

PART 2

ARTICLES OF THE CONSTITUTION

ARTICLE 1 – THE CONSTITUTION

1.1 Powers of the Council

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

1.2 The Constitution

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

1.3 Purpose of Constitution

The purpose of the Constitution is to:

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

1.4 Interpretation and Review of the Constitution

1. 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.
2. 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, otherwise called Councillors. One or more Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- (b) **Eligibility.** Only registered voters of the Borough or those living or working there will be eligible to hold the office of Councillor.

2.2 Election and terms of Councillors

Election and terms. The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2003. The terms of office of Councillors will 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.

2.3 Roles and functions of all Councillors

- (a) **Key Roles.** All Councillors have a key role to play in the community and have an overriding responsibility for the good governance of the Borough as a whole.

All Councillors will:

- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (ii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- (iii) effectively represent the interests of their ward and or individual constituents;
- (iv) respond to constituents' enquiries and representations, fairly and impartially;
- (v) participate in the governance and management of the Council; and
- (vi) maintain the highest standards of conduct and ethics.

The Leader and the Members of the Cabinet have, in addition to the above, the extra roles set out in Annexes 2 and 3 at pages 14 and 15 respectively.

(b) Rights and duties

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public, information which is confidential or exempt without the consent of the Council, or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
- (iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.

2.4 Conduct

Councillors 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.

2.5 Registration of Members’ Interests

Every Member and Co-opted Member must register in the Council’s Register of Members’ Interests details of their Disclosable Pecuniary Interests and other personal interests as required by the Members’ Code of Conduct.

2.6 Allowances

All Councillors including the Mayor and the Deputy Mayor will be entitled to receive allowances in accordance with the Members’ Allowance Scheme set out in Part 6 of this Constitution.

OUTLINE MEMBER ROLES

Role Title:	Leader of the Council
Responsible to:	The Council
Contact with:	Community, Members, Officers, external organisations and representatives and Members of Parliament, Media
Purpose of role:	To provide political leadership of the Council, to maximise available resources and to provide appropriate political and strategic direction
Principal Accountabilities:	
<ol style="list-style-type: none"> 1. Provide strong leadership to the Council in the delivery of its Vision and Priorities and in the setting of high standards of good governance and ethical behaviour. 2. Chair the overall activities of the Cabinet to ensure that decisions made are well informed, appropriate, fulfil the agreed objectives of the Council and accord with the Constitution's principles of decision making. 3. Develop, implement and review executive strategy to fulfil the agreed objectives of the Council. 4. Maintain, develop and build upon good relationships between political and managerial processes to maximise the benefit gained by the community. 5. Provide principal point of contact to all forms of media on areas of Cabinet activity, as well as the wider Council, to ensure appropriate information is provided on Council activity. 6. Develop policy and budget priorities for the consideration of the Cabinet and for recommendation to the Council as a whole, in line with strategic objectives. 7. Develop role as principal executive voice at meetings of the Council to provide a response to questions from members of the Council and the public. 8. To exercise those powers delegated to the Leader by the Council in relation to the portfolio for Community Leadership and Planning and Regeneration. 9. Act as the focus for Community Leadership and Planning and Regeneration issues to assist the local economy and the community. 10. To provide the principal link between the Cabinet and the Chief Executive. 11. To ensure that all interested parties, (including Members, Officers, external groups/companies and the public) have equality in opportunity to speak at meetings. 12. Provide Leadership in the setting of high standards of good governance and ethical behaviour. 	

OUTLINE MEMBER ROLES

Role Title:	Cabinet Member
Responsible to:	Leader of the Council, Cabinet and Council
Contact with:	Community, Members, Officers, external organisations and representatives and Members of Parliament, Media
Purpose of role:	Contribute to decisions made by the Cabinet on all areas within its remit. Exercise their delegated decision making powers and oversee the implementation of the activities within their specific portfolio areas.
Principal Accountabilities:	
<ol style="list-style-type: none">1. Contribute to the overall activities of the Cabinet to ensure that decisions made are well informed, appropriate and fulfil the agreed objectives of the Council.2. Contribute to the development, implementation and review of the executive strategy to fulfil the agreed objectives of the Council.3. Maintain, develop and build upon good relationships between political and managerial processes to maximise the benefit gained by the community.4. Provide principal point of contact to media on appropriate portfolio areas to provide a clear, well-informed response as required.5. Provide leadership on agreed key portfolio area of responsibility to establish clear strategy for implementation of areas under consideration, in line with Council objectives.6. Establish role as key spokesperson on issues relating to their portfolio area both internally and externally to ensure that responses are informed and up to date.7. To exercise those decision making powers delegated by the Leader or the Cabinet in relation to their nominated portfolio area in accordance with the Constitution's principles of decision making.8. Provide the link between the Cabinet and appropriate officers for their specific portfolio.9. Contribute to the overall activities of the Cabinet to ensure that decisions made are well informed, appropriate and fulfil the agreed objectives of the Council.	

OUTLINE MEMBER ROLES

Role Title:	Chairman of Overview and Scrutiny Committee
Responsible to:	The Council
Contact with:	Community, Members, Officers, external organisations and representatives and Members of Parliament, Media
Purpose of role:	To manage the meetings and business of the Committee, liaise with other Chairs and Vice Chairs of Overview and Scrutiny to prevent duplication and to act impartially when challenging Cabinet or Portfolio Holder decisions, service provision and policy development.
Principal Accountabilities:	<ol style="list-style-type: none">1. Manage the meetings of the Overview and Scrutiny Committee to ensure that they provide constructive challenge to Cabinet or Portfolio Holder decisions and to ensure that they are conducted in accordance with the law and the Council's own procedure rules.2. Manage the scrutiny process in a manner which maintains political neutrality.3. Liaise with Chairs and Vice Chairs to prevent duplication and decide what process will be used to scrutinise cross cutting issues.4. To act as a spokesperson for the Committee's decisions in their specific area of responsibility.5. Give advice to the Committee regarding their work programme to ensure that they are not overloaded.6. To ensure that all interested parties, (including Members, Officers, external groups/companies and the public) have equality in opportunity to speak at meetings.7. To produce an annual report of their committee's work, to be included in the Annual Overview & Scrutiny Review.8. To keep up to date with development opportunities relevant to the role of Chairman of Overview & Scrutiny.

OUTLINE MEMBER ROLES

Role Title:	Chairman of a Regulatory Committee
Responsible to:	The Council
Contact with:	Community, Members, Officers, external organisations and representatives and Members of Parliament, Media
Purpose of role:	To manage the business and meetings of the Committee in order to ensure that sound decisions are made in respect of the functions delegated to it by the Council.
Principal Accountabilities:	
<ol style="list-style-type: none">1. Manage the meetings of the Committee to ensure that Members have taken into consideration any advice given by officers or other advisers before the decisions are made and to ensure that they are conducted in accordance with the law and the Council's own procedure rules.2. Manage the meetings to ensure that the public exercise their right to speak in accordance with the Council's Constitution. To ensure that all interested parties, (including Members, Officers, external groups/companies and the public) have equality in opportunity to speak at meetings.3. To monitor the performance of the Council's services within the remit of the Committee.4. To keep up to date with development opportunities relevant to the role of Chairman of a Regulatory Committee.	

OUTLINE MEMBER ROLES

Role Title:	Chairman of Audit Committee
Responsible to:	The Council
Contact with:	The external auditor, Internal Audit, Members, Officers,
Purpose of role:	To Chair the Council's Audit Committee which is charged with overseeing the financial reporting, risk management, audit and internal control arrangements of the Council to assure the Council and the Dacorum Council Tax payers that resources are properly managed and high standards of financial probity are maintained.
Principal Accountabilities:	
<ol style="list-style-type: none">1. To ensure that the meetings are conducted in accordance with the law and the Council's own procedure rules and that the Audit Committee carries out in a proper fashion all of its functions which, in summary, are to review:<ul style="list-style-type: none">• Financial statements• Internal audit reports• External audit reports• Other evidence of the Council's risk management and internal control systems2. Working with the Corporate Director (Finance and Operations) and the Assistant Director (Finance & Resources) to plan an effective work programme for the Committee3. Report to Council when necessary to give assurances about the Council's financial statements, risk management and internal control mechanisms or to raise concerns of any significant weakness.4. Receive briefings from Directors or other senior staff in order to understand the context and import of forthcoming issues.5. To keep up to date with development opportunities relevant to the role of Audit Committee.	

OUTLINE MEMBER ROLES

Role Title:	Ward Councillor
Responsible to:	The Community, the Council
Contact with:	Community, Members, Officers, media, external organisations and representatives and Members of Parliament
Purpose of role:	To represent the Council to the Community and the Community to the Council.
Principal Accountabilities:	
<ol style="list-style-type: none"> 1. To adhere to the Members' Code of Conduct and the Council's Constitution. 2. Balance the different and, at times, competing interests identified within the ward and the Borough and represent them both and deal with these interests with regard to the Council's Code of Conduct and Constitution. 3. Represent the views of the community to the Council and other bodies. 4. Canvass opinion in their wards on issues and respond promptly to enquiries. 5. Undertake case work on specific problems raised by the constituents and follow up enquiries to ensure that there is a conclusion that is communicated to the person/s concerned. 6. To act as "Community Leaders" within the ward, by representing and becoming advocates for their communities and by bringing their views into the Council's decision making process. 7. Collectively be the ultimate policy makers. 8. Communicate in a variety of ways, including local meetings, the Council's work and role to residents and promote their understanding of what Councillors can do. 9. Except for members of the Cabinet and the Mayor, through membership of an Overview and Scrutiny Committee, or individually, scrutinise and hold to account the Cabinet and Council as a whole. 10. Contribute to the good governance of the Council. 11. Be available to represent the Council on other bodies. 12. To take part in the Member Development programme to help improve their role as an effective councillor. 13. Strive to ensure that the Council delivers high quality public services which represent value for money and be committed to continuous improvement in the services the Council provides. 	

ARTICLE 3 – CITIZENS AND THE COUNCIL

3.1 Citizens' rights

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

- (a) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor.
- (b) **Information.** Citizens have the right to:
 - (i) attend meetings of the Council and its Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) attend meetings of the Cabinet when decisions are being considered;
 - (iii) find out from the forward plan what key decisions will be taken by the Cabinet and when;
 - (iv) see reports and background papers, and any records of decisions made by the Council, Committees and the Cabinet except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
and
 - (v) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation.** Citizens have the right to participate in the Council's public question time and may be asked to contribute to investigations by the Overview and the Scrutiny Committees.
- (d) **Complaints.** Citizens have the right to complain to:
 - (i) the Council itself and its officers under the Corporate Customer Complaints Process;
 - (ii) the Local Government Ombudsman after using the Council's own Complaints Process;
 - (iii) the Council's Standards Committee about a breach of the Councillor's Code of Conduct.

3.2 Citizens' responsibilities

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

ARTICLE 4 – THE FULL COUNCIL

4.1 Meanings

- (a) **Policy Framework.** The policy framework means the following plans and strategies:-
- Corporate Plan;
 - Community Safety Strategy;
 - Development Plan Documents for which the Council is responsible;
 - Council's Corporate Work Programme;
 - Any other plan or strategy which has Borough-wide application and which the Council may decide should be adopted by full Council, as a matter of local choice.
 - Policy Statements (including any revisions thereto) relating to the licensing of alcohol and gambling required under the Licensing Act 2003 and the Gambling Act 2005 respectively;
- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council tax base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.
- (c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether the draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

4.2 Functions of the full Council

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) the giving of instructions requiring the Cabinet to reconsider any draft plan or strategy submitted by the Cabinet for the consideration of the Council;
- (d) the amendment of any draft plan or strategy submitted by the Cabinet for the consideration of the Council;
- (e) the approval, for the purposes of public consultation in accordance with Regulation 10 or 22 of the Town and Country Planning (Development Plans) (England) Regulations 1999, of draft proposals

associated with the preparation of alterations to, or the replacement of, a local plan;

- (f) the approval, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, of any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted except for certain planning matters such as planning applications;
- (g) 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 a function of the Cabinet 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;
- (h) appointing the Mayor, Deputy Mayor and the Leader of the Council;
- (i) agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them;
- (j) appointing representatives to outside bodies unless the appointment has been delegated by the Council;
- (k) adopting an allowances scheme under Article 2.5;
- (l) changing the name of the area, conferring the title of honorary alderman or freedom of the Borough
- (m) confirming the appointment of the Head of Paid Service;
- (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 decided should be undertaken by itself rather than the Cabinet; and
- (p) all other matters which, by law, must be reserved to Council.

4.3 Council meetings

There are three types of Council meeting:

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

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

4.4 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 Cabinet.

ARTICLE 5 – CHAIRING THE COUNCIL

5.1 Role and function of the Mayor

- (i) The Mayor and the Deputy Mayor will be elected by the Council annually. The Mayor and in his/her absence, the Deputy Mayor will have the following roles and functions.
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 Councillors and the interests of the community;
 3. to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Councillors are able to hold the Cabinet and Committee Chairmen to account;
 4. to promote public involvement in the Council's activities;
 5. to be the conscience of the Council;
 6. to attend and perform such civic and ceremonial functions as the Council and he/she determines appropriate; and
 7. To encourage and support the voluntary sector within the Borough.

ARTICLE 6 – OVERVIEW AND SCRUTINY COMMITTEES

6.1 Terms of reference

The Council will appoint the Overview and Scrutiny Committees (“Scrutiny Committees”) set out below, and their Chairmen and Vice Chairmen, to discharge the functions conferred by section 21 of the Local Government Act 2000 in relation to the matters listed below.

A. STRATEGIC PLANNING & ENVIRONMENT OVERVIEW AND SCRUTINY COMMITTEE

Terms of Reference

To perform the overview, scrutiny and policy development role in relation to all matters and business associated with the Cabinet Portfolios for ‘Environmental Services & Sustainability’, and ‘Planning & Regeneration’. This will include any issues arising within the following areas:

- Waste Management
- Street Care (All)
- Highways Liaison
- Passenger Transport
- Parking
- Environmental Strategy
- Emergency Planning
- Street Naming
- Strategic Planning
- Local Development Framework
- Development Control
- Building Control
- Land Charges
- Economic Development
- Town Centre Management

The Committee will also be required to monitor the performance of relevant Council services, including services which are provided under contract or agreement by external organisations or private sector partners.

The Committee will consist of 13 Members of the Council, subject to any variation which may be agreed from time to time at any meeting of full Council. Each Scrutiny Committee may co-opt persons who are not Members of the Council in a non-voting capacity.

B. HOUSING & COMMUNITY OVERVIEW AND SCRUTINY COMMITTEE

Terms of Reference

To perform the overview, scrutiny and policy development role in relation to all matters and business associated with the Cabinet Portfolios for 'Resident & Regulatory Services' and 'Housing'. This will include any issues arising within the following areas:

- Care
- Youth
- Health
- Sports Trust
- Heritage & Tourism
- Arts & Entertainment
- Community Support
- Voluntary Sector
- Parish Councils
- Cemeteries
- Environmental Health
- Licensing P&P
- CCTV
- Anti-Social Behaviour
- Housing Strategy & Delivery
- Private Sector Housing
- Crime & Disorder
- Community Planning
- Social Inclusion

The Committee will also be required to monitor the performance of relevant Council services, including services which are provided under a contract or agreement by external organisations or private sector partners.

The Committee will consist of 13 Members of the Council, subject to any variation which may be agreed from time to time at any meeting of full Council. Each Scrutiny Committee may co-opt persons who are not Members of the Council in a non-voting capacity.

C. FINANCE & RESOURCES OVERVIEW AND SCRUTINY COMMITTEE

Terms of Reference

To perform the overview, scrutiny and policy development role in relation to all matters and business associated with the Cabinet Portfolio for 'Finance & Resources'. This will include any issues arising within the following areas:

- Finance
- Legal & Democratic Services
- Asset management
- Business Strategy
- Procurement
- Risk Management
- Customer Relations
- Information Technology
- Communications
- Human Resources
- Support Services
- Corporate Plan
- Performance Indicators
- Political Management

The Committee will also be required to monitor the performance of relevant Council services, including services which are provided under contract or agreement by external organisations or private sector partners.

The Committee will consist of 13 Members of the Council , subject to any variation which may be agreed from time to time at any meeting of full Council. Each Scrutiny Committee may co-opt persons who are not Members of the Council in a non-voting capacity.

6.2 Composition

- (ii) A Member of the Cabinet cannot be a Member of a Scrutiny Committee.
- (ii) The Council will observe the rules governing political balance contained in Section 15 of the Local Government and Housing Act 1989 when allocating seats to each of the Scrutiny Committees.
- (iii) The Chairmen of the Scrutiny Committees are to be appointed by the Council.
- (vi) The Vice-Chairmen of the Scrutiny Committees are also to be appointed by the Council. In the event that there is a Majority

Group within the Council, one of the three Vice-Chairmen must be appointed from outside the Majority Group.

6.3 General role

Within their terms of reference, the Scrutiny Committees may:

- (i) review and/or scrutinise decisions made or actions taken, in connection with the discharge of any of the Council's functions.
- (ii) make reports and/or recommendations to the full Council and/or the Cabinet and/or any joint committee in connection with the discharge of any functions;
- (iii) consider any matter affecting the Borough or its inhabitants;
- (iv) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Cabinet.
- (v) refer to full Council for review or scrutiny, a decision made but not yet implemented by the Cabinet.

6.4 Specific functions

- (a) **Policy development and review.** Overview and Scrutiny Committees may:
 - (i) work with the Council and the Cabinet in the development of its budget and major policy framework by independently reviewing policy and/or developing new policies
 - (ii) conduct research, community and other consultation as part of the process of policy review and development;
 - (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
 - (iv) carry out independent reviews of specific services;
 - (v) receive internal and external monitoring reports;
 - (vi) undertake work on general policy development;
 - (vii) question Members of the Cabinet and/or Committees and senior officers about their views on issues and proposals affecting the Borough; and
 - (viii) liaise with other external organisations operating in the Borough, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

- (b) Scrutiny.** Overview and Scrutiny Committees may:
- (i) review and scrutinise the decisions made by and performance of the Cabinet and/or Committees and officers both in relation to individual decisions and over time;
 - (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
 - (iii) question Members of the Cabinet and/or Committees and senior officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
 - (iv) make recommendations to the Cabinet and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;
 - (v) review and scrutinise the performance of other public bodies in the Borough and invite reports from them by requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance;
 - (vi) question and gather evidence from any person (with their consent);
 - (vii) exercise overall responsibility for the finances made available to them;
 - (viii) exercise overall responsibility for the work programme of the officers employed to support their work;
- (c) Annual Report.** The Scrutiny Committees must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

6.5 Proceedings of overview and scrutiny committees

Overview and Scrutiny Committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

6.6. Working methods

The following principles should be adhered to by the Scrutiny Committees when carrying out their work:

- (a) a variety of different approaches and formats for meetings may be used;
- (b) membership should be tailored to ensure appropriate skills and expertise, and external input are brought to bear;

- (c) whenever appropriate, full consultation with all other stakeholder groups and organisations should take place;
- (d) the declaration of interest rules shall apply;
- (e) the imposition of the party whip is regarded as incompatible with the work of Scrutiny Committees.

6.7 Support

In order that the Scrutiny Committees can perform their roles properly they shall be given the following support:

- (a) effective and properly resourced support from officers;
- (b) a discrete budget;
- (c) access to the advice of the Council's Monitoring Officer and Chief Financial Officer;
- (d) the power to require officers to attend to answer questions;
- (e) specific training and development for all persons who undertake overview and scrutiny duties.

6.8 The Cabinet's forward plan, containing details of all the matters likely to be the subject of key decisions, shall be made available to all Members of the Scrutiny Committees at least 14 days prior to the first day upon which the forward plan will come into effect.

6.9 Any Member of a Scrutiny Committee may require that a matter which is relevant to the functions of the Committee be included on the agenda for, and is discussed at, a meeting of the Committee.

6.10 Each Scrutiny Committee may require Members of the Cabinet and officers to attend before them to answer questions. It will be the duty of Members of the Cabinet to comply with any such requirement. Each Scrutiny Committee may invite other persons to attend its meetings.

6.11 The Chairmen and Vice-Chairmen of all Scrutiny Committees will ensure that the work of the Committees is properly co-ordinated.

6.12 The Chairman or Vice Chairman of an Overview and Scrutiny Committee can request the setting up of a Task and Finish Group to assist the Committee in the carrying out of its specific functions. The procedure for appointing Task and Finish Groups is set out in the Task and Finish Groups Procedure Rules (Part 4 of this Constitution).

D. HEALTH IN DACORUM COMMITTEE

Terms of Reference

To perform a non-statutory role of overview and scrutiny of matters relating to the provision of Health Services in the Borough by external local health providers.

- (i) The Health & Well Being in Dacorum Committee will consist of 7 Members of the Council together with 3 Co-Opted Members (who shall have full voting rights) which shall include 2 representatives from the Patients Forum.
- (ii) The Chairman & Vice Chairmen of the Health Scrutiny in Dacorum Committee shall be appointed by the Committee itself.

ARTICLE 7 – THE LEADER AND CABINET

7.1 Role

The Leader and Cabinet will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

7.2 Form and composition

The Cabinet will consist of the Leader of the Council ("the Leader") together with two or more Councillors appointed to the Cabinet by the Leader. The number of members of the Cabinet (including the Leader) will not exceed ten.

7.3 Leader

The Leader will be a Councillor elected to the position of Leader by the Full Council:

- (a) the Leader will ordinarily be appointed by the Council at the first Annual Meeting following the ordinary election of Councillors and will hold office for the period ending with the day of the first Annual Meeting after the next ordinary election of Councillors unless within that period the Leader:
 - (i) resigns from the office of Leader by giving notice in writing to the Assistant Director (Chief Executive Unit) , or
 - (ii) is disqualified, or otherwise ceases to be an elected Member of the Council, or
 - (iii) is removed from the office of Leader by a resolution of the Council.
- (b) if, for any reason, the Council fails to elect the Leader at the relevant Annual Meeting the Leader is to be elected at a subsequent ordinary meeting of the Council.
- (c) upon the occurrence of a vacancy in the office of the Leader, the Council shall fill the vacancy at the next ordinary meeting of the Council, or at an extraordinary meeting summoned for the purpose or, if the vacancy occurs as a result of removal of the Leader by resolution of the Council, at the meeting at which that resolution was passed. The person appointed to fill the vacancy

shall hold office for the remainder of the original term subject to earlier termination as above.

- (d) Appointment of Deputy Leader -
- (i) the Leader shall appoint another Member of the Cabinet to be Deputy Leader
 - (ii) the Deputy Leader shall hold office until the end of the term of office of the Leader, unless he/she –
 - resigns as Deputy Leader by giving notice in writing to the Leader, and copied to the Assistant Director (Chief Executive's Unit), or
 - is disqualified, or otherwise ceases to be a member of the Council, or
 - is removed by the Leader from office
 - (iii) where a vacancy occurs in the office of Deputy Leader, the Leader must appoint another Cabinet member in their place.
 - (iv) if for any reason the Leader is unable to act or the office of Leader is vacant, the Deputy Leader must act in his/her place and, during such time, can exercise the Leader's Portfolio responsibilities and any statutory functions which are conferred solely on the Leader.
 - (v) if for any reason the Deputy Leader is unable to act or the office of Deputy Leader is vacant, the Cabinet must act in the Leader's place or arrange for a member of the Cabinet to act in his/her place.

7.4 Other Cabinet Members

Other Members of the Cabinet will be appointed by the Leader who shall give written notice of the appointment to the Assistant Director (Chief Executive's Unit). They will hold office for the period ending with the day of the next ordinary election of Councillors unless within that period:

- (a) they resign from office by giving notice in writing to the Leader, and copied to the Assistant Director (Chief Executive's Unit);

- (b) they are disqualified, or otherwise cease to be elected Members of the Council; or
- (c) the Assistant Director (Chief Executive's Unit) receives a written notice of removal signed by the Leader.

7.5 Proceedings of the Cabinet

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

7.6 Responsibility for functions

The Leader may discharge any of those executive functions which are the responsibility of the Leader and Cabinet, or may arrange for the discharge of any of those functions –

- (i) by the Cabinet,
- (ii) by another member of the Cabinet,
- (iii) by a committee of the Cabinet, or
- (iv) by an officer of the Council

The Leader will maintain a list in Part 3 of this Constitution setting out which individual members of the Cabinet, committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular Leader and Cabinet functions.

7.7 Support

The Cabinet, or any individual Cabinet Member, can request the setting up of a Task and Finish Group to assist in policy development. The procedure for appointing Task and Finish Groups is set out in the Task and Finish Groups Procedure Rules (Part 4 of this Constitution).

ARTICLE 8 – REGULATORY COMMITTEES

8.1 Regulatory Committees

The Council will appoint the Committees set out in Part 3 of this Constitution for the purpose of discharging those functions which are not the responsibility of the Cabinet.

ARTICLE 9 – MEASURES FOR STANDARDS OF CONDUCT – Updated December 2012

9.1 Standards Committee

In order to ensure that Members of the Council (including co-opted Members) observe the Council's Code of Conduct for Members, the Council will establish a Standards Committee.

9.2 The appointment and composition of the Standards Committee will be in compliance with the provisions of sections 101 and 102 of the Local Government Act 1972 and Regulations made thereunder. The Council by resolution made on 16th May 2012 resolved that the rules of political proportionality in Section 15 of the Local Government and Housing Act 1989 should not apply in respect of the Standards Committee.

9.3 The Standards Committee shall comprise of 9 members who shall consist of:

- (a) five elected Members of the Borough Council;
- (b) two co-opted Town or Parish Councillors with no voting rights;
- (c) two co-opted Independent Members with no voting rights;
- (d) the Chairman of the Standards Committee shall be appointed by the Committee at its first meeting in each municipal year;
- (e) the two co-opted Town or Parish Councillors cannot be Members of the Borough Council;
- (f) the Independent Person appointed in accordance with section 28 of the Localism Act 2011 shall be invited to attend meetings of the Standards Committee.

9.4 The Terms of Reference of the Standards Committee will be to:

- (a) promote and maintain high standards of conduct by the Members and co-opted Members of the Council;
- (b) advise and assist Parish and Town Council(s) and Councillors to maintain high standards of conduct and to make recommendations to Parish and Town Councils on improving standards or actions following a finding of a failure by a Parish or Town Councillor to comply with the Code of Conduct;
- (c) advise the Council on the adoption or revision of the Members' Code of Conduct;
- (d) receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the Council's assessment criteria;
- (e) receive reports from the Monitoring Officer and assess the operation and effectiveness of the Members' Code of Conduct;

- (f) advise, train or arrange to train Members and Co-Opted Members on matters relating to the Members' Code of Conduct;
- (g) assist Councillors and co-opted Members to observe the Members' Code of Conduct;
- (h) conduct hearings and determine complaints about Members and Co-Opted Members referred to it by the Monitoring Officer;
- (i) advise the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards of conduct throughout the Council;
- (j) maintain oversight of the Council's arrangements for dealing with complaints;
- (k) inform Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints;
- (l) report, with recommendations, to the Council and/or to the Cabinet at such times and in such manner as the Committee thinks fit.

9.5.1 Appointment of Sub-Committee

- (a) The Standards Committee has appointed a Sub-Committee consisting of 5 Members appointed from Members of the Standards Committee. The rules of political proportionality do not apply to the Sub-Committee.
- (b) When the Sub-Committee is meeting to deal with a complaint against a Town or Parish Councillor at least one of the 5 members of the Sub-Committee shall be a co-opted Town or Parish Councillor or substitute co-opted Town or Parish Councillor.
- (c) The Independent Person will attend meetings of the Sub-Committee when dealing with hearings into allegations of misconduct.

9.5.2 The Terms of Reference of the Sub-Committee will be:

- (a) To conduct a hearing into an allegation that a Member or Co-opted Member has breached their Council's Code of Conduct.
- (b) Following a hearing the Sub-Committee may make one of the following findings:
 - (1) That the member has not failed to comply with the Code of Conduct and no further action needs to be taken in respect of the complaint, or
 - (2) That the Member has failed to comply with the Code of Conduct but that no further action needs to be taken in respect of the complaint, or

- (3) That the Member has failed to comply with the Code of Conduct and that a sanction and/or an informal resolution should be imposed.

9.6 Sanctions

The Council has delegated to the Standards Committee (or a Hearings Sub-Committee) such of its powers as can be delegated to take action in respect of a Member who is found following a hearing to have failed to comply with the Code of Conduct, such actions to include –

- (a) Publishing its findings in respect of the Member's conduct;
- (b) Reporting its findings to Council *[or to the Parish/Town Council]* for information but recommending that no sanction be applied;
- (c) Recommending to Council *[or to the Parish/Town Council]* that the Member be issued with a formal censure or be reprimanded;
- (d) Recommending to the Member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- (e) Recommending to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- (f) Recommending to Council *[or to the Parish/Town Council]* that the Monitoring Officer be instructed to arrange training for the Member;
- (g) Recommending to Council *[or recommend to the Parish/Town Council]* that the Member be removed from all outside appointments to which he/she has been appointed or nominated by the Council *[or by the Parish/Town Council]*;
- (h) Recommending to Council *[or recommend to the Parish/Town Council]* that it withdraws facilities provided to the Member by the Council, such as a computer, website and/or email and internet access; or
- (i) Recommending to Council *[or recommend to the Parish/Town Council]* that the Member be excluded from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- (j) Recommend to Council *[or recommend to the Parish/Town Council]* that it prevents the member from having access to a particular officer or officers.
- (k) The Sub-Committee may recommend any action or combination of actions available as above, or impose any informal resolution or combination of informal resolutions as are available to it.

9.7 Dispensations

- (a) To grant dispensations to a Member or Co-opted Member after consultation with the Independent Person pursuant to section 33(2)(b) and (c) of the Localism Act 2011.
- (b) To hear and determine appeals against refusal to grant dispensations by the Monitoring Officer pursuant to section 33(2)(a), (d) and (e) of the Localism Act 2011.

[note: any dispensation granted shall cease to have effect four years after the date on which it is granted]

9.8 Register of Members' Interests

- (a) The Monitoring Officer shall establish and maintain a register of interests of the Members and Co-opted Members of the Borough Council and the Parish and Town Councils pursuant to section 29 of the Localism Act 2011 and ensure that the register is available for public inspection and published on the Borough Council's website.
- (b) The Monitoring Officer shall provide to each Member and Co-opted Member a registration of interests form which shall be completed by the Member or Co-opted Member and returned to the Monitoring Officer who shall then ensure that it is placed on the register. At the end of each municipal year the Monitoring Officer shall send to each Member and Co-opted Member a copy of their completed registration of interests form with a request that the Member and the Co-opted Member notifies the Monitoring Officer of any changes to their interests.
- (c) The Monitoring Officer shall provide to each Member and Co-opted Member a form to be used for the purposes of giving notification of any change to their interests.
- (d) The Monitoring Officer shall provide to each Member and Co-Opted Member a form to be used for the purposes of giving notification of the receipt of any gifts or hospitality over the value of £25.00.

ARTICLE 10 – JOINT ARRANGEMENTS

10.1 Arrangements to promote well being

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

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

10.2 Joint arrangements

- (a) The Council may enter into joint arrangements with one or more local authorities and/or their executives to exercise functions which are not the responsibility of the executives in all the local authorities concerned, or to advise the participating authorities on matters of joint interest. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Cabinet may appoint members to a joint committee from outside the Cabinet where the joint committee has functions for only part of the area of the Council, and that area is smaller than two-fifths of the Council by area or population. In such cases, the Cabinet may appoint to the joint committee any Councillor who is a member for a ward which is wholly or partly contained within the area. The political balance requirements do not apply to such appointments.
- (e) Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

The Chairman shall preside if present. If the Chairman is not present, the Vice-Chairman shall preside. If neither are present, the Members present shall elect one of their number to preside for that meeting.

- (f) Meetings

The date and time of Joint Member panel meetings shall be set by the Panel as far ahead as possible and notified to Members. Once a date is set it will not normally change unless all Members are consulted.

Meetings shall take place four times a year

The Panel will determine whether or not their meetings are to be open to the public. Hearing loops are to be provided in meeting accommodation wherever possible.

(g) Conduct of Meetings

The order of business shall be as indicated in the summons to the meetings or otherwise as the Chairman shall prescribe.

The Chairman shall control the conduct of the meeting and the ruling of the Chairman on any point of order shall be final and shall not be questioned during the meeting.

All members of the Panel shall conduct themselves in accordance with the Model Code of Conduct in dealing with the business of the Joint Panel.

(h) Voting

All questions coming or arising before the Joint Member Panel shall be decided by a majority of the Members of the Panel present and voting.

The person presiding at the meeting shall not have a second or casting vote in the case of an equality of votes.

If any Member dissents on a decision, upon request, the name of that Member shall be recorded.

(i) Minutes

The names of the Members present shall be recorded

The minutes of meeting shall be entered in a book kept for the purpose and shall be signed at the next ordinary meeting by the Chairman. The book shall be open for inspection by anyone during office hours.

(j) Notice

At least seven clear days before a meeting a notice shall be published at County Hall and the Borough Council Offices, of the time, place and agenda of the meeting.

A summons shall be sent to every Member of the Joint Member Panel stating the time, place and business to be transacted and the minutes of the last meeting shall be sent to every member.

(k) Disclosure

A Member shall not disclose to any person except a Member of the Joint Member Panel, the Borough and the County, any Panel papers indicated to be confidential, unless the Panel expressly consents, the Panel has taken steps to make that business public, or the law requires.

(l) Responsibilities

A Member shall not disclose to any person except a Member of the Joint Member Panel, the Borough and the County, any Panel papers indicated to be confidential, unless the Panel expressly consents, the Panel has taken steps to make that business public, or the law requires.

(m) Activities of the Joint Member Panel

The Panel will consider the matters which are within its remit and the District Manager's delegated authority and which either:

- Relate to budget development, allocations and priorities in relation to any discretionary funding
- Relate to works programmes, progress monitoring reports, activities or performance indicators of the Unit

The Joint Member Panel may seek information from the District Manager to assist in its function of giving guidance to the District Manager. Such information will be provided unless its provision would have unreasonable resource implications

(n) The administrative support to the Joint Member Panel will be provided by the Borough Council Democratic Services Department

10.3 Access to information

- (a) The Access to Information Rules in Part 4 of this Constitution apply.
- (b) If all the members of a joint committee are members of the executive in each of the participating authorities then its access to information regime is the same as that applied to the executive.
- (c) If the joint committee contains members who are not on the executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

10.4 Delegation to and from other local authorities

- (a) The Council may delegate functions which are not the responsibility of the Cabinet to another local authority or, in certain circumstances, the executive of another local authority.
- (b) The Cabinet may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.

- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to a meeting of full Council.

10.5 Contracting out

The Council (in respect of functions which are not the responsibility of the Cabinet) and the Cabinet (in respect of 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 powers.

10.6 Dacorum Highways Joint Panel

- (a) Under this Article II the Council has entered into a Dacorum Highways Joint Working Agreement with Hertfordshire County Council for the purposes of improving service delivery and accessibility to Highways Services across the Borough. This Agreement requires the Council and the County to set up a Joint Member Panel.

- (b) Membership

The Joint Member Panel will consist of 12 Members and will comprise 6 Members appointed by the Council and 6 County Members representing the County Divisions in the Borough of Dacorum.

- (c) The quorum of the Joint Member Panel is 6 Members, which must be comprised of both Councils.
- (d) When any matter is before the Joint Member Panel from the area of a Parish or Town Council, a nominated representative of that Council shall have the right to attend and participate in meetings, but not to vote.

- (e) Chairmanship

The Chairman of the Joint Member Panel will be elected annually by the Members of the Panel and the Chairmanship shall rotate between the Council and the County Council each year. A Vice-Chairman who shall not be a representative of the same Council as the Chairman, shall also be elected annually by the Members of the Panel.

ARTICLE 11 – OFFICERS

11.1 Management structure

- (a) **General.** The full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The full Council will engage persons for the following posts, who will be designated chief officers:

Post	Functions and areas of responsibility
Chief Executive (and Head of Paid Service)	Overall corporate management and operational responsibility (including overall management responsibility for all officers) together with specific operational responsibility for those services identified in Part 3 'Responsibility for Functions'
Corporate Director (Housing & Regeneration)	Overall strategic and operational management of those services falling within the Housing and Regeneration Directorate.
Corporate Director (Finance and Operations)	Overall strategic and operational management of those services falling within the Finance and Operations Directorate.

- (c) **Head of Paid Service, Monitoring Officer and Section 151 Officer.**
The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service (Section 4 Local Government and Housing Act 1989)
Assistant Director (Chief Executive's Unit)	Monitoring Officer (Section 5 Local Government and Housing Act 1989)
Corporate Director (Finance & Operations)	Section 151 Officer (Local Government Act 1972)

Such posts will have the functions described in Article 11.2-11.4 below.

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

11.2 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.

11.3 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report to the full Council or to the Cabinet (in relation to an 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) **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.
- (d) **Receiving reports.** The Monitoring Officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals.
- (e) **Conducting investigations.** The Monitoring Officer will conduct investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the Standards Committee.
- (f) **Proper officer for access to information.** The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (g) **Advising whether Cabinet decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- (h) **Contributing to corporate management.** The Monitoring Officer will contribute to the corporate management of the Council, in particular through the provision of professional legal advice and will be responsible to the Council for ensuring that agreed procedures are followed and that all applicable statutes, regulations and other relevant statements of good practice are complied with.
- (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 Councillors.

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

11.4 Functions of the Section 151 Officer

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Section 151 Officer will report to the full Council or to the Cabinet (in relation to an executive function) and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs.** The Section 151 Officer will have responsibility for the administration of the financial affairs of the Council and for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control.
- (c) **Contributing to corporate management.** The Section 151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Section 151 Officer will provide appropriate advice on all financial matters and on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.
- (e) **Give financial information.** The Section 151 Officer will provide financial information to the media, members of the public and the community.

11.5 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.

11.6 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.

11.7 Employment

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 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.

- (i) The principal aims of the Council's executive arrangements set out in this Constitution are to make decision making more efficient, transparent and accountable so that the Council can be open and responsive to the needs and aspirations of local communities.
- (ii) Members of the Cabinet will be collectively responsible for decisions made by the Cabinet. Cabinet Members will be individually responsible for their own decisions.
- (iii) Key decisions which have significant effects within the community or on interests outside the Borough will need to be identified and properly consulted on. Such key decisions may be delegated to various bodies within the Council, including officers but, no matter who is taking the decision, the same principles should apply.

12.2 Principles of decision making – Introduction

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

PRINCIPLES OF DECISION MAKING

- (a) the decision must be reasonable within the common meaning of the word, i.e. it must be a rational decision based on sound judgement;
- (b) the decision must also be reasonable within the legal meaning of "reasonableness" i.e. all relevant considerations must be fully taken into account in reaching the decision and all irrelevant ones disregarded;
- (c) in the case of 'quasi-judicial' decisions (e.g. a decision as to whether or not to uphold an appeal against a homelessness determination) a fair hearing conducted in accordance with the rules of Natural Justice should be afforded the person who is the subject of the decision;

- (d) the decision must be proportionate (i.e. the action should be proportionate to the desired outcome);
- (e) decisions should be taken on the basis of due consultation and professional advice from officers;
- (f) human rights must be respected and consideration must be given as to whether the decision will give rise to any implications under the Human Rights Act 1998 and the European Convention on Human Rights;
- (g) decisions must be taken in compliance with Council's Schemes of Delegation, financial Regulations and Instructions Relating to Contracts;
- (h) when making decisions a presumption in favour of openness must be applied and a clarity of aims and desired outcomes must be displayed;
- (i) careful consideration should always be given as to whether there is a personal interest that should be declared;
- (j) in the case of executive decisions taken by the Cabinet, or an individual Member of the Cabinet, or an Officer (where the decision is a key decision) a proper record of the decision must be made together with a record of the reasons for the decision, details of any alternative options considered and rejected and any conflicts of interest.

12.3 Types of decision

- (a) Decisions reserved to full Council.

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

- (b) Key decisions

- (i) A 'key decision' means an executive decision which is likely –
 - (a) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
 - (b) to be significant in terms of its effects on people living or working in an area comprising two or more wards in the Borough.

- (ii) Wherever practicable, a decision which has a significant impact on people living in a single ward will be treated by the Council as a key decision.
- (iii) 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 the Constitution.

12.4 Decision making by full Council

Subject to Article 13.8, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

12.5 Decision making by the Cabinet

Subject to Article 12.8, the Cabinet will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.

12.6 Decision making by overview and scrutiny committees

Overview and Scrutiny Committees will follow the Overview and Scrutiny Procedures Rules set out in Part 4 of this Constitution when considering any matter.

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

Subject to article 12.8, other Council Committees and Sub-Committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

12.8 Decision making by Council bodies acting in a quasi-judicial capacity

The Council, a Councillor or an officer acting 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. This requirement would apply also to the Standards Committee.

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 8 of this Constitution.

13.2 Contracts

Every contract made by the Council will comply with the Procurement Standing Orders set out in Part 8 of this Constitution.

13.3 Legal proceedings

The Assistant Director (Chief Executive's Unit) is authorised to institute, defend, compromise 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 the Assistant Director (Chief Executive's Unit) considers that such action is necessary to protect the Council's 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 Assistant Director (Chief Executive's Unit) 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.

13.5 Common Seal of the Council

1. Custody of Seal

The Common Seal of the Council shall be kept in a safe place in the custody of the Assistant Director (Chief Executive's Unit).

2. Sealing

2.1 The Common Seal of the Council shall not be applied to any document unless the sealing has been authorised by a resolution or decision of the Council, or a Committee or Sub-Committee of the Council, or the Cabinet, or a Committee of the Cabinet, or an individual Cabinet member, or an officer, made or acting under delegated powers and proof of such resolution or decision has been produced with the document when submitted for sealing.

2.2 A resolution or decision as referred to in 2.1 above authorising the acceptance of a tender, the purchase, sale, letting or taking on lease of any property, the issue of any stock, the presentation of any petition, memorial or address, the making

of any rate or contract or the doing of any other thing, shall be sufficient authority for sealing any document necessary to give effect to the resolution or decision.

2.3 The Common Seal shall be attested by two different persons present at the sealing of whom

2.3.1 One shall be the Assistant Director (Chief Executive's Unit) or, in his/her absence, the Group Manager (Legal Governance) or the Chief Executive or one of the Corporate Directors.

2.3.2 The other shall be any of the above-named persons or a legally qualified person in the employment of the Council and duly authorised in that behalf by the Assistant Director (Chief Executive's Unit).

2.4 An entry of sealing of a document shall be made and consecutively numbered in a book kept for the purpose and signed by the persons who have attested the seal.

ARTICLE 14 – REVIEW AND REVISION OF THE CONSTITUTION

14.1 Duty to monitor and review the constitution

The Cabinet in conjunction with the Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

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:

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

14.3 Changes to the Constitution

General

- 14.3.1 This Article sets out the requirements for changes to this Constitution. Proposals for change may be prompted not only by formal internal reviews, but also by the Monitoring Officer, the Cabinet, other Members and by public opinion. Proposals to change from one form of executive to another require proper consultation with the public, and change from a Leader and Cabinet form of executive to an elected mayor form, requires a referendum.
- 14.3.2 However, other changes may require limited or no consultation. The amount of consultation required should be proportionate to the scale, scope and extent of the change proposed.
- 14.3.3 Proposals for constitutional change should not be used to overcome disputes between the Cabinet and other Councillors, or even within the Cabinet itself.

Approval

- 14.3.4 Changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Cabinet and/or the Monitoring Officer.
- 14.3.5 A vote at Council to change the Constitution should be passed by a simple majority of those present and voting.
- 14.3.6 If the proposal involves a change from the existing Leader and Cabinet form of executive to another form of executive the Council must take reasonable steps to consult with local electors and other interested persons in the Borough. If the proposed new form of executive involves an elected mayor the Council must also hold a binding referendum.

ARTICLE 15 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

15.1 Suspension of the Constitution

- 15.1.1 The Articles of this Constitution may not be suspended.
- 15.1.2 Any Rules of Procedure, except those required by law, may be suspended at a meeting of full Council, but only if
 - (a) notice of motion to suspend has been given or
 - (b) there are present at least fifteen Members of the Council.
- 15.1.3 The extent and duration of the suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- 15.1.4 No Committee or Sub-Committee or the Cabinet shall have power to suspend any Rules of Procedure, but may resolve to recommend the Council to suspend in special circumstances which shall be stated in the resolution.

15.2 Interpretation

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

15.3 Publication

- (a) The Assistant Director (Chief Executive's Unit) will give a printed copy of this Constitution to each Member of the Council 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 Assistant Director (Chief Executive's Unit) will ensure that copies are available for inspection at Council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Assistant Director (Chief Executive's Unit) will ensure that the summary of the Constitution is made widely available within the Borough and is updated as necessary.