

**PART 2**  
**ARTICLES OF THE CONSTITUTION**

**ARTICLE 1**  
**THE CONSTITUTION**

**1.01 Powers of the Council**

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

**1.02 The Constitution**

This Constitution and all its appendices is the Constitution of West Somerset District Council

**1.03 Purpose of the Constitution**

The purpose of the Constitution is to –

- Enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations
- Support the active involvement of citizens in the process of local authority decision-making
- Help Councillors represent their constituents more effectively
- Enable decisions to be taken efficiently and effectively
- Create a powerful and effective means of holding decision-makers to public account
- Ensure that no one will review or scrutinise a decision in which they were directly involved
- Ensure that those responsible for Decision-Making are clearly identifiable to local people and that they explain the reasons for decisions
- Provide a means of improving the delivery of services to the community

**1.04 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 above.

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



**ARTICLE 2**  
**MEMBERS OF THE COUNCIL**

**2.01 Composition of the Council and Eligibility**

**(a) Composition**

The Council will comprise 28 Members, otherwise called Councillors. Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and/or the Electoral Commission and approved by the Secretary of State.

**(b) Eligibility**

Only registered voters of the district or those living or working there will be eligible to hold the office of Councillor.

**2.02 Election and Terms of Office of Councillors**

The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2007. The terms of office of Councillors will start on the fourth day after the date of the next regular election.

**2.03 Roles and Functions of all Councillors**

**Key Roles**

All Councillors have a key role to play in the community and have an overriding responsibility for the good governance of the District as a whole. The job profile for a Councillor is set out below –

- To represent effectively the interests of his/her ward
- To fulfil and enact any statutory requirements of an elected Member of a local authority
- To actively and constructively contribute to the good governance of the District
- To actively encourage community participation and citizen involvement in the democratic Decision-Making process
- To encourage people to take up their roles in terms of active and engaged citizenship
- To meet regularly with key local stakeholders
- To represent the Authority to the community and the community to the Authority using all appropriate means
- To be a channel of communication for their local ward and ensure that constituents are informed about –

Services in their area  
Decisions that affect them  
The reasons why decisions have been made

- To develop and maintain a working knowledge of the Council's policies, services and activities
- To develop and maintain a working knowledge of organisations operating within the district which have an impact upon the well-being of both the ward that the Councillor represents and the District as a whole
- To deal with constituents' enquiries and representations fairly and without prejudice
- To carry out case work on behalf of constituents and to represent their interests or enable constituents to take action to deal with the matter themselves
- To identify and work with local 'hard to reach' and under represented groups to ensure that their views can be identified
- To contribute to the formation of the Council's policies and service delivery plans by active involvement in Committees and Policy Advisory Groups
- To undertake appropriate training to help fulfil the requirements of the Councillor role
- To act as the Council's representative on outside bodies (where so appointed)
- To champion the causes which relate to the interests and sustainability of the District and campaign for improvement in the quality of life of those living, working or visiting the District in accordance with the Corporate Plan.

Councillors may also take on more specialised roles within the Council and job profiles for these are set out in the Appendix to this Article.

### **Rights and Duties**

- (i)** Councillors will have rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii)** Councillors will not make public, information which is confidential or exempt, without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
- (iii)** For these purposes confidential and exempt are defined in Part 1 of Schedule 12A of the Local Government Act 1972 as amended.

#### **2.04 Conduct**

Councillors will at all times observe the Councillors and co-opted members Code of Conduct and the Protocol for Member and Officer Relations set out in Part 5 of this Constitution.

#### **2.05 Allowances**

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



## **JOB PROFILES (APPENDIX 1 TO ARTICLE 2)**

### **Chairman of Council**

- To be the civic head of the Authority
- Throughout the term of office to be politically neutral
- To preside over meetings of the Council so that its business can be carried out efficiently and with regards to the rights of Councillors and the interests of the community
- To act as ambassador for the Council - attending ceremonial occasions and events with significant local importance
- To uphold and promote the purposes of the Constitution
- To be the conscience of the Council
- To undertake any duties as set out in the Scheme of Delegation

### **Vice- Chairman of Council**

- To assist the Chairman of Council in carrying out his/her duties
- To preside over meetings in the absence of the Chairman of Council
- To undertake any duties as set out in the Scheme of Delegation

### **Leader of the Council**

- To be the political head of the Authority
- To co-ordinate the work of Cabinet
- To appoint Cabinet Members and allocate their areas of responsibility – known as portfolios
- To undertake any duties as set out in the Scheme of Delegations

### **Deputy Leader of Council**

- Working within the Council's Constitution, particularly the Scheme of Delegations and the Council's policy framework, to deputise for the Leader of Council in his/her absence
- To take an active role as a Member of Cabinet
- To assist the Leader in co-ordinating the work of the Cabinet
- To undertake any duties as set out in the Scheme of Delegations

### **Cabinet Member**

Cabinet Members will at all times need to work within the Council's Constitution particularly the Scheme of Delegations and also the Council's policy framework –

- To promote the Council's key objectives in relation to the Corporate Plan, with particular attention to any responsibilities contained in the Member's designated portfolio
- To work in partnership with relevant (to the designated portfolio) external organisations including service providers and representative organisations

- To actively contribute to guiding the overall direction of the Council through research, developing and recommending to Cabinet and Council policies and development of services (relating to the designated portfolio) in accordance with the overall strategic approach of the Council as contained in the Corporate Plan; engaging as required with other Cabinet Members, other Councillors, relevant Officers, service users, interest groups and external partners
- To present to Council any Cabinet recommendations which relate to the designated portfolio
- To promote public participation and consultation
- To ensure effective communication of Council policies and strategies to all Councillors, Officers and members of the public to enable those people to maintain a working knowledge of the Council's policies and practices
- To chair the Policy Advisory Group aligned to the Cabinet portfolio
- To act as spokesperson for the Council within the Council's media strategy, for matters falling within the designated portfolio
- To represent the Council on relevant outside bodies relating to the designated portfolio
- To prepare responses to consultation papers issued by government and other organisations in consultation with relevant Officers. Such responses to be approved by Cabinet
- To give guidance on the setting of priorities within the Corporate Plan
- To receive representations from other Councillors acting in their capacity as ward Members in relation to the provision of services to local people regarding matters contained within the designated portfolio
- To present and promote a high profile on the current and emergent key issues within the designated portfolio
- To actively contribute to the Cabinet's decision-making and accepting collective responsibility for those decisions
- To attend the Scrutiny Committee when requested to do so and answer questions pertinent to the designated portfolio
- To chair a Policy Advisory Group aligned to the Member's portfolio and to assist in the development of an annual 'statement of intent' of what they wish to achieve over the current and following year.
- To undertake any duties as set out in the Scheme of Delegations

### **Committee Chairman**

- To preside over Committee meetings in a manner that encourages contributions and achieves the objectives of the meeting; including the resolution of conflict
- To be accountable to the Council for the efficiency and effectiveness of the Committee meeting
- To ensure that the Committee acts only within its terms of reference
- To ensure that the Committee complies with the requirements of this Constitution including procedures such as Rules of Procedure and Financial Regulations and Council policies and legislation
- To present recommendations of the Committee to Cabinet and Council as appropriate



- To act as spokesperson for the Council, within the Council's media strategy, for matters within the jurisdiction of the Committee, liaising with the relevant Officers and Cabinet Members as appropriate
- To work within the Scheme of Delegations to enable efficient and effective decision-making
- To ensure the overall integrity of the decision-making process within the Committee and that the process operates fairly and openly
- To work with the Meeting Administrators to set and confirm the agenda for meetings
- To check the draft minutes of meetings
- To sign the minutes after they have been confirmed by the Committee



**ARTICLE 3**  
**CITIZENS AND THE COUNCIL**

**3.01 Citizens' Rights**

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

**(a) Voting and Petitions**

Citizens on the electoral register for the district have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.

**(b) Information**

Citizens have the right to –

- Attend meetings of the Council and its Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- Attend meetings of the Cabinet when key decisions are being discussed
- Find out from the Forward Plan what key decisions will be taken by the Cabinet and when
- See reports and background papers, and any records of decisions made by the Council, Cabinet (collectively) and Lead Members
- Inspect the Council's accounts and make their views known to the external auditor

**(c) Participation**

Citizens have the right to participate in meetings in accordance with the Council's Public Participation Scheme detailed in Part 4 of this Constitution.

**(d) Complaints**

Citizens have the right to complain to

- The Council itself under its complaints scheme – detailed in Part 4 of this Constitution
- The Local Government Ombudsman after using the Council's own complaints scheme
- The Standards Advisory Committee about a breach of the Councillors Code of Conduct (detailed in Part 5 of this Constitution)

### **3.02 Citizens' Responsibilities**

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

## ARTICLE 4 THE FULL COUNCIL

### 4.01 Meanings

#### (a) Policy Framework

The policy framework means the following plans and strategies –

- Corporate Plan (incorporating the Budget and Financial Plan)
- Community Strategy
- Crime and Disorder Reduction Strategy
- Local Development Framework
- Local Plan
- Housing Strategy
- Statement of Licensing Policy

#### (b) Budget

The budget includes all 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.

### 4.02 Functions of the Full Council

Only the Council will exercise the following functions –

- Adopting and changing the Constitution
- Approving or adopting any item in the policy framework or budget
- Approving and adopting the Corporate Plan – which includes setting the revenue and capital budgets
- Setting the Council's borrowing limits
- Approving or adopting any policy
- Subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the Council's agreed policy / or not wholly in accordance with the Corporate Plan
- Appointing the Leader of Council
- Electing the Chairman of Council
- Appointing the Vice-Chairman of Council
- Agreeing and/or amending the Terms of Reference for Committees, deciding on their composition and making appointments to them

- Appointing representatives to outside bodies where the appointments are not regarding functions which are the responsibility of the Cabinet
- Adopting an allowances scheme for Councillors
- Conferring the title of honorary alderman
- Confirming the appointments of the Head of the Paid Service, Monitoring Officer, Section 151 Officer and the Returning Officer for Local Government Elections
- Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal bills
- Receiving representations from Area Panels
- Receiving reports and recommendations from the Standards Advisory Committee
- Any matter which, by law, must be reserved to Council

#### **4.03 Council Meetings**

There are three types of Council meeting –

- The annual meeting
- Ordinary meetings (including special meetings)
- Extraordinary meetings

And they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution

**ARTICLE 5**  
**CHAIRING THE COUNCIL**

**5.01 Role and Function of the Chairman of Council**

The Chairman and Vice-Chairman of Council will be elected annually at the Annual Council meeting.

The Chairman of Council and in his/her absence, the Vice-Chairman will have the following roles and functions (see also Appendix 1 to Article 2) –

- To be the civic head of the Authority
- Throughout the term of office to be politically neutral
- To preside over meetings of the Council so that its business can be carried out efficiently and with regards to the rights of Councillors and the interests of the community
- To act as ambassador for the Council - attending ceremonial occasions and events with significant local importance
- To uphold and promote the purposes of the Constitution
- To be the conscience of the Council





## ARTICLE 6 SCRUTINY COMMITTEE

### **6.01 Purpose of the Scrutiny Committee**

- To hold the executive to account
- Policy development and review
- Performance management

#### **Specific Responsibilities**

1. To scrutinise Performance Management information on a scheduled basis.
2. To undertake scrutiny of particular Key Decisions and other aspects of Cabinet activity.
3. To review or scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas.

Note: as this is not intended as an appeals procedure the committee should not normally scrutinise individual decisions made by other committees, particularly those in respect of development control, licensing, registration, consents and other permissions.

4. To review any Cabinet decisions that have been 'called-in' including the power to pass call-ins to Council.
5. The Committee can require Cabinet Members and Chief Officers of the Council to attend and give evidence, subject to the appropriate rules and procedures.
6. The Committee can invite any other persons to attend its meetings and speak and answer questions, but cannot require them to do so.
7. No member of the Committee should take any part in any scrutiny review that involves a decision to which they have been party.
8. Investigate and consider broad policy issues and make reports and recommendations to Cabinet and Council as appropriate.
9. To assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues.
10. To make reports or recommendations to the Council or Cabinet, as appropriate, in respect of matters which affect the local authority's area or its inhabitants. The reports or recommendations cannot be binding on outside bodies but should consider the involvement of partnership organisations.

11. To conduct research and consultation in the analysis of policy issues and development of possible options for the future with the assistance of Policy Advisory Groups.
12. To consider and implement mechanisms to encourage and enhance community participation in the development of policy options.
13. To 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.

## **6.02 Proceedings of the Scrutiny Committee**

The Scrutiny Committee will conduct its proceedings in accordance with the Procedure Rules set out in Part 4 of this Constitution.



written notice of any removal to the Proper Officer. The removal from office will take effect two working days after receipt of notice by the Proper Officer.

In the event of one or more of the above circumstances the Leader will report the matter to the next available Council meeting

#### **7.05 Proceedings of Cabinet**

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

#### **7.06 Responsibility for Functions**

The Leader will allocate portfolios (areas of responsibility) to Cabinet Members.

**ARTICLE 8**  
**REGULATORY AND OTHER COMMITTEES**

**8.01 Regulatory and Other Committees**

The Council will appoint Committees as set out in Part 3 of this Constitution to carry out the functions indicated in that part. These will be –

- Planning Committee
- Licensing Committee



**ARTICLE 9**  
**THE STANDARDS ADVISORY COMMITTEE**

**9.01 Standards Advisory Committee**

The Council will establish a Standards Advisory Committee

**9.02 Composition**

**(a) Membership**

The Committee will comprise –

- Three District Councillors
- Three Independent Members
- Three Parish/Town Councillors

**(b) Independent Members**

- Independent Members will be entitled to vote at meetings of the Standards Advisory Committee
- Independent Members will be appointed to serve for a period of four years and may re-apply to serve for subsequent four year periods.

**(c) Parish/Town Council Representatives**

- Parish/Town Council representatives will be elected to serve for a period of four years or until the next District Council elections and can re-apply to stand after subsequent elections.
- Parish/Town Parish/Town Council representatives must meet any criteria set out in the Local Government Act 2000 and its associated Statutory Instruments and Regulations and must also meet the following criteria –
  - (i) Must be serving Parish/Town Councillors.
  - (ii) Must have served for at least two years as a Parish/Town Councillor.
  - (iii) Must not be a Councillor or Officer of West Somerset District Council.

**9.03 Role and Function of the Standards Advisory Committee**

The Standards Advisory Committee make recommendations to Council as follows:-

- To advise authorities on the adoption or revision of the codes of

- conduct and make appropriate recommendations
- To monitor the operation of codes of conduct
  - To advise and train Members and co-opted Members of the authorities and/or enable advice and training to be given on matters relating to the authorities' codes of conduct
  - To provide guidance on ethical matters or probity issues as requested by West Somerset District Council or its Monitoring Officer or Town or Parish Councils
  - To receive allegations that the code of conduct has been breached and decide whether any action needs to be taken
  - To consider applications from Councillors for dispensations from the requirements relating to declarations of interest under the code of conduct and in accordance with the dispensation regulations
  - To, when requested by a Council, assist by mutual agreement on any matter which would benefit from the involvement of the Committee.



**ARTICLE 10**  
**AREA PANELS**

**10.01 Support for the Concept**

The Council is committed to the concept of Area Panels covering the whole of the district.

- Each panel will be based upon the County Council Division boundaries
- Each panel will have the main purpose of improving liaison between all tiers of local government and other agencies
- Each panel will be at liberty to define its own Membership
- Each panel will be at liberty to define its own terms of reference and methods of working
- Each panel will have the right to make written or spoken representations to the full Council meeting of West Somerset District Council and its various Committees



**ARTICLE 11**  
**JOINT ARRANGEMENTS**

**11.01 Arrangements to Promote Well-Being**

The Council 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 the person or body.

**11.02 Joint Arrangements With Other Local Authorities**

- (a) The Council may establish joint arrangements with one or more local authorities to exercise functions which are not Cabinet functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint Committee with these other local authorities. Appointments to such joint Committees would be made by Council.
- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Cabinet functions. Such arrangements may involve the appointment of joint Committees with these other local authorities.
- (c) Except as set out below, the Cabinet may only appoint Cabinet Members to a joint Committee and those Members need not reflect the political composition of the local authority as a whole.
- (d) The Cabinet may appoint Members to a joint Committee from outside the Cabinet in the following circumstances –

The joint Committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint Committee any Councillor who is a Member for a ward which is wholly or partly contained within the area.

**11.03 Access to Information**

- (a) The Access to Information Procedure Rules in Part 4 of this Constitution apply.

- (b) If all the Members of a joint Committee are Members of the Cabinet in each of the participating authorities then its access to information regime is the same as that applied to the Cabinet.
- (c) If the joint Committee contains Members who are not on the Cabinet of any participating authority then the access to information rules in Part V(a) of the Local Government Act 1972 will apply.

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

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

#### **11.04 Contracting Out**

The Cabinet may contract out to another body or organisation functions for which it is responsible and 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

### **Terminology**

The use of the word “officers” means all employees engaged by the Council to carry out its functions.

### **12.01 Management Structure**

- (a) Appointment of staff cannot be the responsibility of the Cabinet. Appointment of staff below Chief Officer level must be the responsibility of the Head of Paid Service or his/her nominee.

(b) **General**

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

(c) **Appointments by Council**

The Council will appoint the Head of Paid Service, the Section 151 Officer (Chief Finance Officer) and the Monitoring Officer.

(d) **Structure**

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

### **12.02 Functions of the Head of Paid Service**

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

The Head of Paid Service will report to full Council on the manner in which the discharge of the Council’s functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers and will be responsible for the day to day management and operation of all staff in accordance with the policies and procedures laid down by the Council, including incurring expenditure within the approved budgetary provision.

(b) **Restrictions on functions**

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

## **12.03 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 Councillors, officers and 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 the Cabinet in relation to an executive function, if he/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 Advisory Committee**

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

### **(d) Conducting Investigations**

The Monitoring Officer will work with the Standards Advisory Committee to deal with all complaints about breaches of the code of conduct by district, town and parish councillors in West Somerset in accordance with a locally-based system.

### **(e) Proper Officer for Access to Information**

The Monitoring Officer will ensure that Cabinet and Lead Member 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 whether Cabinet and Lead Member Decisions are within the Budget and Policy Framework**

The Monitoring officer will advise whether decisions of the Cabinet and Lead Members are in accordance with the Corporate Plan and budget and policy framework.

### **(g) 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.

**(h) Restriction on posts**

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

**12.04 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 the full Council, or to the Cabinet in relation to an executive function, and the Council's external auditor if he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

**(b) Administration of Financial Affairs**

The 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 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 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.

**12.05 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.

## **12.06 Conduct**

Officers will comply with any relevant Council Code of Conduct for Officers and the Protocols set out in Part 5 of this Constitution.

## **12.07 Employment**

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



## **ARTICLE 13** **DECISION-MAKING**

### **13.01 Responsibility for Decision-Making**

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

### **13.02 Principles of Decision-making**

All decisions of the Council, Cabinet, Committees, Lead Members and Officers 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.
- (c) Respect for human rights.
- (d) A presumption in favour of openness.
- (e) Clarity of aims and desired outcomes

### **13.03 Types of Decision**

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

Decisions relating to the functions listed in article 4.02 will be made by the full Council and will not be delegated.

#### **(b) Key Decisions**

A key decision is a special type of executive decision. For a decision to be a key decision it will meet at least one of the following criteria –

- (i) The decision will affect two or more wards within the area covered by the Council.
- (ii) The decision will have a significant impact on at least one ward.
- (iii) Revenue spending or saving would be £25,000 or more as a result of the decision.
- (iv) Capital spending or saving would be £50,000 or more as a result of the decision.

Key decisions will only be made by the Cabinet.

#### **13.04 Decision-making by the Full Council**

Subject to Article 13.08, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution.

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

Subject to Article 13.08 the Cabinet and Lead Members will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.

#### **13.06 Decision-making by the Scrutiny Committee**

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

#### **13.07 Decision-making by other Committees established by the Council**

Subject to Article 13.08 other Council Committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

#### **13.08 Decision-making by Council Bodies acting as Tribunals**

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

**ARTICLE 14**  
**FINANCE, CONTRACTS AND LEGAL MATTERS**

**14.01 Financial Management**

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

**14.02 Contracts**

Every contract made by the Council will comply with the Contracts Procedures Rules set out in Part 4 of this Constitution

**14.03 Legal Proceedings**

The Solicitor to the Council (being the person designated as such in the Council's Inter Authority Agreement with Mendip District Council and Taunton Deane Borough Council relating to the provision of a shared legal service) 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 Solicitor to the Council considers that such action is necessary to protect the Council's interests.

**14.04 Authentication of Documents**

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

Any contract with a value exceeding £100,000 (per annum) entered into on behalf of the local authority in the course of 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.

**14.05 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Proper Officer. A decision of the Council, or any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Proper Officer should be sealed. The affixing of the Common Seal will be attested by the Proper Officer or some other person authorised by him/her.



**ARTICLE 15**  
**REVIEW AND REVISION OF THE CONSTITUTION**

**15.01 Duty to Monitor and Review the Constitution**

The Head of Paid Service, Monitoring Officer and Section 151 Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

**15.02 Protocol for Monitoring and Review of the Constitution**

The key task is to be aware of the strengths and weaknesses of the Constitution adopted by the Council and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task it may be necessary for the reviewing officer to –

1. Observe meetings of different parts of the Members and officer structure.
2. Undertake an audit trail of a sample of decisions.
3. Record and analyse issues raised with him/her by Members, officers, the public and other relevant stakeholders.
4. Compare practice in this authority with those in comparable authorities, or national examples of best practice.

**15.03 Changes to the Constitution**

**(a) Approval**

Significant changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Head of Paid Service, Monitoring Officer or Section 151 Officer. Minor detailed changes of a limited significance (as agreed by the Monitoring Officer with the appropriate Portfolio Holder/Lead Member) may be agreed in consultation with the appropriate Portfolio Holder/Lead Member, with such minor changes being subsequently notified to all Councillors.

**(b) Change from a Leader and Cabinet form of Executive to alternative arrangements**

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



**ARTICLE 16**  
**SUSPENSION, INTERPRETATION AND PUBLICATION OF THE**  
**CONSTITUTION**

**16.01 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 the full Council to the extent permitted within those Rules and the law.

**(b) Procedure to Suspend Rules**

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

**(c) Rules capable of suspension**

Only Rules 13.4 and 13.5 may be suspended in accordance with Article 16.01. Suspension can only be for the duration of the meeting and any such suspension will be recorded in the minutes.

**16.02 Interpretation**

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

**16.03 Publication**

- (a)** The Proper Officer will give a printed copy of this Constitution to each Member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council.
- (b)** The Monitoring Officer will ensure that copies are available for inspection at Council offices, Libraries and on the Council's website and for purchase by members of the local press and the public on payment of a reasonable fee.
- (c)** The Monitoring Officer will ensure that the Constitution is updated as necessary.





**SCHEDULE 1**  
**DESCRIPTION OF EXECUTIVE ARRANGEMENTS**

The following parts of this Constitution constitute the executive arrangements –

1. Article 6 – Scrutiny Committee and the Procedure Rules.
2. Article 7 – The Cabinet and the Cabinet Procedure Rules.
3. Article 10 – Area Panels.
4. Article 11 – Joint Arrangements.
5. Article 13 – Decision-Making.
6. Part 3 – Scheme of Delegations.

