

Chapter 2

Article 1 – The Constitution

1.01 Powers of the Council

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

1.02 The Constitution

This Constitution, and all its appendices, is the Constitution of the Halton Borough Council.

1.03 Purpose of the Constitution

The purpose of the Constitution is to:

1. enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
2. support the active involvement of citizens in the process of local authority decision-making;
3. help councillors represent their constituents more effectively;
4. enable decisions to be taken efficiently and effectively;
5. create a powerful and effective means of holding decision-makers to public account;
6. ensure that no one will review or scrutinise a decision in which they were directly involved;
7. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
8. provide a means of improving the delivery of services to the community.

CONSTITUTION

Aims and objectives of the Council

The Council is committed to providing services to the Halton community, which are of a high quality, in the most efficient and cost-effective way. This commitment is reflected in the duty to provide 'best value'. The Council has adopted a Vision statement which sets out the Council's overall aims and objectives.

Our Vision for Halton Borough Council

Halton will be a thriving and vibrant Borough where people can learn and develop their skills; enjoy a good quality of life with good health; a high quality, modern urban environment; the opportunity for all to fulfil their potential; greater wealth and equality; sustained by a thriving business community; and a safer, stronger and more attractive neighbourhood.

The Council has identified the following key priority areas for action.

A SAFER HALTON

Our overall aim

To ensure pleasant, safe and secure neighbourhood environments with attractive, safe surroundings, good quality local amenities and the ability of people to enjoy life where they live.

A HEALTHY HALTON

Our overall aim

To create a healthier community and work together to promote well-being and a positive experience of life with good health not simply an absence of disease, and offer opportunities for people to take responsibility for their health with the necessary support available.

HALTON'S URBAN RENEWAL

Our overall aim

To transform the urban fabric and infrastructure, to develop exciting places and spaces and to create a vibrant and accessible Borough that makes Halton a place where people are proud to live and see a promising future for themselves and their families.

CHILDREN AND YOUNG PEOPLE IN HALTON

Our overall aim

Halton's ambition is to build stronger, safer communities which are able to support the development and learning of children and young people, so they grow up feeling safe, secure, happy and healthy, and are ready to be Halton's present and Halton's future.

EMPLOYMENT LEARNING AND SKILLS IN HALTON

Our overall aim

To create an economically prosperous Borough that encourages investment, enterprise and business growth, and improves the opportunities for learning and development together with the skills and employment prospects of both residents and workforce so that they are able to feel included socially and financially.

CORPORATE EFFECTIVENESS AND EFFICIENT SERVICE DELIVERY

Our overall aim

To deliver continued and positive improvement on the quality of life in the communities of Halton through the efficient use of the Council's resources.

Further details on the priority areas and the particular contribution that the Council itself will make towards achieving its aims and objectives with regard to the priorities outlined above, are set out in the Council's Corporate Plan. This is the primary document governing the activities of the Council. It provides a mandate and strategic direction for the activities of the Council and its Executive Board, and a framework for service and resource planning.

An important part of ensuring that progress on the priority areas is made, is the recognition that other agencies and organisations in the Borough have a key role to play. The Council has a long history of working in partnership with others in its aim to improve services and make progress on the priorities identified within Halton. Those partners include the health agencies, the police, private businesses, and voluntary and community groups. In order to ensure that this was maintained and improved upon, a formal multi-agency partnership board, known as the Halton Strategic Partnership Board was established in 2002. The Board agreed a long-term vision for Halton called the Sustainable Community Strategy, which defined the type of place we want Halton to be. It looked at the key priorities for Halton, and where future resources and services across all the agencies might be more effectively co-ordinated and targeted to those areas most in need. In light of the Health and Social Care Act's requirement to create a Health and Wellbeing Board, the two Boards have been merged to avoid duplication and ensure a better fit for purpose.

1.04 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

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

Article 2 – Members of The Council

2.01 Composition and eligibility

(a) **Composition.** The Council will comprise 56 Members, otherwise called Councillors. One or more Councillors will be elected three years in every four by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State or drawn up by the Electoral Commission.

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

2.02 Election and terms of Councillors

Election and terms

Elections of a third (or as near as may be) of all Councillors are held on the first Thursday in May* in each year. In 2017 and every fourth year after there will be no regular election. The terms of office of Councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

*This date may be adjusted according to the timings of General or European elections

2.03 Roles and functions of all councillors

(a) **Key roles.** All Councillors will:

(i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;

(ii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;

(iii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;

(iv) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;

(v) effectively represent the interests of their ward and of individual constituents;

(vi) balance different interests identified within the ward and represent the ward or electoral division as a whole;

(vii) respond to constituents' enquiries and representations fairly and impartially;

(viii) be involved in decision-making;

- (ix) be available to represent the Council on other bodies;
- (x) maintain the highest standards of conduct and ethics; and
- (xi) participate in the governance and management of the Council.

(b) Rights and duties

(i) 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, and in accordance with the Council's Code on Members' Right of Access to Council documents at Appendix 2.

(ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.

(iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Chapter 4 of this Constitution.

2.04 Conduct

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

2.05 Allowances

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

2.06 Role Profiles

The Council has agreed a series of Role Profiles explaining the roles of Members (including the roles of Members that have been given special responsibilities) in more detail. The Role Profiles are set out in Chapter 8.

Article 3 – Citizens and The Council

3.01 Citizens' rights

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

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

Citizens also have the right to submit petitions for consideration by the Council on matters other than a licensing decision, a planning decision or a matter relating to an individual or entity, where there is already a statutory right to a review or appeal. Any petition submitted should have a minimum 25 signatures before it can be considered.

(b) **Information.** Citizens have the right to:

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

(ii) attend meetings of the Executive when key decisions are being considered;

(iii) find out from the Forward Plan what key decisions will be taken by the Executive and when;

(iv) see reports and background papers, and any records of decisions made by the Council and the Executive; and

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

(c) **Participation.** Citizens have the right to attend and to contribute to investigations by Policy and Performance Boards by participating in public question time.

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

(i) the Council itself under its complaints schemes;

(ii) the Council itself about a breach of the Councillor's Code of Conduct;

(iii) the Local Government Ombudsman after using the Council's own complaints scheme.

General Complaints

In order to ensure that complaints about the provision of services are dealt with in a consistent manner, the Council has in place a 'Corporate Complaints Procedure'. This procedure covers formal complaints, that is, dissatisfaction about the standard of a service, or the actions or inaction of the Council.

A number of types of complaint are excluded from this procedure. These include

- Complaints which are essentially criticisms of, or disagreements with, Council policies or decisions;
- Complaints against individual employees which arise directly from dissatisfaction with a Council policy or decision;
- Complaints against schools which are subject to a different set of arrangements;
- Routine requests for a service or information;
- Matters for which there is a right of appeal or legal remedy; and

- Complaints relating to Council policies or decisions (first bullet point) are eligible to be treated as a Corporate Complaint but are not permitted to proceed beyond Stage 1.

In addition, the Council also has separate statutory procedures in place for dealing with complaints in relation to the provision of Adult Social Care and Children's Social Care Services.

Details of each of the Council's complaints procedures are available from the Council's website at <http://www4.halton.gov.uk/Pages/councildemocracy/Contact-Us.aspx> or they can be requested in person from any of the Council's Direct Link facilities.

3.02 Citizens' responsibilities

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

Article 4 – The Full Council

4.01 Meanings

(a) Policy Framework

The policy framework means the following plans and strategies:-

- Sustainable Community Strategy;
- Corporate Plan;
- Organisational Development Strategy;
- Health and Wellbeing Strategy;
- Children and Young People Plan;
- Documents that comprise the Development Plan (for Town Planning)
- Local Transport Plan;
- Directorate Business Plans;
- Housing Strategy;
- Medium Term Financial Strategy;
- Efficiency Programme;
- Single Equality Framework;
- Contaminated Land Strategy

(b) Budget

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

4.02 Functions of the full Council

Only the Council will exercise the following functions:

- (i) adopting and changing the Constitution;
- (ii) approving or adopting the policy framework (subject to special provisions applicable to the development plan documents) and the budget;
- (iii) subject to the urgency procedure contained in the Access to Information Procedure Rules in Chapter 4 of this Constitution, making decisions about any matter in the discharge of an Executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (iv) appointing the Leader;
- (v) agreeing and/or amending the terms of reference for all Boards, Forums and Panels, Regulatory and other Committees, deciding on their composition and making appointments to them;
- (vi) appointing representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Council (NB casual vacancies and mid-year appointments arising during the year are delegated to the Chief Executive in consultation with the Leader);
- (vii) adopting an Allowances Scheme under Article 2.05;
- (viii) applying to change the name of the area, conferring the title of Honorary Alderman or Freedom of the Borough;
- (ix) confirming the appointment of the Head of Paid Service;
- (x) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (xi) all local choice functions set out in Chapter 3 of this Constitution which the Council decides should be undertaken by itself rather than the Executive; and
- (xii) all other matters which, by law, must be reserved to Council.

4.03 Council meetings

There are three types of Council meeting:

- (a) the Annual meeting;
- (b) Ordinary meetings;
- (c) Extraordinary meetings.

and they will be conducted in accordance with the Council Procedure Rules in Appendix 5 of this Constitution.

4.04 Responsibility for functions

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

Article 5 – Chairing The Council

5.01 Role and function of the Mayor

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

(i) The main duty of the Mayor is to preside over principal meetings of the Council and, if present at the meeting, he/she must preside. (Local Government Act 1972, Schedule 12, paragraph 5(5));

(ii) If the Mayor is not present at the Council meeting the Deputy Mayor has to preside;

(iii) The person presiding at the Annual Meeting must give a casting vote in the event of any equality of votes for the election of a new Mayor. This is in addition to any other vote he or she may have cast (Section 4(3) of the 1972 Act);

(iv) Standing Orders give the Mayor specific powers in Chairing Council meetings;

The Mayor's ruling on any matter, whether it be the admissibility of a point of order or a ruling upon the result of a vote, or upon a ruling to refuse to hear a person, is final and is not open to challenge.

(v) The Mayor may call an Extraordinary meeting of Council subject to proper procedures being followed (Local Government Act 1972, Schedule 12, paragraph 3);

(vi) If the Mayor fails or refuses to call an Extraordinary meeting within seven days after a requisition for that purpose by five Members has been presented to him/her, any five Members may forthwith call an emergency meeting. (Local Government Act 1972, Schedule 12, paragraph 3.); and

(vii) The Mayor may perform certain tasks in a similar manner to a Justice of the Peace. By virtue of the Administration of Justice Act 1973, and section 10(2) of the Justices of the Peace Act 1979, they may do the following:

(a) sign any document for the purpose of authenticating another person's signature;

(b) take and authenticate by their signature any written declaration not made on oath;

(c) give a certificate of facts within their knowledge or of their opinion as to any matter.

PRECEDENCE

The Mayor is the First Citizen of the Borough, and has right of precedence in attendance at functions, and speaking at functions, in appearing at parades and the like, over all except on the occasion of a Royal visit, when Royalty and the Lord Lieutenant (the Lord Lieutenant takes precedence only when representing Royalty) will have precedence.

When undertaking formal civic duties, such as at a Council meeting, appearing at a parade, receiving distinguished visitors, the Mayor will usually be robed and wearing the chain. The Mayor's Secretary and the Mayor's Attendant will advise on the detailed protocol on the occasion when this is required.

CHAIRING THE COUNCIL MEETING

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

- (i) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- (ii) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not on the Executive are able to hold the Executive to account;
- (iii) to promote public involvement in the Council's activities;
- (iv) to attend such civic and ceremonial functions as the Council and he/she determines appropriate; and
- (v) to participate in the Council's dispute solving process.

Article 6 – Policy and Performance Boards (PPBs)

6.01 Terms of reference

The Council will appoint the Policy and Performance Boards set out in the left hand column of the table below 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 in the right hand column of the same table.

COMMITTEE/BOARD	SCOPE
CORPORATE AND INCLUSION POLICY AND PERFORMANCE BOARD	The primary function of the Corporate and Inclusion PPB is to scrutinise that the Council (and its Partners) have available the necessary finance, organisation and people, physical resources, communication and information, and that those resources are effectively focused on achieving the Council's priorities.
HEALTH AND SOCIAL CARE POLICY AND PERFORMANCE BOARD	The primary function is to focus on the work of the Council (and its Partners) in seeking to Improve Health in the Borough and to scrutinise progress against the Corporate Plan in relation to the Healthy Halton Priority.
CHILDREN, YOUNG PEOPLE AND FAMILIES POLICY AND PERFORMANCE BOARD	The primary function is to focus on the work of the Council and Halton's Children's Trust in seeking to ensure that children and young people in Halton have the best possible start in life and the opportunity to fulfil their potential and succeed, and to scrutinise progress against the Corporate Plan in relation to the Children and Young People Priority.
LOCAL ECONOMY POLICY AND PERFORMANCE BOARD	The primary function is to focus on the work of the Council (and its Partners) in seeking to improve economic prosperity in Halton, the skills and employment prospects of its residents, and their access to good sporting and cultural amenities, to scrutinise progress against the Corporate Plan in relation to the Employment, Learning and Skills Priority.
HOUSING AND SAFER POLICY AND PERFORMANCE BOARD	The primary function is to focus on the work of the Council (and its Partners) in seeking to ensure that the environment within the Borough is safe for local people to enjoy, and

	to scrutinise progress against the Corporate Plan in relation to the Safer Halton Priority.
ENVIRONMENT AND REGENERATION POLICY AND PERFORMANCE BOARD	The primary function is to focus on the work of the Council (and its Partners) in seeking to enrich and provide a more sustainable physical environment and to bring about the Urban Renewal of the Borough and to scrutinise progress against the Corporate Plan in relation to the Urban Renewal Priority.

6.02 General role

Within their terms of reference, Policy and Performance Boards will:

- (i) examine the subject matter of forthcoming decisions and, where appropriate, make recommendations to inform and strengthen decision-making;
- (ii) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (iii) make reports and/or recommendations to the full Council and/or the Executive and/or any organisation, partnership or joint arrangement in connection with the discharge of any functions;
- (iv) consider any matter affecting the area or its inhabitants; and
- (v) exercise the right to call-in, for reconsideration, when a decision is made but not yet implemented by the Executive Board.

6.03 Scrutiny

Policy and Performance Boards may

- (i) review and scrutinise the decisions made by, and the performance of, the Executive Board and Council Officers both in relation to individual and collective decisions;
- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (iii) question Members of the Executive 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;
- (iv) make recommendations to the Executive and/or Council arising from the outcome of the scrutiny process;

(v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Policy and Performance Boards and local people about their activities, plans and performance; and

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

In addition, the Council now has a formal role in relation to scrutiny of The Health Service.

Finance

Policy and Performance Boards may exercise overall responsibility for the finances made available to them.

Annual report

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

Operating considerations

In carrying out their functions, Policy and Performance Boards shall have regard to:

(i) the need to maintain effective and beneficial relationships with the European Community and subsidiary organisations;

(ii) the principles and practice of best value, value for money and economy, efficiency and effectiveness at all appropriate times;

(iii) the need to ensure equality of opportunity in the delivery of services by the Council;

(iv) the community strategy and the strategic policy framework of the Council; and

(v) the views of the public and stakeholders within the community which have been consulted by the Policy and Performance Boards.

Powers and Duties of the Policy & Performance Boards

1. Policy and Performance Boards shall:

(i) Initiate new policy proposals for consideration by the Executive Board/Council;

(ii) Monitor performance and offer comments and recommendations for improvements;

(iii) Review and make recommendations on policies, strategies and plans;

(iv) Promote public confidence in the Council's services;

- (v) Hold Executive Board Members and Senior Officers to account;
 - (vi) Monitor Executive Board compliance with agreed policies;
 - (vii) Ensure adherence to the priorities in the Council's Corporate Plan; and
 - (viii) Receive a report on any petitions received by the Council relating to the Board's policy area and/or any action taken or proposed to be taken by the Executive (or Portfolio Holder or an Officer acting under delegated powers).
2. To receive representations, evidence or expert opinion from outside the Council and to draw conclusions from such representations to the attention of the Executive Board/Council as appropriate.
 3. To consult with the public where appropriate in relation to Council services which fall within the terms of reference of the Policy & Performance Board.
 4. To review any area of income and expenditure which falls within the remit of the Policy & Performance Board.
 5. To make recommendations to the Executive Board on the financial aspects of the proposals which fall within the remit of the Policy & Performance Board.
 6. To request the Executive Board where appropriate to make a report to the Council on any decision not included in the Forward Plan which the Policy & Performance Board consider should have been included in the Forward Plan. The Executive Board will be required to explain the decision and why it was not included in the Forward Plan.
 7. The Chair of the Policy & Performance Board will receive all papers relating to a decision which is in the Forward Plan when the Forward Plan is finalised and published. The Chair will be entitled to receive these papers at least five days before the decision is taken.
 8. To examine systematically the services of the Council within the remit of the Board in order to assess their efficiency, effectiveness, economy, quality and value for money.
 9. To consult with the Executive on any plan or strategy including strategic policy.
 10. To monitor the Complaints Procedure and make recommendations to the Executive Board.
 11. The Health and Social Care Policy and Performance Board to examine the healthcare provision within the area in relation to all residents of the Borough. To participate in all initiatives for improving health and the healthcare provision within the area and to call officers from the Health Authority to account and request them to appear before the Policy & Performance Board when appropriate.

12. To provide informed input in response to requests from the Executive Board for advice, options and appraisal on matters falling within the remit of the Policy & Performance Board.

6.04 **Proceedings of Policy and Performance Boards**

Policy and Performance Boards will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Chapter 4 of this Constitution.

6.05 **Scrutiny Co-Ordinator**

The Council will appoint one of its Members to act as the Scrutiny Co-Ordinator to carry out the functions and responsibilities set out in the Role Profile for the Scrutiny Co-Ordinator (see Chapter 8).

Article 7 – The Executive

7.01 Role

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

7.02 Form and composition

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

The Leader may also appoint a Member without Portfolio, outside the Executive, to carry out the functions outlined in Chapter 8 of this Constitution.

7.03 Leader

The Leader will be a Councillor elected to the position of Leader by the Council. The Leader will hold office until:

- (a) the Annual Meeting after the Leader's normal day of retirement as a Councillor; or
- (b) he/she resigns from the office; or
- (c) he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (d) he/she is no longer a Councillor; or
- (e) in the event of a change in the political control of the Council or
- (f) he/she is removed by Council resolution.

7.04 Other Executive Members

Other Executive Members shall hold office until:

- (a) they resign from office; or
- (b) they are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (c) they are no longer Councillors; or
- (d) they are removed from office by the Leader who must give written notice of any removal to the proper officer. The removal will take effect two working days after receipt of the notice by the proper officer.

7.05 Proceedings of the Executive

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

7.06 Responsibility for functions

The Leader will maintain a list in Chapter 3 of this Constitution setting out which individual Members of the Executive, Committees of the Executive, Officers or joint arrangements are responsible for the exercise of particular Executive functions.

Article 8 – Audit and Governance Board

8.01 Audit and Governance Board

The Audit and Governance Board is responsible for drawing up an Efficiency Strategy and ensuring that it meets its statutory requirements for securing Best Value in all that it does: it is also responsible for ensuring that the Council has a high standard of corporate governance. It is also responsible for the standards functions of the Council.

The terms of reference and functions of this Board are set out in detail in Appendix 4.

Article 9 - Regulatory and other Committees

9.01 Regulatory and other Committees

The Council's Regulatory and other Committees are

- Development Management Committee
- The Appeals Panel
- The Appointments Committee
- The Regulatory Committee
- The Mayoral Committee
- The Schools Forum
- The Independent Persons Panel

The terms of reference and functions of these bodies are set out in Appendix 4.

Article 10 – Joint Arrangements

10.01 Arrangements to promote well being

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

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

10.02 Joint arrangements

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

(b) The Executive may establish joint arrangements with one or more Local Authorities to exercise functions which are Executive functions. Such arrangements may involve the appointment of joint committees with these other Local Authorities.

(c) Except as set out below, the Executive may only appoint Executive Members to a joint Committee and those Members need not reflect the political composition of the local authority as a whole.

(d) The Executive may appoint Members to a joint Committee from outside the Executive in circumstances when 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 Executive may appoint to the joint Committee any Councillor who is a Member for a ward which is wholly or partly contained within the area;

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 the Council's Scheme of Delegations in Chapter 3 of this Constitution.

10.03 Access to information

(a) The Access to Information Rules in Chapter 4 of this Constitution apply.

(b) If all the Members of a joint Committee are Members of the Executive in each of the participating authorities then its Access to Information regime is the same as that applied to the Executive.

(c) If the joint Committee contains Members who are not on the Executive of any participating authority then the Access to Information Rules in Part VA of the Local Government Act 1972 will apply.

10.04 Delegation to and from other Local Authorities

(a) The Council may delegate non-Executive functions to another Local Authority or, in certain circumstances, the Executive of another Local Authority.

(b) The Executive may delegate Executive functions to another Local Authority or the Executive of another Local Authority in certain circumstances.

(c) The decision whether or not to accept such a delegation from another Local Authority shall be reserved to the Council meeting.

10.05 Contracting out

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

Article 11 – Officers

11.01 Management structure

(a) **General.** The full Council may engage such staff (referred to as Officers) as it considers necessary to carry out its functions.

(b) **Chief Officers.** The full Council will engage persons who will be designated Chief Officers.

(c) **The Council will designate the following posts as shown, carrying out the statutory roles as indicated:**

POST	STATUTORY ROLE
Chief Executive	Head of Paid Service
Director – Finance	Chief Finance Officer (S 151 Officer)
Director (Legal and Democratic Services)	Monitoring Officer
Executive Director Children’s Services	Director of Children’s Services Director of Housing
Executive Director Adult Services	Director of Adult Social Services
Director of Public Health	Director of Public Health
Principal Committee Services Officer	Statutory Scrutiny Officer (S 31 Officer)

Such posts will have the functions described in Article 13.02–13.08 below.

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

11.02 Functions of the Head of Paid Service

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

The Head of Paid Service will report to 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) **Discharge of Other functions and responsibilities**

Overall corporate management, operational responsibility (including overall management responsibility for all Officers).

Provision of professional advice to all parties in the decision making process.

Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions.

Representing the Council on partnership and external bodies (as required by statute or the Council).

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

11.03 Functions of the Monitoring Officer

(a) **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 inspection by Members, staff and the public.

(b) **Supporting the Audit and Governance Board.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Audit and Governance Board.

(c) **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Executive in relation to an Executive 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.

(d) **Receiving reports.** The Monitoring Officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals.

(e) **Conducting investigations.** The Monitoring Officer will conduct investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the Standards Committee.

(f) **Proper officer for access to information.** The Monitoring Officer will ensure that Executive 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 Executive decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.

(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 posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

11.04 Functions of the Chief Finance Officer

(a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid service and the Monitoring Officer, the Chief Finance Officer will report to the full Council or to the Executive in relation to an Executive function – and the Council’s external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

(b) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

(c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

(d) **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and the Elected Mayor and will support and advise Councillors and Officers in their respective roles.

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

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

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

11.06 Functions of the Director of Public Health

The Director of Public Health will exercise all functions under the National Health Service Act 2006 and related legislation.

11.07 Functions of the Director of Adult Social Services

Delivery of the Local Authority’s responsibilities for assessing, planning and commissioning adult social care and wellbeing services to meet the needs of all adults with social care needs in the authority’s area.

11.08 Functions of Statutory Scrutiny Officer

To promote the role of the Authority’s Overview and Scrutiny Committee(s).

To provide support to the Authority’s Overview and Scrutiny Committee(s) and its Members.

To provide support and guidance to (i) Members of the Authority, (ii) Members of the Executive, (iii) Officers of the Authority, in relation to the functions of the Authority's Overview and Scrutiny Committee(s).

11.09 Conduct

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

11.10 Employment

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

Article 12 – Decision Making

12.01 Responsibility for decision making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Chapter 3 and Appendix 4 of this Constitution.

12.02 Principles of decision making

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

- i. Proportionality – the action will be proportionate to the desired outcome;
- ii. Consultation – there will be appropriate consultation and professional advice obtained from Officers;
- iii. Human Rights – all decisions will take into account the European Convention on Human Rights;
- iv. Openness and accessibility – in all decisions, there will be a presumption in favour of openness; and
- v. Clarity – there will be a clarity of aims and desired outcomes in respect of every decision made

12.03 Types of decision.

(a) Decisions reserved to full Council.

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

(b) Key decisions.

(i) A key decision is a decision which is likely:

(a) to result in a 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;

or

(b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

(ii) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Chapter 4 of this Constitution.

12.04 Decision making by the full Council

Subject to Article 14.08, the Council meeting will follow the Council Procedures Rules set out in Chapter 4 of this Constitution when considering any matter.

12.05 Decision making by the Executive

Subject to Article 14.08, the Executive and any Committee of the Executive will follow the Executive Procedures Rules set out in Chapter 4 of this Constitution when considering any matter.

12.06 Decision making by Policy and Performance Boards

Policy and Performance Boards will follow the Policy and Performance Board Rules set out in Chapter 4 of this Constitution when considering any matter.

12.07 Decision making by other Committees and Sub-committees established by the Council

Subject to Article 14.08, other Council Committees and Sub-committees will follow those parts of the Council Procedures Rules set out in Chapter 4 of this Constitution as apply to them.

12.08 Decision making by Council bodies acting as tribunals

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

Article 13 – Finance, Contracts and Legal Matters

13.01 Financial management

The management of the Council's financial affairs will be conducted in accordance with Finance Standing Orders set out in Chapter 4 of this Constitution.

13.02 Contracts

Every contract made by the Council will comply with the Contract Standing Orders set out in Chapter 4 of this Constitution.

13.03 Legal proceedings

The Director (Legal and Democratic Services) is authorised to institute, defend and conduct on behalf of the Council any legal proceedings (whether criminal or civil) and to take all other action necessary to protect and/or further the Council's interests.

13.04 Authentication of documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Director (Legal and Democratic Services) or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person. Any contract with a value exceeding £1,000,000 entered into on behalf of the Local Authority in the course of the discharge of an Executive function shall be made in writing. Such contracts must either be signed by an Officer of the Authority at Director level, together with another Officer of the Authority nominated by the said Director, or made under the common seal of the Council attested by the Director (Legal and Democratic Services) or his/her nominee.

13.05 Common Seal of the Council

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

Article 14 – Review and Revision of the Constitution

14.01 Duty to monitor and review the constitution

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

Protocol for monitoring and review of constitution by Chief Executive

A key role for the Chief Executive 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 Chief Executive may:

1. observe meetings of different parts of the Member and Officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with him/her by Members, Officers, the public and other relevant stakeholders; and
4. compare practices in this Authority with those in other comparable authorities, or national examples of best practice.

14.02 Changes to the Constitution

(a) **Approval.** Changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Chief Executive and the Executive Board Member for Corporate Services.

(b) **Change from a Leader and Cabinet form of Executive to alternative arrangements, or vice versa.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

Article 15 – Suspension, Interpretation and Publication of the Constitution

15.01 Suspension of the Constitution

(a) **Limit to suspension.** Except as set out in 17.01(c) the Articles and rules of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.

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

(c) **The Rules relating to the debate procedure at Council Meetings** may be suspended in accordance with Article 17.01. In addition, particularly in cases of emergency, delegated powers are granted to the Chief Executive in consultation with the Leader and Deputy Leader to amend the Articles and Rules (Standing Orders) by suspension, addition, adjustment or deletion of functions in the interests of ensuring fully accountable provision of local services consistent with the principles of best value, economy, efficiency and effectiveness.

References in the Articles and Rules to a particular piece of legislation shall extend to legislation that replaces or amends that legislation.

The above power may be exercised either to change the scheme generally or specifically in relation to a particular case or set of facts.

Where this power is exercised a report shall be submitted to the next suitable meeting of the Executive Board, or Council if appropriate.

The Council must have available to it a way of dealing with problems immediately but with the political input guaranteed by consultation with Leader and Deputy Leader. The above wording provides that "safety valve".

15.02 Interpretation

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

15.03 Publication

(a) The Chief Executive will ensure that each Member of the authority has access to a printed copy of this Constitution.

(b) The Chief Executive will ensure that copies are available for inspection at Council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.

(c) The Chief Executive will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary. To this end, the full text of the Constitution is available on the internet and intranet.

Schedule 1: Description of Executive Arrangements

The following parts of this Constitution constitute the Executive Arrangements:

1. Article 6 (Policy and Performance Boards) and the Policy and Performance Board Rules;

2. Article 7 (The Executive) and the Executive Procedure Rules;

3. Article 11 (Locality Area Forum Projects) – Locality Area Forum Projects are set up to cover the whole area of the Borough but have no delegated functions;
4. Article 12 (Joint arrangements) – No functions are presently delegated by the Executive.
5. Article 14 (Decision making) and the Access to Information Procedure Rules;
6. Chapter 3 (Responsibility for Functions).