

## Standards Committee – 1 July 2013

### Review of the Constitution

#### 1. Summary of report

The purpose of the report is to inform elected members about proposals to review the Council's Constitution throughout the forthcoming municipal year with a view to recommending the final document for adoption by the Council in June 2014.

#### 2. Recommendations

That the amendments highlighted in the Appendix to this report be approved for inclusion in the updated Constitution to be recommended to Council at its Annual Meeting in June 2014.

#### 3. Report detail

- 3.1 The Local Government Act 2000 directed that with all but a few exceptions every Council should adopt a Constitution which in concise terms would amongst other things enable decisions to be taken efficiently and effectively and ensure that those responsible for making decisions are clearly identifiable to local people and are required to explain the reasons for their decisions. Article 14 of the Constitution places a duty to monitor and review the Constitution. This duty falls within the remit of this Committee.
- 3.2 The present Constitution was first adopted in 2002 and, in accordance with Article 14 has been reviewed and amended on an annual basis since that time. Due to the obvious piecemeal changes that have been implemented over this period of time your officers feel that now would be an opportune time to review the Constitution section by section in order to make any necessary changes both to reflect any changes in legislation and grammar.
- 3.3 Your officers feel that elected member involvement in this process would be extremely useful and would give the Committee a wider role in considering the wider governance issues whilst carrying out this review. It is proposed that the following timetable be followed in conducting this review:

Date	Constitution
1 July 2013	Parts 1 and 2 of the Constitution

7 October 2013	Part 3 of the Constitution (Excluding Part 5 - Scheme of delegations to officers which will be considered in April 2014)
27 January 2014	Part 4 of the Constitution (Excluding the financial and contract rules which are the responsibility of the Audit Committee)
7 April 2014	Part 3 – Table 5 – Scheme of delegations to officers only  Part 5 – Codes and protocols  Part 7 – Management structure  Part 8 - Council structure  Part 9 – Member job descriptions  Part 10- List of members of the Council  Part 11 – Register of members’ interests

**Note:** Part 6 – Members’ allowances scheme - This is subject to a separate process which is considered by the Council itself.

3.4 This particular report is considering amendments to Parts 1 and 2 of the Constitution as set out in the **Appendix** to this report. These amendments are shown in bold type.

4. **Resource and legal considerations**

None directly related to this report.

## 5. Performance and risk management

Performance and risk management are a feature of all Council functions. It is important that Council policies and procedures are reviewed and updated on a regular basis. If the Council fails to do this there is an increased risk that the Council will be subject to legal challenge or litigation. In terms of performance it is important that elected members have a clear framework of standards to follow in delivering services to the community. These frameworks provide accountability and transparency in respect of the way in which the Council deliver services. The Constitution is a key part of this framework of internal control.

## 6. Equality implications

In maintaining up-to-date policies and procedures the Council will ensure that services are delivered fairly in an open and transparent manner. There are specific requirements in both codes in relationship to equalities that elected members and officers must observe.

### Background papers

Walsall Council Constitution

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A handwritten signature in black ink, appearing to read 'Anthony A.', is centered on the page. The signature is written in a cursive style and is surrounded by a faint, dotted rectangular border.

Signed:

Head of Legal and Democratic Services and  
Monitoring Officer

21 June 2013

# **PART 1**

## **SUMMARY AND EXPLANATION**

# Summary and explanation

## The Council's Constitution

Walsall Metropolitan Borough Council has agreed a new Constitution which sets out how the Council will operate, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by law, while other are a matter for the Council to choose. The Constitution is divided into **14** Articles which set out the basis rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols **are contained in a separate booklet which is issued with this Constitution**

### What's in the Constitution

Article 1 sets out the fundamental provisions of the Constitution. It confirms that Walsall Borough Council will act within the law and the provisions of this Constitution. It defines those documents which comprise the Constitution.

Articles 2 to 15 explain the rights of citizens and how the key parts of the Council operate. These are:-

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Council (Article 4)
- Chairing the Council (Article 5)
- Scrutiny and Performance Panels (Article 6)
- The Executive (Article 7)
- Regulatory and other Committees (Article 8)
- The Standards Committee (Article 9)
- Officers (Article **10**)
- Decision Making (Article **11**)
- Finance, Contracts and Legal Matters (Article **12**)
- Review and Revision of Constitution (Article **13**)
- Suspension, Interpretation and Publication of Constitution (Article **14**)

### How the Council operates

The Council **comprises** 60 Councillors. Councillors are democratically accountable to the residents of their Ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

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

All Councillors meet together as the Council. Meetings of the Council take place **approximately** every 8 weeks and are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year. The Council appoints the Leader of the Council. Members of the Executive which is the body which takes decisions about the running of the Council and the implementation of its policies, are appointed by the Leader of the Council. The Council also appoints the Members of the Scrutiny and Performance Panels and all other Committees of the Council.

## **The Council makes decisions about policy and budget.**

### **How decisions are made**

The Executive is part of the Council which is responsible for the operational decisions. The Executive is made up of the Leader and a Cabinet of up to 9 Councillors. When major decisions ("key decisions") are to be discussed or made, these are published in the Executive's forward plan in so far as they can be anticipated. The plan must include those decisions which the Executive anticipates it will have to make over the next 4 months. If a key decision needs to be made which is not in the forward plan, special provisions exist to enable this to happen.

If these major decisions are to be discussed at a meeting of the Executive, this will generally be open to the public to attend, except where personal or confidential matters are being discussed. The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

### **Overview and scrutiny**

There are **6** Scrutiny and Performance Panels who support the work of the Executive and the Council as a whole. They allow Members outside the Executive and citizens to have a greater say in Council matters by investigating issues of local concern. This can include questioning officers of the Council and inviting people from outside the Council to give opinions and expert advice. These lead to reports and recommendations which advise the Executive and the Council as a whole on its policies, budget and service delivery. The Scrutiny and Performance Panels also monitor the decisions of the Executive. They can "call-in" a decision which has been made by the Executive but not yet implemented. This enables them to consider whether the decision is appropriate.

They may recommend that the Executive reconsider the decision. They may also be consulted by the Executive or the Council on forthcoming decisions and the development of policy.

## **The Council's employees**

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

## **Citizens' rights**

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes.

Citizens have the right to:-

- Vote at local elections if they are registered.
- Contact their local Councillor about matters of concern to them.
- Obtain a copy of the Constitution.
- Inspect agendas, see reports and attend meetings of the Council and its Committees, except where, for example, personal or confidential matters are being discussed.
- Petition a request for a referendum of a Mayoral form of Executive.
- Find out, from the Executive's Forward Plan, what major decisions are to be discussed by the Executive or decided by the Executive or officers and when.
- Attend meetings of the Executive where decisions are being discussed or decided.
- See reports and background papers and records of decisions made by the Council and the Executive.
- Complain to the Council about Council services or how they feel they have been treated by the Council.
- Complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this using the Council's own complaints processes.
- Complain to the **Monitoring Officer of the Council** if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct; and
- Inspect the Council's accounts and make their views known to the external Auditor.

Where members of the public use specific Council services, for example, as a parent of a school pupil, they have additional rights. These are not covered in this Constitution.

## **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. At times of public debate individual citizens should respect the rights of others to express differing views.

# **PART 2**

## **ARTICLES OF THE CONSTITUTION**

# Article 1 – The Constitution

## Explanation

This article sets out the fundamental provisions of the Constitution. It confirms that Walsall Borough Council will act within the law and the provisions of this Constitution. It defines those documents which comprise 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 the Walsall Borough Council.

### 1.03 Purpose of the Constitution

The purpose of the Constitution is to:-

1. enable the Council to provide clear leadership to the community in partnership with citizens, business and other organisations at local, regional and national level seeking always to secure the best interests of the citizens of Walsall;
2. support the Council's commitment to social inclusion and community cohesion and active involvement of citizens in the process of local authority decision making and seeking to facilitate a greater understanding of how the Council operates and reaches its decisions;
3. help Councillors represent their constituents more effectively;
4. enable decisions to be taken efficiently and effectively and ensure that those responsible for making decisions are clearly identifiable to local people and are required to explain the reasons for their decisions;
5. create a powerful and effective means of holding decision-makers accountable to the public account through an effective scrutiny process;
6. ensure that no one will review or scrutinise a decision in which they were directly involved;

7. provide a means of improving the delivery of services to the community through the application of best value principles.

#### **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 the closest to and best reflects the purposes set out above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

## Article 2 – Members of the Council

### Explanation

This article sets out the composition of the Council, eligibility to stand for election as a Member of the Council and the form of election to be used.

The Article also contains a section on the roles and functions of Members of the Council, emphasising that whatever their formal position in the Council they share common roles and responsibilities and deals with the rights and duties of Members, especially as they affect access to land, buildings, documents and information and any confidentiality requirements surrounding the latter.

The article refers also to Members conduct and allowances.

### 2.01 Composition and eligibility

- (a) **Composition** – The Council will comprise 60 Members, otherwise called Councillors.

Three Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State or by the Electoral Commission.

- (b) **Eligibility** – Only registered voters of the Borough or those living or working there will be eligible to hold the office of Councillor.

### 2.02 Election and terms of Councillors

**Election and terms** - Whole Council elections were held in June 2004. The ordinary election of a third of all councillors will be held on the first Thursday in May in each year except that in 2005 and every fourth year there after there will be no regular election. The terms of office of Councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

### 2.03 Roles and functions of all Councillors

- (a) **Key roles** – All Councillors will:-
- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
  - (ii) represent their communities and bring their views into the Council's decision-making process;
  - (iii) be involved in decision-making;

- (iv) be available to represent the Council on other bodies;
- (v) participate in the governance and management of the Council;
- (vi) maintain the highest standards of conduct and ethics;
- (vii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making; and
- (viii) respond to individual constituents enquiries and representations, fairly and impartially.

(b) **Rights and duties**

- (i) Councillors have a right to access information where they have “a need to know” to enable them to carry out their duties as Councillors. This is further discussed in the Access to Information Procedure Rules and the Member Officer protocol paragraph 9.1 – 9.10.
- (ii) Councillors have a statutory right to see any report on an agenda relating to business to be dealt with at a meeting of the Council or Committee of which they are a member. Like members of the public they can also have access to papers for any other Committee or the Executive which are available under the Access to Information Rules. Councillors are also entitled to see any document relating to business to be dealt with at “private meetings” of the executive at the conclusion of the meeting. (A private meeting is a statutorily defined term and excludes briefings). These rights are subject to limitations e.g. they do not apply to documents containing confidential information. A member may also not be entitled to see reports containing exempt information (defined in the access to information rules in part 4) unless the councillor has a need to know the information to perform his/her role as a Councillor.
- (iii) Members of the Scrutiny and Performance Panels have a wider right to see any documents relating to execution **of** business, or a key decision made by an officer, (even if it contains confidential or exempt information) so long as it is relevant to a decision which the Panel is reviewing.
- (iv) Councillors are not entitled to see documents containing advice from Political Assistants or Political Advisers.
- (v) Councillors must not make public information which is confidential or exempt or disclose it to any one else other than a Councillor entitled to know it. This is an obligation under the Members Code of Conduct.

- (vi) For these purposes “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4
- (vii) If a member wishes to see a report or other information that is not available to the public then they should make their request in line with the member officer protocol.

#### 2.04 **Conduct**

Councillors are required to comply to with the code of conduct for elected members at all times and when dealing with officers to observe the protocol on member officer relations. In the event of any ambiguity on the application of the code of conduct or the protocol a member should seek advice and assistance at the earliest opportunity from the Monitoring Officer to avoid inadvertently breaching the code of conduct.

#### 2.05 **Allowances**

Councillors are entitled to receive allowances in accordance with the members allowances scheme set out in Part 6 of this Constitution. The scheme of allowances has to be published annually in a local newspaper and additionally following a review a by an independent review panel. The panel must review the scheme at least once every 4 years.

## Article 3 – Citizens and the Council

### Explanation

This article sets out what citizens can expect from the Council and what rights they have. However, with rights come responsibilities and it is also the role of the Constitution to show how the Council expects to be treated in return.

#### 3.01 Citizens' rights

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

- (a) **Voting and referendum petitions** - Citizens on the electoral roll for the Borough have the right to vote for their local Councillor(s) and sign a petition to request a referendum for an elected Mayor form of Constitution. For a petition to be valid to require a referendum, the number of signatures to it must equate to no less than 5% of the electorate of the Borough (approximately 9,594), or such other percentage prescribed by Regulations. The Monitoring Officer should be contacted in order to establish the minimum number of signatures.
- (b) **Information** - Citizens have the right to:-
  - (i) attend meetings of the Council and its Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (ii) attend meetings of the Executive and or Scrutiny and Performance Panels, except where confidential or exempt information is likely to be disclosed and the meeting is then held in private;
  - (iii) find out from the forward plan what key decisions will be taken by the Executive and when;
  - (iv) see reports and background papers, and any records of decisions made by the Council, its Committees, the Executive and Scrutiny and Performance Panels; and
  - (v) inspect the Council's accounts and make their views known to the external Auditor.
- (c) **Public Participation** - Citizens have the right to participate in the Council's question time and contribute to investigations by Scrutiny and Performance Panels.

- (d) **Complaints** - Citizens have the right to complain to:-
  - (i) the Council itself under its complaints procedure;
  - (ii) to the Ombudsman, normally after they have raised the complaint with the Council and have given the Council a chance to respond.

### 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. At times of public debate individual citizens should respect the rights of others to express differing views.

## Article 4 – The Council

### Explanation

The Local Government Act, 2000, gives the Council collectively responsibility for approving the Council's policy framework and budget.

#### 4.01 Meanings

- (a) **Policy Framework** – means the following plans and strategies:-
- (i) Those required by the Local Authorities (Functions and Responsibilities) (England) Regulations, 2000 and Regulations proposed under Section 32 of the Local Government Act, 2000, and subsequent legislation be adopted by the Council:
- Children and Young Peoples Plan;
  - Community Strategy;
  - Crime and Disorder Reduction Strategy;
  - Local Transport Plan;
  - Plans and strategies which together comprise the Development Plan;
  - Youth Justice Plan.
- (ii) Other plans and strategies the Council considers should be adopted as part of the policy framework:
- Corporate Plan
  - Food Law Enforcement Service Plan;
  - Licensing Authority Policy Statement
  - Quality Protects Management Action Plan
  - Pay Policy Statement
  - Regulation of Investigation Powers Act 2000
  - Sustainable Community Strategy
- (b) **Budget:** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council tax reduction scheme, 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.

- (c) **Housing Land Transfer** - Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act, 1993, or to dispose of land used for residential purposes where approval is required under Sections 32 or 43 of the Housing Act, 1985.

#### 4.02 **Functions of the Council**

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution, subject to those permitted under the delegation conferred upon the Head of Legal and Democratic Services as set out at 24.9 with the Scheme of Delegations to Officers at Part 3.5 of the Constitution ;
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) 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 policy framework or contrary to/or not wholly in accordance with the budget;
- (d) appointing and removing the Executive Leader;
- (e) agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
- (g) adopting an allowances scheme under Article 2.05;
- (h) changing the name of the area, conferring the title of Honorary Alderman or Freedom of the Borough;
- (i) confirming the appointment of the Head of Paid Service and designation of statutory officers (Monitoring Officer and Chief Finance Officer);
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;

- (k) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Executive;
- (l) adopting a Code of Conduct for Members;
- (m) taking decisions in respect of functions which are not the responsibility of the Executive and which have not been delegated by the Council to Committees, Sub-Committees or officers;
- (n) the submission of proposals to the Secretary of State for an Order under Section 10 (Pilot Schemes for Local Elections in England and Wales) Representation of the People Act, 2000;
- (o) the approval of rules of procedure as set out in Part 4 of this Constitution;
- (p) the delegation of non-executive functions to Committees, Sub-Committees and officers;
- (q) the approval for the purpose of public consultation in accordance with Regulation 10 or 22 of the Town and Country Planning (Development Plans) (England) Regulations 1999, of draft proposals associated with the preparation of or alterations to or the replacement of, a Development Plan; and
- (r) all other matters which, by law, must be reserved to Council.

#### **4.03 Council meetings**

There are three types of Council meeting:

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

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

#### **4.04 Responsibility for functions**

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Executive.

**4.05** The Council will be able to appoint any Member of the local authority (whether or not they are a Member of the Executive) to Committees or Sub-Committees established and which take decisions on functions which are not the responsibility of the Executive, such as development control and licensing.

## **Article 5 – Chairing the Council**

### **Explanation**

Council meetings will be Chaired by the Mayor.

#### **5.01 Role and function of the Mayor**

The Mayor and Deputy Mayor will be elected by the Council at the Annual Council Meeting.

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

1. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
2. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
3. to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Executive are able to hold the Executive to account;
4. to promote public involvement in the Council's activities;
5. in the absence of the Chairman of the relevant Scrutiny and Performance Panel to decide whether or not to agree that a key decision not in the Forward Plan is required to be made at short notice as a matter of special urgency that cannot be reasonably be deferred; (See Access to Information Rules, paragraph 16)
6. in the absence of the Chairman of the relevant Scrutiny and Performance Panel, to decide whether or not to make a statement in writing that the determination by the Executive of a matter relating to policy or budget is required as a matter of urgency. (See Budget and Policy Framework Procedure Rules)

#### **5.02 Ceremonial Role**

The Mayor's role and responsibilities will be to attend such Civic and Ceremonial functions as the Council and he/she determines appropriate.

## **Article 6 – Scrutiny and Performance Panels**

### **Explanation**

This article sets out the basis and role of Scrutiny and Performance Panels. The overview and scrutiny function is central to the Constitution. Scrutiny and Performance Panels should be powerful bodies which meet in public to discuss and make recommendations on the development of policies and hold the Executive to account for their decisions. They also have a key role in considering matters of local concern. They may also be empowered to undertake Best Value reviews.

### **6.01 Terms of reference, functions and membership**

The Council will appoint the Scrutiny and Performance Panels, set out below to discharge the functions conferred by Section 21 of the Local Government Act, 2000, in relation to the matters set out below with the membership as **determined** in the Scrutiny and Performance Panel Procedure Rules in Part 4 of this Constitution:

#### **Children’s and Young People Scrutiny and Performance Panel**

All aspects and general services related to serving children and young people for example; education, children services, youth services within the functions set out in section 21 of the Local Government Act 2000.

#### **Community Services and Environment Scrutiny and Performance Panel**

All aspects and general services related to (1) serving the community, for example community safety, leisure and culture, third sector co-ordination and to review or scrutinise decisions made or other actions taken in connection with the discharge by the responsible authorities of their crime and disorder functions (no less than twice in every 12 months) as required by the Police and Justice Act, 2006, within the functions set out in section 21 of the Local Government Act 2000 and (2) the environment such as waste management, highways maintenance, grounds maintenance and traffic management, and to review and scrutinise the exercise of flood risk management functions which may affect the local authority’s area as required by the Flood and Water Management Act 2010 within the functions set out in Section 21 of the Local Government Act, 2000 (as amended).

#### **Corporate Scrutiny and Performance Panel**

All aspects and general services relating to the Council’s corporate centre for example; financial services including the annual budget process and the Council wide financial position, corporate performance management, legal and democratic services, services falling within the Council’s transformation agenda within the functions set out in section 21 of the Local Government Act 2000.

## **Health Scrutiny and Performance Panel**

### **Remit**

All aspects and general services related to health service matters, for example, health partnership matters and the public health agenda as conferred under the Health and Social Care Act 2001 within the functions set out in section 21 of the Local Government Act 2000.

## **Regeneration Scrutiny and Performance Panel**

All aspects and general services related to regeneration for example; economic, environmental and physical regeneration, planning, land and property, partnership working and strategic housing matters within the functions set out in section 21 of the Local Government Act 2000.

## **Social Care and Inclusion Scrutiny and Performance Panel**

### **Remit**

All aspects and general services related to social care and inclusion for example; adult services as conferred under the Health and Social Care Act 2001 within the functions set out in section 21 of the Local Government Act 2000.

6.02 **Political balance** – The allocation of seats to political groups will be made in accordance with the political balance rules as provided for in the Council Procedure Rules in Part 4 of the Constitution.

### 6.03 **General role**

Within their terms of reference, Scrutiny and Performance Panels will:-

- (i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (ii) make reports and/or recommendations to the Council and/or the Executive and/or any policy, joint committee in connection with the discharge of any functions;
- (iii) consider any matter affecting the area or its inhabitants;
- (iv) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive; and
- (v) Will exercise the right to consider Councillor Call for Action.

## 6.04 Specific functions

### (a) **Policy development and review** - Scrutiny and Performance

Panels may:-

- (i) assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues;
- (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (iv) question members of the Executive, Committees **and all non regulatory** Committees and the Chief Executive or Executive Directors or their representatives about their views on issues and proposals affecting the area; and
- (v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

### (b) **Scrutiny** - Scrutiny and Performance Panels may:-

- (i) review and scrutinise the decisions made by and performance of the Executive, Committees and Council officers both in relation to individual decisions and over time, save for individual decisions that are of a regulatory/quasi judicial nature;
- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (iii) question members of the Executive, Committees and Chief Executive or Executive Directors or their representatives about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (iv) make recommendations to the Executive, appropriate Committee and/or Council arising from the outcome of the scrutiny process;

- (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny and Performance Panel and local people about their activities and performance; and
- (vi) question and gather evidence from any person (with their consent).

(c) **Finance**

Scrutiny and Performance Panels may exercise overall responsibility for the finances made available to them.

(d) **Annual report**

Scrutiny and Performance Panels must report annually to Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

(e) **Officers**

Scrutiny and Performance Panels may exercise overall responsibility for the work programme of any officer employed to support their work.

## 6.05 **Proceedings of Scrutiny and Performance Panels**

Scrutiny and Performance Panels will conduct their proceedings in accordance with the Scrutiny and Performance Panel Procedure Rules set out in Part 4 of this Constitution.

# Article 7 – The Executive

## Explanation

The Executive (Leader and Cabinet) is at the heart of the day-to-day decision-making process. It also has a key role in proposing the budget and policy framework to the Council.

This article provides the basic components for the Executive.

The Rules of Procedure set out how the Executive will operate. These include arrangements for meetings and scheme of delegation.

### 7.01 Role

The Executive will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution and those local choice functions assigned to the Executive in Table 1 of Part 3 (Responsibility for Functions) of the Constitution. The general position under legislation is that unless expressly stated in legislation or the Council makes a choice on those matters where it has a choice, all functions are deemed to be an executive function.

### 7.02 Form and composition

The Executive will consist of the Executive Leader together with at least 2, but not more than 9, Councillors appointed to the Executive by the Executive Leader.

### 7.03 Appointment of the Leader of the Council

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

Where there is vacancy or imminent vacancy in the office of Leader the Chairperson shall request if there are any nominations for the office of Leader. Where nominations are received the normal voting rules shall apply.

The Leader's term of office ceases on earliest of

- the day after the annual Council following the normal date of retirement for the Councillor or
- the date he resigns office or
- the date the Council resolves that (s)he be removed from the office of Leader.

(imminent vacancy is defined as due to retire from office the following day)

## 7.04 **Removal of the Leader**

The Leader of the Council can only be removed from office if the Council so resolve following a notice of motion (subject to resignation, retirement or disqualification).

## 7.05 **Other Executive Members**

- (1) Other Executive Members will be appointed by the Executive Leader and shall hold office until:
  - (a) they resign from office; or
  - (b) they are suspended from being Councillors under Part III of the Local Government Act, 2000 (although they may resume office at the end of the period of suspension); or
  - (c) they are no longer Councillors; or
  - (d) the Executive Leader may remove them from office, either individually or collectively, at any time.
  
- (2) The Executive Leader has appointed the following executive members for the stated portfolios:

**Leader of the Council** - overall responsibility for Council strategy, the corporate plan and the working smarter programme, communications and public relations, emergency planning, city region agenda, government relations and liaison with local MPs and West Midlands leaders. Local Strategic Partnership.

**Deputy Leader and Regeneration and Transport** - economic development, physical development, markets, property and asset management, Black Country Consortium, sub regional regeneration issues. Town and district centres. Planning policy and local development framework. Strategic housing role, housing partnerships, private sector housing, homelessness. Traffic and transportation, car parks, gateways and corridors, strategic transport and highways. Pollution control.

**Children's services** - education services, schools meals commissioning, social services for children, safeguarding and promoting welfare of children, looked after children and corporate parenting, care leavers, interagency cooperation, involvement of children and young people, youth parliament, children's trust arrangements, youth offending services, youth service.

**Community engagement and voluntary sector** - neighbourhood management, community engagement and consultation, community associations, voluntary and community sectors.

**Environment** – Waste strategy, refuse collection, recycling, street cleaning and the management of the Council’s vehicle fleet.

**Public health and protection** - Public health, Chair of Health and Wellbeing Board, community safety, Safer Walsall Partnership, public protection.

**Resources** - strategic and operational financial management, insurance, risk management, revenues and benefits, policy led budgeting. Financial regulations, audit, legal and democratic services; human resources. Shared services, including ICT and procurement; business improvement.

**Leisure and culture** - parks, leisure and culture services including the New Art Gallery, libraries, adult learning, sports, museums and twinning. Cemeteries and crematoria.

**Social care** - care services for older people and people with learning disabilities, people with physical disabilities and people with mental health needs, health partnership, community meals, supporting people, protection for vulnerable adults.

#### 7.06 **Proceedings of the Executive**

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

#### 7.07 **Responsibility for functions**

The Leader will ensure that a list is maintained in Part 3 of this Constitution setting out which Committees of the Executive, officers or joint arrangements are responsible for the exercise of particular executive functions; provided that no functions shall be discharged by an individual Member of the Executive.

## **Article 8 – Regulatory and other Committees**

### **Explanation**

Certain functions, such as planning, licensing, personnel, health and safety, rights of way, elections and miscellaneous functions cannot be functions of the Executive. This article establishes arrangements to deal with those activities.

The Local Authority (Functions and Responsibilities) (England) Regulations, 2000, as amended, together with other statutes and regulations made from time to time, specify those functions which are not to be functions of the Executive. Some of these non-executive functions are reserved to the Council for a decision in Article 4. The remaining non-executive functions are delegated to Committees, Sub-Committees or officers in Part 3 of this Constitution.

### **8.01 Regulatory and other Committees**

The Council will appoint to the following Committees whose terms of reference are set out in Part 3 of the Constitution:

- Audit Committee
- Appointments Board
- Employment Appeals Committee A
- Employment Appeals Committee B
- Health and Wellbeing Board
- Licensing and Safety Committee
- Planning Committee
- Standards Committee
- Area Panels

### **8.02 Political balance**

The allocation of seats to political groups will be made in accordance with the political balance rules as provided for in the Council Procedure Rules in Part 4 of the Constitution.

8.03 The Council will also appoint the statutory and advisory bodies set out below whose term of reference appear in Table 4 of Part 3 of the Constitution:

- Adoption Panel
- Fostering Panel
- Education Admission Appeals Panel
- Education Exclusions Appeals Panel
- Schools Forum
- Social Services Complaints Panel
- Standing Advisory Council on Religious Education (SACRE)

- 8.04 (a) If a Scrutiny and Performance Panel is reviewing a decision of the Committee, of which the Councillor is a Member, then the Councillor will have a personal interest, which she/he must disclose, before the agenda item is reached.
- (b) If the interest is of a financial nature, then the Councillor may not speak or vote on the matter and should leave the room or chamber where the meeting is being held.
- (c) Paragraph (a) will not apply to prevent the Councillor concerned attending the meeting to answer questions or give evidence.
- 8.05 The Council will be able to appoint any Member of the local authority (whether or not they are a Member of the Executive) to Committees or Sub-Committees established and which take decisions on functions which are not the responsibility of the Executive, such as development control and licensing.

## Article 9 – The Standards Committee

### Explanation

The Standards Committee is a key element of the ethical framework of the Council and is designed to ensure high standards of behaviour and conduct within the Council.

#### 9.01 Standards Committee

The Council will establish a Standards Committee.

#### 9.02 Composition

(a) **Membership** - The Standards Committee will comprise:

10 Councillors (The Leader of the Council nominating one member of the Executive to sit on the Committee)

(The Leader of the Council shall not be a member)

(b) **Chairing the Committee** – The Chairman of the Committee will be appointed by the Committee. A Member of the Executive may not chair the Committee.

#### 9.03 Role and Function

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct of elected Members and co-opted voting members and church and parent governor representatives;
- (b) assisting and ensuring that Councillors, co-opted members and church and parent governor representatives observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising and training elected Member and co-opted voting members on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to elected Members and co-opted voting members from requirements relating to interests set out in the Members' Code of Conduct;

- (g) dealing with Members misconduct falling outside breaches of the Code of Conduct, for example, breaches of protocols.

9.04 The Standards Committee will have the following additional functions:-

- (i) Dealing with allegations of breaches of the Member's Code of Conduct.
- (ii) Oversight of the Whistleblowing Policy.
- (iii) Strategic overview of the Employees' Code of Conduct.
- (iv) Overview of the conduct element of reports from external auditors.
- (v) Oversight and review of the Constitution.
- (vi) Dealing with breaches of protocols.
- (vii) Determining appeals against the designation of a post as being politically restricted.

## **Article 10 – Joint Arrangements**

### **Explanation**

This article enables the Council to make use of joint arrangements with other authorities and delegate to other local authorities.

#### **10.01 Arrangements to promote well being**

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

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

#### **10.02 Joint arrangements**

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions, which are not executive functions, in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a Joint Committee with these other local authorities.
- (b) The Executive may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of Joint Committees with these other local authorities.
- (c) Details of any joint arrangements including any delegations to Joint Committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

#### **10.03 Access to information**

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

#### 10.04 West Midlands Joint Committee

(a) The Council have entered into joint arrangement with other District Councils of the County of West Midlands which is a Joint Committee under the Local Government Act, 1972. The composition and terms of reference of the West Midland Joint Committee are set out below:-

1. (i) The District Councils of the County of West Midlands established a joint committee known as the West Midlands Joint Committee ("the Committee") for the purpose of discharging (a) the functions mentioned in the Annex. The Committee was a joint committee for the purposes of Part VI of the Local Government Act, 1972 and the provisions of that part applicable to joint committees shall apply to the Committee.
- (ii) This revised Constitution was agreed by the District Councils of the County of West Midlands.
- (iii) This revised Constitution has been updated to reflect changes in law brought about primarily, by the Local Government Act, 2000.
2. (i) The Committee shall comprise 7 voting members, each District Council being entitled to appoint 1 voting member who shall be a member of the District Council making the appointment. In the event of any voting member of the Committee ceasing to be a member of the District Council which appointed him/her, the District Council shall forthwith appoint another voting member in his/her place. Only a voting member is entitled to be elected as Chair or Vice-Chair of the Committee.
- (ii) Each District Council may appoint 2 of its members to attend meetings of the Committee as observer members in addition to the voting member appointed under (i) above. Such observer members may speak at meetings of the Committee but not vote.
- (iii) Each District Council may appoint members of the Council as substitutes for the voting members or observer members appointed under (i) or (ii) above to attend meetings of the Committee and its Sub-Committees in the absence for any reason of the voting members or observer members appointed under (i) and (ii) above and in attending meetings of the Committee and its Sub-Committees such voting members or observer members shall be treated in all respects as if they were appointed under (i) or (ii) above as the case may be. The Secretary of the Committee shall be informed prior to the commencement of the meeting of the names of substitute members.

- (iv) The Chairman of each Joint Authority appointed in the West Midlands shall be an ex-officio member of the Committee. Such ex-officio members may speak at meetings of the Committee but not vote.
  - (v) The Committee shall at its annual meeting elect a Chair and Vice-Chair from amongst its voting members. In the event of both being absent from the meeting, the Chair and the Vice-Chair for whatever reason, the Committee shall elect a Chair from amongst the voting members present for that meeting.
  - (vi) Four voting members of the Committee shall constitute a quorum. Except as otherwise provided by the Local Government Acts, 1972 and 1985, all questions shall be decided by a majority of the votes of the voting members present and voting, the Chair having the casting vote in addition to his/her vote as a member of the Committee.
  - (vii) A meeting of the Committee may be convened by the Chair at any time. A meeting of the Committee must be convened by the Chair within 28 days of the receipt of a requisition of any 2 voting members of the Committee addressed to the Secretary to the Committee. All such requisition shall be in writing and no business other than that specified in the requisition shall be transacted at such meeting.
  - (viii) The Committee shall from time to time make such standing orders for the carrying on of the business of the Committee as the Committee shall necessary or desirable.
  - (ix) For the avoidance of doubt and subject to there being no change to the law on this issue, where a District Council is operating executive arrangements pursuant to Local Government Act, 2000 (and any regulations made under it), it will be a matter for the Executive of the District Council to appoint any member, observer member or substitute member to the Committee.
3. The Committee shall from time to time appoint such Sub-Committees to consider an deal with any of the functions of the Committee as may be thought desirable.
  4. The Committee shall employ a Secretary and such other officers as may be deemed necessary for the due conduct of the business of the Committee at such remuneration (if any) and upon such terms as the Committee shall decide. The appointment of Secretary shall be for a term of 3 years and shall be made at the annual meeting of the Committee in the appropriate year.
  5. (i) The Secretary shall keep proper accounts of the money received and expended by the Committee.

- (ii) The Secretary shall apportion the expenses of the Committee between the District Councils in proportion to the population of each district in the County.
6. This revised Constitution and, subject to hereinafter mentioned, the functions of the Committee may be amended at any time by the unanimous agreement of the District Councils.

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

#### **10.06 Contracting out**

The Council in respect of non-executive functions and the Executive in respect of executive functions may contract out to another body or organisation, functions which may be exercised by an officer and which are subject to an order under Section 70 of the Deregulation and Contracting Out Act, 1994, or under contracting arrangements where the contractor acts as the Council's agent and the usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

# Article 11 – Officers

## Explanation

This article sets out the senior management structure. It defines the roles of the Chief Executive and Directors and the Statutory Officer functions.

### 11.01 Management Structure

- (a) **General** -The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers** -The Council will engage persons for the following posts, who will be designated Chief Officers with responsibilities as determined from time to time by the Chief Executive:-

Chief Executive  
Executive Director for Children’s Services  
Executive Director for Resources  
Executive Director for Neighbourhoods  
Executive Director for Regeneration  
Executive Director for Social Care and Inclusion  
**Director of Public Health**

- (c) **Head of Paid Service, Monitoring Officer and Chief Financial Officer.** The Council will designate those posts as shown:-

<b>Post</b>	<b>Designation</b>
Chief Executive	Head of Paid Service
Head of Legal and Democratic Services	Monitoring Officer
Assistant Director for Finance	Chief Finance Officer with Section 151 responsibilities

Such posts will have the functions described in Article 11.02 –11.04 below.

- (d) **Structure** - The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at part 7 of this Constitution.

### 11.02 Functions of the Head of Paid Service

- (a) **Discharge of functions by the Council** - The Head of Paid Service will report to Council on the manner in which the discharge of the Council’s functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

- (b) **Restrictions on functions** - The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

#### 11.03 Functions of the Monitoring Officer

- (a) **Advising whether executive decisions are within the budget and policy framework** - The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.
- (b) **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.
- (c) **Restrictions on posts** - The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

#### 11.04 Functions of the Chief Finance Officer

- (a) **Ensuring lawfulness and financial prudence of decision making**- After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Council or to the Executive in relation to an executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs** - The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management** - The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice** - The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and the elected Mayor and will support and advise Councillors and officers in their respective roles.

- (e) **Give financial information** - The Chief Finance Officer will provide financial information to the media, members of the public and the community.

#### **11.05 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer**

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

#### **11.06 Conduct**

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

#### **11.07 Employment**

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

## **Article 12 - Decision Making**

### **Explanation**

Executive arrangements established under the Local Government Act, 2000 changed the basis of decision making in local authorities fundamentally. They require the Council to record and keep up to date details of who has responsibility for which decisions, and to make this available to the public.

#### **12.01 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 the Constitution.

#### **12.02 Principles of decision making**

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

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice;
- (c) consideration to ways in which human rights can be enhanced and protected by the Council's actions;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes; and
- (f) taking account and explaining the options considered and the reasons for the decision taken
- (g) due regard to the Members' Code of Conduct.

#### **12.03 Types of decision**

- (a) Decisions reserved to Council. Decisions relating to the functions listed in Article 4.02 will be made by the Council and not delegated.
- (b) Key decisions:-
  - (i) A key decision is an executive decision which is likely:-

- (1) to result in the Council in incurring expenditure which exceeds that included in any approved revenue or capital budget or the limits set out within an approved borrowing or investment strategy and was not the subject of a specific grant;
  - (2) to result in the Council incurring expenditure, or the making of savings, which are equivalent to or more than 5% of any approved revenue budget or 10% of any capital budget, whichever is the lower, subject to a de minimus level of £50,000;
  - (3) to be significant in terms of its direct effects on communities in an area comprising two or more wards in the Borough.
- (ii) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

#### **12.04 Decision making by the Council**

Subject to **paragraph** 12.08, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **12.05 Decision making by the Executive**

Subject to **paragraph** 12.08, the Executive will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **12.06 Decision making by Scrutiny and Performance Panels**

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

#### **12.07 Decision making by Committees and Sub-Committees established by the Council**

Subject to **paragraph** 12.08, Council, Committees and Sub-Committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

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

The Council, a Committee, 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 13 - Finance, contracts and legal matters**

### **Explanation**

This article introduces the scope and effect of the Council's financial and contract rules, authorisation of legal proceedings and authentication of documents.

#### **13.01 Financial management**

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

#### **13.02 Contracts**

Every contract made by the Council will comply with the financial and contract rules set out in **Parts 4.7 and 4.8** of this Constitution.

#### **13.03 Legal proceedings**

The Head of Legal and 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 Head of Legal and Democratic Services considers that such action is necessary to protect the Council's interests.

#### **13.04 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 Head of Legal and Democratic Services or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract with a value exceeding £100,000 entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made under the Common Seal of the Council attested by at least one officer.

#### **13.05 Common Seal of the Council**

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

## Article 14 - Review and Revision of the Constitution

### Duty to monitor and review the Constitution

#### Explanation

This article places a duty to monitor and review the Constitution.

14.01 The Council will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. In this process the Monitoring Officer may receive recommendations from the Executive, Audit Committee, Standards Committee, Scrutiny and Performance Panels or the Chief Executive.

### Changes to the Constitution

#### Explanation

There is a difference in the process required for a change in executive arrangements than other aspects of the Constitution. Proposals to change from one form of executive to another require proper consultation, and change from Leader/Cabinet to an Elected Mayor form, or vice versa, requires a referendum. However, other changes may require limited or no consultation. **Statutory** guidance makes clear that the consultation required should be proportionate to the scale, scope and extent of the change proposed.

This article sets out minimum requirements for Constitutional changes, such changes may be prompted from internal reviews and evaluation of their governance, or from changes in public opinion triggering a Mayoral referendum.

- 14.02 (a) Approval - Changes to the Constitution will only be approved by the Council after consideration of the proposal by the Monitoring Officer, **in consultation with Group Leaders and the Chair of Standards Committee. Only changes made under the delegation conferred upon the Head of Legal and Democratic Services as set out at 24.9 within the Scheme of Delegations to Officers at Part 3.5 of the Constitution, are exempt from this process.**
- (b) Change from a Leader and Cabinet form of Executive to alternative arrangements, or vice versa - The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

# Article 15 – Suspension, interpretation and publication of the Constitution

## 15.01 Suspension of the Constitution

- (a) **Limit to suspension** - The articles of this Constitution may not be suspended. The procedure rules in Part 4 may be suspended within the Law by the Council under the procedure set out in (b) below.
- (b) **Procedure to suspend** - A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

## 15.02 Interpretation

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

## 15.03 Publication

- (a) The Chief Executive 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 Chief Executive will ensure that copies are available for inspection at Council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Chief Executive will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

## **Schedule 1: Description of Executive Arrangements**

The following parts of this Constitution constitute the executive arrangements:-

1. Article 6 - Scrutiny and Performance Panels and the Scrutiny and Performance Procedure Rules;
2. Article 7 - The Executive and the Executive Procedure Rules;
3. Article 11 - Joint arrangements
4. Article 13 - Decision Making and the Access to Information Procedure Rules;
5. Part 3 - Responsibility for Functions.