ARTICLES

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, including all its schedules and appendices, is the Constitution of the Tendring District Council.

1.03 Purpose of the Constitution

The purpose of the Constitution is to:

1 Provide key elements of the Council's overall governance arrangements;

2 Enable decisions to be taken efficiently and effectively;

3 Create an effective means of holding decision-makers to public account;

4 Enable the Council to provide clear leadership to the community, working in partnership with the local community, businesses and other organisations for the long term well-being of the District;

5 Support the involvement of the local community in the process of local authority decision-making;

6 Ensure that no one will review or scrutinise a decision in which they were directly involved;

7 Help Councillors represent their residents more effectively;

8 Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for their decisions; and

9 Provide the framework and structure in which cost effective quality services to the community are delivered.

1.04 Interpretation and Review of the Constitution

Any interpretation of the Constitution must have regard to the purposes stated above.

Where the context allows, words in the Constitution indicating one gender include both genders.

Unless otherwise indicated, where a “day” is referred to, this will mean a “working day” and will not include weekends or Bank Holidays.

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 60 members, otherwise called Councillors. One or more Councillors will be elected by the voters of each of 35 wards in accordance with a scheme drawn up by the Local Government Boundary Commission for England, and approved by the Secretary of State.

(b) **Eligibility**.

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

2.02 Election and Terms of 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.

2.03 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 an advocate for their communities;

(iii) Effectively represent the interests of their ward and of individual residents;

(iv) Respond to residents' enquiries and representations, fairly and impartially and assist in the resolution of concerns and grievances;

(v) Be involved in decision-making for the people of the District as a whole;

(vi) Be available to represent the Council on other bodies; and

(vii) Contribute to the governance and effective management of the Council's business at meetings of the Council, Cabinet and other Committees and Sub-Committees, maintaining the highest standards of conduct and ethics.

(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.

(ii) Councillors will not make public information that 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 is defined in the Access to Information Rules in Part 5 of this Constitution.

2.04 Conduct

Councillors will at all times observe the Members’ Code of Conduct and Protocols set out in Part 6 of this Constitution.

2.05 Allowances

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 7 of this Constitution.

ARTICLE 3 – CITIZENS AND THE COUNCIL

3.01 Citizens' Rights

The rights to information and to participate are explained in more detail in the Access to Information Rules in Part 5 of this Constitution. Other rights include:

(a) **Voting and petitions**:

People on the Electoral Register for the District have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.

The Council's Petition Scheme enables people who live, work and study in the District to submit a petition on an issue of concern.

(b) **Information**:

The public have the right to:

(i) Attend meetings of the Council and its Committees and Sub-Committees except where confidential or exempt information is likely to be disclosed (Committees for this purpose do not include Working Groups and/or Task and Finish Review Groups);

(ii) Attend meetings of the Cabinet when key decisions are being considered;

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

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

(v) In accordance with published timescales inspect the Council's accounts and make their views known to the external auditor.

(c) **Participation**:

The public have the right to participate in the Council's written question time and contribute to investigations by the Overview and Scrutiny Committees.

(d) **Complaints**:

The public have the right to complain to:

(i) A Ward Councillor;

(ii) The Council itself under its Complaints Scheme, details of which are available on the Council's website;

(iii) The Local Government Ombudsman, after using the Council's own Complaints Scheme;

(iv) The Monitoring Officer about a breach of the Council's Members' Code of Conduct which sets out the standards of behaviour expected of a Councillor and is contained within Part 6 of this Constitution. The Complaints Procedure is available on the Council's website.

3.02 Citizens' Responsibilities

At meetings of the Council, its Committees or Cabinet, members of the public must treat Councillors and Officers with respect and courtesy and must not wilfully harm the property of the Council, Councillors or Officers.

ARTICLE 4 - THE FULL COUNCIL

4.01 Meanings

(a) **Policy Framework**:

The policy framework means those statutory policies and plans which must be approved or adopted by the full Council and are, for the time being, the following:

- Council's Corporate Strategy;
- Community Strategy;
- Crime and Disorder Reduction Strategy (Sections 5 and 6 of the Crime and Disorder Act 1998);
- Plans and strategies which together comprise the Local Development Plan Documents (Section 15 of the Planning and Compulsory Purchase Act 2004);
- The plan and strategy which comprise the Housing Investment Programme (HRA Business Plan and Housing Strategy);
- Statement of Licensing Policy (Licensing Act 2003);
- Statement of Licensing Policy (Gambling Act 2005);

Other plans and strategies which the Council may decide from time to time are to be adopted by the Council as a matter of local choice as part of the policy framework, including but not limited to:

- IT Strategy and Information Governance
- Procurement Strategy

(b) **Budget**:

The budget is a statement identifying the allocation of financial resources (as provided for in the Local Government Finance Act 1992), including capital resources, to different services and projects, proposed taxation levels, to contingency provisions ('reserves' and 'balances') and any plan or strategy for the control of the local authority's borrowing or capital expenditure. This does not include the Housing Revenue Account Budgets or rent fixing.

The term budget also does not include the determination of the Council's Capital Strategy. The Annual Budget setting process involves the determination of such allocations, decisions and prudential indicators and setting of the Council Tax.

(c) **Housing Land Transfer**:

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

4.02 Functions of the Full Council

Only the Council will exercise the following functions:

1. Approving or adopting any plans and strategies that form the Council's Policy Framework;

2. Approving the overall budget as set out in 1 (b) above including approving and setting the Council Tax;

3. The making of any application to the Secretary of State in respect of any Housing Land Transfer as set out in 1 (c) above;

4. Adopting and changing the Constitution unless specifically delegated to the Monitoring Officer;

5. The adoption or approval of a plan or strategy, other than a plan or strategy for the control of the authority's borrowing or capital expenditure or forming part of the Policy Framework, where the Council determines that the decision whether the plan or strategy should be adopted or approved should be taken by them;

6. Approving for the purposes of its submission to the Secretary of State for independent examination under Section 20 of the Planning and Compulsory Purchase Act 2004, of a development plan document;

7. Subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 5 of this Constitution, making executive decisions about any matter where the decision-maker is minded to make a decision contrary to the policy framework or contrary to/or not wholly in accordance with the budget;

8. The election of the Leader of the Council or the passing of a resolution to remove the Leader of the Council;

9. Agreeing and/or amending the terms of reference for Committees, Sub-Committees etc, deciding on their composition and making appointments to them including their Chairmen and Vice Chairmen;

10. The appointment of any representatives to outside bodies, including joint committees, unless the appointment is a Cabinet function or the function has been delegated by the Council;

11. Adopting a Members' Allowances scheme;

12. Adopting and amending the Authority's Members' Code of Conduct;

13. The appointment of Independent Persons on the recommendation of the Monitoring Officer as to who should be appointed;

14. The appointment of the Independent Remuneration Panel on the recommendation of the Chief Executive as to who should be appointed;

15. All functions of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, which the Council has retained for discharge by itself as set out in Part 3, Schedule 2 of the Council's Constitution;

16. All local choice functions of Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, which the Council has retained for discharge by itself as set out in Part 3, Schedule 1 of the Council's Constitution;

17. All other matters which by law must be reserved to Council.

4.03 Council Meetings

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

4.04 Responsibility of functions

The Council will maintain the tables and appendices in Part 3 of the Constitution setting out the responsibilities of the Council's functions which are not the responsibility of Cabinet as prescribed in the Local Authorities (Functions and Responsibilities)(England)(Regulations) 2000, as amended.

4.05 Conflict Resolution in Setting the Budget and Policy Framework

The process of resolving conflict in the setting of the budget and policy framework is set out in the Budget and Policy Framework Procedure Rules in Part 5 of the Constitution.

ARTICLE 5 – CHAIRING THE COUNCIL

5.01 Role and Function of the Chairman:

The Chairman and Vice-Chairman will be elected by the Council annually.

The Chairman and the Vice-Chairman must not be Members of the Cabinet.

The Chairman or, in their absence, the Vice-Chairman will have the following roles and responsibilities:

1. To uphold and promote the purposes of the Constitution, and to rule on the interpretation and application as and when necessary at meetings;

2. To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;

3. To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not on the Cabinet are able to generally hold the Cabinet to account;

4. To promote public involvement in the Council's activities;

5. To attend such civic and ceremonial functions as the Council and they determine appropriate;

6. To be the custodian of the democratic process of the Council;

7. To call extraordinary meetings of the Council under Schedule 12 Part I, Section 3 of the Local Government Act 1972.

ARTICLE 6 – OVERVIEW AND SCRUTINY COMMITTEES

6.01 General Role:

The Council will appoint four Overview and Scrutiny Committees, whose terms of reference are as set out below. Within its terms of reference, each Overview and Scrutiny Committee will:

1. Review or scrutinise Cabinet decisions (including delegated to Portfolio Holders and Officers) made or published in the forward plan;

2. Assist with policy formulation and review of policies; and

3. Make reports or recommendations to the Cabinet or the Council as appropriate, with respect to the discharge of any Council function or on any matter affecting the authority's area or its inhabitants.

This may include:

4. The co-ordination of all overview and scrutiny functions on behalf of the Council;

5. Receiving reports from the Leader on the Cabinet's priorities for the coming year and its performance in the previous year;

6. Submitting to Full Council for approval an annual overview and scrutiny work programme;

7. Call-in of Cabinet decisions (including those delegated to Portfolio Holders and Officers);

8. Consideration of the business schedule for Cabinet when making referral decisions and prioritising those referrals in a timely manner; and

9. Appoint Overview and Scrutiny Members to attend relevant conferences, seminars and courses.

6.02 Terms of Reference:

The terms of reference for each Overview and Scrutiny Committee are set out below:

(i) Community Leadership and Partnerships Committee

To perform the functions in relation to the Council's external-facing functions including:

- Community Strategy
- Community Services
- Regeneration
- Local Plan/Local Development Framework
- Consultation

- Emergency Planning (Civil Contingencies)
- Partnerships
- External Scrutiny (e.g. Crime and Disorder Reduction and Health)

To also support the Council's community leadership role in respect of improving the aspiration and attainment of young people in the District by:

- Reviewing the key drivers that impact the educational and attainment and aspirations in Tendring; and
- Reviewing of the work undertaken by the Council to develop the skills of those that live and work in the District.

(ii) Service Development and Delivery Committee

To perform the functions in relation to the policy development and implementation of the Council's services including:

- Direct and support services
- Services provided by contractors

(iii) Corporate Management Committee

To perform the functions in relation to the Council's internal-facing functions including:

- Financial Strategy
- Budget setting
- Efficiency/value for money/procurement
- Corporate Strategy
- Performance management reports
- Capital Strategy and asset management
- ICT, contract management and communications

6.03 Proceedings of the Overview and Scrutiny Committees:

The Overview and Scrutiny Committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 5 of this Constitution.

ARTICLE 7 – THE CABINET (ALSO REFERRED TO AS THE EXECUTIVE)

7.01 Role and Responsibilities

The Cabinet will carry out all of the local authority's functions, known as Executive Functions, that 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 Cabinet will consist of the Leader of the Council together with other Councillors appointed to the Cabinet by the Leader. The Leader will determine the number of Councillors who may be appointed to the Cabinet subject to the statutory minimum requirement of two Councillors appointed to the Cabinet by the Leader and the statutory maximum number of 10 members of the Cabinet.

7.03 Leader of the Council

The Leader of the Council will be a Councillor elected to the position by the full Council. The election of the Leader will normally be carried out at the Annual Meeting of the Council following the District Council Elections. The Leader will hold office until the annual meeting of the Council following the next District Council elections or until:-

(a) They resign from the office (only upon disqualification or resignation in accordance with Section 91B of the Local Government Act 2000); or

(b) They cease to be a Councillor only; or

(c) The Council passes a resolution removing the Leader from office at an earlier date. If the Council so passes a resolution to remove the Leader, a new Leader is to be elected at the meeting at which the Leader is removed from office or at a subsequent meeting.

Upon expiry of the fixed term the Leader will be eligible for re-election for subsequent fixed terms.

Upon the occurrence of a vacancy in the office of the Leader, the Council shall fill the vacancy at the next ordinary meeting of the Council. The person appointed to fill the vacancy shall hold office for the remainder of the original term subject to earlier termination as provided for above.

In the interim period between the vacancy in the office of the Leader and the next ordinary meeting of the Council, the Deputy Leader will act as Leader on an interim basis.

7.04 Deputy Leader of the Council

The Leader of the Council will appoint one of the members of the Cabinet to be his deputy. The Deputy Leader of the Council, unless he resigns as Deputy Leader or ceases to be a member of the authority, will hold office until the end of the term of office of the Leader of the Council. However, the Leader may, if he thinks fit, remove the Deputy Leader from office.

Where a vacancy occurs in the office of Deputy Leader the Leader will appoint another person in his place.

If for any reason the Leader is permanently unable to act or the office of Leader is vacant, the Deputy Leader will act temporarily in his place until the next formal ordinary meeting of the Council when a new Leader will be elected.

If the Deputy Leader is also unable to act or the office is vacant the Cabinet will act in the Leader's place or will arrange for a member of the Cabinet to act in his place.

7.05 Other Cabinet Members (also known as Portfolio Holders)

Other Cabinet members shall hold office until:

(a) they resign from office; or

(b) they are no longer Councillors; or

(c) they are removed from office by the Leader who must give written notice of any removal to the Chief Executive. The removal will take effect two working days after receipt of the notice by the Chief Executive.

7.06 Proceedings of the Cabinet

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out below at 7.08.

7.07 Responsibility for Executive Functions

The arrangements for the discharge of Executive Functions are contained within Part 3 of the Constitution.

The Executive functions may be discharged by:

(i) the Cabinet as a whole;
(ii) a Committee of the Cabinet, where appointed by the Leader;
(iii) an individual member of the Cabinet;
(iv) an Officer;
(v) an area committee;
(vi) joint arrangements; or
(vii) another local authority.

Part 3 of the Constitution will be maintained and kept up to date with the agreement of Leader of the Council, setting out which Members of Cabinet, Committees of the Cabinet, Officers or joint arrangements are responsible for the exercise of particular Executive Functions.

7.08 Cabinet Procedure Rules

1. MEETINGS

1.1 Cabinet Meetings

The Cabinet will meet at times to be agreed by the Leader. The Cabinet shall meet at the Council's main offices (the Town Hall) or another location to be agreed by the Leader.

1.2 Meetings of the Cabinet

Meetings of the Cabinet and their committees must be held in public except where confidential or exempt information is to be discussed.

1.3 Quorum

The quorum for a meeting of the Cabinet shall be three including the Leader or in his absence the Deputy Leader.

1.4 Chairmanship

The Leader (or in his absence the Deputy Leader) will preside at any meeting of the Cabinet at which he is present.

1.5 Who May Attend?

(i) Subject to the Access to Information Rules and the provisions of the Members' Code of Conduct, any Councillor may attend meetings of the Cabinet. They may not speak without the consent of the Leader of Cabinet, or in any case vote.

(ii) The Leader or Deputy Leader of the opposition groups may, as of right, attend meetings of the Cabinet and participate fully in discussion on all agenda items, but cannot vote. If requested by the Leader or Deputy Leader of an opposition group to do so, the minutes of the meeting of Cabinet on a particular matter will record their Group's opposition to all or part of a decision.

(iii) Meetings of the Cabinet shall have in attendance the Chief Executive, the Chief Financial Officer, the Monitoring Officer (or Deputies) and other relevant Corporate Directors in the light of items to be discussed, or their nominated representatives, at the discretion of the Chief Executive.

(iv) The Chief Financial Officer and Monitoring Officer have the right to attend and present a report to discharge their statutory duties whenever necessary.

(v) The Constitution includes no provision for substitute members at meetings of the Executive.

2. AGENDA

2.1 Members' Written Questions

Any Member has the right to submit a written question to the Cabinet on any item on their agenda and to attend to present it at the meeting of the Cabinet when the item is to be considered. Such question shall be submitted at least 24 hours before this Cabinet meeting. The Member may withdraw their question at any time.

2.2 Order of Business

At each meeting of the Executive the following business will be conducted:

(a) Consideration of the minutes of the last meeting;

(b) Declarations of interest, if any;

(c) Matters referred to the Cabinet (by the Overview and Scrutiny Committees or the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 5 of this Constitution;

(d) Any matter where the Overview and Scrutiny Commission or Council have resolved that an item be considered by the Cabinet. The Chief Executive will ensure that an item is placed on the agenda of the next available meeting;

(e) Consideration of reports from the Overview and Scrutiny Committees;

(f) Matters set out in the agenda for the meeting and which shall indicate which are key decisions, and which are not, in accordance with the Access to Information Procedure Rules set out in Part 5 of this Constitution.

(g) Key decisions, as indicated on the agenda for the meeting, in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

(h) Any matter relating to an executive function that the Leader of the Council wishes to be included, whether or not authority has been delegated to the Cabinet, a Committee of it or any Member or Officer in respect of that matter. The Proper Officer will comply with the Leader's requests in this respect.

(i) Any matter relating to an executive function requested by a member of the Cabinet. The Chief Executive will be required to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration, subject to the issue in question not having been considered in the last 6 months.

(j) Any matter relating to an executive function requested by a Member of the Council, subject to the agreement of the Leader of the Council. A Member may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration, subject to the issue in question not having been considered in

the last 6 months. If the Leader agrees, the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered who will also be invited to attend the meeting. There may only be up to 2 such items per Cabinet meeting.

(k) Any matter included on the agenda by the Monitoring Officer and/or the Chief Financial Officer for consideration. They may require the Chief Executive to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Chief Executive, Chief Financial Officer and Monitoring Officer are of the opinion that a matter requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

(l) The Chief Executive or any member of Management Team may place an item on the agenda of any meeting of the Executive.

3. CONSULTATION

All reports to the Cabinet from any Member of the Cabinet or an Officer on proposals relating to the Budget and the Policy Framework must contain details of the nature and extent of consultation with stakeholders and relevant Overview and Scrutiny Committees, and the outcome of that consultation.

Reports about other matters will set out the details and outcome of consultation, as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

Prior to all Cabinet Decisions, Ward Members must be consulted on specific ward related matters; the outcome of the consultation will be included within the body of the Report.

All reports to the Executive will include details of all appropriate officer advice in respect of the matter under consideration, in particular advice from the Chief Executive, Chief Financial Officer and the Monitoring Officer.

4. CONDUCT

(a) Disturbance by Public - Removal of Member of the Public

If a member of the public interrupts proceedings, the Leader will warn the person concerned. If he continues to interrupt, the Leader will order his removal from the meeting room.

(b) Clearance of part of meeting room

If there is a general disturbance in any part of the meeting room open to the public, the Leader may call for that part to be cleared

5. PROCEDURES FOR PRIVATE MEETINGS OF CABINET

The rules concerning private meetings of Cabinet are set out in the Access to Information Rules in Part 5, this does not apply to Portfolio Holder Working Parties or Groups, who meet for specific subjects with across party representation.

The process for appointing members of the Portfolio Holder Working Parties or Groups will require a letter to be sent to the Leader of each political group inviting them to identify members of their group who are interested in serving on the group.

6. DECISIONS

6.1 Overlap or Interests

(a) In cases where there is an overlap in responsibilities between Portfolio Holders, the Leader of the Council shall advise of the relevant Portfolio Holder to make the decision

(b) Where any or all members of the Cabinet has an interest this should be dealt with in accordance with the Council's Code of Conduct for Members as set out in Part 5 of this Constitution.

6.2 How are Decisions to be taken by the Cabinet?

Cabinet decisions which have been retained to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules, as applicable in Part 5 of the Constitution.

After any meeting of the Cabinet, whether held in public or private, or with regards to decisions taken by individual members of the Cabinet, within their delegated powers, the Chief Executive or, where no Officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting or by individual members of the Cabinet. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting. The record of decisions made at meetings will take the form of the minutes of the meeting.

Records of all decisions will be published as soon as practicable after they have been taken and made publicly available. In accordance with the Overview and Scrutiny Procedure Rules, decisions of the Cabinet, subject to certain exceptions, may not be implemented until the expiry of the call-in period.

ARTICLE 8 – COMMITTEES

8.01 Committees

The Council has the following Non-Executive Committees and Sub-Committees, the majority of which are appointed at Annual Council with a membership that reflects the political make-up of the Council. The roles and responsibilities and delegation of these Committees and Sub-Committees are set out in Part 3, Schedule 2, of this Constitution with current membership shown as set out below:

Committee	Membership
Audit Committee	5
Community Leadership and Partnership Committee	11
Corporate Management Committee	8
Council Tax Committee	5
Human Resources Committee	14
Licensing and Registration Committee	15
Local Plan Committee	15
Planning Committee	11
Service Development & Delivery Committee	8
Standards Committee	7
General Purposes Sub-Committee	8

In addition, the following Sub-Committees are also appointed which are not subject to the rules regarding political proportionality:

Premises/Personal Licences Sub-Committees (x3)	3
Town and Parish Councils' Standards Sub-Committee	3 TDC Cllrs (+ 3 non-voting co-opted Parish Cllrs representatives).
Human Resources Sub-Committee	3 Relevant Cabinet Member Chairman or Vice Chairman of Human Resources Committee and a named member of an Opposition Group

8.02 Roles and functions:

The Roles and the functions of these Committee and Sub-Committees are set out in Part 3 of this Constitution.

8.03 Proceedings:

Subject to Article 13.4, Committees and Sub-Committees will conduct their proceedings in accordance with the relevant Procedure Rules set out in Part 4 of this Constitution.

ARTICLE 9 – STANDARDS COMMITTEE & TOWN AND PARISH COUNCILS' STANDARDS SUB-COMMITTEE

9.01 Composition:

- The Standards Committee ("the Committee") shall consist of seven Members of Tendring District Council;
- No more than one Member shall be a Member of its Cabinet;
- No Leaders of Political Groups will be members of the Committee;
- The only Members permitted to be substitutes on the Committee will be those named at the beginning of the Municipal Year by the Political Group Leaders;
- No Member will permitted to participate in meetings of the Standards Committee or its Sub-Committee unless they have undertaken specific Standards Committee training;
- No substitute Members will be permitted, unless they have undertaken specific Standards Committee training;
- The Committee is politically balanced in accordance with Section 15 of the Housing and Local Government Act 1989;
- The Committee will have a standing Chairman and Vice Chairman appointed by the Full Council. However, when the Committee is convened to conduct a hearing the meeting will be chaired by one of the Members of the Committee who is not from the same political Group as the Member who is the subject of the Complaint (nor of the same Group as the complainant if a Member of the Council); and
- A member of the Standards Committee will not be permitted to sit in that capacity for a hearing if that Member is the subject of the complaint or the complainant. A substitute will be permitted, if they have undertaken specific Standards Committee training.

9.02 Quorum:

- At least 3 voting Members of the Committee.

9.03 Meetings:

- At least quarterly.

9.04 Terms of Reference

- The Standards Committee will exercise the functions in accordance with the terms of reference set out in Part 3 of this Constitution.

9.05 TOWN AND PARISH COUNCILS' STANDARDS SUB-COMMITTEE

(1) Terms of Reference:

- To advise and assist Town and Parish Councils and Councillors to maintain high standards of conduct and to make recommendations to Parish and Town Councils on improving standards or actions following a finding of a failure by a Parish Councillor to comply with its Code of Conduct.

(2) Composition:

- Three Members of the Standards Committee and three non-voting co-opted Town and Parish Council members to be nominated by the Tendring District Association of Local Councils;

- The nominated Town and Parish Council members will be of independent standing and will not have served as District or County Councillors for a period of four years prior to their nomination; and

- A member (or non-voting co-opted member) of the Town and Parish Standards Sub-Committee will not be permitted to sit in that capacity for a hearing if that Member is the subject of the complaint or the complainant. A substitute will be permitted, if they have undertaken specific Standards Committee training.

(3) Meetings:

- The Sub-Committee will meet as and when required.

(4) Quorum:

- The Quorum for meetings of the Standards Sub-Committee is three voting Members. All three Tendring Council Members, or substitutes for them, have to be present at the Sub-Committee.

(5) Voting:

- Only the three District Council Members (or their substitutes, if applicable) on the Sub-Committee can vote.

- The views and recommendations of the three Town and Parish Council representatives will be recorded in the minutes of the meeting.

(6) Chairmanship:

- The Sub-Committee will appoint a Chairman from the District Councillor membership.

- However, when the Committee is convened to conduct a hearing the meeting will be chaired by one of the Members of the Sub-Committee who is not from the same political Group as the Member who is the subject of the Complaint (nor of the same Group as the complainant if a Member of the Council).

ARTICLE 10 – AREA COMMITTEES AND FORUMS

ARTICLE 10 – COMMUNITY CONSULTATION AND PARTICIPATION

10.1 Community Consultation and Participation

The Council will promote community consultation and participation through a range of opportunities as set out in the Table 1. below:

Consultation and Participation Opportunity	**Form, Function and Scope**
Local Councils	Autonomous local authorities within a set area able to raise funds through the Council Tax to provide local services (i.e. Town, Parish and Village Councils). This includes the Tendring District Association of Local Councils (TDALC).
Community Forums	Public meetings designed to enable the Council to engage with specific sections or areas of the local community so that services are designed to meet their needs.
Tenants and Sheltered Housing Panels	Organised through the Tenants' Compact as a consultation and participation opportunity for tenants and private owners of properties in estates. These Panels provide an opportunity for general consultation and participation by area.
Petitions	The Council has approved and published a Petitions Scheme detailing how it will respond to petitions received from the community.
Surveys and Consultations	Throughout the year a number of paper based and on-line surveys and consultations are undertaken to seek residents' views.
Participation in Overview and Scrutiny Reviews	Reviews undertaken by Overview and Scrutiny Task and Finish Groups may include consultation with the local community, where appropriate.
Boards and Panel with various Partner Organisations: details of the specific Boards are set out in Table 2. Below	

ARTICLE 10 – AREA COMMITTEES AND FORUMS

Table 2.:

Board:	Role and Objectives	Partnership Stakeholders
The **Locality Board** is non-budget holding and non-decision making and :- • provides a high level political steer to shape the future of the locality; • delivers a co-ordinated public service approach across a number of key County and District services and projects; • enables joined up delivery of key services with a wide range of partners.	1. **Ensures value for money public service outcomes**, through ensuring that the Locality Board oversees and advises on specific areas of public sector activity / spend according to a shared understanding of the priority outcomes for the Locality Board area; 2. **Enables closer collaboration between the various tiers of local government with a focus joining up delivery and resources and doing things more efficiently**, through providing the challenge to ensure that the Locality Board actively identifies and promotes opportunities for public service reforms; 3. **Exerts local influence over commissioning decisions affecting the Locality Board area**, through ensuring strong links between local governance, community engagement and commissioning arrangements; and 4. **Promotes localism and ensures that decisions are taken at the most appropriate level**, through discussion and negotiation across the two tiers, monitoring and reviewing, using local insight and holding others to account where necessary.	Essex County Council (host authority) with TDC
Health & Well Being Board: To improve the health and wellbeing of the population of the district and reduce health inequalities.	**1.** Provide strong and effective political and public leadership for health and wellbeing locally; **2.** Engage with local population to better understand the health and wellbeing issues and needs in Tendring and ensure that this is captured in County and District needs assessments;	Essex County Council (host authority) Community Voluntary Sector

ARTICLE 10 – AREA COMMITTEES AND FORUMS

	3. Through the JSNA and local stakeholder engagement, identify key priorities for health and local government commissioning and develop clear plans for using combined resources; **4.** Realise opportunities to engage with Essex Health and Wellbeing Board work streams and other initiatives such as Community Budgets; **5.** Foster good engagement with North East Essex Clinical Commissioning Group (CCG) **6.** Take an overview of the delivery of the strategic plans of the North East Essex CCG plan and the County Health and Wellbeing Strategy and identify the role other sectors, public, voluntary and private, could contribute; **7.** Monitor and review the implementation of the County Joint Health and Wellbeing Strategy locally.	Essex Carers Police Clinical Commissioning Group St Helena Hospice JCP Health Watch CAB
Tendring Education Improvement Group A strategic group with responsibility for supporting improvement in the quality of education for children and young people across the Tendring District. The County and District councils will work together to bring their collective effort and energy to address issues. The group will work with partners including the Tendring Education Trust (the local collaborative trust established by schools in the district) as well as schools and their governors.	The group will focus on supporting the improvement required across education, particularly in the primary sector, but also in secondary education, the outcomes for children aged 2-5 and the transition to post 16 education and employment opportunities. 1. To champion educational improvement across the Tendring District. 2. To work with schools to tackle areas of difficulty faced by schools - educational attainment - teacher recruitment and retention - issues brought a transient population - the challenges faced by children with special educational needs. 3. To pool resources and coordinate support for maximum impact 4. To learn from best practice from across the county and country 5. To champion raising aspiration across the District	TDC is the host authority Essex County Council Tendring Education Trust Schools and their governors.

ARTICLE 10 – AREA COMMITTEES AND FORUMS

Board:	Role and Objectives	Partnership Stakeholders
Rural Infrastructure Panel The Rural Projects Panel tackles issues affecting residents living in rural communities such as lack of mains sewerage, highway maintenance, how to make more of rural amenities, improving broadband speeds, mains sewerage, inland flooding and energy switching. The panel meets approximately every two months and reports directly to the Corporate Management Committee.	The work will focuses on the rural communities of Tendring, however there is potential for positive outcomes that will impact all residents irrespective of their location. Many of the issues are outside of the Council's control work and therefore are undertaken with partners to jointly address such issues impacting the rural community. The focus of the budget is for an enabling role rather than predominantly for capital projects and any recommendations involving the use of this fund will be agreed by Cabinet.	TDC is the host authority
Local Highways Panel: Each District or Borough Council has a local Highways Panel set up with Essex County Council as a new way of working to improve highway amenities in each individual district using County Council local highway budget.	• Improve local highway amenities; • To consider proposed schemes and recommendations from the County Councillors elected to represent the District to the relevant County Council Portfolio Holder; but • Excluding scheduled maintenance and improvement programme.	Membership is County Councillors representing the district of Tendring, officers from both councils, and the Leader of TDC.

ARTICLE 10 – AREA COMMITTEES AND FORUMS

Board:	Role and Objectives	Partnership Stakeholders
Tendring Community Safety Partnership The Crime and Disorder Act came into force in July 1998 and required CDRPs (now known as CSP's) to be set up in each District in England and Wales. The Act placed an obligation on local authorities and the police, (amongst others,) to work together to develop and implement a strategy to tackle crime and disorder in their area. Under the Act and the subsequent Police Reform Act 2002, the named stakeholders have been designated 'Responsible Authorities' and are held accountable for this work. Together they have formed the Responsible Authorities Group to oversee the development of a crime and disorder reduction strategy for the Tendring district.	The Tendring CSP has identified 4 key strategic themes to reduce crime and the fear of crime in the District and to improve community safety. These are: 1. **Tackling Anti Social Behaviour;** 2. **Reducing Crime and the Fear of Crime;** 3. **Reducing alcohol and drug misuse within the community;** 4. **Reducing re-offending is a statutory duty for all community safety partnerships and thus supports the overarching theme for Safer Essex.**	TDC, Essex Police, Essex County Council, Police and Crime Commissioner Essex Fire Authority, Essex Probation Service, North East Essex NHS and members of the voluntary sector

ARTICLE 10 – AREA COMMITTEES AND FORUMS

Board	Role and Objectives	Partnership Stakeholders
Youth Strategy Group To act as local champions for young people's services within the district. To act as a consultative body to support the development of local provision, to provide guidance on the type and quality of provision as required in the district and influence the use of existing youth work resources. To act as a catalyst to draw together partners and key stakeholders to identify priorities and delivery provision for young people.	To identify the needs of young people in their local area, in partnership with district/borough/city councils and other agencies to develop a joint strategy for addressing gaps in provision. For articulating the local needs for young people, to understand the current provision and to set priorities in order to avoid duplication and fill gaps. To identify and build relationships with the voluntary sector and/or private sector partners to attract new provision and funding opportunities to meet priorities and extend the offer to young people. To ensure that measures are in place to safeguard the financial probity of any projects, programmes or arrangements that the group would enter into. To provide a local forum through which informed debate in relation to services and support for young people can take place. To make recommendations to appropriate local agencies and commissioning boards about local service priorities. To inform how services for young people might be delivered and co-ordinated to avoid duplication. To consider and advise the cabinet member on the use of local allocations of capital expenditure.	The Group consists of agencies and organisations delivering services to young people within the age range 11-25 with a priority on those aged 13-19 In addition representatives from: □ All local county councillors. □ 1 district cllr. □ 1 district officer. □ 1 Youth Service officer. □ 1 ECC youth worker involved in local area delivery. □ 3 young people: one Young Essex Assembly (YEA) and two other young people (aged between 13-19 years) who are service users and/ or from the local community.

(Peach)

ARTICLE 10 – AREA COMMITTEES AND FORUMS

Board:	Role and Objectives	Partnership Stakeholders
North Essex Local Children's Partnership Board (LCPB) Brings together partners at a local level and is underpinned by the Children's Act 2004 duty to co-operate (as amended). The purpose of the LCPB is for partners to work together to determine local needs, identify priorities and develop action plans to secure better outcomes for children and young people in the [district/borough]. The LCPB is accountable to the Essex Children's Partnership Board ("ECPB"). Undertaking its activity within the framework of the Essex Children and Young People's Plan, reflecting the relevant Health and Well-Being Plan Priorities for children, young people and families. The LCPB engages with the local community, analysing and determining local need and informing the county wide Joint Strategic Needs Analysis and the strategy of the ECPB. The LCPB provides a local governance structure for integrated working practices and a local focus for collaboration.	The primary aim of the LCPB is to improve the outcomes for children and young people in the area by: • strengthening the services and processes that keep children and young people safe from neglect and abuse; • developing an action plan within its overarching priorities which enables children and young people to aspire, learn, achieve highly and realise their potential; • improving the life chances of Looked After Children, young carers and all other children and families at risk of poor outcomes; • reducing the impact of poverty and the recession on the lives of children, young people and their families providing children, young people and families with opportunities to contribute meaningfully and be involved in the development and delivery of services in their local communities. The LCPB will ensure that a robust and effective relationship with the Essex Safeguarding Children's Board exists through the local Stay Safe Group which is a sub group of, and accountable to the LCPB, consulting with them on safeguarding issues and on the development of the local Stay Safe Plan. The LCPB will also ensure that there are appropriate links and reporting arrangements to other relevant local bodies and boards associated with District Boroughs/City Councils, Education, Health and Social Care.	The LCPB will be made up of the leaders of local agencies and the Board may co-opt members as they see appropriate. Current membership is: NHS District Council Police LSP Job Centre Plus Voluntary – community sector Essex School Governors Association Education Essex County Council

(Peach)

ARTICLE 11 – JOINT ARRANGEMENTS

11.01 Legislation Requirements:

Any joint arrangements must be made in accordance with the current and relevant legislation. Any consideration to establish new arrangements must comply with the detailed requirements and reflected within the decision.

11.02 Arrangements to Promote Well Being:

The Council or the Cabinet, 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.

11.03 Joint Arrangements

(a) The Council may establish joint arrangements with one or more local authorities and/or their Executives/Cabinets to advise the Council on, or exercise Cabinet or Council functions in any of the participating authorities. Such arrangements may involve the appointment of a joint committee with these other local authorities.

(b) 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.

(c) The Cabinet may appoint members to a joint committee from outside the Cabinet in the following circumstance:

- The joint committee has functions for only part of the area of the authority. 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 this case the political balance requirements do not apply to such appointments.

(d) Details of any joint arrangements including any delegations to joint committees are set out in the Council's Scheme of Delegations in Part 3 of this Constitution.

11.04 Access to Information

(a) 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.

(b) If the joint committee contains members who are not on the Cabinet of any participating authority then the Access to Information Rules in Schedule 12A of the Local Government Act 1972 apply (as referred to in Part 5 of this Constitution).

11.05 Delegation to and from Other Local Authorities:

(a) The Council may delegate non-executive functions to another local authority.

(b) The Cabinet may delegate executive functions to another local authority.

(c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council in relation to non-executive functions and the Cabinet in relation to executive functions.

11.06 Contracting Out:

The Council (for non-executive functions) and the Cabinet (for executive functions) may contract out to another body or organisation functions which may be exercised by an Officer. Such functions may be contracted out where they are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994. This also applies under contracting arrangements where the contractor acts as the Council's agent under usual contacting principles, provided there is no delegation of the Council's discretionary decision making.

ARTICLE 12 - OFFICERS

12.01 Management Structure

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

Post	Main Functions and Areas of Responsibility
Chief Executive (and Head of Paid Service)	Overall corporate management and operational responsibility (including overall management responsibility for all officers). Provision of professional advice to all parties in the decision making process and 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 by the Council.
Corporate Directors and Head of Planning	To contribute substantially to the vision and strategic management of the Council and the development of appropriate policies reflecting corporate aspirations. Provide corporate leadership and co-ordination as required of Council wide projects, cross-service initiatives and strategies. To influence the development of high quality services. To be accountable for the performance management of services within the remit of the post, through operational heads of service. To Deputise for the Chief Executive.

The above positions and such other positions as shall from time to time be deemed appropriate shall form the Council's Management Team. The Council's Chief Finance Officer (Section 151) and Monitoring Officer have a standing invitation to attend Management Team in exercising their statutory roles.

(b) Functions and Areas of Responsibility of the Council's Management Team:

The Management Team shall work with the Councillors to develop and manage the Council's strategic direction and to ensure the delivery of agreed targets within the following service areas:

Post	Services	Areas of Responsibility including:
Chief Executive	Regeneration	Big Society Scheme, Strategic Regeneration, Economic Growth Strategy, Inward Investment, Business Support (employment and development), Town Centres Support Policy and Project Development, Funding Bids, Skills and Apprenticeships, Jaywick Team and Job Centre Plus Partnership.
	Management and Members Support	Community Leadership, Member Support, Corporate Complaints, Ombudsman Issues, Locality Board Support and Community Leadership and Strategy
Corporate Director (Corporate Services)	Governance and Legal	Corporate Governance & Legal Advice & Guidance, Service Legal Advice & Guidance, Council, Cabinet and Committee administration, Overview and Scrutiny arrangements, Freedom of Information (FOI) and Environmental Information Regulation (EIR) requirements, Corporate overview of the Council's compliance with RIPA.
	Finance and Revenues and Benefits	Annual Budget Strategy, Budget Management, Accountancy, Exchequer, Insurance, Treasury Management and Banking, Internal Audit, Procurement Strategy and Central Purchasing, Administration of Council Tax and Housing Benefit, Business Rates (NNDR) and Reliefs Local Council Tax Support Scheme, Cash Collection/Pay Point, Rent Collection and Benefit fraud and compliance.
	Property	Leading Organisational Transformation (including efficiency and effectiveness, shared working, office rationalisation programme to invest in fewer, better buildings, IT and Customer Services), Overview and Formulation of Assets Strategy and Policy, Assets Service providing property advice and support to service areas and Initiation and Determination of Property matters.
	People, Performance and Projects	Management of strategic and corporate HR function and workforce development, Public Service Forum, Community Leadership and Strategy, Corporate Strategy and Planning Performance Management, Intranet, Career Track, Support to Corporate Management Committee, Communications (Internal), Skills and Apprenticeships, Communities of Interest

		(Children and Young People), Education, Community Engagement, Development and Empowerment (including advice and support) and relationships with Public and Third Sector Organisations.
	IT and Corporate Resilience	ICT Contract and Strategy, Network and Systems Support, Data Protection, Information Management, Key aspects of Organisational Transformation (including mobile and remote working and communications and IT, efficiency and effectiveness), Internet, Provision of Council wide Emergency Planning and Business Continuity.
Corporate Director (Operational Services)	Public Realm	Crematorium and Cemeteries, Horticultural Services, Open Spaces, Recreation Grounds, Children's Play Areas, Fleet Management and Vehicle Workshops. Off Street Car Parking Service, Traffic Regulation Orders, Public Conveniences, Strategic parking advice and on street functions as delegated by the Highways Authority and Neighbourhood activities.
	Environmental	Household Waste minimisation and collection, Recycling maximisation and Collection, Street Cleansing, Dog Warden Service, Pest Control Littering, Dog Fouling, Fly-tipping, Enforcement Food Safety and Hygiene, Corporate Health and Safety Water Safety/Quality, Pollution, Animal Welfare, Public Protection, Environmental Health, Abandoned Vehicles, Port Health, Unlawful Car Sales, Health Service Liaison Health and Well-being, Community Health and Health Inequalities.
	Coastal Protection	Coast Protection – Planning and Major Schemes, Coast Protection Maintenance, Minor Engineering Works, Sewerage and Land drainage and Local highways and lighting function.
	Customer & Commercial	Customer Services, Careline Service, Provision maintenance and development of CCTV systems, Out of Hours Service, Tenant Relations and Contact Centre. Telephony, Switchboard, Service Development and Delivery Committee Support, Printing and Postal Services and Licensing.
	Sport and Leisure	Seafronts Management, Beach Huts, Sports Centres and Facilities (including in partnership with schools), Sports Initiatives and Sports Development, Princes Theatre Management, Arts, Entertainment, Culture, and Heritage Initiatives and Events and Tourism Strategy, Events, Information and Promotion.
	Housing	Financial Assistance for Private Sector Housing, Houses in Multiple Occupation, Private Sector Housing

		– regulation and improvement, Tenant Redress Scheme, Private Sector Housing Conditions, enforcement and advice, Gypsy/Traveller Liaison, Home Energy Efficiency and Fuel Poverty and Housing Strategy and Development. Homelessness Policy and advice and assistance to homeless persons and in housing need, Housing Allocation Scheme, Sheltered Housing, Estates Management, Housing Revenue Account and Business Plan, Right to Buy and other Housing Revenue Account disposals, Partnership with Registered Providers, Enable new opportunities to address housing need through partnership working and Disability Facilities Grant regime.
	Building and Engineering	Organisational Transformation (including efficiency and effectiveness, shared working, office use, IT and Customer Services), Housing investment Programme, Dangerous Structures, Buildings advisory service. Council Office and Buildings Policy, including Facilities Management and Maintenance, Depots, Office Cleaning. Housing Revenue Account and Business Plan and Engineering Services.
Head of Planning	Planning	Strategic Planning Policy (including the Local Plan), Development Management, Local Land Charges, Building Control and Planning pre-application advice (for all services including the setting of appropriate fees). Heritage and conservation, trees and tree protection, general planning enforcement, section 106 agreements and planning administration.

(c) Head of Paid Service, Monitoring Officer and Chief Financial Officer (Section 151):

The Council has designated the following posts to fulfil a specific statutory position as shown:

Designation	**Post**
Head of Paid Service	Chief Executive
Monitoring Officer	Head of Governance and Legal Services
Chief Financial Officer (s151 Officer)	Head of Finance, Revenues and Benefits Services

These posts will have the functions described in paragraphs 12.02–12.05 below.

12.02 Functions of the Head of Paid Service

(a) Discharge of functions by the Council:

The Head of Paid Service will report to the full Council, whenever they consider it appropriate, on how the Council's functions are discharged, the number and grade of Officers required to discharge the functions and how Officers are organised into an overall Officer structure.

(b) Restrictions on functions:

The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Financial Officer (Section 151 Officer) if an appropriately qualified accountant.

(c) 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, which is included within Part 8 of this Constitution.

12.03 Functions of the Monitoring Officer:

(a) Ensuring lawfulness and fairness of decision making:

After consulting with the Head of Paid Service and Chief Financial Officer (Section 151), the Monitoring Officer will report to the Council, or to the Cabinet in relation to an executive function, if they consider 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.

(b) Supporting the Standards Committee

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

(c) 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.

(d) Providing advice

The Monitoring Officer will provide advice to all Councillors on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, Budget and Policy Framework issues. The Chief Financial Officer (Section 151) has similar responsibilities.

(e) Record Keeping

Responsibility for a system of record keeping for all the Council's decisions.

(f) Proper Officer for Access to Information

Ensuring 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) Maintaining the Constitution

Maintaining an up-to-date version of the Constitution on the Council's website and ensuring that it is widely available for consultation by Members, staff and the public.

(h) Restrictions on posts

The Monitoring Officer cannot be the Chief Financial Officer (Section 151) or the Head of Paid Service.

12.04 Functions of the Chief Financial Officer (Section 151)

(a) **Ensuring lawfulness and financial prudence of decision making**

After consulting with the Head of the Paid Service, appropriate Corporate Directors and the Monitoring Officer, the Chief Financial Officer (Section 151) will report to the Council, or to the Cabinet in relation to an executive function, and the Council's external auditor if they consider 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 Financial Officer will have responsibility for the administration of the all the financial affairs of the Council.

(c) Contributing to corporate management:

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

(d) Providing advice:

The Chief Financial Officer (Section 151) will provide advice to all Councillors on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, Budget and Policy Framework issues to all Councillors and will support and advise Councillors and officers in their respective roles. The Monitoring Officer has similar responsibilities.

(e) Give financial information:

The Chief Financial Officer (Section 151) will provide financial information to the media, members of the public and the community.

(f) Internal Audit:

The Chief Financial Officer (Section 151) will have responsibility for the provision of an effective internal audit function and support the Audit Committee.

12.05 Duty to Provide Sufficient Resources to the Head of Paid Service, Monitoring Officer and Chief Financial Officer

The Council will provide the Head of Paid Service, Monitoring Officer and Chief Financial Officer (Section 151) with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

12.06 Conduct

Officers will comply with the Employees' Code of Conduct and Protocol on Member/Officer Relations as set out in Part 6 of this Constitution.

12.07 Employment

The recruitment, selection and dismissal of Officers will comply with the Scheme of Delegation and Officer Employment Rules set out in Part 5 of this Constitution.

ARTICLE 13 – DECISION MAKING

13.01 Responsibility for Decision Making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution. The Council's Monitoring Officer will also retain a central record of delegations by the Chief Executive and Corporate Directors providing authority within their respective service areas of responsibility.

13.02 Principles of Decision Making

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

(a) Proportionality (i.e. the action must be proportionate to the desired outcome);

(b) Due consideration of all the relevant factors and option, taking into account the results of any consultation undertaken and the professional advice of Officers;

(c) Respect for human rights, and equality and diversity;

(d) A presumption in favour of openness;

(e) Clarity of aims and desired outcomes; and

(f) Transparency (i.e. explaining what options were considered and giving the reasons for the decision).

13.03 Key Decisions

A "key decision" means a Cabinet decision that is likely to-

- result in the local authority incurring expenditure which is, or the making of savings which are in excess of £100,000 or is significant having regard to the local authority's budget for the service or function to which the decision relates; or

- be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the local authority.

A decision-taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Article 7 of this Constitution.

13.04 Decision making by Council, Cabinet, Overview and Scrutiny Committees, Other Committees and Sub-Committees

All decisions will follow the general principles contained within this Article. In addition, decision-makers will follow the relevant procedure rules, set out in Part 5 or Article 7, relating to their Committee when considering any matter.

13.05 Decision Making by Council Bodies Acting as Tribunals

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

ARTICLE 14 – FINANCE, CONTRACTS AND LEGAL MATTERS

14.01 Financial Management

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Part 5 of this Constitution.

14.02 Contracts

Every contract made by the Council will comply with the Procurement Procedure Rules set out in Part 5 of this Constitution and any guidance issued by the Monitoring Officer.

14.03 Legal Proceedings

Corporate Directors and the Head of Planning, in consultation with the Head of Governance and Legal Services, are authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council, or in any case where they and the Head of Governance and Legal Services, consider that such action is necessary to protect the Council's interests.

14.04 Authentication of Documents

Where any document is necessary in any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Governance and Legal Services or other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract with a value up to £10,000, entered into on behalf of the Council, shall be recorded through the Council's official order system and in accordance with the Section 6 of the Procurement Procedure Rules. Subject to any emergency requirement agreed with the Chief Financial Officer.

Any contract with a value of £10,000 to £50,000, entered into on behalf of the Council shall be in writing and in accordance with the Section 5 of the Procurement Procedure Rules. Such contracts must either be signed by at least two Officers of the Authority authorised by the Chief Executive.

Any contract with a value of in excess of £50,000 must be made in writing and under the Common Seal of the Council attested by at least one Proper Officer and in accordance with the Section 5.

14.05 Common Seal of the Council

(a) The Common Seal of the Council will be kept in a safe place under the control of the Head of Governance and Legal Services.

(b) Authority for using the Common Seal of the Council is provided by:

(i) A decision of the Council, Cabinet, a member of the Executive, a Committee or a Sub-Committee; or

(ii) A (duly authorised) Officers Decision recording:

- Entering into a Contract with a value exceeding £50,000 and / or
- Issuing certificates for corporate award schemes.

(iii) Any other documents which should be sealed in the opinion of the Head of Governance and Legal Services or Corporate Director (Corporate Services), including (but not limited to):

- Leases and transfers;
- Licences to Assign;
- Deeds and Agreements (property related)
- Bylaws;
- Miscellaneous Orders (such as Tree Preservation or Traffic/Road Orders);
- Legal Charges in the Council's favour on private properties (including secure repayment of local loans).

The affixing of the Common Seal will be attested by the Head of Governance and Legal Services or some other person authorised by them.

ARTICLE 15 – REVIEW AND REVISION OF THE CONSTITUTION

15.01 Duty to Monitor and Review the Constitution

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect The Monitoring Officer will make an annual assessment of the Constitution to identify any weaknesses or improvements in its operation and make recommendations for ways in which it could be amended in order to better achieve its purpose.

15.02 Changes to the Constitution

(a) Any proposals for changes to the Constitution arising from a review of the Constitution, whether it be initiated by the Monitoring Officer or a resolution by a member body, will be reported to the Cabinet, via the Portfolio Holder with responsibility for corporate governance, which in turn will make recommendations to the Council.

(b) The Monitoring Officer shall have authority to make minor changes to the Constitution arising from:

- new legislation;
- changes to the organisational structure of the Council;
- arising from decisions of the Council or Cabinet; or
- in exercise of the Leader's authority to make changes to Cabinet responsibilities.

(c) Subject to (d) below, changes to the Constitution will be approved by the Council only after consideration of a proposal by the Monitoring Officer and the Cabinet.

(d) Matters affecting the Cabinet which shall be approved by the Cabinet or Leader of the Council.

(e) The Council must comply with regulations made under Section 30 of the Local Government Act 2000, and guidance issued from time to time by the Secretary of State under Section 38, and take reasonable steps to consult with local electors and other interested persons in the area when drawing up any proposals to change from a Leader and Cabinet Executive arrangements to one of the alternative forms permitted by the Local Government Act 2000 or vice versa.

ARTICLE 16 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

16.01 Suspension of the Constitution

(a) Limit to suspension:

The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by Council to the extent permitted within those Rules and the law.

(b) Procedure to suspend:

A motion to suspend any rules can only be made without notice, if at least 45 Members of the Council are present and will not be carried unless 31 Members vote in favour of suspension. 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) Rules capable of suspension.

- Council Procedure Rules
- Budget and Policy Framework Procedure Rules
- Financial Procedure Rules
- Procurement Procedure Rules

16.02 Interpretation

The ruling of the Chairman of the Council (or other person presiding) as to the interpretation 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 and the advice of the Monitoring Officer.

16.03 Publication

(a) The Committee Services Manager will give a printed copy of the Members' Handbook, including various parts of this Constitution to each Member of the authority upon delivery of that individual's declaration of acceptance of office on the Member first being elected to the Council.

(b) The Committee Services Manager will ensure that complete and updated copies are available for inspection at appropriate locations and on the Council's website, and can be purchased by members of the public or local press on payment of a reasonable fee.