

PART 2

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ARTICLE 1 – THE CONSTITUTION

1.1 Powers of the Council

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

1.2 The Constitution

This document and appendices is called the Constitution of Stroud District Council.

1.3 Purpose of the Constitution

The purpose of the Constitution is to:

1. Enable the Council to provide clear leadership to the community in partnership with residents, businesses, third sector and other organisations.
2. Support the active involvement of residents in the process of local authority decision-making.
3. Help councillors represent their constituents more effectively and to serve those who live, work and visit Stroud District.
4. Enable decisions to be taken efficiently and effectively and in an open and transparent manner.
5. Create a powerful and effective means of holding decision-makers to public account and that no one will review or scrutinise a decision in which they were directly involved.
6. Ensure that those responsible for decision-making are clearly identifiable to residents and that they explain the reasons for decisions.
7. Ensure that high standards of probity and ethics are evident in decision-making and all activities of the Council
8. Provide a means of improving the delivery of services to residents and
9. Provide a means of supporting the Council to deliver its Corporate Plan as adopted for the current municipal year.

1.4 Interpretation and Review of the Constitution

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

The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

ARTICLE 2 - MEMBERS OF THE COUNCIL

2.1 Composition and eligibility

- (a) **Composition** - The Council will comprise 51 members for 28 wards, otherwise called Councillors who are elected by voters of each electoral ward in accordance with the Local Government Boundary Commission for England.
- (b) **Eligibility** - Only registered voters of Stroud District or those living or working there will be eligible to hold the office of Councillor.

2.2 Election and terms of Councillors

Under normal circumstances, the ordinary election of all Councillors will be held on the first Thursday in May every four years. The terms of office of Councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later. Vacancies arising during the four-year term are filled by holding a by-election. Due to the Covid Pandemic, the elections in 2020 were postponed until 2021 and as such, this term will run until 2024 which is a three year term.

2.3 Roles and functions of all Councillors

Role profiles for Councillors are set out in Part 5(12)

- (a) **Key roles** - All Councillors will:
 - (i) collectively be the ultimate policymakers and carry out a number of strategic and corporate management functions.
 - (ii) be democratically accountable and contribute to the good governance of the area, actively encouraging community participation and resident involvement in decision making.
 - (iii) represent their communities providing community leadership and bring their views into the Council's decision-making process.

- (iv) be the advocate of and for their communities.
- (v) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances.
- (vi) balance different interests within the ward and represent the ward as a whole.
- (vii) be involved in decision-making and participate in the governance and management of the Council.
- (viii) be available to represent the Council on other bodies.
- (ix) maintain the highest standards of conduct and ethics.
- (x) take part in member development and training ensuring that they have the necessary skills to undertake the role of councillor.

(b) **Rights and duties**

- (a) 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.
- (b) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
- (c) All councillors must comply with any data protection legislation including the requirements of the General Data Protection Regulation (GDPR)
- (d) Ward councillors have additional rights to information regarding activities in their Ward as covered in the Access to Information Rules.
- (e) Councillor Call for Action (CCfA) - Councillors, can, if they so wish, make use of the Councillor Call for Action powers in accordance with the protocol within this constitution.
- (f) Ward councillors will be copied into Council initiated town or parish council communications within their ward whenever appropriate.
- (g) For these purposes, “confidential” and “exempt” information is defined in the Access to Information Rules in Part 4 of this Constitution.
- (h) No councillor can issue an order or make a contract or any other arrangement binding the Council for works or good or services.

- (i) Councillors do not have the right to inspect or enter any land unless specifically authorised to do so by the Council.

2.4 **Decision Making**

All decisions of the Council, its committees and officers will be made in accordance with the following principles:

- (a) the action must be proportionate to the desired outcome.
- (b) after due consultation paying due regard to professional advice from officers.
- (c) with respect for human rights.
- (d) with a presumption in favour of openness.
- (e) with clarity of aims and desired outcomes.
- (f) after due consideration of all objections and
- (g) after explaining what options were considered and giving the reasons for the decision.

2.5 **Conduct**

Councillors will at all times observe the Members' Code of Conduct, the Arrangements for investigating complaints under the Code, the Protocol on Member/Officer Relations and the related Protocols and Codes set out in Part 5 of this Constitution.

2.6 **Allowances**

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

ARTICLE 3 – RESIDENTS AND THE COUNCIL

3.1 **Residents Rights**

The Council welcomes participation by all residents in its work. Stroud District Council has a commitment to consult with the Youth Council which has representatives from the secondary schools within the district and acts as a representative voice for the 10,000 young people aged between 11 and 18 years in the area.

Members of the public have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules.

- (a) **Voting** - Residents registered to vote are actively encouraged to exercise their vote, as part of their commitment to citizenship and local democracy.
- (b) **Information** - Residents have the right to:

- (i) attend meetings of the Council, its Committees and Sub-Committees (if in existence), except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private. This does not extend to informal working groups or task and finish groups which will be held in private.
 - (ii) see reports and background papers, and any records of decisions made by the Council and its Committees.
 - (iii) obtain a copy of the Constitution which is available online or in hard copy for payment of a reasonable fee.
 - (iv) inspect the Council's accounts and make their views known to the external auditor.
 - (v) request disclosure of information which is not exempt or confidential which is held by the Council (Freedom of Information Act 2000)
- (c) **Participation** - Citizens may:
- (i) speak or ask a question at meetings of the Council and its committees according to the Council Standing Orders.
 - (ii) participate in consultations; and
 - (iii) submit petitions to Councillors or officers about matters that are of local concern according to Council Standing Orders.
 - (iv) attend and record meetings in accordance with the Openness of Local Government Bodies Regulations 2014.
- (d) **Residents Responsibilities** - Residents are expected to conduct themselves in an appropriate and respectful manner and not to indulge in violent, abusive or threatening behaviour or language to anyone, including Members and Officers of the Council. This is particularly important when attending or addressing meetings where there are likely to be a wide range of views strongly held by different sections of the community where emotions will run high.

Residents' rights of participation are dependent upon:

- (i) refraining from causing damage to property
- (ii) respecting the diversity and equality of all sections of the community
- (iii) respecting the integrity of the roles that Members and professional officers of the Council are required to undertake; and
- (iv) avoiding language, making statements or behaviours that are racist, derogatory or offensive, such conduct can amount to a criminal offence and may also amount to slander or libel.

- (e) **Complaints** - Residents have the right to complain to:
- (i) the Council itself under its complaints scheme.
 - (ii) the Ombudsman after exhausting the Council's own complaints scheme.
 - (iii) the Monitoring Officer about a breach of the Councillors' Code of Conduct.

ARTICLE 4 – THE COUNCIL

4.1 Composition

The Council is made up of the 51 elected Members.

4.2 Council Meetings

There are four types of Council meeting:

- (a) The Annual Meeting
- (b) Ordinary meetings
- (c) Budget Meeting
- (c) Extraordinary meetings

Meetings will be conducted in accordance with the Council Standing Orders.

4.3 Functions and Powers

- (a) **Functions** – Council has a number of specific functions allocated to it by statute. These include:
- approving the Council's Policy Framework
 - approving the Council's Budget
 - adopting and amending the Constitution
 - subject to the urgency procedure contained in the Scheme of Delegation to Officers, making decisions about any matter which is covered by the policy framework or the budget where the decision would be contrary to the policy framework or contrary to or not wholly in accordance with the budget

- appointing and removing the Leader of the Council appointing and removing the Deputy Leader of the Council
- establishing, agreeing and amending the terms of reference for committees, deciding on their composition, appointing and removing Members to and from them and appointing their chairs and vice-chairs unless the appointment and removal of members of committees has been delegated by the Council
- adopting an allowances scheme under Part 6
- creation of sub-committees is reserved to Council
- adopting the Pay Statement
- appointing the Head of Paid Service
- adopting the Members Allowances Scheme
- appointing Independent Persons
- all other matters which, by law, must be referred to Council

(b) The following plans and strategies where adoption or approval is required by law to be reserved to a meeting of full Council, which will take into account the recommendation of the Policy and Resources Committee or relevant Policy and Service Committee:

- | | |
|---|--|
| • Development Plan Documents | (Section 15 of the Planning and Compulsory Purchase Act 2004(3)) |
| • Licensing Authority Policy Statement | (Section 349 of the Gambling Act 2005(4)) |
| • Plans and alterations which together comprise the Development Plan (the Local Plan) | (Part 2 of, and Schedule 8 to, the Planning and Compulsory Purchase Act 2004(6)) |

(c) Any plans and strategies where the Strategy and Resources Committee has recommended that adoption or approval should be determined only by a meeting of full Council.

(d) Budget – The approval or adoption of a plan or strategy for the control of the local authority's borrowing, investments or capital expenditure, or for determining the authority's minimum revenue provision, which meaning will include:

- the allocation of financial resources to different services and projects,
- proposed contingency funds
- the Council tax base

- setting the Council tax
- decisions relating to the control of the Council's borrowing requirement
- treasury management functions
- the control of its capital expenditure and
- the setting of virement limits.

4.4 **Responsibility for Functions**

Part 3 of this Constitution sets out those and other responsibilities for the Council's functions, both those above that are reserved to Full Council and those that are delegated to Committees and Sub-Committees, to an officer or to another local authority.

The Council will maintain Part 3 of this Constitution setting out the responsibilities for the Council's functions which are the responsibility of Committees of the Council.

4.5 **Rules of Political Balance**

Where the Council is comprised of more than one Political Group the rules of political balance set out in the Local Government and Housing Act 1989 and Regulations made under it shall apply to membership of all Committees appointed by the Council.

ARTICLE 5 – THE CHAIR OF COUNCIL

5.1 **Role and Function of the Chair**

The Chair and Vice-Chair will be elected by the Council annually. The Chair and, in his/her absence, the Vice-Chair will have the following responsibilities:

- (i) to uphold and promote the purposes of the Constitution and the values of the Council, and to interpret the Constitution when necessary.
- (ii) 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.
- (iii) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and a place at which Members are able to ask questions of the Leader and the Chairs of Committees and are able to hold each other to account.
- (iv) to promote public involvement in the Council's activities; and

- (v) to act as the District's first citizen and to attend such civic and ceremonial functions as appropriate.

ARTICLE 6 – LEADER, DEPUTY LEADER AND GROUP LEADERS OF THE COUNCIL

6.1 Introduction

As the Council operates a Committee System, no formal legal powers and duties are vested in the Leader or Deputy Leader under the Local Government Act 1972 or the Local Government Act 2000. In practice, however, all local authorities need to appoint a councillor to hold the most significant elected Member role within the Council, to be seen as the political head of the Council and to provide a focal point for political leadership and strategic direction for the Council, both within the Authority but also to outside organisations, partners, governmental bodies and the community at large.

Likewise, there are several other roles that involve political leadership and representation of the Council, beyond civic or formal functions and the role of a councillor as Member of the Authority (which are described in Article 2 above) and are set out below.

6.2 Appointment of Leader and Deputy Leader

- (a) At the Annual Meeting of Council, it will appoint a Leader of the Council who shall act as Chair of the Strategy and Resources Committee.
- (b) At the Annual Meeting of Council, it will appoint a Deputy Leader of the Council who shall act as Vice-Chair of the Strategy and Resources Committee.
- (c) Once appointed, the Leader and the Deputy Leader will hold office until the next Annual Meeting unless he/she: -
 - (i) resigns from the office
 - (ii) is no longer a member of the Council or
 - (iii) is removed from office by resolution of the Council
- (d) The process of appointment is set out in the Council's Standing Orders

6.3 Role and Function of the Leader

- (a) The Leader shall be:
 - (i) the Chair of the Strategy and Resources Committee.
 - (ii) entitled to attend all meetings of the Council's functional committees in an ex officio capacity.

- (b) The Leader will:
 - (i) provide a focal point for political leadership and strategic direction for the Council.
 - (ii) represent the interests of the Council in circumstances where that is necessary; and
 - (iii) ensure effective Corporate Governance and ethical conduct throughout the Council.

6.4 **Key Responsibilities of the Leader**

The Leader will:

- (a) Be the political (rather than ceremonial) leader of the Council, for the benefit of all the District's communities - its residents, taxpayers, businesses, public bodies and other public authorities.
- (b) Represent and pursue the interests of the Council in the community and at international, national and regional levels.
- (c) Be the key contact for outside organisations (including Central Government, Local Authority Associations and Council partners), and internally for the Council's Chief Officers.
- (d) Be the representative voice of the Council, for example, in its dealings with Central Government, other Local Authorities and their Associations, and positively promote the Council as a whole to the media.
- (e) Promote the long-term financial, business and economic stability of the Council and the District.
- (f) Meet regularly to progress the Council's objectives with Committee Chairs, the Chief Officers, Group Leaders, partner organisations, stakeholders, community representatives, government representatives, local Members of Parliament, etc.
- (g) Promote high standards of corporate governance and ethical conduct throughout the Council including working with all political groups to seek to achieve, where possible, cross party co-operation.
- (h) Promote and maintain professional working relationships and mutual respect between all Members and officers.
- (i) Work across the Council, particularly with the Chairs and Vice-Chairs of its Committees and Sub-Committees, and to be responsible for the development and

implementation of the Council's strategic vision for the future, policy framework, budgets and other strategies.

6.5 Role and Function of the Deputy Leader

- (a) The Deputy Leader shall be the Vice-Chair of the Strategy and Resources Committee
- (b) The Deputy Leader will:
 - (i) assist the Leader of the Council in representing the Council to its residents, stakeholders, and partners and in providing political leadership for the Council and the District.
 - (ii) assist the Leader in carrying out the key responsibilities associated with the role of Leader (as set out at 6.4 above);
 - (iv) work with the Leader and Committee Chairs on budget and policy development; and
 - (v) undertake the responsibilities of the Leader in their absence.

6.6 Political Group Leaders

- (a) Political groups, and the leader (and any deputy group leader) of a political group, have a formal role under the provisions of the Local Government and Housing Act 1989 and The Local Government (Committees and Political Groups) Regulations 1990 in respect of political balance of committees and appointments of the Council.
- (b) The Council acknowledges the key leadership role played by the leaders of all political groups on the Council and the importance of their commitment to cross-party working.
- (c) The role and responsibilities of Political Group Leaders are:
 - (i) To provide the leadership of a political group.
 - (ii) To be the principal political spokesperson for the political group.
 - (iii) To nominate members of their Group to serve on Committees, Working Groups, outside bodies, etc.
 - (iv) To be a representative voice in dealings with government agencies, local authority associations etc.

- (v) To encourage the highest standards of conduct by members of the group and to work with the Monitoring Officer to resolve complaints informally where appropriate.
- (vi) To appoint group spokespersons and allocate other responsibilities to group members as appropriate.
- (vii) To assist in ensuring appropriate levels of attendance are maintained by group members.
- (viii) To encourage a culture of learning and development among members, including the active participation of group members in briefings, seminars and other learning and development processes.
- (ix) To maintain effective liaison with the other group leaders, including being a member of an informal Group Leaders' meeting, attending Group Leaders' briefings and so forth.
- (x) To establish and maintain effective working relationships with the Chief Officers and other senior officers and to meet regularly them in order to keep fully apprised of relevant service issues.

ARTICLE 7 – AUDIT COMMITTEE

- 7.1 The purpose of the Audit Committee is to provide independent assurance to our members of the adequacy of the risk management framework and the internal control environment. The Audit Committee shall work in co-operation with the Council's statutory officers on corporate governance issues. The Audit Committee provides independent review of the Council's governance and is responsible for risk management and control frameworks and oversees the financial management and annual governance processes. It oversees internal and external audit, helping to ensure efficient and effective assurance arrangements are in place.
- 7.2 All Councillors are eligible to be Members of the Audit Committee. The size of the Audit Committee shall be determined from time to time by the Council. The Audit Committee may recommend to Council the appointment of one other person with particular skills that will be useful to the committee as a non-voting co-optee and may co-opt a person, who is not a councillor, to be an independent member of the Audit Committee.
- 7.3 The Council will set up a sub-committee of the Audit Committee called the Standards Sub-Committee which will have responsibility to consider allegations under the Code of Conduct in respect of District, Town and Parish Councils. It will also consider what sanctions, if any, to impose where allegations are found.

- 7.4 The Standards Sub-Committee will consist of three councillors who are not leaders of political groups, one Independent Person appointed by the Council for that purpose and, where the allegation is against a Town or Parish Councillor, one Town or Parish Councillor within Stroud District

ARTICLE 8 – STATUTORY, REGULATORY AND OTHER COMMITTEES

8.1 Background to Committees

- (a) **Power to appoint** - Unless legislation directs otherwise, the Council may appoint a committee or sub-committee of the authority, or the Council with one or more other local authorities may appoint a joint committee of those authorities, and any such committee may appoint one or more sub-committees, for the discharge of any of the Council's functions.
- (b) **Form and functions** - The law requires that certain committees must be established and must operate in a particular manner. Those and other committees, where established, are required by law to discharge particular functions and to discharge their functions in particular ways. Council is otherwise free to decide on the size, terms of reference and level of delegation of each committee or sub-committee it establishes. The Council will establish a number of standing committees in order to undertake its functions in a more efficient way or as required. The Committees are grouped accordingly.
- (c) **Statutory, Regulatory and Other Committees** - These committees regulate the conduct of the Council's business and make decisions in relation to regulatory, administrative and corporate governance matters. A summary of the functions of each Committee is shown below. The detailed terms of reference, functions and powers delegated to each of these committees are more particularly set out in Part 3.

8.2 Statutory Committees

The Council is obliged to establish the following standing Statutory Committees. A summary of the functions of each Committee is shown in the third column of the table below. The detailed terms of reference, functions and powers delegated to each of these committees are more particularly set out in Part 3B – Responsibility for Functions: Committees of Council.

<i>Function</i>	<i>Name of Parent Committee</i>	<i>Summary of Purpose</i>
Licensing Act Committee	Community Services and Licensing Committee (See 8.4 below)	This statutory committee is established under the Licensing Act 2003, responsible for discharging the Council's functions as licensing authority under the Licensing Act 2003 and Gambling Act 2005
	Licensing Sub Committee	This Sub-Committees meets to consider individual applications and determinations

8.3 Regulatory Committees

The Council has currently agreed to establish the following standing Regulatory Committees. A summary of the functions of each Committee is shown in the third column of the table below. The detailed terms of reference, functions and powers delegated to each of these committees are more particularly set out in Part 3

<i>Name of Committee</i>	<i>Name of Sub-Committee</i>	<i>Summary of Purpose</i>
Development Control Committee (Planning)		This committee is responsible for making decisions on planning applications and similar regulatory matters including public rights of way

8.4 Other Committees

The Council has currently agreed to establish the following standing Other Committees. A summary of the functions of each Committee is shown in the third column of the table below. The detailed terms of reference, functions and powers delegated to each of these committees are more particularly set out in Part 3.

<i>Name of Committee</i>	<i>Name of Sub-Committee</i>	<i>Summary of Purpose</i>
Strategy and Resources		This is the 'executive' committee of the Council and consists of the Leader and Deputy Leader of the Council, the leader of all political groups and the Chairs of Community Services & Licensing, Housing Committees. It has responsibility for: <ul style="list-style-type: none"> • Resources and finance including the development of budget recommendations to Council.

<i>Name of Committee</i>	<i>Name of Sub-Committee</i>	<i>Summary of Purpose</i>
		<ul style="list-style-type: none"> • Liaison with external partners. • Economic development. • Asset management; • Jobs and growth; • Functions in relation pay policy and senior appointments and remuneration
Audit Committee		<p>This Committee is responsible for discharging the Council's function to review and approve the annual statement of accounts and to provide independent assurance of the adequacy of the risk management framework and the associated control environment.</p>
	A Standards Sub Committee – needs to be established	<p>This Sub-Committee considers individual allegations of a failure to observe the members Code of Conduct</p>
Environment Committee		<p>This Committee is responsible for all matters relating to the following broad areas</p> <ul style="list-style-type: none"> • Strategic planning of the Local Plan; • Statutory Building Control; • Matters requiring member decisions relating to public rights of way, traffic orders, street lighting, street naming and numbering and dangerous land (as defined in the Highways Act 1980); • Waste and recycling; • Environmental health; • Canal; • Carbon management
Housing Committee		<p>This committee is responsible for public and private housing issues relating to the Council's statutory roles and development of Housing Policy.</p>

<i>Name of Committee</i>	<i>Name of Sub-Committee</i>	<i>Summary of Purpose</i>
Community Services and Licensing Committee		<p>The broad portfolio of the committee covers the following functions with the exception of those matters delegated to officers.</p> <ul style="list-style-type: none"> • Licensing • Community Safety • Cultural Services • Public Spaces • Revenues and Benefits • Health & Wellbeing • To undertake the statutory scrutiny function of the Stroud District Community Safety Partnership. <p>In respect to its key function of licensing, the committee has responsibility for:</p> <ul style="list-style-type: none"> • All the licensing functions of the Council including the power to hear and determine on behalf of the Council, any appeal by any person aggrieved by a decision of an officer where the initial right of appeal is to the Council through a Licensing Panel. • To consider and recommend to Council on all matters concerning licensing.

ARTICLE 9 – COMMITTEE CHAIRS, VICE-CHAIRS ROLE AND RESPONSIBILITIES

9.1 Introduction

Some formal powers are vested in the Chair of a committee under the Local Government Act 1972 and a number of powers lie with the Chair under the Council's Standing Orders or the common law, all in relation to the calling of a meeting and the procedure during it. In practice, however, the chairs of committees in a local authority bear a wider responsibility of influence and undertake a wider leadership role on behalf of their committee's remit. The Committee Chair is widely seen as the political focal

point for the functions of the committee, the services they deliver and the business of the committee as a whole.

9.2 Appointment of Committee Chairs and Vice-Chairs

- (a) The Annual Meeting of the Council will agree the appointment of members to committees and the appointment of Chairs and Vice-Chairs to such committees as are provided for, unless the Council decides in any instance not to do so, in which case the chair is appointed at the first meeting of a committee in the municipal year.
- (b) The appointment of a Member as Chair of a Committee shall not take effect unless and until that Member has undergone such training as may be determined by the Council (in the absence of which shall be such training as may be determined by the Monitoring Officer).
- (c) The process of appointment is set out in the Council's Standing Orders.

9.3 Role and Function of Committee Chairs

- (a) The Chair of a Committee shall:
 - (i) lead the work of the committee and make sure it carries out its business effectively and efficiently, lawfully and within its terms of reference;
 - (ii) chair meetings of the committee impartially and in such a way as to facilitate open discussion, obtain valid contributions from members and produce sound decisions;
 - (iii) assist the public and press in terms of their rights of access; and
 - (iv) ensure respectful engagement between the committee, its officers, guests and the public and maintain ethical conduct throughout the meeting.
- (b) The Chair of a Committee will:
 - (i) lead an agenda management process for the Committee in association with the Vice-Chair and Group Spokespersons; and
 - (ii) act as consultee and spokesperson for their Committee in instances of exercise of delegated authority by an officer, where that delegation is subject to being in consultation with the Chair of the Committee or where otherwise requested by a Chief Officer.

9.4 **Key Responsibilities of Committee Chairs**

(a) The Chair of a Committee will undertake:

- (i) To have a working knowledge of the functions, policies, practices, procedures, services and budgets of the Committee which they chair.
- (ii) To lead in the development of the work of the Committee which they chair in association with the Vice-Chair and Group Spokespersons, including the agenda management process, also taking into account the wider vision, such as corporate, cross-service and partnership issues.
- (iii) To lead in consideration and review of service delivery, policy development and in the implementation of policies approved by the Council where these relate to the Committee which they chair.
- (iv) To be the Council's lead spokesperson in respect of the Committee's activities and act in liaison with the Leader and Deputy Leader in matters of Council policy.
- (v) To establish effective working relationships with the Group Spokespersons on the Committee and with other Committee Chairs and the Leader and Deputy Leader of the Council.
- (vi) To establish effective working relationships with the Chief Officers, and other key officers.
- (vii) To represent and pursue the interests of the Committee which they chair in the community and at regional and national levels .
- (viii) To ensure that meetings of the Committee which they chair are properly conducted and reports of proceedings are forwarded on as necessary, for example to full Council.
- (ix) To promote and uphold high standards of ethical conduct by the Council's Members and officers.

9.5 **Role and Responsibilities of Committee Vice-Chairs**

The Vice Chair will:

- (a) assist the Chair in carrying out their role and responsibilities as set out at 9.3 and 9.4 above; and
- (b) undertake the responsibilities of the Chair in their absence.

ARTICLE 10 – JOINT ARRANGEMENTS

10.1 Arrangements to Promote Wellbeing

The Council, in order to take the reasonable action needed ‘for the benefit of the authority, its area or persons resident or present in 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; or
- (c) exercise on behalf of that person or body any functions of that person or body.

10.2 Joint Arrangements

The Council may establish joint arrangements with one or more local authorities to exercise functions and any such arrangements may involve the appointment of a joint committee with these other local authorities.

10.3 Access to Information

The Access to Information Procedure Rules in Part 4 of this Constitution apply.

10.4 Delegation to and from other Local Authorities

- (a) The Council may delegate functions to another local authority.
- (b) Other local authorities may delegate functions to the Council and the decision whether or not to accept such a delegation from another local authority shall be reserved to the relevant Committee of Council.

ARTICLE 11 – OFFICERS

11.1 Management Structure

- (a) **General** - The Council engages such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers** - The full Council will engage persons who will be designated chief officers and deputy chief officers (referred to as executive directors and assistant directors). Chief Officer appointments are made by Members of the Council in

accordance with the Officer Employment Procedure Rules set out at Part 4(7), which shall include:

- (i) the statutory chief officers, being the Head of Paid Service - known as the Chief Executive, Chief Finance (s.151) Officer, Monitoring Officer, and
- (ii) such other chief officers and deputy chief officers as are considered necessary by the authority for the co-ordination and discharge of its different functions.

(c) **Structure** - The Chief Executive will determine and publicise a description of the overall directorate structure of the Council, showing the management structure and deployment of officers. This is set out in Part 7 of this Constitution.

11.2 Functions of Chief Officers – known as Strategic Directors

(a) **Definition** – For these and all other purposes, a Chief Officer of the Council is defined in Part 1 of the Localism Act 2011 and includes each of the following—

- (i) the head of its paid service designated under section 4(1) of the Local Government and Housing Act 1989
- (ii) its monitoring officer designated under section 5(1) of that Act
- (iii) a statutory chief officer mentioned in section 2(6) of that Act
- (iv) a non-statutory chief officer mentioned in section 2(7) of that Act and
- (v) a deputy chief officer mentioned in section 2(8) of that Act

each of whom will be subject to specific duties in respect of the legislation related to their post, some of which are described further below.

(b) **General Role** - Strategic Directors are the Authority's most senior post-holders who are responsible for the day-to-day managerial and operational decisions within the Council and provide support to all Members in their several roles. The generic role of Strategic Directors is to:

- (i) to support and advise the Council and its Committees on policy and service delivery in order that Members' decisions are based on appropriate advice and information that is both legally and financially sound;
- (ii) to ensure that the policies and decisions of the Council are formulated and implemented effectively and efficiently;
- (iii) to provide strong managerial leadership and direction, foster cross directorate working and implement organisational improvement;

- (iv) to set high standards and drive up the performance, effectiveness and reputation of the Council;
- (v) to work with outside bodies and access additional funds and resources in order to support the Council's programmes of work;
- (vi) to recruit, develop, motivate and inspire staff; and
- (vii) to ensure that the Council's staff work in an ethical environment in accordance with the Council's Officer Code of Conduct and the principles of public life (sometimes referred to as the Nolan principles).

11.3 Statutory Officers

(a) The Council will designate the following posts as shown:

<i>Post</i>	<i>Designation</i>	<i>Legislation</i>
Chief Executive	Head of Paid Service	Section 4, Local Government and Housing Act 1989
Monitoring Officer	Monitoring Officer	Section 5, Local Government and Housing Act 1989
Strategic Director of Resources	Chief Finance (s.151) Officer	Section 151, Local Government Act 1972 & s.114 Local Government Finance Act 1988

Such posts will have the functions described below

(b) Functions of the Head of Paid Service

- (i) **Discharge of functions by the Council** - The Head of Paid Service where he or she considers it appropriate to do so will report to the authority on:
 - (1) the manner in which the discharge of the Council's functions is co-ordinated
 - (2) the number and grade of officers required for the discharge of functions
 - (3) the organisation of officers and
 - (4) the appointment and proper management of the authority's staff.

in accordance with section 4 of the Local Government and Housing Act 1989

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

(c) Functions of the Monitoring Officer

- (i) **Maintaining the Constitution** - The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for inspection by Members, officers and the public.
- (ii) **Ensuring lawfulness and fairness of decision making** - After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Full Council, or to any relevant committee, if he or she considers that any proposal, decision or omission would give, is likely to give, or has given, rise to a contravention of any enactment or rule of law, or any maladministration. Such a report has the effect of stopping the proposal or decision being implemented until the report has been considered.
- (iii) **Supporting the authority's duty to promote and maintain high standards of conduct** - The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Committee with responsibility for standards. The Monitoring Officer will establish and maintain the Register of Members' Interests and ensure it is kept up to date and made publicly available.
- (iv) **Conducting Investigations** - The Monitoring Officer will conduct, or arrange to have conducted, investigations in relation to allegations that member or co-opted member of the authority has failed to comply with the Members' Code of Conduct and in relation to public interest disclosures (whistleblowing) complaints in accordance with the authority's adopted procedures, policies and protocols.
- (v) **Proper Officer for Access to Information** - The Monitoring Officer will ensure that the decisions of Council and its committees, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (v) **Contributing to corporate management** - The Monitoring Officer will contribute to the corporate management of the Council, in particular through the provision of professional administrative legal advice.
- (vi) **Providing advice** - The Monitoring Officer will provide advice on issues concerning the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and whether decisions made

under delegated authority are in accordance with the terms of delegation established by the Council (the Budget and Policy Framework) to all Members and will support and advise Members and officers in their respective roles.

- (vii) **Personal duty** - The duties of the Monitoring Officer under Section 5 of the Local Government and Housing Act 1989 shall be performed by him or her personally or, where he or she is unable to act owing to absence or illness, personally by such member of his or her staff as have for the time being been nominated by the monitoring officer as his or her deputy for the purposes of this legislation.
- (viii) **Restrictions on functions** - The Monitoring Officer may not hold the post of Head of Paid Service nor the post of Chief Finance Officer.
- (ix) **Monitoring Officer Protocol** - Set out at Part 5(9) of this Constitution is a protocol which explains the role and function of the Monitoring Officer and the arrangements established for ensuring the role is effectively carried out.

(d) **Functions of the Chief Finance Officer**

- (i) **Ensuring lawfulness and financial prudence of decision making** - After consulting with the Head of Paid Service and Monitoring Officer, the Chief Finance Officer will report to the Full Council, or to any relevant committee, and to the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully.
- (ii) **Administration of financial affairs** - The Chief Finance Officer will have responsibility for the proper administration of the financial affairs of the Council.
- (iii) **Public financial information** - The Chief Finance Officer will provide financial information about the Council to Members of the Council, the media, members of the public and the community.
- (iv) **Internal Audit** - The Chief Finance Officer will ensure there is maintained an adequate and effective internal audit function.
- (v) **Contributing to corporate management** - The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

- (vi) **Providing advice** - The Chief Finance Officer will provide advice on issues concerning the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and whether decisions made under delegated authority are in accordance with the terms of delegation established by the Council (the Budget and Policy Framework) to all Members and will support and advise Members and officers in their respective roles.
- (vii) **Personal duty** - The duties of the Chief Finance Officer under Section 114 of the Local Government Finance Act 1988 shall be performed by him or her personally or, where he or she is unable to act owing to absence or illness, personally by such member of his or her staff as have for the time being been nominated by the chief finance officer for these purposes under sub-section 114(6) of that Act.
- (viii) **Restrictions on functions** - The Chief Finance Officer may not hold the post of Monitoring officer and should not hold the post of Head of Paid Service.

(e) **Duty to provide sufficient resources**

The Council is under a duty to provide the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer with such staff, accommodation and other resources as are, in that officer's opinion, sufficient to allow their respective legal duties (as described above) to be performed.

11.4 **Conduct**

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

11.5 **Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Procedure Rules set out in Part 4(7) of this Constitution.

ARTICLE 12 – DECISION MAKING

12.1 **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.

12.2 Principles of Decision Making

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

- (i) Actions should be proportionate to the desired outcome.
- (ii) Appropriate consultation will be carried out and decisions will take account of its results
- (iii) Decisions will be taken following receipt of due professional advice from officers.
- (iii) Decisions will reflect the spirit and requirements of Human Rights legislation.
- (iv) A presumption in favour of openness.
- (v) Decisions will be clear about what they aim to achieve and the results that can be expected
- (vi) Decisions will seek to be sound in terms of Wednesbury reasonableness (i.e. the decision shall not be so unreasonable that no reasonable Council could have reached it, having taken into account all relevant considerations, and having ignored irrelevant considerations).

12.3 Decision Making

Subject to Article 12.4 below, the procedure for decision making will follow at or by:

- (a) **Full Council.** Meetings of the Full Council are to follow the Council Standing Orders set out at part 4(1) of this Constitution, except where non-mandatory standing orders are waived by resolution and will follow the applicable procedure rules contained elsewhere within Part 4 of this Constitution.
- (b) **Other Council Committees** – All Committees will follow those parts of the Council Standing Orders and rules of procedure that apply to them set out at Part 4 of this Constitution
- (d) **Officers** – Decisions made by officers shall adhere to the principles set out at 12.2 above and, in relation to the taking of a decision that, would otherwise have been taken by the Full Council, a committee or sub-committee of the Council, but has been delegated to an officer either—
 - (i) under a specific express authorisation; or

- (ii) under a general authorisation to officers to take such decisions and, the effect of the decision is to:
 - (1) grant a permission or licence;
 - (2) affect the rights of an individual; or
 - (3) award a contract or incur expenditure which, in either case, materially affects that relevant local government body's financial position, which is taken to mean expenditure in excess of **£100,000**.

A written record must be produced as soon as reasonably practicable after the decision-making officer has made the decision (called an officer decision notice)

12.4 **Decision Making by Council Bodies Acting as Tribunals**

- (a) **Fair Hearing** - 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 shall 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.
- (b) **Decision making in private** - Subject to any statutory rules or procedures detailed elsewhere in the Constitution, a body acting as a tribunal is permitted, when all evidence has been submitted and speakers (if any) have finished, will hold discussion in the presence of the speakers and, as appropriate and in compliance with the Access to Information Procedure Rules (Part 4(2)), the public and press, and the decision making may thereafter be taken in private adjournment. Decisions will then normally be announced to those present and remaining post-adjournment, at least in summary form, before a decision is issued in writing.

ARTICLE 13 – FINANCE, CONTRACTS AND LEGAL MATTERS

13.1 **Financial management**

The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in Part 4(6) of this Constitution.

13.2 **Contracts**

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

13.3 Legal proceedings

Unless delegated to Tewkesbury Council (One Legal) The Monitoring Officer, or in their absence or acting under delegated authority, the Deputy Monitoring Officer, is 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 he or she considers that such action is necessary to protect the Councils interests.

13.4 Authentication of documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Monitoring Officer, or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract with a value exceeding the amount as specified in the Contract Standing Orders is entered into on behalf of the local authority shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made under the common seal of the council attested by at least one officer.

13.5 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed. The affixing of the Common Seal will be attested by the Monitoring Officer or some other person authorised by him/her.

ARTICLE 14 – REVIEW AND REVISION OF THE CONSTITUTION

14.1 Duty to Monitor and Review the Constitution

The Constitution Working Group set up by Strategy and Resources Committee and the Monitoring Officer shall monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

14.2 Protocol for Monitoring and Review of Constitution by Monitoring Officer

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task, the Monitoring Officer may:

- (a) Observe meetings of different parts of the member and officer structure
- (b) Undertake an audit trail of a sample of decisions
- (c) Record and analyse issues raised with him/her by Members, officers, the public and other relevant stakeholders and
- (d) Compare practices in this authority with those in other comparable authorities, or national examples of best practice.

14.3 Changes to the Constitution

(a) **Approval.** Changes to this Constitution will only be approved by the Full Council after consideration of the proposal by the Constitution Committee following receipt of a written report of the Monitoring Officer, except that:

- (i) changes to the Articles of this Constitution will only take effect from the meeting of Council following the meeting that determines the approval (unless legal advice is received from the Monitoring Officer requiring earlier implementation); and
- (ii) minor and consequential changes, such as those:
 - (1) to factual references
 - (2) as are required by legislative or legal changes and developments
 - (3) to reflect changes in procedures and protocols adopted by Committees; and
 - (4) to reflect revised arrangements for the distribution of responsibilities and the delegation of powers to officers in accordance with decisions taken by the appropriate committee or chief officer authorised to take such action

may be made by the Monitoring Officer.

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

ARTICLE 15 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

15.1 Suspension of the Constitution

- (a) **Limit to Suspension** - The Articles of this Constitution may not be suspended. The rules of the Council contained in Part 4 may be suspended by the Full Council to the extent permitted within those Rules and the law.
- (b) **Procedure to Suspend** - A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of serving Councillors is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

15.2 Interpretation

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

15.3 Publication

- (a) **Members** - The Monitoring Officer will ensure that the Constitution is brought to the attention of each Member upon delivery to him/her of their individual's declaration of acceptance of office on first being elected to the Council and shall also provide a printed copy to that Member upon request.
- (b) **Public and press** - The Monitoring Officer will ensure that the Constitution will be available electronically on the Council's website and that copies can be purchased by members of the local press and the public on payment of a reasonable fee