

## Part 2 – Articles of the Constitution

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# Article 1 – The Constitution of North Somerset Council

## 1. Powers of the Council

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

### **The Constitution**

This constitution is the Constitution of North Somerset Council

### **Purpose of the Constitution**

The purpose of the Constitution is to:

- 1.1 Enable the Council to lead and promote the interests of the community in North Somerset Council in partnership with citizens, business, voluntary organisations, and government agencies.
- 1.2 Support and encourage the active involvement of citizens in the work of local government.
- 1.3 Provide a framework within which Members of the Council can represent their constituents effectively.
- 1.4 Promote and encourage an efficient and effective decision-making process in North Somerset.
- 1.5 Create a means by which the decision makers can be effectively challenged and held to account.
- 1.6 Provide a clear distinction between decision makers and the rest of the Council.
- 1.7 Clearly identify the decision makers within the Council and provide the framework within which they will justify their decisions.
- 1.8 Promote and encourage the continuing improvement in quality of services to the community.

## 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 purpose stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 13.

# Article 2 – Members of the Council

## 2.1 Composition and Eligibility

The Council will comprise of 50 Members (otherwise called Councillors). All Councillors will be elected by voters of each ward in accordance with a scheme drawn up by the Local Government commission and approved by the Secretary of State.

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

## 2.2. Election and terms of Councillors

The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2003. The terms of office of Councillors will start on the fourth day after being elected and will finish the fourth day after the date of the next regular election.

## 2.3. Roles and functions of all Councillors

- 2.3.1 collectively to be the ultimate policy-makers and carry out a number of strategic and corporate management functions
- 2.3.2 contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making.
- 2.3.3 effectively represent the interests of their ward and of individual constituents and make calls for action or present petitions on matters of concern to their ward or elsewhere.
- 2.3.4 respond to constituents' enquiries and representations, fairly and impartially.

- 2.3.5 participate in the governance and management of the Council.
- 2.3.6 maintain the highest standards of conduct and ethics.
- 2.3.7 Undertake training and development to support the efficient and effective discharge of the role of councillor.
- 2.3.8 Councillors will have such rights of access to such document, information, technology, land and buildings of the Council as are necessary for the proper discharge of their functions in accordance with the law.
- 2.3.9 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.
- 2.3.10 For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

## 2.4. Conduct

Councillors will at all times observe the Member's Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

## 2.5. Allowance

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

# Article 3 – 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 and the Council's Standing Orders in Part 4 of this Constitution.

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

## 3.1 Citizens also have the right to:

- 3.1.1 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.

- 3.1.2 Attend meetings of the Cabinet when key decisions are being considered.
- 3.1.3 Find out from the forward plan what key decisions will be taken by the Cabinet and when.
- 3.1.4 See reports and background papers, and any records of decisions made by the Council and the Cabinet.
- 3.1.5 Inspect the Council's accounts and make their views known to the external auditor.
- 3.1.6 Citizens are encouraged to participate in the Council's Public Participation Time and the Council respects the freedom of speech enshrined in the Human Rights Act, but participation will only be permitted where the individual conducts themselves appropriately and in particular is not abusive or offensive about others or appears to be targeting individuals.
- 3.1.7 To participate in investigation by Policy and Scrutiny Committees such participation to be determined by the Committee.

Citizens, normally, have the right to complain to:

- 3.1.8 The council itself under its complaints scheme.
- 3.1.9 The Ombudsman after using the Council's own complaints scheme.
- 3.1.10 The Standards Sub-Committee about a breach of the Councillors Code of Conduct

## 3.2 Citizens' responsibilities

Citizens Responsibilities are to not be violent, abusive or threatening to councillors or officers and must not wilfully harm things owned by the council, councillors or officers and citizens displaying such behaviour will be removed from council premises.

# Article 4 – The full Council

## 4 Meanings

The Policy Framework means the following plans and strategies:

- Annual library plan
- Crime and disorder reduction strategy
- Development plan documents

- Licensing authority policy statement
- Local transport plan
- Sustainable community strategy
- Youth justice plan

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council tax base, setting Council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of the virement limit.

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 for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

## 4.1 Function of the Full Council

Only the Council will exercise the following functions:

- 4.1.1 Adopting and changing the Constitution
- 4.1.2 Approving or adopting the policy framework, the budget and any applications to the Secretary of State in respect of any housing land transfer
- 4.1.3 Subject to the urgency procedure contained in the Access to Information Procedure Rules contained in Part 4 of this Constitution, making decisions about any matter in the discharge of an Cabinet 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/not wholly with in the Budget.
- 4.1.4 Appointing the Leader of the Council
- 4.1.5 Appointing the Chairperson and the Vice Chairperson of the Council
- 4.1.6 Agreeing and/or amending the term of reference for Committees, deciding on their composition and appoint the Chairperson of them
- 4.1.7 Appointing representatives to outside bodies unless the appointment is an Cabinet function or has been delegated by the Council
- 4.1.8 Adopting an allowance scheme
- 4.1.9 Changing the name of the area, conferring the title of honorary alderman

4.1.10 Confirming the appointment of the Head of Paid Services

4.1.11 Making, amending, revoking, re-enacting, or adopting bylaws and promoting or opposing the making of local legislation or personal Bills.

4.1.12 All local choice functions set out in Part 3 of the Constitution which the Council decides should be undertaken by itself rather than the Cabinet.

4.1.13 All matters which by law must be reserved to Council.

## 4.2 Council Meetings

There are three types of Council meetings:

- The Annual Meeting
- Ordinary meetings
- extraordinary meetings

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

## 4.3 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 Cabinet.

# Article 5 – Chairing the Council

## 5. Role and functions of the Chairperson

The Chairperson will be elected by the Council annually. The Chairperson will have the following responsibilities:

5.1.1 to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary.

5.1.2 to preside over meetings of the Council so that its business can be carried out efficiently and with regards to the rights of the Councillors and the interests of the community.

- 5.1.3 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 Cabinet or hold Committee chairs are able to hold the Cabinet and Committee Chairperson to account.
- 5.1.4 to promote public involvement in the Council's activities.
- 5.1.5 to conduct themselves with dignity and be the conscience of the Council.
- 5.1.6 to attend such civic and ceremonial functions as the Council and he/she determine appropriate.
- 5.1.7 to resolve disputes in accordance with the agreed protocol(s)

## Article 6 – Policy and Scrutiny Committees

### 6. Terms of reference

The Council will appoint the following Policy and Scrutiny Committees to discharge the functions conferred by section 21 of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000 in relation to the matters set out for each Committee.

#### **Children and Young People Services Policy and Scrutiny Committee**

Schools including Academies.

Central Education Support

Early Years

Youth Services

Childrens Services Further Education & Higher Education liaison

Childrens directorate finance & Performance

#### **Adult Service and Housing Policy and Scrutiny Committee**

Social Care for Adults

Housing Services

Adult Services

Adult Services & housing finance & Performance

### **Health Overview Services Policy and Scrutiny Committee**

National Health Services Scrutiny

Wider Health Issues apart from NHS – health promotion, addressing health inequalities, impact of local and national initiatives (drugs and alcohol, hospitals, mental health, primary care etc.)

Public Health issues for both adults and children

Regulatory services

Emergency planning

Public health directorate finance and performance

### **Placemaking and Economy Policy and Scrutiny Committee**

Regeneration of Places and communities in North Somerset

Town and Country Planning

Tourism and Economic Development

Heritage

HSC Directorate finance and performance to this Committee

Climate and Nature Emergency

Crime and disorder, community safety including review of Prevent activity.

### **Environment, Assets and Transport Services Committee**

External partnerships

Local and regional devolution and governance

Corporate organisation

Procurement and contract management including capital projects.

Council owned/controlled companies and organisations.

Highways and transport

Waste, recreational services, environmental protection including flooding and marine environment.

Parking strategy and car parks

Environment, Assets and Transport Services finance and performance

## **6.1 General Role**

Within their terms of reference, Policy and Scrutiny Committees will:

- 6.1.1 review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions

- 6.1.2 make reports and/or recommendations to the full Council and/or the Cabinet and/or any joint or area Committee in connection with the Council's policy
- 6.1.3 consider Councillor Calls for Action, Petitions or any other matter affecting the area or its inhabitants
- 6.1.4 exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Cabinet

## 6.2 Specific Functions

The functions of Policy and Scrutiny Committees are to cover:

### **A. Policy and Development**

- 6.2.1 Assist the Council and the Cabinet (at their request) in the development of its Budget and Policy framework by in depth analysis of policy issues.
- 6.2.2 Conduct research, community and other consultation in the analysis of policy issues and possible options requested by the Cabinet or Council
- 6.2.3 Consider and implement mechanisms to encourage and enhance community participation in the development of policy options.
- 6.2.4 Question Members of the Cabinet and/or Committees and chief officers about their views on issues and proposals affecting the area
- 6.2.5 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**

- 6.2.6 review and scrutinise the decisions made by and performance of the Cabinet and Council officers both in relation to individual decisions and over time.
- 6.2.7 review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas but this is not an area whereby individual decisions of the Planning and Regulatory Committee and associated committees can be reviewed. The scrutiny process is not an appeal mechanism in relation to these functions with regard to individual decisions.
- 6.2.8 question Members of the Cabinet and/or Committees and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects.
- 6.2.9 make recommendations to the Cabinet and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process.

6.2.10 review and scrutinise performance of other public bodies in the area and initiate reports from them by requesting them to address the Policy and Scrutiny Committee and local people about their activities and performance.

6.2.11 question and gather evidence from any person (with their consent)

### **C. Finance**

Policy and Scrutiny Committees may exercise overall responsibility for the finances made available to them and will have regard to the performance of the Council, reporting to the Cabinet on matters which they believe should be addressed. The Policy and Scrutiny Committee will also consider at the request of the Cabinet specific items concerning Best Value.

### **D. Annual Report**

Policy and Scrutiny Committees must report at least annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

### **E. Officers**

Policy and Scrutiny Committees may exercise overall responsibility for the work programme of the officers employed to support their work.

## **6.3 Proceedings of Policy and Scrutiny Committees**

Policy and Scrutiny Committees will conduct their proceedings in accordance with the Policy and Scrutiny Committee Procedure Rules and Policy and Scrutiny Committees Standing Orders set out in Part 4 of this Constitution.

# **Article 7 – The Cabinet**

## **7.1 Role**

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

## 7.2 Form and Composition

The Cabinet will consist of up to ten Members including the Leader (elected by the Council) and Deputy Leader. The remaining Members at the Cabinet will be appointed to the Cabinet by the Leader in consultation with the Deputy Leader: The Leader (or in the Leader's absence the Deputy Leader) will chair Cabinet Meetings.

## 7.3 Leader

The Leader of the Council will be a Councillor elected to the position by the Council for a four-year period until the following annual post-election meeting, and will hold office until:

- he/she resigns from office or
- he/she is no longer a Councillor or
- he/she is removed from office by resolution of the Council; or
- on expiry of their term of office

## 7.4 Other Cabinet Members

Other Cabinet Members shall hold office until:

- they resign from office
- they are suspended from being a Councillor under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension)

## 7.5 Proceedings of the Cabinet

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

## 7.6 Responsibility of functions

The Leader will maintain a list setting out which individual Members of the Cabinet, Committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular Cabinet functions.

# Article 8 – Regulatory and other committees

The Council will appoint the committees set out in the Responsibility for Council Functions in Part 3 of this Constitution to discharge the functions described.

## 8.1 Planning and Regulatory Committee

**Planning and conservation** – Functions relating to town and country planning and development control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended (the Function Regulations)

**Commons registration** – The registration of Common land or town or village greens and to register the variation of rights of common as set out in Schedule 1 to the Function Regulations

**Highways use and regulation** – The exercise of powers relating to the regulation of the use of highways as set out in Schedule 1 to the Function Regulations.

**Health and safety** – Functions relating to health and safety under any relevant statutory provision within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as employer.

## 8.2 Planning and Regulatory Committee – Public rights of way Sub-committee

The Planning and Regulatory Committee will appoint a Public Rights of Way Sub-Committee comprising of 5 (quorum 3) Members including nominated substitute members of the parent committee. The Public Rights of Way Sub-Committee will have delegated to it the determination of Definitive Map Modification Orders and Public Path Orders.

## 8.3 Standards Sub-Committee

The Planning and Regulatory Committee will establish a Standards Sub-Committee.

### Composition

A. The Standards Sub-Committee will be composed of:

- three Councillors (who are Members or nominated substitute member of the parent Committee)
- one person who is not a Councillor or an officer of the Council (an Independent Member)
- when a complaint concerns a parish or town councillor the sub-committee will also include up to two Members of Parish/Town Councils wholly or mainly in the Council's area (a Parish Member) to be taken from a pool of co-opted parish Councillors from the Parish and Town Councils that comprise North Somerset.

B. Neither the Independent Person or the Parish Member have voting rights at any meeting of the sub-committee.

C. Up to two Parish Members must be present when matters relating to Parish Councils or their Members are being considered.

D. Neither the Independent Person or any Town or Parish neither the independent person or member of the parish or town council may chair the Committee.

### **Role and function**

The Standards Sub-Committee will have the following roles and functions:

- promoting and maintaining high standards of conduct by the Councillors, co-opted Members and church and parent governor representatives.
- advising the Council on the adoption or revision of the Members' Code of Conduct.
- advising, training or arranging to train Councillors, co-opted Members, church and parent governor representatives on matters relating to the Members' Code of Conduct
- granting dispensations to Councillors, co-opted Members, church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct
- dealing with any complaint about conduct of a councillor or a town or parish councillor where the complaint alleges a breach of the Council's Code of Conduct in accordance with the Council's adopted Code of Conduct Complaints procedure

### **Additional Roles**

- Determine an appeal by Councillors regarding certain rulings made by the Chief Executive in relation to the Member/Officer Protocol.

- Consideration of cases where a Councillor has not been supplied with information requested by them and where that decision has been ratified by the Chief Executive.

## 8.4 Licensing Committee

The Licensing Committee will consider matters relating to the Licensing Act 2003 and the Gambling Act 2005 as set out in Schedule 1 to the Functions regulations and other matters relating to that function.

**Taxi, gaming, food and miscellaneous licensing** – Functions relating to licensing and registration as set out in Schedule 1 to the Functions Regulations.

## 8.5 Licensing Sub-Committee

The Licensing Sub-Committee shall consider all matters delegated to it by the Licensing Committee to determine. It will determine applications made under the Licensing Act 2003 and the Gambling Act 2005 where a hearing is required.

## 8.6 Employment Committee

**A. Appointment of Senior Officers** – To interview candidates to make appointments to the following senior officer posts:

- the Head of Paid Service subject to approval by the Council  
and
- Directors and s151 finance officer and monitoring officer.

**B. Discipline and grievance** – In the event of the Employment Sub-Committees not exercising any of their delegated decision making as detailed below to consider and determine appeals against dismissal, bullying and harassment and grievance and to deal with the discipline or potential termination of the employment of the Head of Paid Service, Chief Finance Officer and Monitoring Officer (together the Protected Statutory Officers), including acting as the “Investigation and Disciplinary Committee” referred to in the JNC Chief Cabinets Terms and Conditions of Service Handbook.

**C. Redundancy** – to consider proposals for Redundancies and Early Retirements (posts graded JM8 and above or equivalent).

**D. Pay Scales and Honoraria** – to consider and approve pay scales, honoraria and acting up payments in accordance with Council Policy and approved employment delegation criteria Financial Regulations.

## 8.7 Employment Sub-Committee

The Employment Sub-Committees shall consider all matters delegated to them by the Employment Committee to determine, as follows:

## 8.8 Appeals Sub-Committee

To deal with consider and determine appeals against discipline, dismissal, bullying and harassment and grievance

## 8.9 Grievance Sub-Committee

To deal with consider and determine grievances concerning Head of Paid Service and any Director or Assistant Director and those officers that fall within the definition of “Deputy Chief Officer” in the Local Government and Housing Act 1989.

## 8.10 Staffing Sub-Committee

To deal with consider and determine the discipline or dismissal of Head of Paid Service and any Director or Assistant Director and those officers that fall within the definition of “Deputy Chief Officer” in the Local Government and Housing Act 1989.

**[Note** The Officer Employment Procedure Rules contained in Part 4 of the Constitution must be followed at all times including the specific requirements regarding approval by Council of the appointment of Head of Paid Service and dismissal of Head of Paid Service, Monitoring Officer and Chief Finance / s151 Officer]

## 8.11 Audit Committee

The Council will establish an independent Audit Committee with functions as set out below and to report directly to the Council and comprise five elected Members (Political Balance to apply) and two independent persons to be recruited by advertisement.

### **A. Governance**

- The Audit Committee receives its authority and purpose direct from full Council and is independent of the Cabinet, Scrutiny, and other strategic groups and functions

- The Audit Committee is a key component of the council's corporate governance arrangements, and as such has the right of free and unfettered access, via the council's statutory officers (chief executive, s151 officer and monitoring officer) to officers, members, other committees and functions including scrutiny committees, corporate risk management boards, and other groups as requested.
- The Audit Committee shall comprise five (5) members (political balance to apply), and lay members as appointed and recruited by advertisement.
- The quorum shall be three (3) members.
- Includes to its meetings, as regular attendees, the CFO(s), the chief executive, the head of internal audit and the appointed external auditor. Other attendees may include the monitoring officer and the head of resources. These officers should also be able to access the committee, or the chair, as required.
- Has the right to call any other officers or agencies of the authority as required via the Head of Internal Audit, or statutory officers.
- Should assess the development needs of its committee members and provide appropriate briefings and training.
- May recommend to council to co-opt independent members to bring additional knowledge and expertise to the committee, or to reinforce neutrality or maintain continuity.
- Meets formally at least 4 times a year, and to review the workplan informally at least 4 times a year between the formal meetings.
- Meets privately and separately with the External Auditor and the Internal Audit Manager.
- Reports regularly on its work to those charged with governance, and at least annually provides an assessment of its performance including updates on key deliverables, successes and concerns. An annual public report should demonstrate how the committee has discharged its responsibilities.
- Report key risk management, internal control or governance issues to the Cabinet or Council

## **B. Statement of Purpose**

- To provide an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial management.
- To provide independent assurance to full Council and those charged with governance of the adequacy of the risk management framework and the internal control environment.

- To ensure the integrity of the financial reporting, treasury management and supporting governance processes including the work of internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.
- To consider and make recommendations on any other matters relating to corporate governance which are properly referred to the Committee inter alia, by the CLT, North Somerset Council Cabinet, Committees and Panels or which otherwise come to its attention.
- To prepare an annual report to council on the work of the Committee, including any measures necessary to improve the effectiveness of the Committee.
- To promote the value of the audit process.
- To keep abreast of audit developments and practice within Local Government as a whole.
- To ensure that environmental impact is included as an integral part of council processes and reports.
- To have a clear policy on those items to be considered in private and those to be considered in public.
- To commission work, via the head of audit, from internal and external audit.

### **C. Corporate Governance, Risk Management and Internal Control**

- To consider the council's arrangements for corporate governance and compliance with its own and other published standards and controls and recommending and agreeing necessary actions to ensure compliance with best practice.
- To review the adequacy of the Council's Corporate Governance arrangements, including matters such as internal control and risk management, financial strategy and policy, systems and processes, information technology, security and assurance, business continuity, critical incident, emergency management, procurement, and third party/outourced services.
- To review the Annual Governance Statement prior to approval and be satisfied that it properly reflects the risk environment and any supporting assurances, including those from significant partners.
- To ensure that each Directorate embraces Risk Management and Internal Control at all levels, and provides appropriate visibility, transparency, and accountability on risk management, internal control, and governance issues, and can demonstrate that actions taken in respect of those issues contribute to improved Directorate performance.

- To monitor the effective development and operation of risk management in the council and monitor progress in addressing risk-related issues where they are reported to, or come to the attention of, the committee.
- To review the Risk Management Annual Report and make recommendations as appropriate.
- To regularly review the Corporate Risk Register and make recommendations as appropriate.
- To ensure that appropriate council policies on 'whistle blowing' and complaints are in place, review and monitor their operation, and recommend changes as necessary.
- To review and approve the Risk Management Strategy and receive an annual Plan and monitor actual delivery against the plan at every meeting.
- To review and approve the Internal Control Strategy and receive an annual Plan and monitor actual delivery against the plan at every meeting.
- To monitor the operation of the Council's Constitution and keep its terms under review, including all procedure rules.
- To consider and make recommendations on any proposals to make changes to the Constitution prior to its consideration by the Council.
- To inform the work of the remuneration Panel in advance of them making submissions to the Council.
- To approve payments or other benefits in cases of maladministration as required and make recommendations arising from any review by the Local Governance Ombudsman.

#### **D. Internal Audit and Fraud**

- To ensure the independence and objectivity of the internal audit function
- To support the effectiveness of the internal audit process
- To promote the effective use of internal audit
- To monitor the effectiveness of the counter-fraud and anti-corruption strategy, actions and resources and recommend any necessary changes
- To approve the internal audit charter
- To review and approve the Audit Strategy and to recommend any necessary changes.
- To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance, and any work required to place reliance upon those other sources.

- To monitor the delivery of the Internal Audit Plan and effectiveness of Internal Audit
- To review significant interim changes to the risk-based internal audit plan and resource requirements
- To make appropriate enquiries of both management and the head of internal audit to determine if there are any inappropriate scope or resource limitations.
- To consider reports from the head of internal audit on internal audit's performance during the year. These will include updates on the work of internal audit including key findings, issues of concern, and action in hand as a result of internal audit work.
- To consider the head of internal audit's annual report including conformance with professional standards, and their opinion on the risk and internal control environment, the level of assurance it can give over the Council's corporate governance, and recommend any necessary changes.
- To consider summaries of specific internal audit reports where significant weaknesses have been identified.
- To monitor the implementation of agreed Internal and External audit recommendations using a progress report supplied by Internal Audit at every meeting and on demand.
- To receive reports outlining the action taken where the head of internal audit has concluded that management has accepted a level of risk that may be unacceptable or there are concerns about progress with the implementation of agreed actions.
- To review the Fraud and Corruption Annual Report and make recommendations as appropriate.
- To contribute to the external quality assessment of internal audit that takes place at least once every five years.
- To provide free and unfettered access to the audit committee for the head of internal audit, including the opportunity for private meetings with the committee

#### **E. External Audit**

- To oversee the appointment process for the External Auditor whether through Public Sector Audit Appointments Ltd (PSAA) or the authority's own auditor panel as appropriate.
- To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by PSAA or the authority's auditor panel as appropriate.

- To consider the council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements following receipt of the External Auditor's assessment.
- To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.
- To consider specific reports as agreed with the external auditor including the External Audit Update Report and recommend any necessary changes.
- To comment on the scope and depth of external audit work in the External Audit Plan, to monitor its delivery and effectiveness during the year and to ensure it gives value for money.
- To monitor management action in response to issues raised by external audit.
- To support effective relationships between external audit and internal audit and other relevant bodies

#### **F. Financial Control and Reporting**

- To review and approve the Council's annual statement of accounts; to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.
- To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.
- To review and scrutinise the Council's Treasury Management arrangements including its Treasury Management & Investment Strategy and to make recommendations as appropriate.
- To review the Treasury Management Updates and Outturn and make recommendations as appropriate.
- To review and consider any changes to Accounting policies and procedures that impact on the Council's accounting arrangements.
- To review and consider any changes to the Council's Financial Regulations and Contract Standing Orders prior to approval by Council

# Article 9 – Joint Arrangements

## 9.1 Arrangements to promote wellbeing.

The Cabinet, in order to promote the economic, social or environmental wellbeing of its area, may:

- 9.1.1 enter into arrangements or agreements with any person or body
- 9.1.2 co-operate with or facilitate or co-ordinate the activities of, any person or body and
- 9.1.3 exercise on behalf of that person or body any functions of that person or body

## 9.2 Joint Arrangements

- 9.2.1 The Council may establish joint arrangements with one or more local authorities and/or their Cabinet to exercise 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. The Cabinet may establish joint arrangements with one or more local authorities to exercise functions. Such arrangements may involve the appointment of joint Committees with these other Local Authorities.
- 9.2.2 The Cabinet may establish joint arrangements with one or more local authorities to exercise functions. Such arrangements may involve the appointment of joint Committees with these other Local Authorities
- 9.2.3 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.
- 9.2.4 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 an electoral ward which is wholly or partly contained within the area.
- 9.2.5 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.

## 9.3 Access Information

- 9.3.1 The access to Information Rules in Part 4 of this Constitution apply.
- 9.3.2 If all Members of a joint Committee are Members of the Cabinet in each of the participating authorities the Access to Information regime is the same as that applied to this Cabinet.
- 9.3.3 If the joint Committee contains Members who are not in the Cabinet of any participating authority, then the Access to Information rules in Part VA of the Local Government Act 1972 will apply.

## 9.4 Delegation to and from other local authorities

- 9.4.1 The Council may delegate non-Cabinet functions to another Local Authority or, in certain circumstances, the Cabinet of another Local Authority.
- 9.4.2 The Cabinet may delegate Cabinet functions to another Local Authority or the Cabinet of another Local Authority in certain circumstances.
- 9.4.3 The decision whether or not to accept such a delegation from another Local Authority shall be reserved to the Council meeting.

## 9.5 Contracting out

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

# Article 10 – Officers

## 10.1 Management Officers

- 10.1.1 The full Council may engage such staff as it considers necessary to carry out its functions.
- 10.1.2 The full Council will engage persons for the following posts, designated Chief Officers:

<b><u>Post</u></b>	<b><u>Functions &amp; areas of responsibility</u></b>
<b>Chief Executive –</b>	Overall responsibility for Services and Staff
<b>Director of Corporate Services –</b>	Corporate Services and finance and libraries
<b>Director of EAT –</b>	Environmental services, Highways and Transport, Tourism, Leisure Services.
<b>Director of Health and sustainable communities –</b>	Public Health and regulatory services (including environmental services and trading standards) planning, economic development and place making
<b>Director of Children’s Services –</b>	Children and Young Peoples Services including education
<b>Director of Adult Social Services –</b>	Adult social services

10.1.3 The Council will designate the following posts as shown:

<b><u>Post</u></b>	<b><u>Designation</u></b>
<b>Chief Executive –</b>	Head of Paid Service
<b>Director of Corporate Services –</b>	Section 151 Officer
<b>Assistant Director Legal &amp; Governance –</b>	Monitoring Officer

Such posts will have the functions described in Article 10 below.

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 in Part 7 of this Constitution.

## 10.2 Functions of the Head of Paid Services

The Head of Paid Services will keep the Council informed on the manner in which the discharge of the Council's functions is coordinated, the number and grade of officers required for the discharge of the functions and the organisation of officers.

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

## 10.3 Functions of the Monitoring Officer

- 10.3.1 The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.
- 10.3.2 After consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to a Cabinet function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- 10.3.3 The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Sub-Committee.
- 10.3.4 The Monitoring Officer will receive and act on complaints to the Standards Sub-Committee concerning the conduct of Councillors or of town or parish Councillors.
- 10.3.5 The Monitoring Officer will conduct investigations into matters referred by the Standards Sub-Committee and make reports if required in line with the standards complaints process to the Standards Sub-Committee.
- 10.3.6 The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- 10.3.7 The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- 10.3.8 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.
- 10.3.9 The Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service.

## 10.4 Functions of the Section 151 Officer

- 10.4.1 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 Cabinet 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.

10.4.2 The Section 151 Officer will have responsibility for the administration of the financial affairs of the Council.

10.4.3 The Section 151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

10.4.4 The Section 151 Officer will provide advice on the scope of powers and the authority to take decisions, maladministration, financial impropriety probity and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.

10.4.5 The Section 151 Officer will provide financial information to the media, Members of the public and the community.

## 10.5 Duty to provide sufficient resources to the Monitoring officer and Section 151 Officer

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

## 10.6 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.

## 10.7 Employment

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

# Article 11 – Decision Making

## 11.1 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.

## 11.2 Principles of decision making

All decisions of the Council will be made in accordance with the following principles and will always be recorded where it is legally required to do so:

11.2.1 Proportionality (the action must be proportionate to the desired outcome)

11.2.2 Due consultation and the taking of advice from professional officers.

11.2.3 Respect for human rights

11.2.4 A presumption in favour of openness

11.2.5 Clarity of aims and desired outcomes and

11.2.6 Explaining what options have been considered and the reason for the decision.

11.2.7 Decisions relating to the functions listed in Article 4 will be made by the full Council and not delegated.

11.2.8 Key Decisions are those taken by the Cabinet which are likely to:

result in the Local Authority incurring expenditure which is or the making of savings which are significant having regard to the Local Authority's budget for the service or function to which the decision relates. In most cases this will mean savings or expenditure of £500,000 or over, **or**

to be significant in terms of its effect on communities living or working in an area comprising two or more wards in the area of the Local Authority

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

## 11.3 Decision making by the Full Council

Subject to Article 11 (Decision making by Council bodies acting as tribunals) the Council meeting will follow Council Standing Orders and the Access to Information Procedure Rules set out in part 4 of this Constitution when considering any matter.

## 11.4 Decision making by the Cabinet

Subject to Article 11 (Decision making by Council bodies acting as tribunals) the Cabinet will follow the Cabinet Procedure Rules set out in Part 4 of this Constitution.

## 11.5 Decision making by the Policy and Scrutiny Committees

Policy and Scrutiny Committees will follow the Policy and Scrutiny Committee Procedure rules set out in part 4 of this Constitution.

## 11.6 Decision making by other committees and sub-committees established by the Council.

Subject to Article 11 (Decision making by Council bodies acting as tribunals) other Council Committees and sub-committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

## 11.7 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 12 – Finance, Contracts and Legal Matters

## 12.1 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.

## 12.2 Contracts

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

## 12.3 Legal Proceedings

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

## 12.4 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 Assistant Director Legal and Governance or other person authorised by him/her unless any enactment authorises or requires, or the Council has given requisite authority to some other person.

Any contract with a value exceeding £1000 entered into on behalf of the Local Authority in the course of the discharge of a council function shall be made in writing. Such contracts must be signed by at least two officers of the authority or made under the common seal of the Council by at least one officer as provided by Contract Standing Orders

## 12.5 Common Seal of the Council

The common seal of the Council will be kept in a safe place in the custody of the Assistant Director Legal and Governance. 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 Assistant Director Legal and Governance should be sealed. The affixing of the Common Seal will be attested by the Assistant Director Legal and Governance or some other person authorised by him/her.

# Article 13 – Review and Revision of the Constitution

## 13.1 Duty to monitor and review the Constitution

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

A key role for the Monitoring Officer 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 the Monitoring Officer may:

1. In undertaking this task the Monitoring Officer may:
  - 13.1.1 Observe meetings of different parts of the Member and officer structure
  - 13.1.2 Undertake an audit trail of sample decisions
  - 13.1.3 Record and analyse issues raised with him/her by Members, officers, the public and other relevant stakeholders and
  - 13.1.4 Compare practices in the Authority with those in other comparable authorities or national examples of best practice.

## 13.2 Changes to the Constitution

**Approval** – Changes to the Constitution will only be approved by the full Council after comments on the proposal by the Monitoring Officer have been made available to Council.

# Article 14 – Suspension, Interpretation, and publication of the Constitution

## 14.1 Suspension of the Constitution

**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.

**Procedure to suspend** – A motion to suspend any rules will not be moved without notice unless at least 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 into account the purposes of the Constitution set out in Article 1.

**Rules capable of suspension** – The following rules may be suspended in accordance with Article 14

Standing Orders for Council and Committees and Sub-Committees

Contract Standing Orders

Cabinet Standing Orders

Policy and Scrutiny Committee Standing Orders

## 14.2 Interpretation

The ruling of the Chairperson of Council 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 shall have regard to the purposes of this Constitution contained in Article 1.

## 14.3 Publication

- The Assistant Director Legal and Governance will make available a 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 office.
- The Assistant Director Legal and Governance will ensure that copies are available for inspection at Council offices, libraries, and other appropriate locations, and can be purchased by Members of the local press and the public on payment of a reasonable fee.
- The Assistant Director Legal and Governance will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

## Schedule 1 – Description of Cabinet Arrangements

The following parts of the Constitution constitute the Cabinet Arrangements:

Article 6 (Policy and Scrutiny Committees) and the Policy and Scrutiny Committee Rules.

Article 7 (The Cabinet) and the Cabinet Procedure Rules.

Article 9 (Joint Arrangements) There are two Joint Arrangement Committees with other authorities, which includes Bristol City Council, South Gloucestershire and Bath and North-East Somerset Councils as set out in part 3 (6).

Article 11 (Decision making) and the Access to Information Procedure Rules

Part 3 (Responsibility for Functions)