



PART 2

Articles of the Constitution

November 2015

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 Derby City Council.

1.3 Purpose of the Constitution

Derby City Council's vision is to make Derby a city where people are proud to live and work.

We believe in...

- Being open and honest
- Holding high standards
- Listening and consulting
- Seeking sustainable solutions
- Promoting equality of opportunity
- Celebrating cultural diversity
- Working in partnership
- Valuing our employees and the services they provide
- Providing best value services

The purpose of the Constitution is to:

- a. enable the council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- b. support the active involvement of citizens in the process of local authority decision-making;
- c. help councillors represent their constituents more effectively;
- d. enable decisions to be taken efficiently and effectively;
- e. create a powerful and effective means of holding decision-makers to public account;
- f. ensure that no one will review or scrutinise a decision in which they were directly involved;
- g. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- h. provide a means of improving the 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 which it thinks is closest to the purposes stated in paragraph 1.3. The council will monitor and evaluate the operation of the Constitution as set out in Article 15.

Article 2 - Members of The Council

2.1 Composition and eligibility

- a. The Council comprises 51 members, called councillors. Three councillors are elected by the voters of each of the following wards.

Abbey
Allestree
Arboretum
Alvaston
Blagreaves
Boulton
Chaddesden
Chellaston
Darley
Derwent
Littleover
Mackworth
Mickleover
Normanton
Oakwood
Sinfen
Spondon

- b. Only registered voters of the city, those living or working or owning property there will be eligible to hold the office of councillor.

2.2 Election and term of office of councillors

The ordinary election of a third (or as near as may be) of all councillors is held on the first Thursday in May in each year, except that in 2017 and every fourth year after there will be no regular election. The term of office of councillors is four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

2.3 Roles and functions of all councillors

1. All councillors will:
 - a. collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
 - b. represent their communities and bring their views into the council's decision-making process, i.e. become the advocate of and for their communities;
 - c. deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;

- d. balance different interests identified within the ward and represent the ward as a whole;
 - e. be involved in decision-making;
 - f. be available to represent the council on other bodies;
 - g. maintain the highest standards of conduct and ethics;
 - h. 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; and
 - i. not make public information that is confidential or exempt without the consent of the council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
2. For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.

2.4 Conduct

Councillors will at all times observe the Members’ Code of Conduct and other Protocols or Codes of Practice set out in Part 7 of this Constitution.

2.5 Allowances

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 8 of this Constitution.

Article 3 - Citizens and The Council

3.1 Citizens' rights

Citizens rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:

1. **Voting and petitions.** Citizens on the register of electors for the area have the right to vote and sign a petition to request a referendum on alternative models of governance.
2. **Information.** Citizens have the right to:
 - a. attend meetings of Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - b. attend meetings of the Council Cabinet when key decisions are being considered;
 - c. find out from the Forward Plan what key decisions will be taken by the Council Cabinet and when;
 - d. see reports and background papers, and any records of decisions made by Council and the Council Cabinet; and
 - e. inspect the council's accounts and make their views known to the external auditor.
3. **Participation.** Citizens have the right to participate in Council's question time and contribute to investigations by overview and scrutiny boards.
4. **Complaints.** Citizens have the right to complain to:
 - a. the council itself under its complaints procedure;
 - b. the Ombudsman after using the council's own complaints procedure;
 - c. the Standards Committee about a breach of the Councillor's Code of Conduct.
5. **Petitions.** Those who live, work or study in the city have the right to submit a petition to the council which will be dealt with in accordance with the Petitions Scheme.

3.2 Citizens' responsibilities

Citizens must not be violent, abusive or threatening to councillors or employees and must not wilfully harm things owned by the council, councillors or employees.

Article 4 - The Council meeting

4.1 Meanings

1. **Policy Framework.** The policy framework means the following plans and strategies required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and regulations under section 32 of the Local Government Act 2000 to be adopted by Council:
 - Sustainable Community Strategy;
 - Crime and Disorder Reduction Strategy;
 - Local Transport Plan;
 - Plans and strategies which together comprise the Development Plan;
 - Youth Justice Plan;
 - The Children and Young People's Plan
 - The Licensing Authority policy statement.
2. **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.
3. **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

4.2 Functions of Council

Only Council will exercise the following functions:

- a. adopting and changing the Constitution (subject to Article 15)
- b. approving and adopting the policy framework and the budget
- c. approving any application to the Secretary of State in respect of any Housing Land transfer
- d. subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions on any executive functions where the decision would be contrary to the policy framework, or not wholly in accordance with the budget
- e. electing the Leader
- f. agreeing and/or amending terms of reference for overview and scrutiny boards, committees, and Neighbourhood Boards and Partnerships, deciding on

- their composition and making appointments to them including the appointments of Chairs and Vice Chairs
- g. appointing representatives to outside bodies unless the function has been delegated by Council
 - h. adopting a scheme for members allowances, following receipt of recommendations from the Independent Remuneration Panel
 - i. changing the name of the area, conferring the title of honorary alderman or Freedom of the City
 - j. confirming the appointment of the Head of Paid Service
 - k. making arrangements for the discharge of any of the council's functions by another local authority or a joint committee with other authorities
 - l. making, amending revoking, re-enacting or adopting byelaws and promoting or petitioning against any bills in Parliament, providing that in cases of urgency the Council Cabinet may authorise a petition against a Bill or Order
 - m. approving any proposals relating to local government areas and the transfer, conferment or withdrawal of powers of local authorities
 - n. matters relating to the variation of parliamentary and local government electoral areas and representation
 - o. considering recommendations from the Council Cabinet regarding action following receipt of reports of external auditors, external inspectorate and the Local Ombudsman
 - p. dealing with all non Executive policies ,strategies and procedures that do not form part of the policy framework
 - q. making decisions about any functions that by law, or as a result of local choice are not the responsibility of the Council Cabinet and have not been delegated to a committee or officer.

4.3 Council meetings

There are three types of Council meeting:

- a. the annual meeting;
- b. ordinary meetings;
- c. extraordinary meetings.

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

4.4 Responsibility for functions

Part 3 of this Constitution sets out the responsibilities for the council's functions that are not the responsibility of the Council Cabinet.

Article 5 - Chairing Council - The Mayor

5.1 Role and function of the mayor

The Mayor will be elected by Council annually. The Mayor and in his/her absence, the Deputy Mayor will have the following roles and functions:

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

Article 6 - Overview and Scrutiny Boards

6.1 Terms of reference

The Council will appoint the Overview and Scrutiny Boards discharge the functions conferred by section 21 of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000.

6.2 General role

Within their terms of reference, overview and scrutiny boards will:

- a. review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the council's functions;
- b. make reports and/or recommendations to Council and/or the Council Cabinet and/or any policy, joint or Neighbourhood Board/Partnership in connection with the discharge of any functions;
- c. consider any matter affecting the area or its inhabitants; and
- d. consider decisions that have been called in for reconsideration and decide whether to ask the decision maker to reconsider the decision, or, where appropriate, to refer it to Council.

6.3 Specific functions

1. **Policy development and review.** Overview and scrutiny boards may:
 - a. assist the Council and the Council Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;
 - b. conduct research, community and other consultation in the analysis of policy issues and possible options;
 - c. consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
 - d. question members of the Council Cabinet and chief officers about their views on issues and proposals affecting the area;
 - e. liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working; and
2. **Scrutiny.** Overview and scrutiny boards may:
 - a. review and scrutinise the decisions made by and performance of the Council Cabinet and council officers both in relation to individual decisions and over time;
 - b. review and scrutinise the performance of the council in relation to its policy objectives, performance targets and/or particular service areas;
 - c. question members of the Council Cabinet and senior council officers about their decisions and performance, whether

generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;

- d. make recommendations as appropriate to the Council Cabinet and/or Council arising from the outcome of the scrutiny process;
 - e. review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny board and local people about their activities and performance; and
 - f. question and, with their consent, gather evidence from any person.
- 3. **Finance.** Overview and scrutiny boards may exercise overall responsibility for the finances made available to them.
 - 4. **Annual report.** Overview and scrutiny boards must report annually to Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.
 - 5. **Officers.** Overview and scrutiny boards may exercise overall responsibility for the work programme of the officers employed to support their work.

6.4 Proceedings of overview and scrutiny boards

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

Article 7 - Council Cabinet

7.1 Role

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

7.2 Form and composition

The Council Cabinet will consist of the Leader together with no fewer than two and no more than nine councillors, appointed to the Council Cabinet by the Leader.

7.3 Leader

The Leader will be a councillor elected to the position of Leader by the Council at its annual meeting, or at such other meeting called for that purpose. The Leader will hold office for four years or until:

- a. s/he resigns from the office; or
- b. s/he is suspended from being a councillor under Part III of the Local Government Act 2000 (although s/he may resume office at the end of the period of suspension); or
- c. his/her term of office as a councillor expires; or
- d. s/he is no longer a councillor; or
- e. s/he is removed from office by the Council.

7.4 Other Council Cabinet members

Other Council Cabinet members (including the Deputy Leader) shall be appointed by the Leader and shall hold office for four years or until:

- a. they resign from office; or
- b. they are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- c. their term of office as a councillor expires; or
- d. they are no longer councillors; or
- e. they are removed from office by the Leader; or
- f. the Leader is removed from office under Article 7.3 (e).

7.5 Proceedings of the Council Cabinet

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

7.6 Responsibility for functions

Part 3 of this Constitution sets out which individual members of the Council Cabinet, committees of the Council Cabinet, officers or joint arrangements are responsible for the exercise of particular Council Cabinet functions.

7.7 Decision making

The Council Cabinet will operate on the basis of majority decision-making.

Article 8 - Regulatory and Other Committees

8.1 Regulatory and other committees

The Council will appoint the committees set out in Part E of Part 3 of this Constitution.

8.2 Proceedings of Regulatory and other committees

Proceedings of Regulatory and other committees shall take place in accordance with the committee procedure rules set out in Part 4 of this Constitution.

Article 9 - The Standards Committee

9.1 Standards Committee

The Council will establish and appoint members to a Standards Committee.

9.2 Composition

- a. **Membership.** The Standards Committee will be composed of
 - five councillors, other than the Mayor and Leader;
 - two Independent Persons and two co-opted independent members.
- b. **Independent members.** Independent members will not be entitled to vote at meetings.
- c. **Chairing the Committee.** A councillor will chair the committee.

9.3 Role and Function

- a) Promoting and maintain high standards of conduct by councillors, co-opted members and church and parent governor representatives;
- b) Assisting councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- c) Monitor the effectiveness of the Members' Code of Conduct;
- d) Advising Council on the adoption or revision of related codes or protocols;
- e) Advising the Council on the adoption or revision of related codes or protocols;
- g) Advising, training or arranging to train councillors and co-opted members and church and parent governor representatives on matters relating to the Members Code of Conduct; and
- h) Assess, review and determine complaints about members.

The Monitoring Officer will have the following roles and functions:

- a) To carry out initial assessments of complaints, in consultation with the Independent Person appointed by the Council, about alleged breaches of the Members' Codes of Conduct.
- b) To appoint investigators to investigate complaints about Members' alleged breach of the Code of Conduct and issue a report of their findings.
- c) to consider, with an Independent Person, the findings of an Investigator's report and decide if the complaint should be considered by the Standards Committee.

Article 10 – Neighbourhood Boards, Neighbourhood Forums and Ward Committees

10.1 Neighbourhood Board, Neighbourhood Forums and Ward Committees

The Council may appoint Neighbourhood Boards, Neighbourhood Forums and Ward Committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making.

10.2 Form, composition and function

Each electoral ward of the city will have a Neighbourhood Board of partner and resident representatives, led by the three Councillors elected for that ward, and a Neighbourhood Forum open to all residents. Each electoral ward will also have a Ward Committee comprising of the three elected ward Councillors that ward. Any supplementary resident engagement mechanisms will be agreed by each Neighbourhood Board.

10.3 Delegations

The delegations to Neighbourhood Boards, Forums and Ward Committees are shown in Part 3 of the Constitution.

10.4 Conflicts of interest – membership of neighbourhood boards, neighbourhood forums or ward committees and overview and scrutiny boards.

- a. **Conflict of interest.** If an overview and scrutiny board is scrutinising specific decisions or proposals in relation to the business of a neighbourhood board of which the councillor concerned is a member, then the councillor may not speak or vote at the overview and scrutiny board meeting unless a dispensation to do so is given by the Standards Committee.
- b. **General policy reviews.** Where the overview and scrutiny board is reviewing policy generally the member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

Access to Information

- 10.5 Meetings of Neighbourhood Boards will not be open to the public. Meetings of Neighbourhood Forums will be open to any resident of the ward. Ward Committees will be open to the public in accordance with the Access to Information Rules.

Council Cabinet Members

- 10.6 A member of the Council Cabinet may serve on a Neighbourhood Board, Neighbourhood Forum or Ward Committee if otherwise eligible to do so as a Councillor.

Proceedings of Neighbourhood Boards, Neighbourhood Forums and Ward Committees

- 10.7 Proceedings of Neighbourhood Boards, Neighbourhood Forums and Ward Committees shall take place in accordance with the Committee Procedure Rules set out in Part 4 of the Constitution and such other arrangements as the Council may approve from time to time.

Article 11 - Joint Arrangements

11.1 Power to make Joint Arrangements

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

11.2 Arrangements to promote well being

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

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

11.3 Joint arrangements

- a. The council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions that are not executive functions in any of the participating authorities, or advise the council. Such arrangements may involve the appointment of a joint committee with these other authorities.
- b. The Council Cabinet may establish joint arrangements with one or more local authorities to exercise functions that are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- c. Except as set out below, the Council Cabinet may only appoint Council Cabinet members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- d. The Council Cabinet may appoint members to a joint committee from outside the Council Cabinet where the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Council Cabinet may appoint to the joint committee any councillor who is a member for a ward that is wholly or partly contained within the area. The political balance requirements do not apply to such appointments.
- e. Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

11.4 Access to information

- a. The Access to Information Rules in Part 4 of this Constitution apply to joint committees.
- b. If all the members of a joint committee are members of the executive in each of the participating authorities then its access to information regime is the same as that applied to the Council Cabinet.
- 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.

11.5 Delegation to and from other local authorities

- a. The Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.
- b. The Council Cabinet may delegate executive functions to another local authority or the Executive of another local authority in certain circumstances.
- c. The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

11.6 Contracting out

The Council (for functions which are not Executive functions) and the Council Cabinet (for Executive functions) may, subject to Contract Procedure Rules contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the council's agent under usual contracting principles, provided there is no delegation of the council's discretionary decision making.

Article 12 - Officers

12.1 Management structure

Appointment of officers cannot be the responsibility of the Council Cabinet.

Appointment of officers below Service Director level must be the responsibility of the Head of Paid Service or their nominee.

- a. **General.** The council may establish such posts as it considers necessary to carry out its functions.
- b. **Chief Officers.** The council will establish the following posts, who will be designated directors:

Post	Functions and areas of responsibility
Chief Executive (and Head of Paid Service)	<p>Overall corporate management and operational responsibility (including overall management responsibility for all officers).</p> <p>Representing the council on partnership and external bodies (as required by statute or the Council).</p> <p>Operational responsibility for any directorate in the absence of a chief officer.</p> <p>Management responsibility for the following departments:</p> <ul style="list-style-type: none">• Finance• Governance• Strategic Services and Organisational Development• Digital Services• Public Health
Strategic Director of People Services	<p>Management responsibility for the following departments:</p> <ul style="list-style-type: none">• Adults Social Care Services• Integration and Direct Services (Adults)• Learning and Skills• Specialist Skills• Early Help and Children's Safeguarding• Integrated Commissioning
Strategic Director of Communities and Place, and Deputy Chief Executive	<p>Operational responsibility for any directorate in the absence of a chief officer and the Chief Executive.</p> <p>Management responsibility for the following departments:</p> <ul style="list-style-type: none">• Regeneration, Property and Housing• Strategic Partnerships, Planning and Streetpride• Communities, Environment and Regulatory Services• Leisure Culture and Tourism

- c. **Head of Paid Service, Monitoring Officer and Section 151 Officer.** The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Director of Finance	Chief Financial Officer (Section 151 Officer)
Director of Governance	Monitoring Officer

Such posts will have the functions described in Article 12.2–12.4 below.

- d. **Structure.** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the council showing the management structure and deployment of officers.

12.2 Functions of the Head of Paid Service

- a. **Discharge of functions by the council.** The Head of Paid Service will report to 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 Section 151 Officer if a qualified accountant.

12.3 Functions of the 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 widely available for consultation by members, staff and the public.
- b. **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report to Council, or to the Council Cabinet in relation to an executive function, if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- c. **Supporting the Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- d. **Receiving reports.** The Monitoring Officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals.
- e. **Conducting investigations.** The Monitoring Officer will conduct investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the Standards Committee.
- f. **Proper officer for access to information.** The Monitoring Officer 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.

- g. **Advising whether Council Cabinet decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Council Cabinet are in accordance with the budget and policy framework.
- h. **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.
- i. **Restrictions on posts.** The Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service.

12.4 Functions of the Section 151 Officer

- a. **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Section 151 Officer will report to Council, or to the Council Cabinet in relation to an Executive function, and the council's external auditor if s/he 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 Section 151 Officer will have responsibility for the administration of the financial affairs of the council.
- c. **Contributing to corporate management.** The Section 151 Officer will contribute to the corporate management of the council, in particular through the provision of professional financial advice.
- d. **Providing advice.** The Section 151 Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and the elected mayor and will support and advise councillors and officers in their respective roles.
- e. **Give financial information.** The Section 151 Officer will provide financial information to the media, members of the public and the community.

12.5 Duty to provide sufficient resources to the Monitoring Officer and Section 151 Officer

The council will provide the Monitoring Officer and Section 151 Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

12.6 Conduct

Officers will comply with the Officers' Code of Conduct and other protocols or codes of practice set out in this Constitution.

12.7 Employment

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

Article 13 - Decision-Making

13.1 Principles of decision making

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

- a. proportionality (i.e. the action must be proportionate to the desired outcome);
- b. due consultation and the taking of professional advice from officers;
- c. respect for human rights (see 13.7 for further details);
- d. a presumption in favour of openness;
- e. clarity of aims and desired outcomes;
- f. a record of what options were considered and giving the reasons for the decision;
- g. or where relevant issues do not appear to have been taken into consideration.

13.2 Types of decision

1. Decisions reserved to Council

Decisions relating to the functions listed in Article 4.2 will be made by the Council and not delegated.

2. Key decisions.

A key decision is

- a. any decision in relation to an executive function which results 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
- b. any decision that is likely to have a significant impact on two or more wards within the city.

The threshold for 'significant' expenditure/savings is £250,000. The definitions are qualified by the following:

1. Decisions that are a direct consequence of implementing a key decision will not, in themselves, be 'key';
2. Subject to the restrictions in the Financial Procedure Rules decisions to bid for sums over £250,000 are not included.
3. 'Significant impact on two or more wards' means any decision which is likely to have a significant positive or negative impact in environmental, physical, social or economic terms on people living or working in communities in two or more wards. This includes policies and strategies not included in the policy framework

4. Any decision involving the making of a grant or loan over £25,000 to any voluntary body will be deemed to have a significant impact on two or more wards.
5. Approvals required of the Council Cabinet under the Financial Procedure Rules or the Contracts Procedure Rules are not included.

A decision taker may only make a key decision in accordance with the requirements of the Council Cabinet Procedure Rules set out in Part 4 of this Constitution.

13.3 Decision making by Council

Subject to Article 13.7, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.4 Decision making by the Council Cabinet

Subject to Article 13.7, the Council Cabinet or any individual member of the Council Cabinet will follow the Council Cabinet Procedure Rules set out in Part 4 of this Constitution when considering any matter.

13.5 Decision making by overview and scrutiny boards

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

13.6 Decision making by other committees and sub-committees established by Council

Subject to Article 13.7, other council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

13.7 Decision making by Council bodies acting as tribunals

The Council, any body appointed by it, a councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

Article 14 - Finance, Contracts and Legal Matters

14.1 Financial management

The management of the council's financial affairs will be conducted in accordance with the financial rules set out in Part 5 of this Constitution.

14.2 Contracts

Every contract made by the council will comply with the Contracts Procedure Rules set out in Part 6 of this Constitution.

14.3 Legal proceedings

The Director of Governance is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the council or in any case where the Director of Governance considers that such action is necessary to protect the council's interests.

14.4 Authentication of documents

1. Where any document is necessary to any legal procedure or proceedings on behalf of the council, it will be signed by the Director of Governance 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.
2. Any contract with a value exceeding £50,000 entered into on behalf of the local authority in the course of the discharge of an Executive function shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made under the common seal of the council attested by at least one officer.
3. All contracts must be in accordance with Contract Procedure Rules in Part 4 of this constitution.

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 Governance. 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 that in the opinion of the Director of Governance should be sealed. The affixing of the Common Seal will be attested by the Director of Governance or some other person authorised by him/her.

Article 15 - Review and Revision of the Constitution

15.1 Duty to monitor and review the constitution

1. The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.
2. The Monitoring Officer will:
 - a. observe meetings of different parts of the member and officer structure;
 - b. undertake an audit trail of a sample of decisions;
 - c. record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
 - d. compare practices in this authority with those in other comparable authorities, or national examples of best practice.

15.2 Changes to the Constitution

1. **Approval.** Changes to the constitution will only be approved by Council after consideration of a report by the Monitoring Officer. A motion to vary or revoke the constitution, or any part of it, shall stand adjourned without discussion, pending a report by the Monitoring Officer to the next meeting of Council.
2. **Consequential Amendments.** The Monitoring Officer is authorised to make consequential amendments to the constitution arising from decisions of the Council and/or changes to legislation.
3. **Change in governance arrangements.** The Council will take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and must hold a binding referendum.

Article 16 - Suspension, Interpretation and Publication of the Constitution

16.1 Suspension of the Constitution

- a. **Limit to suspension.** The Articles of this Constitution may not be suspended. The rules specified below may be suspended by Council to the extent permitted within those rules and the law.
- b. **Procedure to suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- c. **Rules capable of suspension.** The rules which may be suspended are detailed in Council Procedure Rule 86.

16.2 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 Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

16.3 Publication

- a. The Director of Governance will provide a printed or electronic copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the council.
- b. The Director of Governance will ensure that copies are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- c. The Director of Governance will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.