12.1 Management Structure

#### (a) General

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

#### (b) Chief Officers

The Council will engage persons for the following posts, who will be designated chief officers:

Post	Functions and areas of responsibility
Head of Paid Service	<p>Overall corporate management and operational responsibility (including overall management responsibility for all officers).</p> <p>Specific responsibility for Planning and Regeneration.</p> <p>Provision of professional advice to all parties in the decision making process.</p> <p>Representing the Council on partnership and external bodies (as requested by statute or the Council).</p> <p>Promote the importance of the ethical agenda and to sustain the highest standards of ethical behaviour on the part of the Council's officers in the performance of their duties in accordance with the requirements of the Code of Conduct for Council Employees set out in Section 5B of the Constitution.</p>



<b>Post</b>	<b>Functions and areas of responsibility</b>
Corporate Director People	Education and Commissioning Services, Children and Young People Services, Harrow Schools Improvement Partnership, Special Needs Services, Adults Services, Public Health & Health Integration
Corporate Director Community	Housing, Environmental Health & Licensing, Public Protection, Corporate Estate Management & Development, Facilities Management, Property Repair & Maintenance, Highways Maintenance and Engineering, Traffic, Transport & Parking Management. Environmental compliance and enforcement, Public Realm Services, Waste Management, Arts & Events. Library & Cultural Services, Sports, Leisure & Recreation
Corporate Director Resources and Commercial	Customer Services & IT, Revenues & Benefits, Business Support, Finance, Insurance, Audit & Fraud, HR and Organisational Development, Legal & Governance Services, Strategic Commissioning, Communications, Commercial & Procurement

**(c) Statutory Officers**

The Council will designate the following posts as shown:

Post	Designation
Head of Paid Service	Head of Paid Service
Director of Finance	Chief Financial Officer (Section 151 Officer)
Corporate Director, People	Director of Children's Services
Director of Adult Social Services	Director of Adult Social Services
Director of Legal and Governance Services	Monitoring Officer
Head of Policy	Scrutiny Officer
Director of Public Health	Director of Public Health

Such posts will have the functions described in [Section 3B of the Constitution](#) Articles 12.02 – 12.06 below.

**(d) Departmental Structure**

The Head of Paid Service will determine and publish a description of the overall departmental structure for the Council. This will outline the management structure and the deployment of officers.

**(e) Delegations**

Some decisions are made by officers under approved delegated powers. A list of all the functions delegated to chief officers is included in Part 3B of this Constitution.

**12.2 Functions of the Head of Paid Service**

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

The Head of Paid Service will report to the full Council on the manner in which the discharge of the Council's functions is 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.

**12.3 Functions of Monitoring Officer**

**(a) Maintaining the Constitution**

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is available to Members, staff and the public.

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

After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council, or to the Executive in relation to an executive function, if he/she considers that any proposal, 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 Governance, Audit, Risk Management and Standards Committee in respect of standards and advising on the Code of Conduct**

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Governance, Audit, Risk Management and Standards Committee. He or she will also provide advice to Members of the Council and act as the proper officer to receive complaints of failure to comply with the Code of Conduct. He or she will also make decisions about complaints as set out in the delegations under Part 3B.

**(d) Proper officer for access to information**

The Monitoring Officer is the 'proper officer' for this purpose, and will ensure that Executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

**(e) Advising whether Executive decisions are within the budget and policy framework**

Where necessary, the Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.

**(f) Providing advice**

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and framework issues to all Councillors.

**(g) Register of Member's financial and other interests**

The Monitoring Officer will establish and maintain a register of Members' interests and gifts and hospitality. These registers will be open to public inspection at all reasonable times.

**(h) Restrictions on posts**

The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

## **12.4 Functions of the Chief Finance Officer**

**(a) Ensuring lawfulness and financial prudence in 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 Executive in relation to an Executive function; and
- to Council's external auditor

if he or she considers that any proposal, decision or course of action will:

- involve incurring unlawful expenditure; or



- is unlawful and is likely to cause a loss or deficiency; or
- if the Council is about to enter an item of account unlawfully.

**(b) Administration of financial affairs**

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

**(c) Contributing to corporate management**

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

**(d) Providing advice**

The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.

**12.5 Functions of the Director of Children's Services**

**(a) Local education authority**

The Director of Children's Services will have responsibility for functions conferred on or exercisable by the authority in their capacity as a local education authority

**(b) Social Services (relating to children)**

The Director of Children's Services will have responsibility for functions conferred on or exercisable by the authority, which are social services functions so far as those functions relate to children.

**(c) Looked after children**

The Director of Children's Services will have responsibility for functions in relation to children looked after by the authority under section 23C to 24D of the Children Act 1989.

**(d) Improving well-being**

The Director of Children's Services will have responsibility for making arrangements with a view to improving the well-being of children in the authority's area.

**(e) Safeguarding and Welfare**

The Director of Children's Services will have responsibility for safeguarding and promoting the welfare of children.

**(f) Establishing Information Databases**

The Director of Children's Services will establish and maintain information databases in relation to the well-being and safeguarding of children.

**(g) Preparation and Publication Children's and young people's plan**

The Director of Children's Services will prepare and publish a Children's and young people's plan setting out the authority's strategy for discharging their functions in relation to children and relevant young persons.

**(h) Functions on behalf of an NHS Body**

The Director of Children's Services will have responsibility for function under section 31 of the Health Act 1988 on behalf of an NHS body so far as those relate to children.

**(i) Any other function**

The Director of Children's Services will have responsibility any additional functions, as the authority considers appropriate.

**12.6 Functions of the Director of Adult Social Services**

**Discharge of Functions by the Council**

The Director of Adult Social Services will have responsibility for all functions social services functions (other than those for which the Director of Children's Services is responsible) in accordance with Section 6 of the Local Authority Social Services Act 1970 (as amended) by the Children Act 2004.

**12.7 Functions of the Scrutiny Officer**

**Promotion of Overview and Scrutiny**

- (a) The Scrutiny Officer will promote the role of the Overview and Scrutiny Committee and its sub-committees.

**Support to the Overview and Scrutiny Committee**

- (b) The Scrutiny Officer will provide support to the Overview and Scrutiny committee and sub-committees and their members.

**Support and guidance to Members and officers**

- (c) The Scrutiny Officer will provide support and guidance to Members and officers in relation to the functions of the Overview and Scrutiny Committee and its sub-committees.

**12.8 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 resources that, in their opinion, are sufficient to allow their duties to be performed.

#### **12.9 Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Councillor - Officer Relations set out in Part 5 of this Constitution.

#### **12.10 Employment**

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

## Article ~~76~~13

### Decision-making

#### Introduction

**This Article provides for the recording of decisions of the Council and the Executive and the principles governing those decisions**

#### 13.1 Responsibility for decision making

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

#### 13.2 Principles of decision-making

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

- Compliance with the code of conduct relation to interests, bias and predetermination
- proportionality (i.e. the action must be proportionate to the desired outcome);
- rationality
- taking into account relevant considerations including risk, cost and government guidance
- evidence-based
- procedurally correct
- proper purpose
- legal compliance
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- consideration of the public sector equality duty and the Council's own Equality of Opportunity Policy

- a presumption in favour of openness;
- clarity of aims and desired outcomes;
- a recording of options considered and rejected;
- a recording of reasons for decisions

### 13.3 Type of Decision

#### (a) Decisions reserved to full Council

Decisions relating to the functions listed in [Article 4.02Part3B](#) will be made by the full Council and may not be delegated.

#### (b) Key Decisions

A Key Decision is an executive decision which:

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

A decision is significant for the purposes of (i) above if it involves expenditure or the making of savings of an amount in excess of £1m for capital expenditure or £500,000 for revenue expenditure or, where expenditure or savings are less than the amounts specified above, they constitute more than 50% of the budget attributable to the service in question.

Decision takers may only take key decisions in accordance with the requirements of Rule 23 of the Executive Procedure Rules set out in Part 4 of this Constitution.

### 13.4 ~~Decision making by the Council~~

~~Subject to Article 13.509, the Council, the Executive, Overview and Scrutiny Committee and other Committees, sub-committees and panels established by the Council will follow the Procedure Rules relating to that body set out in Part 4 of this Constitution when considering any matter.~~

### 13.5 ~~Decision making by the Executive~~

**Commented [C34]:** Deleted as in committee and executive procedure rules

~~Subject to Article 13.09, the Executive will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.~~

~~**13.6 Decision making by Overview and Scrutiny Committee and Scrutiny Sub-committees**~~

~~Overview and Scrutiny Committee and Scrutiny sub-committees will follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.~~

~~**13.7 Decision making by other Committees and sub-committees established by the Council**~~

~~Subject to Article 13.09, other Council Committees and sub-committees and panels will follow those parts of the Committee Procedure Rules set out in Part 4 of the Constitution as apply to them.~~

~~**13.8 Decision making by Advisory Panels and Consultative Forums established by the Council**~~

~~Subject to Article 13.09, or approval otherwise by the Cabinet, Advisory Panels and Consultative Forums will follow the Advisory Panel and Consultative Forum Procedure Rules set out in Part 4 of the Constitution.~~

~~**13.9**~~**13.4 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 or considering (other than for the purposes of giving advice) the civil rights 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 in addition to the procedural rules of that body.

## **Article 14**

**Commented [C35]:** Deleted as in delegations for officers

### **Finance, and Contracts and Legal Matters**

#### **Introduction**

**This Article refers to the Council's Financial Regulations and Contract Procedure Rules found in Part 4 of this Constitution.**

#### **14.1— Financial Management**

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

#### **14.2— Contracts**

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

#### **14.3— Legal Proceedings**

~~The Director of Legal and Governance Services is authorised to:~~

- ~~(a) institute, defend or participate in any legal proceedings, in any Court or Tribunal and in any case where such action is necessary to give effect to decisions of the Council, or in any case where he or she considers that such action is necessary to protect the Council's interests.~~
- ~~(b) delegate to officers authority to institute, defend or participate in any legal proceedings, in any Court or Tribunal and in any case where such action is necessary to give effect to decisions of the Council, or in any case where he or she considers that such action is necessary to protect the Council's interests~~
- ~~(c) authorise officers to appear in any court or tribunal on the Council's behalf.~~

#### **14.4— Authentication of Documents**

~~Where any document is necessary to any legal proceedings or proceedings on behalf of the Council, it will be signed by the Director of Legal and Governance Services or another person authorised by him or her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.~~

~~Any contract entered into on behalf of the Council in the course of the discharge of an Executive function shall be in writing. Subject to the Contract Procedure Rules set out in Part 4 of the Constitution, such contracts must either be signed by one at least two officers of the authority or made under the common seal of the Council.~~

#### **14.5 Common Seal of the Council**

~~The Common Seal of the Council will be kept in a safe place in the custody of the Director of Legal and Governance 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 Director of Legal and Governance Services, should be sealed. The Director of Legal and Governance Services will witness the affixing of the Common Seal or some other person authorised by him or her.~~



## Article 15

Commented [C36]: All relevant parts put in Article 1.

# Review, Revision and Publication of the Constitution

## Introduction

This Article provides for the review and method of changing the Constitution, and for its publication

### 15.01—Duty to monitor and review the Constitution

The Council will monitor and review the Constitution to ensure that the aims and principles of the Constitution are given full effect.

### 15.02—Change from a Leader and Executive form of governance 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 for a change in the form of governance and shall comply with any statutory requirements in relation to such changes.

### 15.03—Changes to the Constitution

(a) Subject to 15.04 and 15.05 below, changes to the Constitution will only be effective if approved by full Council.

(b) The Head of Paid Service, having first consulted with the Leader of the political groups or their nominees may present a report direct to Council proposing changes to the Constitution. The Head of Paid Service will consult the Monitoring Officer and/or the Section 151 Officer as appropriate. A senior member of each political party will be nominated as a point of contact on constitutional issues.

### 15.04—Codes and Protocols

Subject to any statutory requirements, the Codes and Protocols and other documents in Part 5 of the Constitution may be amended by the body that created them without Council approval except for the Code of Conduct for Members which is reserved to Council.

### 15.05—Minor and Administrative changes by the Monitoring Officer

Minor and administrative changes to the Constitution may be made by the Monitoring Officer, following consultation with the Head of Paid Service, in order to ensure the aims and principles of the Constitution are given full effect. All such changes must be reported to the Council as soon as possible after the change is made.

**15.06—Publication**

- (a) ~~The Monitoring Officer will provide a printed copy of this Constitution to each Member of the Council upon delivery to him or her of that individual's declaration of acceptance of office, following election to office.~~
- (b) ~~The Monitoring Officer will ensure that copies are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by members of the public and press 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 updated as necessary.~~
- (d) ~~The Monitoring Officer will ensure that a record is kept of any changes to the Constitution. Amendments to the Constitution will be published as soon as practicable after any substantial changes have been made to it.~~

## Article 16

# Interpretation and Suspension of the Constitution

Commented [C37]: Now included in Article 1

### Introduction

~~This Article ensures that the Articles of the Constitution cannot be suspended and aims to provide certainty and stability to the fundamental aspects of the Council's governance~~

### 16.01 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.~~

### 16.02 Suspension of the Constitution

~~The Articles of this Constitution may not be suspended. Other Rules and Protocols may be suspended by the body to which they apply (or if no such body by the Council) to the extent permitted within those Rules, and Protocols and the law.~~

