THE ARTICLES OF CONSTITUTION

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ARTICLE 1 - THE CONSTITUTION

1.1 Powers of the Council

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

1.2 The Constitution

This Constitution and all its parts are the Constitution of Bromsgrove District Council.

1.3 Purpose of the Constitution

The purpose of the Constitution is to:

a. enable the Council to provide clear leadership to the community in partnership with citizens, businesses, and other organisations;

b. support the active involvement of citizens in the process of local authority decision-making;

c. help Councillors represent their constituents more effectively;

d. enable decisions to be taken efficiently and effectively;

e. create a powerful and effective means of holding decision-makers to public account;

f. ensure that no-one will review or scrutinise a decision in which they were directly involved;

g. ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions; and

h. provide a means of improving the delivery of services to the community.

1.4 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above. The Council will monitor and evaluate the operation of the Constitution as set out in Article 16.

ARTICLE 2 - MEMBERS OF THE COUNCIL

2.1 Composition and eligibility

The Council will comprise 31 Members, otherwise called Councillors. One or more Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Electoral Commission and approved by the Secretary of State. Only registered voters of the District, or those living or working or owning property in the District, 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 on the fourth day after the date of the next regular election.

2.3 Roles and functions of all Councillors

All Councillors will:-

a. collectively be the ultimate policy makers and carry out a number of strategic and corporate management functions;

b. represent their communities and bring their views into the Council's decision-making process ie become the advocate for their communities;

c. deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;

d. balance different interests identified within their ward and represent the ward as a whole;

e. contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;

f. participate in the governance and management of the Council; and

g. maintain the highest standards of conducts and ethics.

h. be available to represent the Council on other bodies

The roles and responsibilities of Councillors are set out in more detail in Part 30 of this Constitution.

2.4 Councillors' Rights and Duties

Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.

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 another member of this Council or officer entitled to know it and any information so divulged to a councillor or officer is to be strictly on a confidential basis

For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 9 of this Constitution.

2.5 Conduct

Councillors will at all times observe the Members' Code of Conduct, Gifts and Hospitality Code of Conduct, the Protocol on Member-Officer Relations and the Protocol on Relations Between Members set out in Parts 20, 21, 22 and 23 of this Constitution.

2.6 Allowances

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 19 of this Constitution.

ARTICLE 3 – CITIZENS AND THE COUNCIL

3.1 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 9 of this Constitution:

a. **Voting** Citizens on the electoral roll for the area have the right to vote

b. Petitions Citizens on the electoral roll have the right to sign a petition to request a referendum for an elected mayor form of Constitution. More generally citizens have the right to sign petitions relating to other issues which affect the District. In order to deal effectively with Petitions the Council has agreed a protocol on petitions, which is available on the Council's website.

c. **Information** Citizens have the right to:

(i) attend meetings of the Council and its committees or Boards except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;

(ii) attend meetings of the Cabinet except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;

(iii) find out from the Cabinet Work Programme what key decisions will be taken by the Cabinet and when;

(iv) see reports and background papers, and any minutes of decisions made by the Council and the Cabinet (other than those comprising confidential or exempt information); and

(v) inspect the Council's accounts and make their views known to the external auditor.

c. **Participation**

(i) Citizens may be invited to contribute to investigations by the Overview and Scrutiny Board or Overview and Scrutiny Board Task Groups.

(ii) Citizens who attend any meeting of the Council are entitled to take a copy of the Agenda and associated reports available in the public gallery.

(iii) Citizens may be entitled to address committee meetings but only where public participation has been agreed by the Council.

(iv) film/record meetings, when open to the public, in accordance with the Council's protocol;

(v) Citizens may be invited from time to time to contribute to other community forums.

d. **Complaints** Citizens have the right to complain to:

(i) the Council itself under its Customer Feedback scheme;

(ii) the Commissioner for Local Government Ombudsman;

(iii) the Monitoring Officer about a breach of the Council's Code of Conduct.

3.2 Citizens' responsibilities

Citizens may not disrupt or cause undue disturbance at meetings. Citizens must not be violent, abusive, or threatening to Councillors or officers and must not wilfully harm things owned by the Council, Councillors, or officers.

ARTICLE 4 – THE FULL COUNCIL

4.1 Meanings

"Policy Framework"
The policy framework means the following plans and strategies:-

- The Development Plan;
- The Council Plan;
- Carbon Reduction Strategy
- Contract Procedure Rules
- Inclusive Equalities Scheme

"Budget"
The budget includes the allocation of financial resources to different services and projects, the medium-term financial plan, proposed contingency funds, setting the Council tax, decisions relating to the control of the Council's borrowing requirements, the control of its capital expenditure and the setting of virement limits.

4.2 Functions of the full Council

Only the Council will exercise the following functions:

a. adopting and changing the Constitution;

b. approving or adopting the Budget and the Policy Framework 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 9 of this Constitution, making decisions about any matter in the discharge of a Cabinet function which could have been (but was not) covered by the Budget and Policy Framework or 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 or removing from office:-

    (i) the Leader;

    (ii) the Chairman or Vice-Chairman;

e. confirming the appointment of the Chief Executive, Monitoring Officer and Section 151 Officer;

f. agreeing and/or amending the terms of reference for committees and Boards, deciding on their composition and, subject to Article 8.3, making appointments to them;

g. the appointment and revocation of appointments of representatives to outside bodies unless the appointment is a Cabinet function or has been delegated by the Council;

h. adopting the Members' allowances scheme;

j. changing the name of the area or conferring the title of honorary alderman;

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

l. all local choice functions set out in Part 3 of this Constitution (Responsibilities for Functions) which the Council decides should be undertaken by itself rather than the Cabinet; and

m. all other matters which, by law, must be reserved to Council.

4.3 Council meetings

There are three types of Council meeting:

a. the annual meeting;

b. ordinary meetings;

c. extraordinary meetings

and they will be conducted in accordance with the Council Procedure Rules in Part 8 of this Constitution.

4.4 Responsibility for functions

The Council will maintain the tables in Parts 3 - 7 of this Constitution setting out:

a. those functions which are the responsibility of the Council;

b. those functions which are the responsibility of the Council and which it has delegated to committees or officers.

ARTICLE 5 – CHAIRING THE COUNCIL

5.1 Role and function of the Chairman

The Chairman and Vice-Chairman of the Council will be elected by the Council annually and neither the Chairman nor the Vice-Chairman will be

a member of the Cabinet. The Chairman, and in his/her absence the Vice-Chairman, will have the following roles and functions:

a. To preside over meetings of the full Council, preserve order in meetings and ensure that proceedings are conducted impartially and in a proper manner and with regards to the rights of Councillors and the interests of the community.

b. To ensure that all councillors have the opportunity to contribute to debates subject to the relevant standing orders and constitution.

c. To uphold and promote the purposes of the constitution and interpreting it when necessary.

d. To ensure that the Council meeting is a forum for debate of matters of concern to the local community.

e. To determine that the Council meeting is properly constituted and that a quorum is present.

f. To inform himself/herself as to the business and objects of the meeting.

g. To ensure that discussions at Council are within the scope of the meeting and within the time limits provided.

h. To rule a point of order and other incidental questions which require decision at the time.

i. To put relevant questions to the meeting and take a vote thereon; causing a named vote or ballot to be taken if demanded; if necessary to give a second or casting vote; to declare the result.

j. To adjourn the Council meeting when circumstances justify or require that course.

k. To declare the Council meeting closed when business is completed.

l. To act in a proper and dignified manner at all times as befits the office

m. To establish and maintain effective and efficient working relations with the leaders of other groups, the cabinet, chairmen of other committees/boards, other Members and officers as appropriate.

n. The Chairman cannot:

- Be a member of the Cabinet;
- Be a member of the Audit, Standards and Governance Committee
- Be a member of the Overview and Scrutiny Board.

ARTICLE 6 – OVERVIEW AND SCRUTINY

6.1 Discharge of overview and scrutiny functions

The Council will appoint an Overview and Scrutiny Board to discharge the functions conferred by:

a. section 21 of the Local Government Act 2000 or any regulations made under section 32 of the Local Government Act 2000;

b. sections 119, 236 and 237 of the Local Government and Public Involvement in Health Act 2007; and

c. section 19 of the Police and Justice Act 2006 and the Crime and Disorder (Overview & Scrutiny) Regulations 2009.

6.2 Composition

The Overview and Scrutiny Board will be composed of Councillors, none of whom shall be members of the Cabinet;

The Chairman of the Overview and Scrutiny Board may be a member of the non-controlling political group.

6.3 Terms of reference

The general terms of reference of the Overview and Scrutiny Board will be to perform all overview and scrutiny functions on behalf of the Council in relation to any matter affecting the District and its inhabitants.

6.4 General role of the Overview and Scrutiny Board

The Overview and Scrutiny Board will:

a. make reports and/or recommendations to the full Council and/or the Cabinet in connection with the discharge of any functions;

b. consider any matter affecting the area or its inhabitants;

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

d. exercise the right to call-in for reconsideration, decisions made but not yet implemented by the Cabinet (which right shall not arise before the Cabinet has made a decision).

e. receive and consider Councillor Calls for Action;

f. receive and consider Councillor Calls for Action in relation to crime and disorder matters;

g. review and/or scrutinise decisions made, or other action taken, in connection with the discharge by the Council of its crime and disorder functions;

h. receive and consider petitions (other than petitions relating to regulatory matters); and

i. assist the Council and the Cabinet in the development of the Budget.

6.5 Specific functions of the Overview and Scrutiny Board

The Overview and Scrutiny Board may:

a. review and scrutinise the decisions made by the Cabinet, committees (but not decisions of regulatory committees) and Council Officers.
b. assist the Council and the Cabinet in the development of its Budget and Policy Framework by in-depth analysis of policy issues;
c. conduct research, community consultation and other consultation in the analysis of policy issues and possible options;
d. consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
e. question members of the Cabinet and chief officers;
f. 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;
g. review and scrutinise the performance of the Council in relation to its policy objectives and/or particular service areas;
h. question members of the Cabinet, committees or Boards and chief officers about their decisions whether generally in comparison with service plans and targets over a period of time, or in relation to particular decision, initiatives or projects;
i. make recommendations to the Cabinet and/or the Council arising from the outcome of the overview and scrutiny process
j. review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the

Overview Board, the Scrutiny Board or Task Groups and local people about their activities and performance; and

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

6.6 Finance.

The Board will exercise overall responsibility for any finances made available to it.

6.7 Officers.

The Head of Legal, Equalities and Democratic Services will in consultation with the Chairman of the Board exercise overall responsibility for the work programme of any officers specifically employed to support the work of the Board.

6.8 Proceedings of the Overview and the Scrutiny Board

The Overview and Scrutiny Board will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 12 of this Constitution.

6.9 Annual Report

The Overview and Scrutiny Board will provide an annual report to Council on the work of the Board together with recommendations for future work programmes and amended working methods if appropriate.

ARTICLE 7 – THE LEADER OF THE COUNCIL AND THE CABINET

7.1 Role

The Council has adopted the Leader and Cabinet Executive (England) governance model for its executive arrangements. The Leader of the Council is responsible for the discharge of such functions as are the responsibility of the Executive of the Council i.e. all functions which by law must be the responsibility of the Executive or which are not the responsibility of any other part of the Council whether by law or under this Constitution ('executive functions'). The Leader may make such arrangements as the Leader thinks fit from time to time for the delegation and discharge of executive functions.

7.2 Composition of the Cabinet

a) Leader of the Council is responsible for the appointment of the Cabinet which will consist of the Leader and not less than 2 nor more than 9 other councillors, as the Leader shall determine. The Leader may change the size of Cabinet (within the above parameters) and appointments to it at any time.

b) One of the members of the Cabinet will be designated by the Leader as Deputy Leader, to hold office until the end of the Leader's term of office, unless the Deputy Leader resigns, ceases to be a member, is disqualified, or is removed by the Leader at any time.

c) If for any reason the Leader is unable to act, or the office of Leader is vacant, the Deputy Leader must act in the Leader's place. If the Deputy Leader is unable to act or the office is vacant, the Cabinet must act in the Leader's place or arrange for a member of the Cabinet to do so.

d) The Cabinet is not a Committee of the Council. Its composition is not required to be in accordance with the political balance of the Council.

e) The Cabinet collectively, individual members of the Cabinet or officers will be responsible for the discharge of such functions of the executive as are allocated by the Leader of the Council from time to time. The Leader will maintain a List in Parts 3 - 7of this Constitution (Scheme of Delegation) setting out which Cabinet members, officers or joint or local arrangements are responsible for the exercise of particular Cabinet functions

7.3 Leader

The Leader will be a Councillor elected to the position of Leader by the Council at its annual meeting. The Leader shall hold office for a period of 4 years starting on the day of his/her election and ending on the day of the post-election annual meeting unless:

a) he or she resigns from the office of Leader; or

b) he or she is disqualified from being or remaining a councillor; or

c) he or she is no longer a councillor of the Council for any reason; or

d) he or she is removed from office by a resolution of Full Council during the Leader's term of office (and in which case Council will elect a new Leader at that or a subsequent meeting).

7.4 Other Cabinet Members

A Cabinet Member shall hold office until:

a) he or she resigns from the office; or

b) he or she is disqualified from being or remaining a councillor; or

c) he or she is no longer a councillor of the Council for any reason; or

d) he or she is removed from office by the Leader of the Council

7.5 Proceedings of the Cabinet

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 11 of this Constitution.

7.6 Responsibility for functions

a) The Leader will decide on the number, and extent of areas of responsibility, of Cabinet members and will decide to which members of the Cabinet such areas of responsibility shall be allocated; and

b) The Leader will decide the extent to which responsibility for formal decision-making for functions of the executive may be held collectively by the Cabinet, by individual members of the Cabinet or Officers. The functions assigned to the Cabinet and officers are set out in Parts 3 - 7 of this constitution (Allocation of Functions).

c) Unless delegated to an individual officer or Cabinet member the Leader may determine that the responsibility of the Cabinet for the exercise of an executive function and decision-making is collective.

d) The Leader may delegate any responsibility of the Leader or the Cabinet for the exercise of an executive function to any Cabinet Member with Responsibility or any other individual member of the Cabinet, or officer;

e) The Leader or Cabinet, in relation to an executive function, may specify that a particular decision which would otherwise fall within a power delegated to an officer in accordance with the Scheme of delegation to officers shall not be exercised by that officer but shall be reserved or referred to the Leader, Cabinet or an individual Cabinet member for that decision to be made. An officer may decide not to exercise any executive function delegated to him/her and invite the Leader or Cabinet to take a particular decision in relation to that function.

f) Where under the Scheme of Delegations a decision-making function has been delegated to the Cabinet the following provisions will apply:-

(i) In the case of decisions required to be made urgently such that formal reporting to Cabinet is not possible, the Leader may take that decision in consultation with the relevant Portfolio Holders, the Chief Executive, the Section 151 Officer and the Monitoring Officer;

(ii) In the case of decisions made in principle, the Cabinet may authorise the Leader or Portfolio Holder with responsibility to finalise outstanding details in agreement with the appropriate Director or Head of Service.

(iii) The Cabinet may arrange for the further delegation of that decision making function to a Cabinet committee or an officer or by way of joint local arrangements.

g. The Leader or the Cabinet may request the Overview and Scrutiny Board to consider including issues within their work programme.

ARTICLE 8 - REGULATORY AND OTHER COMMITTEES

8.1 Regulatory and other committees

The Council will appoint the committees and boards set out in in Part 5 of this Constitution (Committees) to discharge the functions described in that Table.

8.2 Proceedings of Regulatory and Other Committees

Unless otherwise specifically provided for in Part 5 of this Constitution (Committees), in Parts 12, 13 and 14 (Overview and Scrutiny Procedure Rules, Audit, Standards and Governance Committee Procedure Rules, and Planning Committee Procedure Rules) or elsewhere in this

Constitution, regulatory and other committees will conduct their proceedings in accordance with the Council Procedure Rules in Part 8 of this Constitution.

8.3 Appointment to Seats of Regulatory and other Committees

When the Council allocates seats on a regulatory or other committee to a political group, the appointment of Councillors to those seats shall be at the discretion of the leader of the appropriate political group who shall confirm in writing to the Chief Executive the appointment or removal of any member of that group to any regulatory or other committee.

8.4 Qualifications for sitting on Regulatory and other Committees

a) The Leader may not sit on any regulatory committee or sub-committee, nor may they act as substitute for another member of a regulatory committee or sub-committee.

b) The Chairman of the Council cannot be a member of Cabinet, Audit, Standards & Governance Committee or Overview and Scrutiny Board.

c) The terms of reference of committees at Part 5 of the Constitution set out membership requirements.

ARTICLE 9 - AREA COMMITTEES

The Council may establish Area Committees which may take the form of:

(i) consultative forums; or

(ii) decision-making bodies to which either executive functions or non-executive functions may be delegated in which case the Area Committee must operate in accordance with the Council's Constitution including the Access to Information Rules.

ARTICLE 10 - THE AUDIT, STANDARDS AND GOVERNANCE COMMITTEE

10.1 Standards

The Council meeting will establish a Committee to promote and maintain high standards of conduct of Members and to assist in the discharge of

the functions conferred by sections 27 to 37 of the Localism Act 2011. The Committee will be politically balanced under the Local Government Act 1972. This function is carried out by the Audit, Standards and Governance Committee.

10.2 Composition

a. **Membership.** The Audit, Standards and Governance Committee will be composed of:

(i) nine District Councillors;

(ii) two co-opted non-voting Parish Representatives who must be members of Parish Councils within the Council's area (and who shall not be members of the District Council).

b. **Appointment of the Parish Representative.** Parish Representatives shall be appointed by the Council in accordance with such process as the Council shall from time to time determine. In addition to the two Parish Representatives, the Council may appoint a nominated substitute Parish Representative.

c. **Voting.** Only District Councillors will be entitled to vote at meetings.

d. **Parish members.** At least one Parish Member or the substitute Parish Member must be present when matters relating to parish councils are being considered.

e. **Chairing the Committee.** At the first meeting of the Municipal Year one of the District Council members will be appointed as Chairman for the ensuing Municipal Year.

f. Substitutes. District Councillors who are unable to attend a meeting of the Audit, Standards and Governance Committee may appoint a District Councillor to attend the meeting as his/her substitute and who may attend, participate in and vote at the Committee meetings in the absence of the District Councillor. A Parish Representative may appoint the nominated substitute Parish Representative who may attend, participate in and vote at Audit, Standards and Governance Committee and sub-committee meetings in the absence of the Parish Representative. Nominated substitutes may in an observational capacity attend meetings of the Audit, Standards and Governance Committee when they are not acting as substitutes. The Audit, Standards and Governance Committee will from time to time determine provisions for appointing substitutes to attend Sub-Committee meetings.

10.3 General Role

The Audit, Standards and Governance Committee will have the following roles and functions:

To provide independent assurance to the Council in relation to:

a. The effectiveness of the Council's governance arrangements, risk management framework and internal control environment, including overseeing:
   - Risk management strategies;
   - Anti-fraud arrangements;
   - Whistle-blowing strategies;
   - Internal and external audit activity
   - Democratic Governance

b. the effectiveness of the Council's financial and non-financial performance to the extent it affects exposure to risk and poor internal control;

c. the annual governance statement.

d. The review of the annual statement of accounts, confirming the appropriate accounting policies have been followed, including the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

Appointment of External Auditors

e. To arrange the recruitment and operation of the Council's Auditor Panel and to recommend the appointment of external auditors in accordance with the requirements of the Audit and Accountability Act 2014.

Standards

f. Promote and maintain high standards of conduct by Councillors and any co-opted members of Council bodies.

g. Assist Councillors and co-opted members to observe the Members' Code of Conduct.

h. Advise the Council on the adoption or revision of the Members' Code of Conduct.

i. Monitor the operation of the Members' Code of Conduct.

j. Advise, train or arrange to train Councillors and co-opted members on matters relating to the Members' Code of Conduct.

k. Formulate advice for Members and officers on declarations of gifts and hospitality and monitor and review the arrangements for recording interests, gifts and hospitality.

l. Grant dispensations to Councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct.

m. For both District and Parish Councils, deal with any report from the Monitoring Officer following an investigation into a complaint concerning the Members' Code of Conduct.

n. For both District and Parish Councils, consider and determine allegations that a Councillor or co-opted Councillor may have failed to follow the Code of Conduct and where a breach of the Code is established, impose sanctions as delegated by full Council or make recommendations as to any sanctions to the appropriate person or body.

o. Monitor and review the operation of the Protocol on Member-Officer relations.

p. Monitor and review the operation of the Protocol on Member-Member relations.

ARTICLE 11 - JOINT ARRANGEMENTS

11.1 General Power of Competence

The Council or the Cabinet 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;

c. exercise on behalf of that person or body any functions of that person or body

where legally permissible.

11.2 Joint arrangements

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

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

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

d. The Cabinet may appoint members to a joint committee from outside the Cabinet, where the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint committee any Councillor who is a member for a ward which is wholly or partly contained within the area. In such circumstances the political balance requirements do not apply to such appointments.

e. Details of any joint arrangements including any delegations to joint committees will be found in Part 7 of this Constitution (Responsibility for Functions – Joint Arrangements).

11.3 Access to information

a. The Access to Information Rules in Part 9 of this Constitution apply.

b. If all the members of a joint committee are members of the Cabinet in each of the participating authorities then its access to information regime is the same as that applied to the Cabinet.

c. If the joint committee contains members who are not on the Cabinet of any participating authority then the Access to Information Procedure Rules in Part V of the Local Government Act 1972 will apply.

11.4 Delegation to and from other local authorities

a. The Council may delegate non-Cabinet functions to another local authority or, in certain circumstances, the Cabinet of another local authority.

b. The Cabinet may delegate Cabinet functions to another local authority or the Cabinet of another local authority in certain circumstances.

c. The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

11.5 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 principles, provided there is no delegation of the Council's discretionary decision making.

ARTICLE 12 - OFFICERS

12.1 Management structure

a. General

The full Council may engage officers as it considers necessary to carry out its functions. The Council has agreed to the appointment of a shared Chief Executive with Redditch Borough Council and a shared management team. The establishment of the Council will include the posts set out in part 18 of the constitution, which form part of the shared management team and, who will be designated chief officers.

b. Head of Paid Service, Monitoring Officer and Section 151 Officer

The Council must appoint to these positions and designates the following posts as shown:

- Chief Executive – Head of Paid Service
- Head of Legal, Equalities and Democratic Services – Monitoring Officer
- Executive Director – Finance and Corporate Resources – Section 151 Officer

These posts will have the functions described in Articles 12.2 – 12.4 below.

c. Structure

The Chief Executive will determine, publicise and keep up to date a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 18 of this Constitution.

(Note: The Council has agreed that as part of the shared management arrangements with Redditch Borough Council, the officers appointed to the posts of Monitoring Officer and Section 151 Officer will carry out that function for both authorities)

12.2 Functions of the Head of Paid Service

a. The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

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

12.3 Functions of the Monitoring Officer

a. **Maintaining the Constitution** The Monitoring Officer will maintain an up to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.

b. **Ensuring lawfulness and fairness of decision making** After consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report to the full Council, or to the Cabinet in relation to an Cabinet function, if he/she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposals or decision being implemented until the report has been considered.

c. **Supporting the Audit, Standards and Governance Committee in relation to Standards matters** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Committee.

e. **Conducting investigations** The Monitoring Officer will conduct investigations into member complaints and make reports or recommendations in respect of them to the Committee.

f. **Proper Officer for access to information** 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.

g. **Advising whether Cabinet decisions are within the Budget and Policy Framework** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework.

h. **Providing advice** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Councillors.

i. **Restrictions on post** The Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service.

12.4 Functions of the Section 151 Officer

a. **Ensuring lawfulness and financial prudence of decision making** After consulting with the Head of Paid Service and the Monitoring Officer, the Section 151 Officer will report to 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.

b. **Administration of financial affairs** The Section 151 Officer will have responsibility for the administration of the financial affairs of the Council.

c. **Contributing to Corporate Management** The Section 151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

d. **Providing advice** The Section 151 Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues

to all Councillors and will support and advise Councillors and officers in their respective roles.

e. **Give financial information** The Section 151 Officer will provide financial information to the media, members of the public and the community.

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

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

12.6 Conduct

Officers will comply with any Officers' Code of Conduct and the Protocol on Member-Officer Relations set out in Part 22 of this Constitution.

12.7 Employment

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 17 of this Constitution.

ARTICLE 13 - DECISION MAKING

13.1 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 Parts 3 - 7 of this Constitution.

13.2 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 proposed outcome);

b. due consultation and the taking of professional advice from officers;

c. respect for human rights;

d. a presumption in favour of openness;

e. clarity of aims and desired outcomes;

f. due regard for the Council's environmental objectives;

g. due regard for the Council's duties in relation to crime and disorder;

h. clear explanations of the options considered and the reasons for the decision reached.

13.3 Types of decision

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

b. Key Decisions are those executive decisions which are likely to:

(i) result in the Council incurring expenditure, foregoing income or the making of savings in excess of £200,000 or which are otherwise significant having regard to the Council's budget for the service or function to which the decision relates; or

(ii) be significant in terms of its effect on communities living or working in an area comprising two or more wards in the district.

In considering whether a decision is likely to be significant, a decision-maker will need to consider the strategic nature of the decision and whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the Council to a significant number of people living or working in the locality affected. This is not intended to capture day-to-day operational management decisions covered by the Council's Scheme of Delegation to Officers.

Key Decisions will include:

(1) a decision which would result in any expenditure or saving by way of a reduction in expenditure of £200,000 provided the expenditure

or saving is specifically approved in the Medium Term Financial Plan;

(2) a virement of any amount exceeding £200,000 provided it is within any virement limits approved by the Council;

(3) any proposal to dispose of any Council asset with a value of £200,000 or more or which is otherwise considered significant by the Corporate Property Officer;

(4) Any proposal to cease to provide a Council service (other than a temporary cessation of service of not more than 6 months);

(5) Any proposal which would discriminate for or against any minority group.

c. A Key Decision must be made in accordance with the requirements of the Cabinet Procedure Rules set out in Part 11 of this Constitution.

13.4 Decision making by the full Council

Subject to Article 13.8, each Council meeting will follow the Council Procedures Rules set out in Part 8 of this Constitution when considering any matter.

13.5 Decision-making by the Cabinet.

Subject to Article 13.8, the Cabinet will follow the Cabinet Procedure Rules set out in Part 11 of this Constitution when considering any matter.

13.6 Decision-making by the Overview and Scrutiny Board

The Overview and Scrutiny Board, will follow the Overview and Scrutiny Procedures Rules set out in Part 12 of this Constitution when considering any matter.

13.7 Decision making by other committees and sub-committees established by the Council

Subject to Article 13.8 other Council committees and sub-committees will follow those parts of the Council Procedure Rules set out in Part 8 of this Constitution as apply to them or such other Procedure Rules as are set out in Parts 12, 13 and 14 or elsewhere in this Constitution or as otherwise agreed by the Council.

13.8 Decision making by Council bodies acting as tribunals

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

ARTICLE 14 - FINANCE, CONTRACTS AND LEGAL MATTERS

14.1 Financial management

The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in Part 15 of this Constitution.

14.2 Contracts

Every contract made by the Council will comply with the Contract Procedure Rules and Procurement Code set out in Part 16 of this Constitution.

14.3 Legal proceedings

The Chief Executive and the Head of Legal, Equalities and Democratic Services are authorised to institute, defend or participate in any legal proceedings or action in any case where such action is necessary to give effect to decisions of the Council or in any case where they consider that such action is necessary to protect the Council's interests.

14.4 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 Chief Executive 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.

14.5 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal, Equalities and Democratic Services. 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, Equalities and Democratic Services should be sealed. The affixing of the Common Seal will be attested by the Head of Legal, Equalities and Democratic Services or some other person authorised by him/her.

ARTICLE 15 - REVIEW AND REVISION OF THE CONSTITUTION

15.1 Duty to Monitor and Review the Constitution

a. 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.

b. 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:

(i) observe meetings of different parts of the member and officer structure;

(ii) undertake an audit trail of a sample of decision;

(iii) record and analyse issues raised with him/her by Councillors, officers, the public and other relevant stakeholders; and

(iv) compare practices in the Council with those in other comparable authorities, or national examples of best practice

15.2 Changes to the Constitution

a. Changes to the Constitution shall not be approved unless approved by a majority of the number of Councillors present, save that the Monitoring Officer may amend Part 18 of the Constitution (Management Arrangements) but only to the extent that such changes reflect either changes to the corporate structure which have been agreed by Council or a change in staffing arrangements.

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

for a change from a Leader and Cabinet form of government to alternative arrangements, or vice versa or as otherwise prescribed by statutory requirement.

c. The Constitution Review Working Group will review the Council's constitution, reporting any recommended changes on to Council, as the final decision maker in respect of any changes to the constitution. The membership of the Constitution Review Working Group will reflect the Council's political balance, though will not form part of the formal political balance calculations.

ARTICLE 16 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

16.1 Suspension of the Constitution

The Articles of this Constitution may not be suspended.

16.2 Suspension of Rules

The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law:

(i) Council Procedure Rules
(ii) Overview and Scrutiny Board Procedure Rules
(iii) Audit, Standards and Governance Committee Procedure Rules
(iv) Cabinet Procedure Rules
(v) Officer Employment Procedure Rules
(vi) Financial Regulations
(vii) Contracts Procedure Rules
(viii) Budget and Policy Framework Procedure Rules
(ix) Planning Committee Procedure Rules.

16.3 Procedure for Suspension of Rules

A motion to suspend any Rules will not be moved without notice unless approved by a majority of the number of Councillors 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*.*

16.4 Interpretation

Reference in any provision of this Constitution to the appointment of a person or a Member to an office shall be taken to include the removal of

that person or Member from that office (subject to compliance with the Officer Employment Procedure Rules or other provision whether statutory or otherwise relating to the employment of staff).

16.5 Chairman's Ruling

The ruling of the Chairman 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 will have regard to the purposes of this Constitution contained in Article 1.

16.6 Publication

The Chief Executive will ensure that an update copy of the Constitution is available on the Council's website and a printed copy in the Members' Room.

The Chief Executive will ensure that copies are available for inspection and can be purchased by members of the local press and the public on payment of a reasonable fee.