

## Appendix 2

**Chapter 1**  
**The Articles**

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## Castle Point Borough Council

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# Article 1 – The Constitution

## 1.1 The Council's Constitution

This is the Constitution of Castle Point Borough Council.

The Constitution has been produced in accordance with the Local Government Act 2000 as amended by the Localism Act 2011 and should be interpreted in the light of all other relevant legislation.

The Council has adopted this Constitution which sets out how the Council works, how decisions are made and the procedures that are followed to ensure its decision-making is efficient, transparent and the Council is accountable to local people. Some of these procedures are required by law, while others are a matter of choice for the Council.

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

## 1.2 Purpose of the Constitution

The Constitution provides a framework which:

- (a) enables the Council to provide clear leadership to the community in partnership with members of the public, businesses and other organisations;
- (b) supports the active involvement of members of the public in the process of local authority decision-making;
- (c) helps Councillors represent their residents more effectively;
- (d) enables decisions to be taken efficiently and effectively;
- (e) creates a powerful and effective means of holding decision-makers to account;
- (f) ensures that no one will review or scrutinise a decision in which they were directly involved;
- (g) ensures that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- (h) provides a means of improving the delivery of services to the community.

## 1.3 Publication

The Monitoring Officer will ensure that a current copy of the Constitution is available for inspection at the Council offices, and placed on the Council's website:

[www.castlepoint.gov.uk](http://www.castlepoint.gov.uk)

A paper copy can be purchased by members of the public and press on payment of a reasonable fee. Electronic copies are available free of charge.

The Monitoring Officer shall provide a copy of the Constitution to each newly elected Councillor. And to all existing Councillors on each occasion that the Constitution is updated.

#### **1.4 Interpretation**

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks aligns to the framework set out in paragraph 1.2 above.

Advice and guidance on the Constitution can be obtained from the Monitoring Officer or the Legal and Democratic Services Team. Such advice will have regard to the purpose of this Constitution as set out above.

#### **1.5 Suspension**

The Articles of this Constitution may not be suspended.

The Council Procedure Rules may be suspended to the extent permitted by this Constitution and by law and carried out in accordance with the procedure contained within the relevant set of rules.

The extent and duration of the suspension of the Council Procedure Rules must be proportionate to the result to be achieved and must take into account the purpose of the Constitution as set out above.

#### **1.6 Review of the Constitution**

The Monitoring Officer shall monitor and review the operation of the Constitution annually to ensure that the aims and principles of the Constitution are given full effect.

It is important that the Monitoring Officer is aware of the strengths and weaknesses of the Constitution adopted by the Council and will make recommendations for ways in which it could be amended to better achieve the purposes of this Constitution.

In undertaking this task the Monitoring Officer may:

- (a) observe meetings of different parts of the Councillor and Officer structure;
- (b) undertake an audit trail of a sample of decisions;
- (c) record and analyse issues raised by Councillors, Officers, members of the public and other relevant stakeholders; and
- (d) compare practices in this Council with those in other comparable authorities, or national examples of best practice.

## 1.7 Changes to the Constitution

Any minor changes and routine updating of the Constitution shall be the responsibility of the Monitoring Officer who shall report any changes so made to the next available meeting of Full Council. All other changes to the Constitution will be approved by the Council after consideration of the proposal by the Overview and Scrutiny Committee.

However, if either:

- (a) the Head of Paid Service makes changes to the organisation of the Council's Officers or the way in which the delivery of the functions is organised at officer level which impact on the specific powers of the Chief Executive, Chief Officers and other officers contained in Chapter 4 of the Constitution (Responsibility for Functions); or
- (b) the Section 151 Officer determines that changes are necessary to the Financial Regulations, contained in Chapter 2 of the Constitution, for the proper administration of the Council's financial affairs; and
- (c) the Chief Officers determine that in the interest of the Council the changes should be implemented in advance of the next available meeting of the Council, then the Chief Officers may make such minimum amendments to those parts of the Constitution referred to above as necessary, provided always that:
  - (i) agreement is obtained from the Mayor or, in the absence of the Mayor, the Deputy Mayor of the Council, and
  - (ii) notification of such changes shall be submitted to the next available meeting of the Council for formal approval.

Where the Leader makes changes to the membership of the Cabinet or the Cabinet portfolios, any Committee of the Cabinet, Officers or joint arrangements responsible for the exercise of particular executive functions, those changes shall be automatically implemented into the Constitution by the Monitoring Officer without requiring any further approval by Council. Such changes shall be submitted to the next available meeting of the Council for noting.



## **Article 2 – The Public and the Council**

### **2.1 Introduction**

This Article sets out what members of the public can expect from the Council and what rights they have both under relevant legislative provisions and those which are provided by the Council.

The Constitution also sets out how the Council and Councillors expect to be treated by members of the public in return.

### **2.2 Members of the Public Rights**

Members of the public have the following rights available to them:-

#### **Access to Information**

The Public have a right to:

- (a) have access to information as set out in the Access to Information Procedure Rules, contained within Chapter 2 of this Constitution;
- (b) attend meetings of the Council, Cabinet and their respective Committees, except where such attendance is excluded, as set out in the Access to Information Procedure Rules, contained within Chapter 2 of this Constitution;
- (c) find out from the Forward Plan what Key Decisions will be taken by the Cabinet and when these are due to take place;
- (d) have access to reports and background papers and any records of decisions made by the Council and the Cabinet except where such access is excluded, as set out in the Access to Information Procedure Rules, contained within Chapter 2 of this Constitution;
- (e) inspect the Council's accounts and make their views known to the external auditor;
- (f) request and receive information in possession of the Council, as provided for under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004, subject to defined exceptions contained within those statutory provisions; and
- (g) contact their local Councillor about any matters of concern to them.

#### **Participation**

Members of the public have a right to participate in the public question time at meetings in accordance with the provisions set out in paragraph 12.11 and to contribute to investigations by the Overview and Scrutiny Committee or its Sub-committee.

## **Voting**

The public registered on the electoral roll for the Borough have the right to vote for their local Councillor(s) in local elections and to request a referendum for an elected mayor.

## **Petitions**

Members of the public who are registered on the electoral register for the Borough are able to submit petitions to the Council in accordance with the Council's Petitions Rules (See Chapter 2 Rule 12.16 later).

## **Complaints**

The Council takes complaints seriously. Members of the public have the right to complain to:

- (a) The Council under its Corporate Complaints Procedure;
- (b) The Local Government and Social Care Ombudsman or the Housing Ombudsman, after first raising their complaint using the Council's Corporate Complaints Procedure and giving the Council an opportunity to respond; and
- (c) The Monitoring Officer about Councillor Conduct in accordance with the Councillors' Code of Conduct Complaints Procedure.

For some parts of the Council's activities there are specific statutory processes to appeal a decision and these should be followed where necessary.

## **Treatment by the Council**

Members of the public have the right to be treated impartially and fairly by the Council.

### **2.3 The Public Responsibilities**

Members of the public are expected to treat Councillors and Officers with courtesy and respect.

Members of the public must not be violent, abusive or threatening towards Councillors or Officers and must not wilfully harm anything owned by the Council, Councillors or Officers.

The Council reserves the right to suspend services or limit access where there are issues caused because of the behaviours of members of the public.

## **Article 3 – Officers**

### **3.1 General**

The Council may engage Officers as it considers necessary to carry out its functions. The recruitment, selection and dismissal of employees will comply with the Officer Employment and Disciplinary Procedure Rules contained in Chapter 2 of this Constitution.

Officers will comply with all HR policies in place and the Councillor/Officer Relationship Protocol contained in Chapter 3 of this Constitution.

The functions set out within this Article are in addition to those delegations to Officers set out in Chapter 4 of this Constitution.

### **3.2 Management Structure**

The senior management structure of the Council comprises of the Chief Officers, who each have responsibilities which may include statutory responsibilities, service areas, corporate strategies and specific projects.

The Chief Officers contribute:

- (a) to the corporate management of the Council,
- (b) represent and promote the Council as a local authority securing high quality services for the people within the Borough that demonstrate best value; and
- (c) develop partnership working.

At any time when there is no Chief Executive in post, any reference in this Constitution to the Chief Executive shall be construed as a reference to the Head of Paid Service.

The following posts shall be designated as Chief Officers:

- (a) The Chief Executive
- (b) The Director Corporate & Customer
- (c) The Director Commercial & Assets
- (d) The Director Place & Communities
- (e) Assistant Director Finance & Procurement
- (f) Assistant Director Legal & Democratic Services

The post titles as shown above may be varied by the Chief Executive.

### **3.3 Statutory Officers**

The Council has designated the required statutory posts as follows:

- (a) Chief Executive
  - Head of Paid Service (s.4 Local Government & Housing Act 1985)
- (b) Assistant Director Finance & Procurement
  - Section 151 Officer (s.151 Local Government Act 1972)
- (c) Assistant Director Legal & Democratic Services
  - Monitoring Officer (s.5 Local Government and Housing Act 1985)

### **3.4 The Head of Paid Service**

The Council must appoint a Head of Paid Service who will be responsible for the following:

- (a) determining and publicising a description of the overall structure of the Council showing the management structure and deployment of Officers, a copy of this will be available on the Council's website; and
- (b) report to the 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.

In the absence of the Monitoring Officer or their delegated officer, the Head of Paid Service shall be the qualified person with regard to the disclosure of exempt information under S.36 of the Freedom of Information Act 2000.

The Head of Paid Service shall not be the Monitoring Officer but may hold the post of Section 151 Officer if they are a qualified accountant.

### **3.5 The Section 151 Officer**

The Council must appoint a Section 151 Officer who is responsible for the following:

- (a) After consulting with the Head of Paid Service and the Monitoring Officer, the Section 151 Officer will report to the full Council or to the Cabinet in relation to an executive function and the Council's external auditor if they consider 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) The administration of the financial affairs of the Council and ensure maintenance of an efficient and effective internal audit function.
- (c) Contributing to the corporate management of the Council through the provision of professional financial advice.

- (d) Providing advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework to all Councillors and will support and advise Councillors and Officers in their respective roles.
- (e) Providing financial information to the media, Councillors of the public and the community.

The Section 151 Officer cannot be the Monitoring Officer.

### **3.6 The Monitoring Officer**

The Council must appoint a Monitoring Officer who is responsible for the following:

- (a) Maintaining the Constitution. Subject to the provisions of Article 1, the Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available to Councillors, Officers and members of the public.
- (b) Ensuring lawfulness and fairness of decision making. After consulting with the Head of Paid Service and the Section 151 Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to a Cabinet function if they consider 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) Contributing to the promotion and maintenance of high standards of conduct through the support of the Audit and Governance Committee and the Standards Committee.
- (d) Being the Proper Officer to receive complaints for the failure to comply with the Councillors' Code of Conduct.
- (e) Being the Proper Officer for access to information and ensuring that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers, are made publicly available as soon as possible.
- (f) Advising on whether Cabinet decisions are within the Budget and Policy Framework.
- (g) Providing advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and Officers in their respective roles.

- (h) Being the primary qualified person with regard to disclosure of exempt information under S.36 of the Freedom of Information Act 2000. In the absence of the Monitoring Officer or their delegated officer, responsibility for carrying out the functions will fall to the Head of Paid Service.

The Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service.

### **3.7 Duty to Provide Sufficient Resources**

The Council will provide the Head of Paid Service, Section 151 Officer and the Monitoring Officer with such officers, accommodation and other resources as are, in their opinion, sufficient to allow their statutory duties to be performed in accordance with the law.

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## **Article 4 – Members of the Council**

### **4.1 Composition and Eligibility**

The Council comprises of 39 Councillors, who represent the 13 Wards within the Castle Point Borough. Councillors will be elected by the voters of each electoral division in accordance with a scheme drawn up by the Local Government Boundary Commission and approved by the Secretary of State.

Each ward may have a number of Councillors who represent it. Although, once elected, Councillors will make decisions for the whole borough and not just for the ward they were elected for.

Only registered voters for the area of the Council or those living or working or owning land or premises in that area will be eligible to hold office as a Councillor.

### **4.2 Election and Term of Office**

Councillors will be elected every four years with effect from 2024 at the regular election to the Council which will be held usually on the first Thursday in May.

The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the regular election four years later.

### **4.3 The Councillors**

#### **Purpose**

In the performance of the role, the Councillor is required to:

- (a) participate in the good governance of the borough;
- (b) contribute actively to the formation and/or scrutiny of the Council's policies, budgets, strategies and service delivery;
- (c) represent effectively the interests of the wards for which each Councillor was elected and deal promptly with residents' enquiries and representations;
- (d) promote the Council's engagement with all members of the public and groups and ensure that there are opportunities for all views to be heard;
- (e) champion the continuous improvement of the quality of life of the community in terms of equality, economy and environment;
- (f) ensure that the Council's resources are used to achieve the maximum benefit for the people in the borough;
- (g) represent the Council effectively when appointed to an outside body;

- (i) act at all times with probity and propriety in the best interest of the Council and in accordance with the Councillors' Code of Conduct;

### **Roles and Responsibilities**

Councillors shall be responsible for the following duties and responsibilities:

- (a) To fulfil the statutory and locally determined requirements of an elected Councillor, including compliance with all relevant codes of conduct and participation in those decisions and activities reserved to the Council;
- (b) To participate effectively as a Councillor of any Committee or Panel or Board or other forum to which the Councillor is appointed, including related responsibilities for the services falling within the relevant terms of reference and its liaison with other public bodies to promote better understanding and partnership working;
- (c) To participate in the activities of an outside body to which the Councillor is appointed, providing two-way communication between the organisations and representing the policies and practices of the Council. Also, for this purpose, to develop and maintain a working knowledge of the Council's policies and practices in relation to that body and of the community needs and aspirations in respect of that body's role and functions;
- (d) To participate in the scrutiny or performance review of the services of the Council including, where the Council so decides, the scrutiny of policies and budget and their effectiveness in achieving the strategic objectives of the Council;
- (e) To participate, as appointed, in consultative processes with the community and with other organisations;
- (f) To provide a link between the Council and the community, through the various forums available;
- (g) To develop and maintain a working knowledge of the Council's services, management arrangements, functions/duties and constraints and to develop good working relationships with relevant officers of the Council;
- (h) To develop and maintain a working knowledge of the other organisations and services which serve the borough;
- (i) To contribute constructively to open government and democratic renewal through active encouragement to the community to participate generally in the democratic process;
- (j) To conduct the business of the Council within the Council and not through the media;



- (k) To find a suitable substitute and to brief them on the meeting, on occasions when personal attendance is not possible in accordance with paragraph 12.23;
- (l) To identify individual learning and development needs and participate fully in training opportunities provided;
- (m) To not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or Officer entitled to know it;
- (n) To maintain the highest standards of conduct and ethics in accordance with the Councillors' Code of Conduct and the Nolan Seven Principles of Public Life; and
- (o) To attend at least one meeting of the Council every six months.

#### **4.4 The Mayor**

The Mayor and Deputy Mayor for the Council will be elected by the Council annually. The appointment will be for a single municipal year; however, it will be permissible for the Mayor or Deputy Mayor to serve in future years.

The Mayor or Deputy Mayor may not hold office as the Leader, Deputy Leader or be a member of Cabinet during their term of office.

The duties and responsibilities set out below are in addition to their role as a Councillor, as set out in paragraph 4.3.

##### **Purpose**

The Mayor is required to:

- (a) provide effective civic and ceremonial leadership to the Council;
- (b) chair the meetings of full Council and ensure its business is carried out efficiently and in line with the Constitution; and
- (c) act as an ambassador for the Council and the Borough itself.

##### **Duties and Responsibilities**

The Mayor will hold the following duties and responsibilities:

- (a) To be politically impartial and uphold the democratic values of the Council;
- (b) To represent the Council at civic and ceremonial functions, acting on behalf of and supported by the whole Council in a non-partisan manner;
- (c) 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;

- (d) To ensure that the Council meeting is a forum for debate of matters of concern to the local community and the place at which Councillors who are not on the Cabinet are able to hold the Cabinet to account;
- (e) To uphold and promote the purposes of the Constitution and to interpret the Constitution, in consultation with the Monitoring Officer, when necessary;
- (f) To promote public involvement in the Council's activities by recognising and thanking those individuals and organisations who have brought success to the borough;
- (g) To provide fair and visible civic leadership to the Council and promote active citizenship;
- (h) To act as a link between the Council and various groups and organisations within the borough;
- (i) To maintain an overview of the needs and concerns of the community they serve;
- (j) To raise the profile of the Council and the borough and to promote the aims and values of the Council within the community;
- (k) To promote and encourage nominations for National Honours & Awards to acknowledge the exceptional contribution to the community of individuals, voluntary groups or businesses within the Borough
- (l) To attend such civic and ceremonial functions of the Council as they determine appropriate; and
- (m) To provide support and advice to all Councillors.

#### **4.5 The Deputy Mayor**

The Deputy Mayor shall fulfil the duties and responsibilities set out above on behalf of the Mayor and at all other times to assist the Mayor as required.

#### **4.6 The Leader of the Council (the Leader)**

The Leader is appointed by the Council at its first annual meeting following the ordinary election of Borough Councillors.

The Leader shall be chosen from the majority political party group within the Council membership and the leader of that political party group will be the Leader of the Council. Where there is no majority political party group within the Council, the Leader will be a Councillor elected to that position by the Council.

The Leader will hold office for a period of 4 years or until the Leader's ordinary term of office as a Councillor expires (whichever is the shorter). The Leader shall continue to hold office until:

- (a) they resign from the office;
- (b) they are no longer a Councillor; or
- (c) they are removed from office by a resolution of the Council.

Upon the occurrence of a vacancy in the office of the Leader, the Council shall fill the vacancy at the next ordinary meeting of the Council, or at an Extraordinary meeting summoned for that purpose. The person appointed to fill the vacancy shall hold office for the remainder of the original term, subject to earlier termination as provided for above.

In the interim period between the vacancy in the office of the Leader and the next Ordinary or Extraordinary meeting of the Council, the Deputy Leader will act as the Leader on an interim basis.

The duties and responsibilities of the Leader, as set out below, are in addition to their role as a Councillor and their role as a Cabinet member.

### **Purpose**

The Leader is required to:

- (a) provide political leadership and strategic direction for the Council;
- (b) ensure effective corporate governance;
- (c) act as an ambassador for the Council;
- (d) provide stewardship of the Council and its resources;
- (e) work closely with other Cabinet members to ensure the development of effective policies and high quality services to the people of the borough;
- (f) guide policy and strategy proposals through the Council where the final decision rests with the Council;
- (g) maintain professional working relationships and establish mutual respect with the Chairs of the Council's regulatory committees and Overview & Scrutiny Committees and with all other Councillors and Officers;
- (h) be a promoter and upholder of equalities and high standards of ethical conduct;  
and
- (i) ensure the Council delivers high quality, value for money services.

## **Duties and Responsibilities**

The Leader will hold the following duties and responsibilities:

- (a) All executive functions of the Council are vested by law in the Leader;
- (b) To work with relevant Cabinet members in developing revenue budget and capital programme strategies and ensuring probity and financial monitoring;
- (c) To appoint or dismiss Cabinet members and to determine the allocation of portfolios for subsequent notification to the Council;
- (d) To chair the meetings of Cabinet;
- (e) To exercise executive functions not allocated to either the Cabinet or to Cabinet members, or to delegate such functions to another Cabinet member or Committee or Officer;
- (f) To appoint or dismiss Cabinet Committees and Sub-committees and determine their membership;
- (g) To be the key contact for outside organisations;
- (h) To be the key interface between the Councillors and Chief Officers for the strategic management of the Council;
- (i) To be the representative voice of the Council, including but not limited to, its dealings with Central Government, other Local Authorities and their Associations and positively promote the Council as a whole in the media;
- (j) To act as the political spokesperson for the Council; and
- (k) To promote the long term financial, business and economic stability of the Council.

### **4.7 The Deputy Leader of the Council (The Deputy Leader)**

The Leader shall appoint a member of Cabinet to be the Deputy Leader.

The duties and responsibilities of the Deputy Leader, as set out below, are in addition to their role as a Councillor, as set out in paragraph 4.3, and their role as a Cabinet member contained in Article 5.

Any exercise of function by the Deputy Leader will be subject to any limitations, qualifications or other instructions as may be issued by the Leader in writing to the Chief Executive either generally or in relation to the exercise of a particular function.

Where a vacancy occurs in the office of Deputy Leader, the Leader shall appoint another Cabinet member in their place.

## **Purpose**

The Deputy Leader is required to:

- (a) assist and work with the Leader to provide effective political leadership and strategic direction for the Council;
- (b) assist and work with the Leader in delivering their responsibilities to the Council within their role profile, as set out above; and
- (c) where appropriate and permissible under the Council's Constitution, to act in the absence of the Leader.

## **Duties and Responsibilities**

The Deputy Leader will hold the following duties and responsibilities:

- (a) to deputise for the Leader in their absence from Council and Cabinet meetings;
- (b) in the Leader's absence, carry out the requirements of the Leader role profile, as set out above, so far as legally possible and permissible; and
- (c) to carry out such other duties and undertake portfolio responsibility, as delegated by the Leader.

### **4.8 Rights of all Councillors**

Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law, as set out in paragraph 15 in Chapter 2 of this Constitution.

### **4.9 Conduct of Councillors**

All Councillors will abide by their obligations under the Councillors' Code of Conduct and the Councillor/Officer Relationship Protocol as set out in Chapter 3 of the Constitution.

### **4.10 Allowances**

Councillors will be entitled to receive allowances in accordance with the Councillors' Allowances Scheme set out in Chapter 3 of this Constitution.

## **Article 5 – The Council**

### **5.1 Introduction**

The Local Government Act 2000 (as amended by the Localism Act 2011) gives the Council responsibility for approving the Budget and Policy Framework. The Council as a whole retains responsibility for regulatory functions and has a role in holding the Cabinet to account.

### **5.2 Functions of Council**

Only the Council will exercise the following functions:

- (a) To adopt and approve changes to the Constitution in accordance with the procedure set out in Article 1.
- (b) To adopt and approve changes to the Councillors' Allowances Scheme;
- (c) Approval of the Budget and Policy Framework;
- (c) To take decisions in respect of any recommendation made by the Cabinet or Committees which would be contrary to the Budget and Policy Framework;
- (d) To take decisions in respect of functions which must by law be reserved to the Council, Local Choice Functions that Council has decided to reserve to itself as set out in Chapter 4 of this Constitution or other functions that are not the responsibility of Cabinet and/or have not been delegated to Committees, Sub-Committees or Officers;
- (e) Elect the Mayor of the Council and appoint the Deputy Mayor at its annual meeting;
- (f) Appoint the Leader;
- (g) Approve the terms of reference for Council Committees, deciding on their composition and making appointments to them and any changes to them;
- (h) Approve the terms of reference for any Panel or Working Group deciding on their composition and making appointments to them and any changes to them;
- (i) Appoint representatives to outside bodies unless the appointment is an executive function or has been delegated by Council;
- (j) Appoint and dismiss the Head of Paid Service, Monitoring Officer and the Section 151 Officer;
- (k) Consider reports of the Monitoring Officer and the Section 151 Officer issued in pursuance of their respective statutory duties;

- (l) To hold the Leader, Cabinet members and Committee Chairs to account;
- (m) To make, amend, revoke, re-enact or adopt byelaws and promote or oppose the making of local legislation or Private Bills;
- (n) To respond to appropriate bodies with regard to boundary reviews or other electoral issues including, for example, the designation of the acting or local returning officer for the purposes of a county, parliamentary or other form of election or referendum;
- (o) all those functions detailed in Parts C, D, E, F, G, H and I of Schedule 1 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, (as amended); and
- (p) All other matters which, by law, must be reserved to Council.

### **5.3 Responsibility for Functions**

The Council will maintain Chapter 4 of this Constitution which sets out the responsibilities for the Council's Functions which are not the responsibility of the Cabinet.

### **5.4 Council Meetings**

There are three types of Council Meetings:

- (a) The Annual meeting;
- (b) Ordinary meetings; and
- (c) Special (or Extraordinary) meetings;

and they will be conducted in accordance with the Council's Procedure Rules set out in Chapter 2 of this Constitution.

### **5.5 The Policy Framework**

The Council is responsible for the approval of the Policy Framework, which shall be regularly refreshed.

The Policy Framework is developed in line with the Budget and Policy Framework Procedure Rules set out in Chapter 2 of this Constitution.

The Policy Framework means the following plans and strategies:

#### **Mandatory Plans and Strategies**

- (a) Crime and Disorder Annual Partnership Plan
- (b) Licensing Policy Statement (Licensing Act 2003 and Gambling Act 2005)
- (c) Plans with Development Plan Document Status;

## **Plans and Strategies Adopted as part of the Policy Framework**

- (d) Sustainable Community Strategy
- (e) Local Plan
- (f) Corporate Strategy
- (g) Medium Term Financial Strategy

### **5.6 The Budget**

The Budget means the Council's Budget, as approved by the Council.

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 requirements, the control of its capital expenditure and the setting of virement limits.

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## **Article 6 – The Cabinet**

### **6.1 The Cabinet**

The Council has adopted executive arrangements as permitted by the Local Government Act 2000, as amended. The Cabinet is responsible for the day-to-day decision-making process and for exercising all executive functions.

The Cabinet will lead the implementation of the Council's Policies within the Budget and Policy Framework. In doing so the Cabinet will carry out all of the local authority's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

Executive functions can be exercised by the Cabinet, under joint arrangements or they can be delegated to individual Cabinet members, Cabinet Committees or Officers and cannot be exercised by the Council.

The Cabinet cannot take decisions on matters which they are prohibited from making by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and other subsequent legislation.

### **6.2 Composition of Cabinet**

The Cabinet will consist of the Leader, together with at least two, but not more than nine, additional Councillors, known as Cabinet members.

Neither the Mayor nor the Deputy Mayor shall be members of the Cabinet.

Subject to the legal minimum and maximum, the size and composition of the Cabinet is a matter solely for the Leader to decide.

### **6.3 Functions of the Cabinet**

The Cabinet shall exercise the following functions:

- (a) To lead the Council's community planning process and has responsibility for ensuring best value;
- (b) Lead the preparation of the Council's Policies, Statutory Plans, Strategies, except where reserved to the Council, and the Budget;
- (c) Take decisions on resources and priorities to deliver and implement the Council's policies and Budget;
- (d) Make recommendations to the Council on the formulation, adoption and revision of the Budget and Policy Framework;
- (e) Review the use and allocation of assets and resources within the approved Budget;

- (f) Make Key Decisions within the agreed Budget and Policy Framework;
- (g) Performance monitoring and management;
- (h) So far as the responsibilities may arise under relevant legislation, the Cabinet may exercise the local choice functions set out in Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000; and
- (i) Appoint representatives to outside bodies unless the appointment is a Council function.

All Executive decisions will be taken in accordance with the Cabinet Procedure Rules contained in Chapter 2 of this Constitution.

#### **6.4 Excluded Functions**

Cabinet shall not exercise Council Functions, as set out in Article 5, or any non-executive function retained by Council or which have been delegated to a Committee, sub-committee, joint committee or to an Officer, as set out in this Constitution.

No Cabinet member, Cabinet Committee or Officer shall take a Key Decision, unless as permitted within this Constitution. These are reserved for Cabinet only.

#### **6.5 The Cabinet Members**

##### **Appointment of Cabinet Members**

The Leader will appoint the Cabinet members, all of whom must be Councillors.

The Leader shall give notice of their appointments or any changes to appointments to the Chief Executive immediately after they are made and report those changes to the next available meeting of the Council. Any removal of a Cabinet member will take effect on the date specified in the notice or, if no date is specified, immediately upon receipt of the notice by the Chief Executive.

Each Cabinet member shall hold office for the duration of the Leader's term of office, unless within that period:

- (a) they resign from Cabinet by giving notice in writing to the Leader, copied to the Chief Executive; or
- (b) they cease to be a Councillor; or
- (c) they are removed from Cabinet by the Leader.

Upon the occurrence of a vacancy of a Cabinet member, the vacancy shall be filled by the Leader.

## **Purpose**

In the performance of the role, Cabinet members are required:

- (a) to provide collective and individual leadership as part of the Cabinet;
- (b) to undertake lead responsibility for their allocated portfolio, as set out in paragraph 24.7 in Chapter 4 of this Constitution; and
- (c) to contribute effectively towards the strategic direction of the Council.

## **Duties and Responsibilities**

Cabinet members shall be responsible for the following duties and responsibilities:

- (a) To work with the Leader and all other Cabinet members to ensure coherent direction and action by the Council, acting in accordance with Council decisions and ensure that the Cabinet is informed of events, activities and proposals and involved in all decisions which should be taken collectively;
- (b) Provide political leadership on the activities relating to their assigned portfolio;
- (c) Lead on policy development within their portfolio and make recommendations to the Cabinet;
- (d) Exercise Executive functions, as set out in paragraph 23.3 of Chapter 4 of this Constitution;
- (e) Act as an ambassador for the Council, promoting its work (particularly in those areas relevant to their portfolio or where the Cabinet member has been designated by the Leader, to lead or take a special interest) and participating in consultation, listening to and taking account of the views of organisations, the public and businesses; and
- (f) Provide information required by the Council's scrutiny committees within the prescribed timescale and where requested to appear before such a committee in connection with any issues associated with the portfolio that are being scrutinised, or are subject to call-In to the Overview & Scrutiny Committee;
- (g) To positively promote their respective portfolio and, where appropriate, act as the spokesperson with the media for that portfolio area only.
- (h) In connection with their respective portfolios:
  - (i) Build good working relationships with appropriate senior Officers and work with them in developing policy or strategic issues prior to formal reporting. Be supportive in dealing with problems at a strategic level.

- (ii) To keep abreast of related developments and policies at national, regional and local level;
- (iii) To enhance the Council's reputation;
- (iv) Aim for the Council to be at the forefront of service development and provision, where possible; and
- (v) Be aware of key budgetary issues affecting the portfolio;

## **6.6 Delegation of Functions**

The Leader may delegate functions to a Cabinet member, a sub-committee of Cabinet, the Chief Executive, a senior Officer under whose managerial responsibility the executive function falls, or any other Officer, as set out paragraph 24 of Chapter 4 of this Constitution. Any matter not specifically delegated remains the responsibility of the Leader.

Even where an executive function has been delegated to a Cabinet member, a sub-committee of Cabinet or Officer, the Leader has the right to take that decision or refer it to Cabinet where the circumstances are particularly sensitive or if the decision in question involves changes to policy or strategy.

A decision that is legally within the power of the Cabinet to make, that is not a Key Decision, can be taken by a Cabinet member, a sub-committee of Cabinet or an Officer where they hold delegated authority, as set out in paragraph 24 of Chapter 4 of this Constitution.

The Leader shall maintain Chapter 4 of this Constitution setting out which Cabinet members, Officers or Joint arrangements are responsible for the exercise of executive functions.

The Leader may make in year changes to the Cabinet member scheme of delegation, as set out in Chapter 4 of this Constitution, and shall inform the Chief Executive in writing in advance of making any change. Any change to the scheme of delegation must be reported to the next meeting of Cabinet.

The Leader may at their discretion establish sub-committees, task and finish groups or working groups of Cabinet to discharge the executive functions delegated to them.

The Monitoring Officer shall maintain a list of all sub-committees and working groups of Cabinet. The transient nature of task and finish groups means that these will not be listed.

For the avoidance of doubt the following sub-committees and working groups have been established by the Leader:

- (a) Sub-Committees
- (b) Working Groups

- Flood Resilience Forum
- Asset Review Board

Agendas for all Cabinet sub-committees will be published in accordance with the provisions of the Access to Information Procedure Rules.

All Cabinet sub-committees, and working groups will be supported by the Legal & Democratic Services Team.

Meetings of the working groups will be held in private and will be supported by the Lead Officer as appointed.

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## **Article 7 – Decision-Making**

### **7.1 Principles of Decision-Making**

In order that decision-making is efficient, transparent and accountable, all decisions of the Council (whether taken by full Council, the Cabinet, Committees, Cabinet members or Officers) will be based on the following principles and in accordance with the procedure rules set out in Chapter 2 of this Constitution:-

- (a) the action taken will be proportionate to the desired outcome;
- (b) decisions will be taken following due consultation and taking into consideration professional advice from Officers;
- (c) due regard will be shown for human rights and all decisions will be based on balancing the rights of the individual against the public good;
- (d) open transparent decision-making;
- (e) clarity in the aim and desired outcome of the decision;
- (f) explanations of the options considered and the giving of reasons for the choices made; and
- (g) decisions will be taken that comply with the law and this Constitution.

### **7.2 Responsibility for Decision Making**

The Council will issue and keep up to date a record of those Officers or parts of the Council that have responsibility for particular types of decisions. This record is contained in Chapter 4 of the Constitution.

### **7.3 Types of Decisions**

Decisions and reasons for all decisions shall be recorded.

#### **Decisions taken by Full Council**

Decisions relating to the functions listed in Article 5 will be made by full Council and shall not be delegated.

The meeting of full Council will follow the Council Procedure Rules contained within Chapter 2 of this Constitution when considering any matter.

#### **Decisions taken by Cabinet**

The Cabinet will follow the Cabinet Procedure Rules contained within Chapter 2 of this Constitution when considering any matter.

## **Decisions taken by Cabinet Members**

A Cabinet member may take decisions in accordance with those functions delegated to them as contained in paragraph 24.7 of Chapter 4 of this Constitution and the provisions set out in paragraph 15.22 of Chapter 2.

## **Decisions taken by the Overview and Scrutiny Committee**

The committees will follow the Overview and Scrutiny Procedure Rules contained within Chapter 2 of this Constitution when considering any matter.

## **Decisions by Committees**

All Committees and sub-committees will follow those parts of Chapter 2 of this Constitution as apply to them.

## **Decisions 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 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.

## **Decisions taken by Individual Officers**

Officers may take decisions in accordance with the functions delegated to them as contained in Chapter 4 of this Constitution and in accordance with the provisions of paragraph 15.23 of Chapter 2.

### **7.4 Decision Planner**

Details of all decisions to be taken by Cabinet shall be published in the Decision Planner which incorporates the Forward Plan. The Decision Planner may also contain details of those decisions to be taken by Council and Committees.

The Decision Planner covers a three-month period and is published on the Council's website on a monthly basis.

### **7.5 Key Decisions**

A "Key Decision", as set out in the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012, is a decision of Cabinet which is likely to either:

- (a) Result in the Council incurring expenditure or making savings which are in excess of £150,000 except as otherwise determined under financial regulations; or
- (b) to be significant in its effects on communities living or working in an area comprising two or more Wards in the Borough.

A Key Decision will also include those decisions which will have a material effect on the Council's services, including but not limited to:

- (a) A significant number of users of the service in the Ward(s) will be affected;
- (b) An impact that will last for a number of years or be permanent;
- (c) A significant impact on communities in terms of environmental and social well-being;
- (d) An existing service or access to an existing service ceasing altogether;
- (e) A decision that involves any new policy or strategy or which forms part of the development of or a change to the Budget and Policy Framework; or
- (f) Consideration of any matter which will result in a recommendation to Council.

## **7.6 Non-Key Decisions**

The following are examples of non-key decisions:-

- (a) Implementing approved budgets or policies and strategies where there is little or no further choice involved and the main decision has already been taken by the Council in agreeing the Budget and Policy Framework;
- (b) Implementing approved actions and targets in annual service plans;
- (c) Decisions by the S151 Officer which are part of the ordinary financial administration of the Council, notably those relating to investments, within the agreed Treasury Management Policy;
- (d) Implementing projects for which specific conditions have been attached by external funders, such as the Government or European Union;
- (e) The award of contracts for the provision of works, goods and services, within an agreed Budget and Policy Framework and where a Key Decision has already been made; and
- (f) Changes arising from amendments to statute where there is little or no discretion.



## **Article 8 – Council Committees**

### **8.1 Introduction**

The Council has appointed the following Committees to discharge the Council's functions delegated to them.

Each of the Committees will conduct its business in accordance with the Council Procedure Rules and Access to Information Procedure Rules, as contained in Chapter 2 of this Constitution, and will meet in public unless the nature of the business is such that the press and public must be excluded or the Committee determines that the press and public should be excluded in accordance with the provisions contained in the Access to Information Procedure Rules.

### **8.2 Development Management Committee**

#### **Purpose of the Committee**

The purpose of the Committee is to act for the Council on matters involving the functions of a Local Planning Authority.

#### **Composition of the Committee**

It shall comprise of 10 seats allocated in accordance with the political balance rules specified by the Local Government and Housing Act 1989, together with 2 non voting members of Canvey Island Town Council.

All members of the Committee must attend mandatory training.

Each political group shall annually appoint up to 2 Substitute Members to the Development Management Committee at the Council's Annual Meeting. Each Substitute Member shall undertake all required knowledge and training before they are permitted to participate as a Member of the Committee.

Cabinet members are not eligible to be the Chair or Vice-Chair of the Committee.

#### **Functions of the Committee**

The Committee shall perform the functions set out in the Scheme of Delegation contained in Appendix D of Chapter 4 of this Constitution and shall:

- (a) Adhere to the practice and procedures contained in the Development Management Committee Handbook.
- (b) Do anything which is incidental, conducive or calculated to facilitate any of the Committee's functions or which are necessary for the discharge of those functions.
- (c) Exercise all powers, duties and functions of the Council contained within or referred to in statutory provisions from time to time in force within the terms

of reference of this Committee.

- (d) So far as the responsibilities may arise under the relevant legislation, exercise the functions set out in Part A of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended relating to other town and country planning and development control functions.

### **8.3 Licensing Committee**

#### **Purpose of the Licensing Committee**

The purpose of the Committee is to act for the Council in respect of licensing, registration and environmental protection functions and Animal Welfare Legislation. The Licensing Committee's powers include the power to:-

- (a) discharge the licensing functions on behalf of the Licensing Authority, as determined under the Licensing Act 2003 and Gambling Act 2005; in practice this will normally be undertaken by a Sub-Committee known as the Licensing Sub-Committee Hearing;
- (b) determine licences for hackney carriages/private hire vehicles and their drivers and operators; in practice this will normally be undertaken by a Sub-Committee known as the Drivers' Panel;
- (c) discharge any licensing and regulatory functions not reserved to Cabinet; and
- (d) determine licences for market and street trading, etc.

#### **Composition of the Licensing Committee**

It shall comprise of 11 seats allocated in accordance with the political balance rules specified by the Local Government and Housing Act 1989.

#### **Functions of the Licensing Committee**

The Licensing Committee will perform the following functions in accordance with the Scheme of Delegation set out in Appendices A–C contained in Chapter 4 of this Constitution:-

- (a) To deal with all matters which are the responsibility of the Council in relation to:
  - (i) hackney carriage and private hire vehicles, drivers and operators licensed by the Council;
  - (ii) the Licensing Act 2003;
  - (iii) the Gambling Act 2005;

(iv) Animal welfare legislation; and

(v) the Dangerous Wild Animals Act 1976

Except where matters are by statute reserved to Council or have been delegated to an Officer, as set out in Chapter 4 of the Constitution.

- (a) To deal with all matters and determine applications which are the responsibility of the Council in relation to street trading consents under Section 3 and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, and Pavement Permits under the Highways Act 1980;
- (b) To deal with all matters which are the responsibility of the Council under the Local Government (Miscellaneous Provisions) Act 1982 for the licensing of Sex Establishments;
- (c) To set the charging policy, fees and tariffs in relation to functions which fall within their duties and responsibilities;
- (d) To approve operational policies in relation to functions which fall within their duties and responsibilities;
- (e) To discharge any licensing and regulatory functions not reserved to Cabinet; and
- (f) So far as the responsibilities may arise under the relevant legislation, functions set out in Part B of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended relating to other licensing, registration and environmental protection functions.

The functions of the Licensing Committee can be dealt with by a Licensing Sub-Committee:-

All members of the Licensing Committee must attend mandatory training before participating in a sub-committee or Drivers' Panel hearing:

- (a) To deal with licensing hearings, consisting of three members of the Licensing Committee;

No Councillor will be appointed to determine any application for premises within their own ward.

- (b) To deal with Drivers' Panel hearings consisting of three members of the Licensing Committee;
- (c) To arrange for all matters to be determined by way of a hearing to be determined by a sub-committee; and
- (d) To arrange for the discharge of any functions exercisable by it by either a

sub-committee or an Officer.

## 8.4 Other Committees

### The Staff Appointments and Review Panel

#### Purpose

The Staff Appointments and Review Panel will provide oversight and accountability over work force management and will perform the duties and responsibilities, as set out in the Officer Employment Procedure Rules,(Chapter 2 Section 18).

#### Composition

It shall comprise of 7 seats allocated in accordance with the political balance rules specified by the Local Government and Housing Act 1989 but shall include the Leader of the Council and the Leader of the Opposition.

Where the Staff Appointments and Review Panel is undertaking the function of an investigation and disciplinary committee the membership shall be amended by the Council to ensure that there is representation of all political groups within the membership.

#### Functions of the Staff Appointments and Review Panel

1. The Staff Appointments and Review Panel will have oversight of the Council's HR policies:
  - a. To review and approve as necessary the Council's overall strategic approach to work force matters including:
    - i. Organisational pay policy and strategy
    - ii. Human Resources related policies and procedures including:
      1. Recruitment and Selection
      2. Pay and Reward
      3. Performance Management
      4. Flexible working and work life balance
      5. Equality and Diversity
      6. Disciplinary and Grievance
      7. Managing Change having regard to changes in terms and conditions or variations to the establishment where these affect a number or group of officers.
      8. Human Resources and Organisation Development Strategy
  - b. To review annually objectives set for the Chief Executive and the Directors and administration of performance related payments.
  - c. To make recommendations to Council regarding the appointment of a permanent Chief Executive (Head of Paid Service) and other Chief Officers.
  - d. To oversee the recruitment and appointment, if required, of a permanent Chief Executive (Head of Paid Service).
  - e. To make recommendations to Council on the terms and conditions of service dismissal including redundancy, voluntary redundancy, voluntary

early retirement and retirement on grounds of ill health of the Chief Officers.

- f. To approve the appointment of any member of staff whose salary exceeds £100k.
2. To perform the duties and responsibilities as set out in the Officer Employment Procedure Rules (Chapter 2 Section 18).

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## **Article 9 - Scrutiny Arrangements**

### **9.1 Purpose of Scrutiny**

Effective overview and scrutiny is essential to enhance the accountability and transparency of the decision-making process. The scrutiny committees have overall responsibility for the performance of all overview and scrutiny functions (under the Local Government Act 2000 and the Local Government and Public Involvement in Health Act 2007 as amended) on behalf of the Council and ensuring its effectiveness.

The Council's scrutiny arrangements shall comprise of:

- (a) the Overview and Scrutiny Committee; and
- (b) the Climate Policy and Scrutiny Sub-Committee;
- (c) the Audit & Governance Committee;
- (d) the Standards Committee.

### **9.2 The Overview and Scrutiny Committee**

The Overview and Scrutiny Committee shall have 15 seats in total allocated in accordance with the political balance rules specified by the Local Government and Housing Act 1989.

The Overview and Scrutiny Committee will perform the following functions:-

- (a) responsibility for the Council's formal statutory call-in functions, including to consider and call-in decisions relating to the discharge of Cabinet functions before those decisions are put into effect. The Overview and Scrutiny Committee can ask the Cabinet to reconsider any such decisions;
- (b) To consider decisions relating to the discharge of Cabinet functions after they are put into effect;
- (c) To consider and to comment as appropriate to the decision-maker on Key Decisions before they are taken by the Cabinet;
- (d) To conduct reviews of policy, services and aspects of services where there is an identifiable need, by itself or through the establishing of a task and finish group;
- (e) To make suggestions on the development of policies and suggest new policies, where appropriate, by itself or through the establishing of a task and finish group;

- (f) To work with or appoint representatives to work with other local authorities to carry out joint scrutiny;
- (g) To assist the Cabinet in the development of the Budget and Policy Framework in accordance with the Budget and Policy Framework Procedure Rules;
- (h) To receive and consider recommendations on issues requiring scrutiny under the Local Government Act 2000 and the Local Government and Public Involvement in Health Act 2007 as amended and where appropriate establishing Task and Finish groups for those purposes;
- (i) To exercise the power assigned to a crime and disorder scrutiny committee under the Local Government and Public Involvement in Health Act 2007 and the Police and Justice Act 2006;
- (j) To receive reports, presentations and updates in order to scrutinise the Cabinet's priorities; and
- (k) To review and scrutinise the performance of the Cabinet, the Cabinet members and appropriate officers in relation to individual decisions.

### **9.3 The Climate Policy and Scrutiny Sub-Committee**

The Climate Policy and Scrutiny Sub-Committee shall have 7 seats in total allocated in accordance with the political balance rules specified by the Local Government and Housing Act 1989.

The Climate Policy and Scrutiny Sub-Committee functions shall be carried out in relation to the following areas:

- (a) To develop policies and action plans to support climate action to move towards a net zero target.
- (b) To liaise with climate action groups and partner organisations to achieve the net zero target.

The Climate Policy and Scrutiny Sub-Committee will perform the following functions:

- (a) To conduct reviews of policy, services and aspects of services where there is an identifiable need, by itself or through the establishing of a task and finish group;
- (b) To make suggestions on the development of policies and suggest new policies where appropriate; and
- (c) To work with or appoint representatives to work with other local authorities to carry out joint scrutiny.

### **9.4 Audit and Governance Committee**

The Audit and Governance Committee shall comprise of 9 seats in total allocated in

accordance with the political balance rules specified by the Local Government and Housing Act 1989.

The purpose of the Audit and Governance Committee is to provide independent assurance of the adequacy of the risk management framework and the associated control environment, independent scrutiny of the Council's financial and non-financial performance, to the extent that it affects the Council's exposure to risk and weakens the control environment and to oversee the financial reporting process.

The Audit and Governance Committee with the Standards Committee is also responsible for promoting and maintaining high standards of Councillor conduct.

The Audit and Governance Committee will perform the following functions:-

### **Governance, Risk and Control**

- (a) To review the Council's corporate governance arrangements against the good governance framework, including the ethical framework, and to consider the local code of governance ensuring arrangements are adequate and operating effectively in practice;
- (b) To review the Annual Governance Statement before approval by the Cabinet and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control;
- (c) To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements;
- (d) To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council;
- (e) To monitor the effective development and operation of risk management in the Council, including the progress in addressing risk-related issues reported to the Committee;
- (f) To endorse the annual Risk Management Strategy and recommend it to the Cabinet for adoption;
- (g) To consider reports on the effectiveness of the internal control environment and monitor the implementation of agreed actions;
- (h) To review the assessment of fraud risks and potential harm to the Council from fraud and corruption;
- (i) To monitor the Counter Fraud Strategy, actions and resources; and
- (k) To review the governance arrangements for significant partnerships or collaborations.



## **Internal Audit**

- (a) To approve the Internal Audit Charter;
- (b) To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources;
- (c) To approve significant interim changes to the risk-based internal audit plan and resource requirements;
- (d) To make appropriate enquiries of management and the Head of Internal Audit to determine if there are any inappropriate scope or resource limitations;
- (e) To consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal auditing and to approve and periodically review safeguards to limit such impairments;
- (f) To consider reports from the Head of Internal Audit on internal audit performance, including key findings from audit work, issues of concern, the results of the Quality Assurance and Improvement Programme (QAIP), conformance to the Public Sector Internal Audit Standards (PSIAS) and any areas to include in the Annual Governance Statement (AGS);
- (g) To consider the Head of Internal Audit's Annual Report, including the conformance with PSIAS and the results of the QAIP as indicators of the reliability of internal audit conclusions and the overall adequacy and effectiveness of the Council's framework of governance, risk management and control, together with a summary of the work supporting the opinion;
- (h) To consider summaries of internal audit findings, including those where the Head of Internal Audit has concluded that management has accepted a level of risk which may be unacceptable to the Council, or where there are concerns about the implementation of agreed actions;
- (i) To contribute to the QAIP, in particular to the external quality assessment of Internal Audit which takes place at least once every five years;
- (j) To consider a report on the effectiveness of Internal Audit to support the Annual Governance Statement; and
- (k) To provide free and unfettered access to the Audit and Governance Committee Chair for the Head of Internal Audit, including the opportunity for a private meeting with the Committee.

## **External Audit**

- (a) To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any

issues raised by Public Sector Audit Appointments or the Audit and Governance Committee;

- (b) To consider the external auditor's annual letter, relevant reports and the report to those charged with governance and other specific reports, as agreed with the external auditor;
- (c) To comment on the scope and depth of external audit work and to ensure it gives value for money;
- (d) To commission work from internal and external audit; and
- (e) To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.

### **Financial Reporting**

- (a) To review and approve the annual Statement of Accounts, specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that require to be brought to the attention of the Council; and
- (b) To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

### **Accountability Arrangements**

- (a) To report to the Council on its findings, conclusions and recommendations concerning the adequacy and effectiveness of governance, risk management and internal control frameworks, financial reporting arrangements and internal and external audit functions;
- (b) To report to the Council on a regular basis on the Committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose; and
- (c) To publish an annual report on the work of the Committee.

## **9.5 Standards Committee**

The Standards Committee shall comprise of 9 seats in total allocated in accordance with the political balance rules specified by the Local Government and Housing Act 1989. In accordance with the provisions of the Local Government Act 2000 relating to standards committees, the Committee should include at least one independent person. It should not include the Mayor or the Leader of the Council and may not be chaired by a member of the Cabinet.

### **The Committee will perform the following functions**

- (a) Promoting and maintaining high standards of conduct by Councillors and co-opted Members of the Council;

- (b) Advising and assisting Parish/Town Council(s) and Councillors to maintain high standards of conduct and to make recommendation to Parish/Town Councils on improving standards or actions following a finding of a failure by a Parish Councillor to comply with the Code of Conduct;
- (c) Advising the Council on the adoption or revision of the Councillors' Code of Conduct;
- (d) Receiving reports from the Monitoring Officer and assessing the operation and effectiveness of the Councillors' Code of Conduct;
- (e) Advising, training or arranging to train Councillors and co-opted Members on matters relating to the Councillors' Code of Conduct;
- (f) Advising the Council upon the contents of, and requirements for codes/protocols/other procedures relating to standards of conduct throughout the Council;
- (g) Maintaining oversight of the Council's arrangements for dealing with complaints;
- (h) Informing Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints;
- (i) Granting exemptions to politically restricted posts;
- (j) To set the allowances and expenses of the Independent Person and Reserve Independent Person, in consultation with the Monitoring Officer;
- (k) To receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the Council's assessment criteria;
- (l) Hearing and determining complaints about Councillors and co-opted members referred to it by the Monitoring Officer;
- (m) To grant dispensations after consultation with the Independent Person pursuant to S33(2) (b), (c) and (e) of the Localism Act 2011;
- (n) Hear and determine appeals against refusal to grant dispensations by the Monitoring Officer pursuant to S33(2)(a) and (d) of the Localism Act 2011; and
- (o) To consider, review and advise on arrangements for new Councillor Induction and training programmes for all Councillors.

## **9.6 Excluded Functions**

The functions and the work programme of the scrutiny committees will not include the following matters:-

- (a) Any matter relating to a decision on a specific planning application;

- (b) Any matter relating to a decision on a specific licensing application;
- (c) Any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment, including but not limited to:-
  - i. Standards decisions and items which may be brought for decision;
  - ii. Breaches of the Constitution;
  - iii. Matters relating to the terms and conditions of employment or conduct of individual or groups of staff or Councillors; and
- (iv) Any matter which is vexatious, discriminatory or not reasonable to be included in the agenda
- (d) Audit process and items which are likely to be considered by the audit process;
- (e) Matters within the proper remit of the Monitoring Officer or Section 151 Officer;
- (f) Matters relating to a particular identifiable service recipient or potential service recipient;
- (g) Complaints or matters before the courts or Local Government and Social Care Ombudsman; and
- (h) Contractual matters, other than performance monitoring and review, except with the agreement of the Cabinet.

## **Article 10 – Joint Arrangements**

### **10.1 Arrangements to promote well being**

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

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

### **10.2 Joint Arrangements**

The Council may establish joint arrangements with one or more local authorities and/or their Cabinets to exercise functions which are not Cabinet functions, in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.

The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.

Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those Councillors need not reflect the political composition of the Council as a whole.

Where the joint committee has functions for only part of the Borough and that area is smaller than two-fifths by area or population, the Cabinet may appoint Councillors to sit on the joint committee from outside the membership of Cabinet. In such cases, the Cabinet may appoint to the joint committee any Councillor who is a Councillor for a ward which is wholly or partly contained within the area. In this case the political balance requirements do not apply to such appointments.

Details of any formal joint committee arrangements will be maintained by the Monitoring Officer and contained in Chapter 4 of this Constitution.

### **10.3 Access to information**

The Access to Information Procedure Rules in Chapter 2 of this Constitution apply. If all the members of a joint committee are members of the Cabinet in each of the participating authorities, then its access to information regime is the same as that applied to the Cabinet.

If the joint committee contains members who are not on the Cabinet of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

#### **10.4 Delegation to and from other Local Authorities**

The Council may delegate non-Cabinet functions to another Local Authority or, in certain circumstances, the Cabinet of another Local Authority.

The Cabinet may delegate Cabinet functions to another Local Authority or the Cabinet of another Local Authority in certain circumstances.

The decision whether or not to accept a delegation from another Local Authority shall be reserved to the Council.

Where the Council has entered into Joint Committee arrangements these are listed at paragraph 23.3 of Chapter 4 of the Constitution.

#### **10.5 Contracting out**

The Council, for functions which are not those of the Cabinet, and the Cabinet for 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.

## **Article 11 – Finance, Contracts and Legal Matters**

### **11.1 Financial Management**

The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations contained in Chapter 5 of this Constitution.

### **11.2 Contracts**

Every contract made by the Council shall:-

- (a) be in writing;
- (b) be signed by an authorised signatory or a Director, in consultation with the Assistant Director Legal & Democratic Services or an authorised signatory, where a contract needs to be executed as a deed; and
- (c) comply with the Procurement Procedure Rules set out in Chapter 5.

### **11.3 Legal Proceedings**

The Assistant Director Legal & Democratic Services is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Assistant Director Legal & Democratic Services considers that such action is necessary to protect the Council's interests. They may designate nominated officers to carry out this function on their behalf.

### **11.4 Authentication of Documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it shall be signed by the Assistant Director Legal & Democratic Services or other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

The Assistant Director Legal & Democratic Services or such person authorised by them shall be the authorised officer to authenticate any document as being an official Council document or an official copy.

Any contract with a value exceeding £150,000 entered into on behalf of the Council shall be made in writing. Such contracts must be made under the Common Seal of the Council attested by at least 1 authorised officer.

### **11.5 The Common Seal of the Council**

The Common Seal of the Council shall be kept in a safe place in the custody of the Monitoring Officer.

A decision of the Council, or of any part of it, will be sufficient authority for sealing

any document necessary to give effect to the decision.

The Common Seal shall be affixed to those documents which in the opinion of the Monitoring Officer should be sealed.

The affixing of the Common Seal will be attested by the Monitoring Officer or some other person authorised by them.

Deeds to be executed under hand shall be attested by the Monitoring Officer or some other person authorised by them.

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