

REVIEW OF THE CONSTITUTION

| Part & Article Number | Current Version | Proposed Version |
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| Part 1: Summary & Explanation | | |
| The Council's Constitution | <p>South Hams District Council has a constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to decide.</p> <p>The Constitution is divided into 16 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols in Parts 3 – 7.</p> <p>The main features of the Constitution are as follows:</p> <ul style="list-style-type: none"> • the Council meeting will set the overall budget and policy framework and will be a focus for debate about the performance of the Executive; • an Executive body consisting of a Leader and other Executive Members will make decisions within the policy and budget framework established by full Council. Decisions will be delegated to the Executive as a body but not to individual Members; • a Scrutiny Group will hold the Executive to account, can make recommendations to the Executive and / or Council arising from the outcome of the Scrutiny process and may review areas of Council activity or matters of wider local concern; • Policy Development Groups will review and develop policy and may review areas of wider local concern; • An Audit Committee will provide independent assurance of the adequacy of the risk management framework and the associated control environment and independent Scrutiny of the Council's financial and non financial performance; • most regulatory decisions will continue to be made by bodies of the Council; • there will be a Standards Committee to promote high standards of conduct and support Councillors' observance of their Code of Conduct; • a Personnel Panel will draft Personnel policy and consider issues of individual personal impact. • A Salcombe Harbour Board is assigned to improve, maintain and manage the whole of the Salcombe Harbour Estuary for the benefit of users. | <p><i>Part 1 is intended to provide an introduction to and explanation of the Constitution for members of the public.</i></p> <p>No amendments proposed</p> |
| What's in the Constitution? | <p>Article 1 of the Constitution commits the Council to principles of community leadership, public involvement and efficient, effective, transparent and accountable decision making.</p> <p>Articles 2 – 16 explain the rights of citizens and how the key parts of the Council operate. These are:</p> | <p>No amendments proposed</p> |

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| | <ul style="list-style-type: none"> • Members of the Council (Article 2) • Citizens and the Council (Article 3) • The full Council meeting (Article 4) • Chairing the Council (Article 5) • Scrutiny and Policy Development (Article 6) • The Executive (Article 7) • Regulatory and Other Bodies of the Council (Article 8) • The Standards Committee (Article 9) • Audit Committee and Salcombe Harbour Board (Article 10) • Joint Arrangements (Article 11) • Officers (Article 12) • Decision Making (Article 13) • Finance, Contracts and Legal Matters (Article 14) • Review and Revision of the Constitution (Article 15) • Suspension, Interpretation and Publication of the Constitution (Article 16) | |
| <p>How the Council Operates</p> | <p>The Council is composed of 40 Members elected every four years. Members are democratically accountable to residents of their ward. The overriding duty of Members is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.</p> <p>Members have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them on the code of conduct.</p> <p>All Members meet together as the Council. Meetings of the Council are normally open to the public. At Council meetings, Members decide the Council’s overall policies, particularly Statutory Plans and set the budget and Council Tax each year.</p> <p>The Council appoints the Leader of the Council, Deputy Leader of the Council and other Members of the Executive and appoints Members of all the other bodies of the Council and most representatives on Outside Bodies annually.</p> <p>The Council may question the performance and decisions of the Executive and of other bodies of the Council. It receives annual and other reports from the Leader of the Council, chairmen of other bodies and individual Members. The Council may determine those matters not within the remit of any of its reporting bodies.</p> <p>Council meetings may include formal decision making, wider debates and presentations. The Council may also meet informally in workshops and seminars.</p> | <p>(1) Would it be clearer to refer to “councillors”, as the model does, rather than “members”?</p> <p>(2) Would it be clearer to set out this and the following sections in shorter paragraphs, as here, rather than in large slabs of text (as below) which are harder to read?</p> |

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| How Decisions are made | The Executive is the part of the Council which is responsible for most day-to-day decisions. The Executive is made up of the Leader of the Council, the Deputy Leader of the Council and between three and eight other Members all appointed by the Council. When major decisions are to be discussed or made, these are published in the Executive's Forward Plan in so far as they can be anticipated. If these major decisions are to be discussed with Council officers at a meeting of the Executive, this will generally be open for the public to attend except where personal or confidential matters are being discussed. The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide. | No amendments proposed |
| Scrutiny and Audit | There is a Scrutiny Group and three Policy Development Groups which support the work of the Executive and the Council as a whole. They allow citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the Executive and the Council as a whole on its policies, budget and service delivery. Scrutiny also monitors the decisions of the Executive. It can 'call-in' a decision which has been made by the Executive but not yet implemented. This enables the Group to consider whether the decision is appropriate. Scrutiny may recommend that the Executive reconsider the decision. Scrutiny may also be consulted by the Executive or the Council on forthcoming decisions and the development of policy. The Audit Committee has a more specific role and monitors the internal workings of the Council including the internal and external audit functions. | No amendments proposed |
| Regulatory Committees | A 'regulatory committee' is a term often used by councils to describe committees which deal with Local Authority business which cannot be dealt with by the Executive such as licensing and planning. Regulatory Committees also normally deal with applying legislation and statutory regulations which have a degree of public or environmental protection. In this Constitution, they include: <ul style="list-style-type: none"> • the Development Control Committee • the Licensing Committee Meetings of the Council's regulatory committees are open to the public except where personal or confidential matters are being discussed. | No amendments proposed |
| The Council's Staff | The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between officers and Members of the Council. | No amendments proposed |
| Citizens' Rights | Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others are a result of the Council's own processes and decisions. The local Citizens' Advice Bureau can advise on individuals' legal rights. Where members of the public use specific Council services, for example as an applicant for benefit, they have additional rights. These are not covered in this Constitution. Citizens have the right to: <ul style="list-style-type: none"> • vote at local elections if they are registered; • contact their local Member, or any other Member, about any matters of concern to them; • petition the Council; • obtain a copy of the Constitution; • attend meetings of the Council and its other bodies except where, for example, personal or confidential matters are | <i>Additions shown as underlined text</i> |

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| | <p>being discussed;</p> <ul style="list-style-type: none"> • petition to request a referendum on a mayoral form of Executive; • with prior notification ask questions at meetings of the Executive <u>and the Salcombe Harbour Board</u>; • by invitation may contribute to debates of the Scrutiny and Policy Development Groups; • find out, from the Executive's Forward Plan, what major decisions are to be discussed by the Executive or decided by the Executive or officers, and when; • attend meetings of the Executive where key decisions are being discussed or decided; • see reports and background papers, and any record of decisions made by the Council and Executive; • complain to the Council about something the Council has done wrong, failed to do or if the Council has not treated a citizen in a professional or courteous manner; • complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process; • complain to the Standards Board for England if they have evidence which they think shows that a Member has not followed the Council's Code of Conduct; and • inspect the Council's accounts and make their views known to the external auditor. <p>The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the Monitoring Officer (or Member Support Services Manager in his/her absence), South Hams District Council, Follaton House, Plymouth Road, Totnes, TQ9 5NE. Telephone: (01803) <u>861364</u>.</p> <p>A detailed statement of the rights to inspect agendas, reports, background papers and minutes of meetings of the council and its bodies is set out in Part 4.</p> | <p>SHB added to chime with Article 3 (1) (c)</p> <p>Telephone number updated</p> |
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| Part 2: Articles of the Constitution | Current Version | Proposed Version |
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| Article 1 – The Constitution | <p><i>This Article sets out the fundamental provisions of the Constitution. It confirms that the local authority will act within the law and the Provisions of this Constitution. It defines those documents which comprise the Constitution.</i></p> <p><i>The Article also confirms that the local authority will monitor and review its Constitution.</i></p> <p>1.1 Powers of the Council The Council will exercise all its powers and duties in accordance with the law and this Constitution.</p> <p>1.2 The Constitution This Constitution, and all its appendices, is the Constitution of South Hams District Council.</p> <p>1.3 Purpose of the Constitution The purpose of the Constitution is to: (a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;</p> | <p>No amendments proposed</p> |

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| | <p>(b) support the active involvement of citizens in the process of local authority decision-making;</p> <p>(c) help Members represent their constituents and the district area more effectively;</p> <p>(d) enable decisions to be taken efficiently and effectively;</p> <p>(e) create a powerful and effective means of holding decision-makers to public account;</p> <p>(f) ensure that no one will review or scrutinise a decision in which they were directly involved;</p> <p>(g) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and</p> <p>(h) provide a means of improving the delivery of services to the community.</p> <p>1.4 Interpretation and Review of the Constitution</p> <p>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.</p> <p>The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.</p> | |
| <p>Article 2 – Members of the Council</p> | <p>Developing Roles for Members</p> <p><i>The role of the Member is enhanced by the political structures introduced by the Local Government Act 2000. Members’ representational roles should become stronger through the development of policy formulation processes feeding into the full Council, Scrutiny and the Executive. Individual Members may also have a policy and scrutiny role, offering important opportunities both to assist the policy development process and also to conduct in-depth inquiries into specific issues of concern. Finally, the role of the council meeting itself will develop, giving additional scope for Members to adopt community leadership roles. Some elements of these roles are covered here. Others appear in later articles.</i></p> <p>CONTENTS OF THE ARTICLE</p> <p>This Article sets out the composition of the Council, eligibility to stand for election as a Member of the Council (councillor) and the form of election to be used.</p> <p>The Article also contains a statement of the roles and functions of Members of the Council. This reinforces the fact that all Members, whatever their formal position in the Council and party political system, share common roles and responsibilities.</p> <p>The Article also deals with the rights and duties of Members, especially as they affect access to land, buildings, documents and information and any confidentiality requirements surrounding the latter.</p> <p>2.1 Composition and eligibility</p> <p>(a) Composition: The Council will comprise 40 Members, otherwise called <u>Councillors</u>. All Members will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.</p> <p>(b) Eligibility: Only registered voters of the District, or those living or working there, will be eligible to hold the office of Member.</p> <p>2.2 Election and terms of Members</p> <p>Election and terms: The regular election of Members will be held on the first Thursday in May in a four yearly cycle. The terms of office of Members will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.</p> <p>2.3 Roles and functions of all Members</p> | <p>2.1.(a): “Councillors” substituted for “members” at this point as that is what the model provides (and makes better sense)</p> |

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| | <p>(a) Key roles. All Members will:</p> <p>(i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;</p> <p>(ii) represent their communities and bring their views into the Council's decision-making process, ie become the advocate of and for their communities;</p> <p>(iii) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;</p> <p>(iv) balance different interests within their ward and represent the ward as a whole; and balance the interests of other wards against their own to represent the interests of the District as a whole;</p> <p>(v) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;</p> <p>(vi) be involved in decision-making;</p> <p>(vii) be available to represent the Council on other bodies; and</p> <p>(viii) maintain the highest standards of conduct and ethics.</p> <p>(b) Rights and duties</p> <p>(i) Members will have such rights of access to such documents, information, land and buildings and resources of the Council as are necessary for the proper discharge of their functions and in accordance with the law.</p> <p>(ii) Members 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 Member or officer entitled to know it.</p> <p>(iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.</p> <p>(iv) Members will develop and maintain a working knowledge of the authority's services and policies and take advantage of appropriate training and development opportunities to enable them to fulfil their role.</p> <p>2.4 Conduct</p> <p>Members will at all times observe the Members' Code of Conduct and the Protocol on Member / Officer Relations set out in Part 5 of this Constitution.</p> <p>2.5 Allowances</p> <p>Members will be entitled to receive allowances in accordance with the Scheme of Members' Allowances set out in Part 6 of this Constitution</p> | |
| <p>Article 3 – Citizens and the Council</p> | <p><i>The Constitution sets out what citizens can expect from their Council and what rights they have. However, with rights come responsibilities and it is also the role of the Constitution to show how the Council expects to be treated in return.</i></p> <p>3.1 Citizens' rights</p> <p>Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:</p> <p>(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.</p> <p>(b) Information. Citizens have the right to:</p> <p>(i) attend meetings of the Council, the Executive and other bodies of the Council except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;</p> | <p>No amendments proposed</p> |

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| | <p>(ii) find out from the Forward Plan what key decisions will be taken by the Executive and when;</p> <p>(iii) see reports and background papers, and any records of decisions made by the Council and the Executive; and</p> <p>(iv) inspect the Council's accounts and make their views known to the external auditor.</p> <p>(c) Participation. Citizens have the right to participate in the public question time sessions at Executive and the Salcombe Harbour Board and may be invited to contribute to the role of Scrutiny and Policy Development Groups. Citizens may also participate in the respective public participation schemes of the Development Control and Licensing Committees.</p> <p>(d) Complaints. Citizens have the right to complain to:</p> <p>(i) the Council itself under its complaints scheme;</p> <p>(ii) the Ombudsman after using the Council's own complaints scheme;</p> <p>(iii) the Council's Monitoring Officer about a breach of the Members' Code of Conduct.</p> <p>3.2 Citizens' responsibilities</p> <p>Citizens must not be violent, abusing or threatening to Members or officers and must not wilfully harm things owned by the Council, Members or officers.</p> | |
| <p>Article 4 – The Full Council</p> | <p><i>The Local Government Act 2000 and associated guidance and regulations give the Council responsibility for approving the policy framework and budget. The Council as a whole retains responsibility for regulatory functions and will have a role in holding the Executive to account.</i></p> <p><i>The functions reserved for Council decisions are defined in this Article. This is done to make clear what authority the Council has in relation to other parts of the Constitution.</i></p> <p>4.1 Composition</p> <p>The Full Council consists of all 40 Members who represent the 30 Wards of the District of the South Hams.</p> <p>4.2 Meanings</p> <p>(a) Policy Framework. The policy framework means the following plans and strategies and any other such plans and strategies adopted by Council as part of the policy framework:</p> <p>(i) those required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and regulations proposed under section 32 of the Local Government Act 2000 to be adopted by the Council:</p> <ul style="list-style-type: none"> • Best Value Performance Plan; • Community Strategy; • Crime and Disorder Reduction Strategy; • Development Plan documents; <p>(ii) those other plans and strategies which Chapter 2 of DETR Guidance recommends should be adopted by the Council as part of the Policy Framework:</p> <ul style="list-style-type: none"> • Council's Corporate Plan; • Housing Strategy and Investment Programme; • Local Agenda 21 Strategy; <p>(iii) other plans and strategies which the Council may decide should be adopted by the Council meeting as a matter of local choice.</p> <p>(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</p> | <p>(1) Reference to s.32 deleted as that concerns "alternative arrangements" not executive arrangements</p> <p>(2) Legal requirement to file a Best Value Performance Plan has been superseded</p> <p>(3) Legal requirement to file a Local Agenda 21 plan has been superseded</p> |

borrowing requirement, the control of its capital expenditure and the setting of virement limits.

4.3 Functions of the Full Council

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving, adopting or amending the policy framework and the budget;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an Executive function which is covered by the policy framework or the budget where the decision-maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (d) Development Control decisions where the application is for development which is not in accordance with the development plan, which the Development Control Committee does not propose to refuse and notification to the Secretary of State is required under the Town and Country Planning (~~Development Plans and Consultation~~) (~~Departures~~) Directions 1999 or under any other future provision which substantially re-enacts the requirements of those directions;
- (e) maintaining a System of Internal Control that identifies objectives and obligations, the risk to the achievement of these objectives and obligations and controls to mitigate the risks. The system will include an annual review delegated to the Audit Committee in line with the relevant guidance, and approving the resulting annual Statement of Internal Control on its recommendation;
- (f) overseeing the effective management of risk by officers of the Council, including the receipt of a report on the risk management process annually;
- (g) appointing the Leader of the Council, Deputy Leader of the Council and Members of the Executive;
- (h) agreeing and/or amending the terms of reference for bodies of the Council, deciding on their composition and making appointments to them;
- (i) appointing representatives to outside bodies unless the appointment is a function of the Executive or has been delegated by the Council;
- (j) adopting a Scheme of Members' Allowances under Article 2.5;
- (k) changing the name of the area;
- (l) conferring the title of honorary alderman;
- (m) confirming the appointment of the Head of Paid Service and chief officers according to the procedure defined in Part 4;
- (n) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (o) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Executive; and
- (p) all other matters which, by law, must be reserved to Council.

4.4 Council Meetings

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;

(4) now the T&CP
(Consultations) (England)
Direction 2009

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| | <p>(c) extraordinary meetings. and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution. The Council may also hold informal meetings, for example workshops and seminars.</p> <p>4.5 Responsibility for Functions The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Executive.</p> | |
| <p>Article 5 – Chairing the Council</p> | <p>5.1 Role and Function of the Chairman of the Council All 40 Members elect a Chairman normally each May. The Council has decided to adopt the term Chairman for all holders of this post. The Council also appoints a Vice-Chairman who acts as the Chairman in his/her absence. The Chairman of the Council, and in their absence, the Vice Chairman of the Council will have the following roles and functions: Ceremonial Role The Chairman of the Council represents the Council on ceremonial occasions, and as such, the Chairman of the Council is a symbol of authority, of an open society and an expression of social cohesion. Chairing the Council Meeting The Council meeting has a new and distinctive role to play under Executive arrangements and the Chairman of the Council's role in presiding over that body should reflect that. The Chairman of the Council will be elected by the Council annually. The Chairman of the Council will have the following responsibilities: 1. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary; 2. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Members and the interests of the community; 3. to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not on the Executive are able to hold the Executive to account; 4. to promote public involvement in the Council's activities; and 5. to attend such civic and ceremonial functions as the Council and he/she determines appropriate.</p> | <p>Words deleted are advisory and out of date</p> |
| <p>Article 6 – Scrutiny and Policy Development Groups</p> | <p>The Scrutiny function is central to new constitutions. Scrutiny should be a powerful body or bodies which meet in public to discuss and make recommendations on the development of policies and hold the Executive to account for their actions. They will also have a key role in considering other matters of local concern. The only other specific function they may be empowered to undertake is the conduct of best value reviews. Scrutiny Procedure Rules appear later in Part 4 of this Constitution. 6.1 Terms of reference The Council will appoint Scrutiny and Policy Development Groups with the following functions: 6.2 Scrutiny: General role Scrutiny will: (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions; (b) make reports and/or recommendations to the full Council and/or the Executive and/or any policy, joint or other bodies of the Council in connection with the discharge of any functions;</p> | <p>Words deleted are advisory and out of date</p> |

- (c) make reports and/or recommendations to the full Council on any matters of broad local concern or importance not otherwise specified within the remit of the Policy Development Groups; and
- (d) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive or key decisions made but not yet implemented by officers; and
- (e) **Best Value:** Scrutiny will co-ordinate the programme of ~~Best Value~~ Reviews, receive and assess the rigour of the reports, pass on recommendations to Council, the Executive, Policy Development Groups and other bodies as appropriate and monitor progress of Action Plans.

6.3 Scrutiny: Specific Functions

Scrutiny may:

- (a) review and scrutinise the decisions made by and performance of the Executive and/or council officers both in relation to individual decisions and decisions made over time and may question members of the Executive and/or officers whether generally or in relation to specific decisions, initiatives or projects;
- (b) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (c) make recommendations to the Executive and/or Council arising from the outcome of the scrutiny process;
- (d) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address Scrutiny and local people about their activities and performance;
- (e) question and gather evidence from any person with a relevant knowledge, expertise or responsibility (with their consent); and
- (f) consider leisure contract monitoring reports and undertake an annual review in line with the ~~Financial~~ Management Agreement.

6.4 Officers. Scrutiny will have continuity of administrative support and be able to call on other relevant officer support and external expertise where necessary.

6.5 Policy Development Groups: General Role:

Within their terms of reference, Policy Development Groups may:

- (a) make reports and/or recommendations to the full Council and/or the Executive and/or any other bodies of the Council in connection with the discharge of any functions;
- (b) make reports and/or recommendations to the full Council on any matters of broad local concern or importance within their remit; and
- (c) undertake the functions below within the thematic areas set out in the table below. These thematic areas will of necessity be broadly defined. Any potential confusion or duplication between the thematic areas of these bodies which may result in duplication of effort or omission will be resolved by the Programming Panel. The Programming Panel, comprising the Chairmen of the Executive, Scrutiny and Policy Development Groups, will also have discretion in ensuring that there is a reasonable division of issues for consideration between each of the Policy Development Groups.

| Group | Thematic area |
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| Prosperity | Enhancing the prosperity of businesses, communities and individuals |
| Community | Securing safe, clean and healthy communities |

6.2(e): There is not longer any requirement to do Best Value Reviews. Suggest we substitute “service performance reviews”

6.3.(f): this is a specific local function but it is to review the *Funding and Management Agreement* so this term should be corrected

6.5(c): The Programming Panel is not properly constituted (it is purportedly established by the Scrutiny and PDG Procedure Rules) so provision needs to be made here for it by the insertion of the words underlined.

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| | <table border="1"> <tr> <td data-bbox="349 180 607 217">Environment</td> <td data-bbox="607 180 1756 217">Maintaining and enhancing the quality of the environment</td> </tr> </table> <p>6.6 Policy Development Groups - specific functions: Policy Development Groups may:</p> <ul style="list-style-type: none"> (a) assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of current provision, performance and policy issues; (b) instigate research, community and other consultation in the analysis of policy issues, possible options and the development of policy; (c) regularly involve Members of the Executive and occasionally Members of other bodies of the Council and officers to find out their views on issues, proposals and policy affecting the area; (d) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address Scrutiny and local people about their activities and performance; (e) question and gather evidence from any person with a relevant knowledge, expertise or responsibility (with their consent); (f) consider reports from any individual Member on matters relevant to the terms of reference of the Group to enable the views of constituents and other organisations to be taken into account; and (g) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working. <p>6.7 Annual Report Scrutiny and Policy Development Groups must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.</p> | Environment | Maintaining and enhancing the quality of the environment | |
| Environment | Maintaining and enhancing the quality of the environment | | | |
| <p>Article 7 – The Executive</p> | <p>THE ROLE OF THE EXECUTIVE <i>The Executive is at the heart of the day-to-day decision-making process. It also has a key role in proposing the budget and policy framework to the Council.</i></p> <p>7.1 Role The Executive will exercise all of the local authority’s functions which are not the responsibility of any other part of the local authority, by law or under this Constitution. The Executive will provide leadership to the overall activities of the Council.</p> <p>7.2 Form and composition The Executive will consist of the Leader of the Council, Deputy Leader of the Council together with at least 3, but not more than 8, Members appointed to the Executive by the Council.</p> <p>7.3 Leader of the Council The Leader of the Council will be a Member elected to the position of Leader by the Council. The Leader of the Council will hold office until:</p> <ul style="list-style-type: none"> (a) the next annual meeting of the Council (unless re-elected thereat): or (b) he/she resigns from the office; or (c) he/she is suspended from being a Member under Part III of the Local Government Act 2000 (although he/she may | | | |

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| | <p>resume office at the end of the period of suspension); or (d) he/she is no longer a Member; or (e) he/she is removed from office by resolution of the Council</p> <p>7.4 Deputy Leader of the Council The Deputy Leader of the Council will be a Member elected to the position of Deputy Leader by the Council. The Deputy Leader of the Council will hold office until: (a) the next annual meeting of the Council (unless re-elected thereat); or (b) he/she resigns from the office; or (c) he/she is suspended from being a Member 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 Member; or (e) he/she is removed from office by resolution of the Council.</p> <p>7.5 Other Executive Members <i>Only Members may be appointed to the Executive. There may be no co-optees and no deputies or substitutes for Executive Members. Neither the Chairman nor Vice Chairman of the Council may be appointed to the Executive and Members of the Executive (including the Leader of the Council) may not be Members of Scrutiny or any of the Policy Development Groups.</i> Other Executive Members shall hold office until: (a) the next annual meeting of the Council (unless re-elected thereat); or (b) they resign from office; or (c) they are suspended from being Members under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or (d) they are no longer Members; or (e) they are removed from office, either individually or collectively, by resolution of the Council.</p> <p>7.6 Portfolio Holders The remit of the Executive shall be divided into portfolios determined by the Leader of Council. Portfolio Holders will exercise regular monitoring of performance, strive to deliver corporate objectives, seek to achieve best value in the services for which are they are responsible and have regard to the Council's policies and strategic objectives.</p> <p>7.7 Proceedings of the Executive Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution.</p> <p>7.8 Responsibility for Functions <i>If appropriate</i> the Leader of the Council will maintain a list in Part 3 of this Constitution setting out responsibilities for the exercise of particular Executive functions.</p> | <p>Italics added: this paragraph is advisory</p> <p>It is suggested that the words "If appropriate" be deleted</p> |
| <p>Article 8 – Regulatory and other Bodies</p> | <p><i>Planning and licensing are not Executive functions. Councils will therefore create committees, which are called "regulatory bodies" in this constitution, to undertake these functions under powers delegated from full Council. Some councils have called these committees "regulatory committees" and this term has been used in the Modular Constitutions though their functions go beyond what is normally understood by that term. Councils should choose whatever name they consider best describes their role to those outside the Council. The Council may also establish a</i></p> | <p>Words deleted are advisory but the first paragraph has been extended by the words underlined to</p> |

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| | <p>committee or committees to deal with personnel and related matters, since this is a Council rather than executive function.</p> <p>8.1 Regulatory Bodies The Council will appoint the following bodies: Development Control Committee Licensing Committee These bodies will discharge the functions described in the table 'Responsibility for Council Functions' in Part 3.</p> <p>8.2 Personnel Panel The Council will appoint a Personnel Panel which will have the following functions: (a) To develop and revise personnel policy; (b) To maintain the confidence of staff in the way the Council deals with employment contractual matters personal to the individual; (c) To enable expeditious decision making in personnel matters including: (i) determining applications/proposals in cases of early retirement in accordance with Council policy; (ii) agreeing breaches of Council personnel policy in circumstances of welfare and compassion; (iii) considering personnel implications arising from organisational restructures; (iv) liaising with the Joint Staff Consultative Forum normally through the Chairman and Vice Chairman; (d) To determine any other employment matter personal to an individual employee of the Council.</p> <p>8.3 Council Tax Setting Panel The Council will appoint a Council Tax Setting Panel which will have the following functions:- (a) To exercise delegated authority to set the level of Council Tax in accordance with the Council's agreed budget; (b) To undertake the task detailed in (a) above following notification from Devon County Council, the Devon and Cornwall Police Authority, Devon Fire and Rescue Service, the Dartmoor National Park Authority and each Parish/Town Council of their individual precepting requirements.</p> | <p>accommodate a definition of the term "regulatory".</p> <p>8.2: (d) added to enumerate the subclause (mistakenly omitted)</p> |
| <p>Article 9 – The Standards Committee</p> | <p>Terms of Reference The Standards Committee will have the following roles and functions: 1 (a) promoting and maintaining high standards of conduct by the Members and Co-opted Members of the authority; (b) assisting Members and Co-opted Members of the authority to observe the authority's Code of Conduct; (c) advising the authority on the adoption or revision of the Members' Code of Conduct; (d) monitoring the operation of the Members' Code of Conduct; (e) advising, training or arranging to train Members and Co-opted Members of the authority on matters relating to the Members' Code of Conduct; (f) any function which the Secretary of State adds or modifies by Regulation; (g) granting dispensation to Members and Co-opted Members from requirements relating to interests set out in the Members' Code of Conduct; (h) to assess and review complaints alleging Members' breach of the Code of Conduct; (i) to assess, review or carry out hearings in respect of allegations of breaching the Members' Code of Conduct referred from Teignbridge District and West Devon Borough Councils and to refer any assessment, review or hearing to those Councils;</p> | <p>Numbering changed for consistency with other Articles</p> |

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| | <p>(j) to receive and consider reports from the Council's Monitoring Officer or an Ethical Standards Officer of the Standards Board;</p> <p>(k) to exercise a) to j) above in relation to the Parish/Town Councils within the South Hams District and the Members of those Parish/Town Councils;</p> <p>(l) overview of complaints handling and Ombudsman investigations; and</p> <p>(m) oversight of the Constitution.</p> <p>2. to receive prior to consideration by Council, periodic ethical audit reports from the Monitoring Officer (for the avoidance of doubt the reference to "periodic ethical audit reports" does not include a statutory report of either the Monitoring Officer or "Section 151" officer)</p> <p>3. to promote and maintain effective processes for governance issues, including the receipt of an annual review of the Council's Code of Corporate Governance and approval of any action plan arising from the review. (see also: Article 10 – Audit Committee and Salcombe Harbour Board)</p> | |
| <p>Article 10 – Audit Committee and Salcombe Harbour Board</p> | <p>10.1 General Function: The Audit Committee will provide independent assurance of the adequacy of the risk management framework and the associated control environment, independent scrutiny of the Council's financial and non-financial performance to the extent that it affects the Council's exposure to risk and weakens the control environment and to oversee the financial reporting process.</p> <p>10.2 Specific Functions:</p> <p>Audit Activity:-</p> <p>(i) to consider internal audit's annual report and opinion, and summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements;</p> <p>(ii) to consider summaries of specific internal audit reports as requested;</p> <p>(iii) to consider reports dealing with the management and performance of the providers of internal audit services;</p> <p>(iv) to consider reports from internal audit on agreed recommendations not implemented within a reasonable timescale;</p> <p>(v) to consider the external auditor's annual letter, relevant reports and the report to those charged with governance;</p> <p>(vi) to consider specific reports as agreed with the external auditor;</p> <p>(vii) to comment on the scope and depth of external audit work and to ensure it gives value for money;</p> <p>(viii) to liaise with the Audit Commission over the appointment of the Council's external auditor;</p> <p>(ix) to commission work from internal and external audit;</p> <p>Internal Controls:-</p> <p>(x) to maintain an overview of this Constitution in respect of the contract and financial procedure rules;</p> <p>(xi) to review any issue referred to it by the Chief Executive, a Strategic Director or any Council body;</p> <p>(xii) to monitor Council policies on confidential reporting, anti-fraud and anti-corruption and the Council's complaints process;</p> <p>(xiii) to review the effectiveness of the Council's risk management process on a regular basis and gain assurance that appropriate action is being taken to ensure that corporate risks are being managed, including a report to Council annually;</p> <p>(xiv) to promote the system of internal control through the systematic appraisal of internal controls and develop an anti-fraud culture, focus audit resources through review and comment upon audit plans, monitor audit delivery and</p> | |

performance through regular review of the completion of planned audit work within agreed timescales, monitor key findings and management responses to audit reports and the implementation of audit recommendation(s);
 (xv) to obtain relevant and reliable evidence to support the disclosures in the Council's annual Statement of Internal Control to enable approval to be recommended to the Council;
 (xvi) to oversee the production of the Council's Annual Governance Statement and recommend its adoption;
 (xvii) to consider the Council's arrangements for corporate governance and to ensure compliance with best practice and to receive and comment upon an annual review of the Council's Code of Corporate Governance (see also Article 9 – The Standards Committee);
 (xviii) to consider the Council's compliance with its own and other published standards and controls

Financial Reporting:-

(xix) to review and formally approve the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from audit regarding the robustness of the accounts that need to be brought to the attention of the Council;
 (xx) to consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

10.3 Salcombe Harbour Board

Memorandum of Understanding between South Hams District Council and Salcombe Harbour Board (as adopted by Council on 20 July 2006)

"The Board's objectives are to improve, maintain and manage the whole of the Salcombe-Kingsbridge Estuary for the benefit of users who include local fishermen, local residents and many visitors and to balance the commercial outlook by conserving and protecting the estuarine environment".

South Hams District Council (the Council) and Salcombe Harbour Board (the Board) wish to confirm their respective responsibilities to develop and maintain Salcombe Harbour (as defined in the Salcombe Harbour Order 1954) whilst protecting the interests of the community of Salcombe and the environment.

Respective Positions and Responsibilities

The Council determines the policy and budget framework for all Council bodies.

The Board, as a Committee of the Council, is established to advise the Council, Executive, and Harbour Master about issues relating to the Harbour in accordance with the requirements of the Port Marine Safety Code (the Code) and Health and Safety at Work legislation.

In addition, the Board will work to ensure:-

- That Salcombe Harbour will conduct operations in accordance with the powers granted to the Council as a Harbour Authority by the Salcombe Harbour Order 1954 (The Pier and Harbour Order (Salcombe) Confirmation Act 1954) and any other enabling legislation and, insofar as it falls within the scope of these powers, the policy of the Council in relation to the Harbour as expressed through:-

- ⌘ The Harbour Policy Document;
- ⌘ Estuary and Environmental Management Plans;
- ⌘ Any byelaws approved and adopted in respect of the Harbour;
- ⌘ Safety Management Systems in Compliance with the Port Marine Safety Code;
- ⌘ Other Council decisions from time to time.

The layout and language of article 10.3 is not consistent with the remainder of the Constitution (e.g. it uses bullets rather than numbered paragraphs) and it is suggested that this be amended but without any substantive change to the provisions.

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| | <ul style="list-style-type: none"> • That the Harbour is self-financing and that it maintains commercial accounts in conjunction with the accounts as required by the Authority to demonstrate the Harbour’s commercial viability; • That a 3-year strategic business plan for the Harbour is produced, approved by Council and reviewed annually; • That decisions relating to the Harbour are based on advice from officers who have a clear understanding of the special requirements of the Harbour; • That they adopt and maintain transparent, speedy and informative communication with relevant Members of the Council’s Executive for consultation and reporting purposes; • That they have due regard for the interests of the local community and user groups, attending community forums seeking views to gain a balanced picture of the effects of policy and decisions; • That the existing systems for the delegation of functions be kept under review; • That any matter which is beyond delegated authority is recommended to the Council by the Board; • That charges and subsidies be recommended by the Board for approval by the Council on a yearly basis; • That they monitor and review all matters relating to the Harbour land and property in accordance with policies which may be laid down by the Council from time to time, for which financial and other provision has been expressly made by the Council. The Harbour’s asset base is laid out in the associated plan; • That they oversee the running of services to contract and/or to business plan on commercial lines by advising on business direction in the context of the Council’s budget and policy framework; • They monitor and analyse performance against budget, other indicators and performance plans; • That issues of concern are raised with officers of the Council. <p>Objectives of the Board are summarised as follows:</p> <ol style="list-style-type: none"> a) Financial self sufficiency; b) Maintenance and development of the harbour infrastructure; c) Support for the local economy; d) Contribution to the character and attraction of the area; e) Compliance with legal and regulatory requirements; f) Achievement of environmental considerations; g) Open and transparent governance; h) Development of staff; i) Considering issues of risk management. <p>The Council anticipate that any financial surpluses from the operation of Salcombe Harbour will be accumulated year on year for the establishment of appropriate reserves to undertake future projects to benefit the Harbour. However, where such funds have risen to a level beyond that reasonably required for the proper operation of the Harbour, the Council may require those funds, or part of them, to be made available for general Council purposes.</p> | |
| <p>Article 11 – Joint Arrangements</p> | <p><i>The Local Government Act 2000 and regulations enable local authorities to make use of joint arrangements with other authorities and delegate to other local authorities.</i></p> <p>1. Arrangements to promote well being</p> <p><i>The duty to prepare a community strategy and the power to promote wellbeing are closely related to the community leadership role of the Council – and specifically the Executive.</i></p> <p>The Council or the Executive, in order to promote the economic, social or environmental well-being of its area, may:</p> | <p>The provisions of this Article may have to be amended in the light of discussions currently being undertaken by this Council and West Devon Borough</p> |

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| | <p>(a) enter into arrangements or agreements with any person or body;</p> <p>(b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and</p> <p>(c) exercise on behalf of that person or body any functions of that person or body.</p> <p>2. Joint arrangements</p> <p>(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.</p> <p>(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.</p> <p>(c) The Executive may appoint any Member to a joint committee and those Members need not reflect the political composition of the local authority as a whole where the joint committee will be exercising executive functions.</p> <p>(d) Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.</p> <p>3. Access to information</p> <p>(a) The Access to Information Rules in Part 4 of this Constitution apply.</p> <p>(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.</p> <p>(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.</p> <p>4. Delegation to and from other local authorities</p> <p>(a) The Council may delegate non-Executive functions to another local authority or, in certain circumstances, the Executive of another local authority.</p> <p>(b) The Executive may delegate Executive functions to another local authority or the Executive of another local authority in certain circumstances.</p> <p>(c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.</p> <p>5. Contracting out</p> <p>The Council, for functions which are not Executive functions, and the Executive, for Executive functions, may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under Section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.</p> | <p>Council, or other authorities if the "Integrated Devon" proposal proceeds. It is suggested that no amendment need be made to it for the time being as any such arrangements are capable of being compliant, or brought within, these provisions and if anything beyond them is required a specific proposal to amend these provisions can be made.</p> |
| <p>Article 12 – Officers</p> | <p>1. Management structure</p> <p><i>Appointment of staff cannot be the responsibility of the Executive.</i></p> <p><i>Appointment of staff below chief officer level must be the responsibility of the Head of Paid Service or their nominee.</i></p> <p>(a) General: The full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.</p> <p>(b) Strategic Directors: The full Council will engage persons for the following posts, who will be designated strategic</p> | <p>The provisions of this Article may have to be amended in the light of discussions currently being undertaken by this Council and West Devon Borough</p> |

directors:

| Post | Functions and areas of responsibility |
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| 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. 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). Human Resources, Improvement and Public Relations. |
| Strategic Director (Community) | Community Regenerations, Planning and Building Control, Landscape and Leisure, Property Services, and Environmental Health. |
| Strategic Director (Resources) | Information and Communication Technology, Financial Services, Corporate Services, Customer Services, Environment Services and Salcombe Harbour. |

Council, or other authorities if the "Integrated Devon" proposal proceeds. It is suggested that no amendment need be made to it for the time being.

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

The Council will designate the following posts as shown:

| Post | Designation |
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| Chief Executive | Head of Paid Service |
| Monitoring Officer | Monitoring Officer |
| Strategic Director (Resources) | Section 151 Officer |

Such posts will have the functions described in Article 12.2–12.4 below.

(d) The overall departmental structure of the Council, showing the management structure and deployment of officers, is set out at Part 7 of this Constitution.

2. 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) **Restrictions on functions:** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Section 151 Officer if a qualified accountant.

3. Functions of the Monitoring Officer

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

(b) **Ensuring lawfulness and fairness of decision making:** After consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report to the Full Council [or to the 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.

(c) **Contributing to Corporate Management:** The Monitoring Officer will contribute to the corporate management of the authority in particular by acting as the Solicitor to the Council and providing professional legal advice to the Council.

(d) **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, will conduct investigations into matters referred by the Assessment Sub-Committee or Review Sub-Committee and make reports or recommendations in respect of them to the Standards Committee.

(e) **Receiving reports:** The Monitoring Officer will receive and act on reports made by Ethical Standards Officers of the Standards Board and decisions of the case tribunals.

(f) **Conducting investigations:** The Monitoring Officer will conduct investigations into matters referred by the Assessment Sub-Committee or Review Sub-Committee or by Ethical Standards Officers and make reports or recommendations in respect of them to the Standards Committee.

(g) **Proper officer for access to information:** The Monitoring Officer will ensure that decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

(h) **Advising whether Executive decisions are within the budget and policy framework and the principles of decision making (set out in Article 13):** The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.

(i) **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 Members.

(j) **Restrictions on posts:** The Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service.

4. Functions of the Section 151 Officer

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

After consulting with the Head of Paid Service and the Monitoring Officer, the Section 151 Officer will report to the full Council [or to the 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

12.3(d): Words underlined are proposed for addition in the light of the new responsibilities of the Standards Committee

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| | <p>is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.</p> <p>(b) Administration of financial affairs: The Section 151 Officer will have responsibility for the administration of the financial affairs of the Council.</p> <p>(c) Contributing to corporate management: The Section 151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.</p> <p>(d) Providing advice: The Section 151 Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, and budget and policy framework issues to all Members and will support and advise Members and officers in their respective roles.</p> <p>(e) Give financial information: The Section 151 Officer will provide financial information to the media, members of the public and the community.</p> <p>5. Duty to provide sufficient resources to the Monitoring Officer and Section 151 Officer The Council will provide the Monitoring Officer and Section 151 Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.</p> <p>6. Conduct Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.</p> <p>7. Employment The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution</p> | |
| <p>Article 13 – Decision Making</p> | <p>1. Responsibility for Decision-Making The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.</p> <p>2. Principles of Decision-Making All decisions of the Council will be made in accordance with the following principles: (a) proportionality (ie the action must be proportionate to the desired outcome) (b) due consultation and the taking of professional advice from officers; (c) respect for human rights - it is important that human rights are considered at an early stage of the decision-making process; (d) a presumption in favour of openness; (e) clarity of aims and desired outcomes. (f) The record of decisions will include details of the options which were considered, and the reasons for the decisions as required by the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000. (g) in reaching decisions, Members shall have regard to the general principles of conduct contained in the Members' Code of Conduct.</p> <p>3. 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</p> | |

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| | <p>i) a key decision means an Executive decision which is likely, (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates, 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 Part 4 of this Constitution.</p> <p>4. Decision-Making by the Full Council Subject to Article 13.8, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.</p> <p>5. Decision-Making by the Executive Subject to Article 13.8, the Executive will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.</p> <p>6. Decision-Making by Scrutiny and Policy Development Groups Scrutiny and policy development groups will follow the Scrutiny and Policy Development Procedure Rules set out in Part 4 of this Constitution when considering any matter.</p> <p>7. Decision-Making by Other Bodies Established by the Council Subject to Article 13.8, other Council bodies will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.</p> <p>8. Decision-Making by Council Bodies Acting as Tribunals The Council, or a body of the Council 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.</p> | |
| <p>Article 14 – Finance, Contracts and Legal Matters</p> | <p>Financial Management The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 4 of this Constitution.</p> <p>2. Contracts Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 4 of this Constitution.</p> | |
| <p>Article 15 – Review and Revision of the Constitution</p> | <p>1. Duty to Monitor and Review the Constitution The Head of Paid Service 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 also has the independent right and responsibility to keep the Constitution under review on any matter which in his or her view touches upon the ability of the Council to act lawfully, with probity and in accordance with the rules of natural justice. The Monitoring Officer will be responsible for maintaining an up to date Constitution.</p> <p>2. Protocol for Monitoring and Review of Constitution by the Head of Paid Service A key role for the Head of Paid Service 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 to better achieve the</p> | <p>There is nothing here tying in with the Standards Committee's role if "oversight" of the constitution. It would be better to define a role for the Committee in the review process (which the Standard Board expects</p> |

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| | <p>purposes set out in Article 1.</p> <p>In undertaking this task, the Head of Paid Service may:</p> <ol style="list-style-type: none"> i. observe meetings of different parts of the Member and officer structure; ii. undertake an audit trail of a sample of decisions; iii. record and analyse issues raised with him/her by Members, officers, the public and other relevant stakeholders; and iv. compare practices in this authority with those in other comparable authorities, or national examples of best practice. <p>3. Changes to the Constitution</p> <ol style="list-style-type: none"> a) Approval: Changes to the constitution will only be approved by the Full Council after consideration of the proposal by the Head of Paid Service and the Monitoring Officer and where in the opinion of either or both of those officers the changes proposed are significant, a Member Working Group appointed by Council. 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. | <p>the Committee to be involved in), for example by saying (in paragraph 1) that the Monitoring Officer will consult with the Standards Committee on matters of concern or where change is proposed.</p> |
| <p>Article 16 – Suspension, Interpretation and Publication of the Constitution</p> | <p>1. Suspension of the Constitution</p> <ol style="list-style-type: none"> (a) Limit to suspension. The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council and the Executive 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 Members of the Council or the Executive is present for meetings of the Council and Executive respectively. 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. The Rules capable of suspension are: <ul style="list-style-type: none"> • Council Procedure Rules as defined by Rule 22 • Contracts Procedure Rules as defined by Rule 2.3 <p>2. Interpretation</p> <p>The ruling of the Chairman of the Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. The same will apply to the ruling of the Chairman of the Executive insofar as meetings of the Executive are concerned. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.</p> <p>3. Publication</p> <ol style="list-style-type: none"> (a) The Monitoring Officer will ensure that a printed copy of this Constitution is given to each Member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council. (b) The Monitoring Officer will ensure that copies are available for inspection at Council offices, libraries and other appropriate locations (eg the Council's website), and can be purchased by members of the local press and the public on payment of a reasonable fee. (c) The Monitoring Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary. | |