“How the Council works”

Polish
"Jak funkcjonuje Rada"

Kurdish Sorani
کەنەسەکە چۆن کار دەکات

Portuguese
"Como funciona a autarquia"

THE CONSTITUTION OF WAVENY DISTRICT COUNCIL

Polish
Konstytucja Rady Okręgowej Waveney

Kurdish Sorani
دەستوری کانسڵێکی دەوەڕەی وەقەینە

Portuguese
A Constituição da Câmara Distrital de Waveney

(Prepared in accordance with Section 37 of the Local Government Act 2000)
The title of this document can be translated into the three most used languages in our district. This will allow residents to decide whether they wish to have the document to be translated in full. If you require this document to be translated then a request should be made to the Committee Services Team.

The main three non-English languages spoken in the Waveney District are;

Polish

Portuguese

Kurdish

If you would like a copy or a summary of this document in an alternative language or format please ask an English speaking friend to contact us at the address below.

Waveney District Council,

Committee Team,

Town Hall

Lowestoft

Suffolk

NR32 1HS

Tel 01502 523614

email: democratic.services@waveney.gov.uk

POLISH

Jeżeli są Państwo zainteresowani otrzymaniem kopii lub streszczenia niniejszego dokumentu w tłumaczeniu na język polski lub w innym formacie, prosimy zwrócić się do osoby z Państwa otoczenia posługującej się językiem angielskim, aby skontaktowała się z nami w tej sprawie pod widocznym powyżej adresem.

PORTUGUESE

Se pretender uma cópia ou um sumário deste documento num idioma ou formato alternativo, peça por favor a um(a) amigo(a) que fale inglês para nos contactar na morada acima indicada.

KURDISH SORANI

نەگەڕە دەتوانیت کۆبیکی بان کەوڕەتەنەکە لە نەم نەوەئەکە بە زەماکیکی دیکە بان بە شیوەکیکی دیکە بە توانەدا دەکەڵێتە بەرەدەرییەکی خۆتەکە نەبێگەڕە دەزەنێت داوە بەکە لە زەگەی نەم داوەتەشانەی سەرەوە لەگەڵ نەمە پەیوەندی بەکات.
Contents

Part 1  Summary of how the Council works  4

Part 2  Articles of the Constitution

Article 1 - Members of the Council  6
Article 2 - Citizens and the Council  8
Article 3 – Full Council  10
Article 4 – Cabinet  14
Article 5 – Regulatory Committees  18
Article 6 – Overview & Scrutiny Committee  25
Article 7 - Audit & Governance Committee  27
Article 8 – Joint Arrangements  31
Article 9 – Decision Making  33
Article 10 – Officers  42
Article 11 – Employment Related Committees  46
Article 12 – Finance, Contracts and Legal Matters  48
Article 13 – Review, Revision, Suspension, Interpretation and Publication of the Constitution  49

Part 3  Meeting Procedures

Council Procedure Rules  51
Cabinet Procedure Rules  67
Overview & Scrutiny Procedure Rules  70
Access to Information Procedure Rules  77

Part 4  Administrative Procedure Rules

Financial Procedure Rules  87
Contract Procedure Rules  104
Officer Employment Procedure Rules  129

Part 5  The Ethical Framework – Codes and Protocols

Councillor Role Descriptions  135
Suffolk Local Code of Conduct  153
Joint Officer Code of Conduct  160
Protocol on Councillor/Officer Relations  167
Whistleblowing Policy  171
Protocol for Councillors and Officers Dealing with Planning Matters  176
Protocol for Councillors and Officers Dealing with Licensing Matters  191
Protocol on Use of IT Facilities by Councillors  193
Fraud and Corruption Management Strategy  195

Part 6  Members’ Allowances Scheme and Co-optees Allowances  222
Part 1 - Summary of how the Council works

The purpose of the Council’s Constitution

- To increase understanding of how the Council and local democracy works in practice.
- To enable the Council to provide clear leadership to its communities in partnership with residents, businesses and other organisations.
- To support the active involvement of citizens in the process of local authority decision making.
- To help Councillors represent their constituents more effectively.
- To enable decisions to be taken efficiently, effectively and lawfully.
- To create a powerful and effective means of holding decision makers to public account.
- To ensure that no-one will review or scrutinise a decision in which they were directly involved.
- To ensure that those responsible for decision making are clearly identifiable to local citizens and that they explain the reasons for decisions.
- To provide a means of improving the delivery of services to communities.
- To ensure quality in service delivery.
- To ensure access to services, which reflects the diversity and needs of the communities.

Waveney District Council’s Constitution therefore sets out how the Council operates, how decisions are made and the procedures that are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose. The Council will exercise all its powers and duties in accordance with the law and this Constitution.

How the Council Operates

Waveney District Council is comprised of 48 Councillors. Councillors are democratically accountable to citizens of their Ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them. Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Council appoints an Audit & Governance Committee to assist with its statutory duty to promote and maintain high standards of conduct and probity for all Councillors and Officers.

The Council’s employees are known as ‘Officers’. They give advice, implement decisions and manage the day-to-day delivery of services. There are also specific Officers that have a duty to ensure that the Council acts within the law and uses its resources wisely. Codes of Practice govern the behaviour of Officers and the relationship between Councillors and Officers.

Decision Making

Decision making is carried out at different levels of the Council. Decisions are either made by Full Council, the Cabinet, Portfolio Holders, Regulatory Committees, or Council officers.

**Full Council** - all 48 Councillors meet together as the Council to decide the Council’s overall policies and set the budget each year. Meetings of the Council are normally open to the public.
The Cabinet - is the committee of the Council that is responsible for day-to-day decisions, although most issues are delegated to individual members of the Cabinet (Portfolio Holders) or delegated to an Officer of the Council.

The Cabinet is made up of the ‘Leader of the Council’ plus up to nine other Councillors appointed by the Council. Major ‘Cabinet’ level decisions are known as ‘Key Decisions’. These are published monthly in a document known as the ‘Forward Plan of Key and Exempt Decisions’. Such decisions can be made by the Cabinet, a Portfolio Holder, or an Officer. They must be made at meetings open to the public unless the matter being considered includes confidential or exempt information.

The Cabinet or a Portfolio Holder has overall decision making powers on all matters which are not reserved to Council or delegated to another Committee by law or under this Constitution.

The Cabinet, Portfolio Holders and Officers can only make decisions that are in line with the Council’s Policy Framework and budget. If decisions are proposed which are outside of the budget or Policy Framework, these must be referred to the Council as a whole to decide.

Regulatory Committees - undertake the Council’s quasi-judicial responsibilities such as Development Control (Planning) and Licensing.

Governance

In addition three separate committees of the Council provide the governance to ensure that the decision making within the Council is operating lawfully and to add value to those decisions.

Overview & Scrutiny Committee - supports the work of the Cabinet and the Council as a whole. The Overview & Scrutiny Committee and its three sub-committees are aligned to the Council’s Strategic Priorities. They act as a check and balance against the activities of the Cabinet and Portfolio Holders, ‘holding them to account’. They can ‘call-in’ decisions for reconsideration before they are implemented, can help to consider forthcoming decisions in detail, and develop or review policies. In addition there is a significant external role of Overview & Scrutiny in holding other public sector bodies to account, including local police and health services. They ensure that the priorities of those public sector organisations and partnerships accurately reflect the needs and aspirations of local communities, and that the outcomes and improvements needed within Waveney are being delivered.

In addition the Audit & Governance Committee works independently of the Cabinet in order to provide effective challenge across the Council and independent assurance to Councillors and the public of the adequacy of the risk management framework and associated internal controls. It provides independent scrutiny of the Council’s financial and non-financial performance and oversees the financial reporting process, as well acting as a forum to consider internal and external audit work. It also provides ethical governance, creating and monitoring the Ethical Framework of the Council.

Partnership

All the Council’s work is closely linked to that of other public and non-public organisations such as Suffolk County Council, Town and Parish Councils, the Police, Health and the voluntary sector. The Council works closely in partnership with these organisations, and makes decisions in conjunction with them. This is done in many ways but most significantly through the East Suffolk Partnership and the Suffolk Strategic Partnership. The Council appoints Councillors to such partnerships and other Outside Bodies.

The Council also consults widely within the community. How, when and where the Council gathers the views and opinions of residents, communities and businesses is set out in the Council’s Community Engagement Strategy. The Council also periodically sets up specific Working Parties of Councillors and Officers to investigate issues in detail before any Committee decisions are made.
Part 2 - Articles of the Constitution

Article 1 - Members of the Council

Composition

There are 48 Waveney District Councillors, who are also known as ‘Members’ (of the Council). Each Ward has between one and three Councillors elected by the voters of that Ward. The number of Councillors for each Ward is in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.

Eligibility

A person shall be qualified to be elected as a Councillor if they are a British subject or a citizen of the Republic of Ireland or a relevant citizen of the European Union, and on the day on which they are nominated as a candidate they are at least aged eighteen years and:

(a) on that day they are and thereafter continue to be a Waveney local government elector; or

(b) they have during the whole of the previous twelve months occupied, as owner or tenant, any land or other premises in Waveney; or

(c) their principal or only place of work during that twelve months has been in Waveney; or

(d) they have during the whole of those twelve months resided in Waveney.

Election and Terms of Councillors

Elections to the Council are held every four years since May 2011. Elections are normally held on the first Thursday in May. Each Councillor’s term of office begins on the fourth day after being elected and ends on the fourth day after the election, four years later.

If a Councillor resigns, dies or is removed from office, a by-election is held. The new Councillor who is elected holds office for the remainder of the original four year term. Should any resignation or death occur six months or less before the date of the next scheduled District Council election, the by-election will take place at the same time as the next normal District Council elections.

Roles and Functions of Councillors

The role of the Councillor is based in the political structures that were created by the Local Government Act 2000. All Councillors will:

(a) Collectively be the ultimate policy makers and carry out a number of strategic and corporate management functions.

(b) Represent their communities and bring their views into the Council’s decision making process, i.e. become the advocate of and for their communities.

(c) Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances.

(d) Balance different interests identified within their Ward and represent their Ward as a whole.

(e) Be involved in decision making.

(f) Be available to represent the Council on other bodies.
(g) Maintain the highest standards of conduct and ethics.

Rights

Councillors have the right of access to such documents, information, land and buildings of the Council as necessary for the proper discharge of their functions and in accordance with the law.

Conduct

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

Allowances

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in this Constitution.
Article 2 - Citizens and the Council

Rights

Citizens of the Waveney district have a number of rights in their dealings with the Council. Some of these are legal rights, while others depend on the Council’s own processes. Where members of the public use specific Council services, for example as a Council tenant, they may also have additional rights, which are not set out in this Constitution. The local Citizens’ Advice Bureau can advise on an individual’s legal rights.

The Council welcomes participation by its citizens. Citizens of Waveney District Council have the right to:

- Contact their local Councillor about any matters of concern to them.
- Obtain a copy of the Constitution.
- Inspect the Council’s accounts and make their views known to the external auditors.
- Vote and sign a petition to request a referendum for an elected mayor form of leadership (this only applies to citizens on Waveney’s electoral register).
- Attend meetings of the Council (although citizens may be required to leave during items that involve confidential or exempt information).
- Know from the Forward Plan of Key and Exempt Decisions when and what Key Decisions will be taken by the Cabinet or by Members or Officers exercising such delegated powers.
- Access certain information, including reports, background papers, and records of decisions made by the Council, the Cabinet and Members or Officers exercising delegated powers.
- Make requests for information under the Freedom of Information Act.
- Submit questions to meetings of the Full Council.
- Submit petitions to the Council.
- Request that any ‘Cabinet’ decision is called-in to Overview & Scrutiny Committee.
- Give evidence at the request of Overview & Scrutiny Committee or any of its sub-committees, in relation to any investigations, or policy reviews etc. by that committee.
- Address the Licensing Committee on any application in which they have an interest.
- Address the Development Control Committee on any application for which he/she is an applicant, the representative of a Town/Parish Council or an objector to an application.
- Be consulted by the Council. Such consultation with its citizens will be in accordance with the Council’s Community Engagement Strategy. Consultation will take place with all sectors of all communities within Waveney - for example older people, young people, minority ethnic communities and people with disabilities - to ensure that the views of those consulted really do represent those of the wider community.
• Be consulted on planning issues, which can be more wide-ranging depending on the nature of
the planning application concerned. As a minimum, consultation will take place with immediate
neighbours, and may be extended to other relevant bodies or associations, or any pressure
groups. Site notices may also be erected, and where necessary press notices published.

• Be consulted by one of the Council’s public Community Engagement Forums. These cover the
whole of the district, and involve Parish, District and County Councillors for each particular area.
The purpose of these forums is to link local government with local people by promoting their
participation in local government decisions, listening to their views and better informing them of
local government decisions and policies.

• Complain about the Council under its Compliments and Complaints scheme. In the unlikely
event that the scheme does not result in a satisfactory outcome, citizens may then complain to
the Local Government Ombudsman.

• Complain about a Councillor, regarding a breach of the Suffolk Code of Conduct.

Responsibilities

Citizens should not be violent, abusive or threatening to Councillors or Officers and must not wilfully
harm things owned by the Council, its Councillors or Officers.
Article 3 - Full Council

The Local Government Act 2000 and associated guidance and regulations give the Council responsibility for approving the Policy Framework and Budget.

Policy Framework

The Council will set, and agree amendments, to the Policy Framework as recommended by the Cabinet. The Policy Framework means the following plans and strategies:

- Those required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
- Those other plans and strategies which Chapter 2 of the DETR Guidance recommends should be adopted by the Council as part of the Policy Framework.
- Other plans and strategies, which the Council may decide, should be adopted by the Council as a matter of local choice.

Waveney District Council’s Policy Framework consists of the following plans and strategies:

(a) Sustainable Community Strategy.
(b) Plans and strategies which together comprise the Development Plan (Local Development Framework Development Plan Documents).
(c) The Council’s Business Plan (also known as its Strategic Direction).
(d) Joint Environmental Policy
(e) Housing Strategy.
(f) Food and Health & Safety Service Plan.
(g) Asset Management Strategy.
(h) Statement of Licensing Policy under the Licensing Act 2003.
(i) Statement of Principles under the Gambling Act 2005.

All plans and strategies will be in accordance with all equalities legislation, including the Human Rights Act 1998, Data Protection Act 1998, Equality Act 2010, Equal Opportunities (Employment Legislation) (Territorial Limits) Regulations 1999, and any other relevant legislation from time to time in force.

Council will agree and adopt strategies. The formulation/implementation of polices emanating from any strategy will be effected by the Cabinet following consultation where appropriate with the Overview & Scrutiny Committee.

Where relevant budget provision is in place, all policies not within the Policy Framework will be formulated by the Cabinet. (If there is an unresolved disagreement between the Cabinet and the Overview & Scrutiny Committee regarding any proposed policy then it will require approval by the Council.)
Provided relevant budget provision is in place, and any proposed action is in accordance with relevant policy, the exercise of any function not reserved to the Council shall be properly discharged by the Cabinet.

**Budget**

Council is responsible for setting the Budget as recommended by the Cabinet. 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 relation to the control of the Council’s borrowing requirement, the control of its capital expenditure and the setting of virement limits.

**Functions of the Full Council**

The Council will exercise the following functions:

(a) Changing the Constitution.

(b) Changing the Council’s Codes of Conduct.

(c) Changing the Policy Framework.

(d) Setting the Capital Programme, Revenue Budget, Budget and the Council Tax.

(e) Approving the Council’s Statement of Accounts (if qualified – unqualified Statement of Accounts will be approved by the Audit & Governance Committee), income and expenditure and balance sheet, or record of payments and receipts (as the case may be) following audit.

(f) Making decisions which would be contrary to the agreed Policy Framework, or contrary to, or not wholly in accordance with the agreed Budget.

(g) Electing the Chairman and Vice Chairman of the Council each year at Annual Council.

(h) Appointing the Leader of the Council every fours years at Annual Council following the local elections.

(i) Changing the terms of reference for Committees of the Council, deciding on their composition and making appointments to them, including the Chairs.

(j) Appointing to any Working Parties established by the Council.

(k) Appointing representatives to Outside Bodies unless the appointment is a Cabinet function or has been delegated by the Council.

(l) Adopting a Members’ Allowances Scheme (having regard to the recommendations of an independent remuneration panel).

(m) Approving the appointment or dismissal of the Head of Paid Service.

(n) Making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills.

(o) All “local choice” functions set out in Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 which the Council decides should be undertaken by itself rather than the Cabinet.

(p) Any other matter which, by law, must be reserved to the Council that has not been delegated.
elsewhere.

(q) Such functions in relation to elections as is reserved to it by law.

(r) Functions relating to the name and status of areas:
   (i) power to change the name of the district;
   (ii) power to conduct community governance reviews;
   (iii) power to petition for Charter to confer Borough Status.

(s) Functions relating to Local Government Pensions and related matters.

(t) Power to make standing orders (including standing orders as to contracts).

(u) Power to agree and set the Budget for the Council’s establishment.

(v) Power to appoint Independent Person(s) in terms of Suffolk Code of Conduct issues.

(w) Power to appoint Officers for particular purposes (i.e. appointment of “Proper Officers”).

(x) Authorising the making of payments or other benefits in cases of maladministration.

(y) Anything conducive or incidental to a Council function.

Role of Full Council

There are three types of Council meeting - the Annual meeting, Ordinary meetings and Extraordinary meetings, and they will be conducted in accordance with the Council Procedure Rules in this Constitution. There will normally be 6 meetings of the Council each municipal year.

The Council will hold the Cabinet to account for its actions, policy and direction via the receipt of periodic reports. The role of Ordinary meetings of the Council should be the occasion when:

(a) Formal minutes are presented.

(b) Any communications and/or announcements from the Chairman of the Council are made and received.

(c) Any questions from members of the public are received and answered.

(d) Any questions from members of the Council are received and answered.

(e) Any motions are received and considered.

(f) Any reports and/or recommendations are considered and received from the Cabinet or any of the Council’s Committees.

Role and Function of the Chairman

The Chairman of the Council and, in his or her absence, the Vice Chairman, will have the following roles and functions, to:

- Be the conscience of the Council.
Constitution of Waveney District Council

- Preside over all meetings of the Council so that its business can be carried out effectively, with regard to the rights of Councillors, the interests of the community and with due regard to the requirements of the Constitution.

- Uphold and promote the purposes of the Constitution, and to interpret the Constitution where necessary.

- Ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not on the Cabinet or who do not hold Committee Chairs are able to hold the Cabinet and Committee Chairmen to account.

- Promote public involvement in the Council’s activities.

- Exercise powers (in the absence of the Chair of the Overview & Scrutiny Committee) in relation to the Forward Plan of Key and Exempt Decisions and Special Urgency as set out in the Access to Information Procedure Rules.

- Exercise powers in relation to call-in and urgency as set out in the Overview & Scrutiny Procedure Rules.

- Undertake such civic and ceremonial functions as the Council or the Chairman determines appropriate.
Article 4 - Cabinet

Role

Cabinet decisions can only lawfully be made in relation to ‘executive functions’. The law defines ‘executive functions’ and sets out which Council functions must not be the responsibility of the Cabinet, or solely the responsibility of the Cabinet.

Other council functions may be, but do not have to be, the responsibility of the Cabinet and the Council determines which are, are not, and partially are, Cabinet responsibilities. The Council has decided that the Cabinet, and individual Cabinet Members exercising delegated powers, 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. These are set out under Cabinet Functions below. Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules.

The Leader will ensure that a list is maintained setting out which individual members of the Cabinet (Portfolio Holders), Committees of the Cabinet, Officers or joint arrangements are responsible for the exercise of particular Cabinet functions.

Form and Composition

The Cabinet will consist of the Cabinet Leader, as elected by the Council, together with at least two but no more than nine Councillors appointed to the Cabinet by the Cabinet Leader at the Annual Council meeting following the Local Government Elections at which the Leader is appointed. The Chairman and Vice Chairman of the Council may not be appointed to the Cabinet.

No member of the Cabinet may be a member of the Overview & Scrutiny Committee or the Audit & Governance Committee.

Leader

The Leader will be a Councillor elected by the Council at their Annual Meeting following the Local Government Elections (or, if the Council fails to elect a leader at that meeting, at a subsequent meeting of the Council) for a period of four years or until the Leader’s term office as a Councillor ends.

The Leader shall otherwise continue to hold office as above unless:

(a) The Council by resolution removes the Leader during his or her term of office whereupon his/her term of office as Leader shall end on the day of that Council meeting; or

(b) he/she resigns from the office; or

(c) ceases to be a Councillor; or

(d) Is disqualified from being a Councillor

(e) he/she is suspended from being a Councillor (although he/she may resume office at the end of the period of suspension).

If the Council removes a Leader by resolution from office, the Council must elect a new Leader at the same meeting.

The Council may remove the Leader from office at an earlier date but only in the event of a change in political control of the Council.
The Leader shall determine the number of Councillors who may be appointed to the Cabinet subject to a maximum of ten, including the Leader. The Leader will appoint Councillors to Cabinet positions. Councillors appointed to Cabinet positions can be removed from being Members of the Cabinet at any time of the Leader’s choosing.

The Leader shall appoint one of the Members of the Cabinet to be his or her Deputy.

The Deputy Leader shall hold office for the same term as the Leader unless

(a) He or she is removed from office by the Leader, or ceases to a Councillor; or
(b) he/she resigns from the office; or
(c) Is disqualified from being a Councillor; or
(d) he/she is suspended from being a Councillor (although he/she may resume office at the end of the period of suspension).

The Leader shall allocate Cabinet portfolios to other Cabinet Members.

The Leader shall report to the Council on all appointments to and changes to the Cabinet.

If for any reason the Leader is unable to act or the office of Leader is vacant, the Deputy Leader must act in place of the Leader.

If for any reason the Leader and the Deputy Leader are both unable to act or their offices are vacant, then the Cabinet must act in the Leader’s place or arrange a member of the Cabinet to do so.

**Cabinet Functions**

The Cabinet will implement the Policy Framework and Budget and discharge day-to-day functions of the Council. The Cabinet will set the Strategic Direction of the Council within the Budget and Policy Framework decided by Full Council. The Cabinet will give account for its actions, policy and direction to Full Council by the submission of periodic reports on its activities.

Provided relevant budget provision is in place, all policies not within the Council’s Policy Framework will be formulated by the Cabinet, after any recommendation from the Overview & Scrutiny Committee. The Cabinet may commission the Overview & Scrutiny Committee to propose the policies by which the Council will deliver its Strategic Objectives. Cabinet will not be bound to accept any policy proposal from the Overview & Scrutiny Committee. In the event of any disagreement, efforts will be made to reach a consensus. If there is an unresolved disagreement between the Cabinet and the Overview & Scrutiny Committee, the policy will require approval by the Council.

The Cabinet may consult with any Committee, body or person, either internal or external, in formulating or revising any policy or budget.

The Cabinet will require the Section 151 Officer to prepare a medium term financial plan giving a three year forward assessment of the Council's revenue commitments. This plan will be submitted annually to the Cabinet and form the basis of financial guidelines to be determined by that Committee and to be taken into account in the preparation of the revenue budget.

The Section 151 Officer will annually prepare estimates of income and expenditure on revenue account and of receipts and payments on capital account. The Section 151 Officer will collate the estimates and report on them to the Cabinet. The Chief Executive and the Section 151 Officer will report jointly to the Cabinet on the aggregate effect of the estimates, such report to include compliance with the financial guidelines approved by the Council and other financial implications.
Provided relevant budget provision is in place and any proposed action is in accordance with the Policy Framework, the exercise of any function not reserved to the Council shall be properly discharged by the Cabinet. The specific executive functions of the Cabinet are as set out below:

- Capital Programme - preparation and recommendation to Full Council.
- Budget - preparation and recommendation to Full Council.
- Any function under a local Act other than a function specified or referred to in Regulation 2 or Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
- The determination of an appeal against any non-Cabinet decision made by or on behalf of the Council.
- The discharge of any function relating to the control of pollution or the management of air quality.
- Any function relating to contaminated land.
- Appointments to Working Parties and Outside Bodies - in connection with functions that are the responsibility of the Cabinet, and the revocation of any such appointment.
- The making of agreements with other local authorities for the placing of staff at the disposal of those authorities.
- Any function of a local authority in their capacity as a harbour authority.
- Parish liaison - to receive periodic reports from parish liaison meetings.
- Economic, environmental or social well-being.
- Community health.
- Community safety.
- Community development.
- Theatres, arts and cultural development.
- Community liaison and development.
- Economic development and European issues.
- Leisure and sports.
- Recreation and associated Services.
- Tourism services and tourism development.
- Emergency planning.
- Car parks.
- Travel concessions.
- Public health and safety, environmental services, public conveniences.
- Health service liaison.
- Control of pollution and contamination (in relation to strategic policy, strategy development and resource prioritisation).
- Noise pollution.
- Food safety.
• Port health.
• Cemeteries and closed churchyards.
• Waste management and recycling.
• The collection of household and trade refuse and litter.
• Street and amenity area cleansing.
• Pest control and dog warden service.
• Implementation of the Joint Environmental Policy
• Private sector housing matters.
• Estates management.
• Strategic Housing.
• Gypsies & Travellers.
• Treasury and debt management.
• Asset management.
• Revenues and Benefits.
• All residual finance matters including the administration of the Council’s Capital Grants Scheme and the allocation of Revenue Grants.
• The powers, duties and functions of the Council as Local Planning Authority insofar as these relate to planning policy, positive planning, conservation.
• Building control (insofar as this relates to policy and the performance of the service).
• Town centre management.
• The maintenance and lighting of highways and footways (residual or agency functions).
• Coast protection.
• Land drainage.
• Local Land Charges.
• E- (electronic) Government.
• Major project co-ordination.
• Corporate information and promotion functions.
• Information and Communications Technology (ICT) operations and strategy.
• Industrial relations.
• Public Relations (PR) and communications.
• Closed Circuit Television (CCTV).
• Contracts management.
• Abandoned vehicles.
• Burial of the poor.
• Energy conservation.
• Grants.
Article 5 - Regulatory Committees

Non Cabinet functions listed in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 have been delegated by Council to regulatory committees. The Council will appoint these committees.

Training in regulatory matters will be made available to all members of the regulatory committees. Any member who has not taken part in such training as deemed necessary by the Monitoring Officer to the Council will not be permitted to sit at meetings of the regulatory committees or any sub-committees or attend such meetings as a substitute.

The terms of reference of the current regulatory committees are as set out below:

Development Control Committee

The Development Control Committee will consist of 13 Councillors. The functions of the Development Control Committee are:

(a) Monitoring the performance of the Development Control service, including consistency in decision making.

(b) Acting as the principal point for the exchange of information and ideas with the Cabinet on Development Control/Development Plan and policy matters.

(c) Making decisions pertinent to the discharge of the Development Control function, including matters such as delegation to Officers as required.

(d) Functions relating to Town and Country Planning and Development Control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended):

1. Power to determine applications for planning permission.
2. Power to determine applications to develop land without compliance with conditions previously attached.
3. Power to grant planning permission for development already carried out.
4. Power to decline to determine application for planning permission.
5. Duties relating to the making or determination of planning applications.
6. Power to determine application for planning permission made by a local authority, alone or jointly with another person.
7. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.
8. Powers to enter into agreement regulating development or use of land.
9. Power to issue a certificate of existing or proposed lawful use or development.
10. Power to serve a completion notice.
11. Power to grant consent for the display of advertisements.
12. Power to authorise entry onto land.
13. Power to require the discontinuance of a use of land.
14. Power to serve a planning contravention notice, breach of condition notice or stop notice.
15. Power to issue a temporary stop notice.
(16) Power to issue an enforcement notice.
(17) Power to apply for an injunction restraining a breach of planning control.
(18) Power to determine applications for hazardous substances consent, and related powers.
(19) Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.
(20) Power to require proper maintenance of land.
(21) Power to determine applications for listed building consent, and related powers.
(22) Power to determine applications for conservation area consent.
(23) Duties relating to applications for listed building consent and conservation area consent.
(24) Power to serve a building preservation notice, and related powers.
(25) Power to issue enforcement notice in relation to demolition of unlisted building in conservation area.
(26) Powers to acquire a listed building in need of repair and to serve a repairs notice.
(27) Power to apply for an injunction in relation to a listed building.
(28) Power to execute urgent works.

(e) Authorisation of works under Section 178 (as amended) of the Town and Country Planning Act 1990 – relating to the use of default powers to rectify breaches of planning control – subject to budget not being exceeded.

(f) Miscellaneous Functions:
(1) Power to create footpaths or bridleway by agreement.
(2) Power to create footpaths and bridleways.
(3) Duty to keep register of information with respect to maps, statements and declarations.
(4) Power to stop up footpaths and bridleways.
(5) Power to determine application for public path extinguishment order.
(6) Power to divert footpaths and bridleways.
(7) Power to make a public path diversion order.
(8) Power to make a rail crossing diversion order.
(9) Power to make a special diversion order.
(10) Power to require applicant for order to enter into agreement.
(11) Power to make a Sites of Special Scientific Interest diversion order.
(12) Duty to keep register with respect to applications under Sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980.
(13) Power to decline to determine certain applications.
(14) Duty to assert and protect the rights of the public to use and enjoyment of highways.
(15) Duty to serve notice of proposed action in relation to obstruction.
(16) Power to apply for variation of order under Section 130B of the Highways Act 1980.
(17) Power to authorise temporary disturbance of surface of footpath or bridleway.
(18) Power to temporarily divert footpath or bridleway.
Constitution of Waveney District Council

(19) Functions relating to the making good of damage and the removal of obstructions.

(20) Powers relating to the removal of things so deposited on highways as to be a nuisance.

(21) Power to extinguish certain public rights of way.

(22) Duty to keep definitive map and statement under review.

(23) Power to include modifications in other orders.

(24) Duty to keep register of prescribed information with respect to applications under Section 53(5) of the Wildlife and Countryside Act 1981.

(25) Power to make a special extinguishment order under Section 118B Highways Act 1980.

(26) Duty to reclassify roads used as public paths.

(27) Power to prepare map and statement by way of consolidation of definitive map and statement.

(28) Power to designate footpath as cycle track.

(29) Power to extinguish public right of way over land acquired for clearance.

(30) Power to authorise stopping-up or diversion of footpath or bridleway.

(31) Power to extinguish public rights of way over land held for planning purposes.

(32) Power to enter into agreements with respect to means of access.

(33) Power to provide access in absence of agreement.

(34) Power to make limestone pavement order.

(35) Powers relating to the protection of important hedgerows.

(36) Powers relating to the preservation of trees.

(37) Power to deal with determination of applications for development or determination of applications or with notifications of decisions on applications for development to construct overhead electricity lines.

(38) Power to determine whether an Environmental Impact Assessment is necessary and to obtain scoping and screening opinions.

(39) Power to decide what information is needed before a decision can be taken on any application (including the power to decide whether or not an Environmental Impact Assessment and to make decisions in relation to Scoping Assessments).

(40) Power to exercise the Council’s powers to accept land, where the land is or is to be transferred to the Council under planning obligation or for another planning purpose.

(41) Power to carry out any functions under any agreement with the Broads Authority.

(42) Power to administer the register of local land charges, carry out official searches and to respond to the enquiries of local authorities and determine the fee charged for responding to these.

(g) Licensing and Registration Functions:

(1) Power to issue licences authorising the use of land as a caravan site (“site licences”).

(2) Power to license the use of moveable dwellings and camping sites.

(3) Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to the exchange of lands effected by an order under the Acquisition of Land Act 1981 or an order under Section 147 of the Enclosure Act 1845.
(4) Power to license planting, retention and maintenance of trees etc in part of highway.
(5) Power to authorise erection of stiles etc on footpaths or bridleways.
(6) Power to license works in relation to buildings etc which obstruct the highway.
(7) Power to consent to temporary deposits or excavations in streets.
(8) Power to dispense with obligation to erect hoarding or fence.
(9) Power to restrict the placing of rails, beams etc over highways.
(10) Power to consent to construction of cellars etc under street.
(11) Power to consent to the making of openings into cellars etc under streets, and pavement lights and ventilators.

(h) Power to issue, advertise, withdraw or otherwise act in relation to relevant notices under any of the powers contained in paragraphs (a) to (g).
Licensing Committee

The Licensing Committee will consist of 15 Councillors. Members of the public have the right to address the Licensing Committee on any application in which they have an interest.

The functions of the Licensing Committee are:

1. Power to set all licensing fees properly the responsibility of the Council.
2. Power to license hackney carriages and private hire vehicles.
3. Power to license drivers of hackney carriages and private hire vehicles.
4. Power to license operators of hackney carriages and private hire vehicles.
6. Power to register pool promoters.
7. Power to grant permits in respect of premises with amusement machines.
8. Power to register societies wishing to promote lotteries.
9. Power to grant permits in respect of premises where amusements with prizes are provided.
10. Power to issue cinema and cinema club licences.
11. Power to license sex shops, sexual entertainment venues and sex cinemas.
12. Power to license performances of hypnotism.
13. Power to register licence premises for acupuncture, tattooing, ear piercing and electrolysis.
14. Power to license pleasure boats and pleasure vessels.
15. Power to license market and street trading.
16. Duty to keep list of persons entitled to sell non-medicinal poisons.
17. Power to license dealers in game and the killing and selling of game.
18. Power to license scrap yards.
19. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.
20. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.
21. Power to license premises for the breeding of dogs.
22. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.
23. Power to register animal trainers and exhibitors.
24. Power to license zoos.
25. Power to license dangerous wild animals.
26. Power to license persons to collect for charitable and other causes.
27. Power to grant consent for the operation of a loudspeaker.
28. Power to issue licences for the movement of pigs.
29. Power to permit deposit of builders’ skip on highway.
(30) Power to sanction use of parts of buildings for storage of celluloid.
(31) Power to approve meat product premises.
(32) Power to approve premises for the production of minced meat or meat preparations.
(33) Power to approve dairy establishments.
(34) Power to approve egg product establishments.
(35) Functions relating to sea fisheries.
(36) Power to approve fish products premises.
(37) Power to approve dispatch or purification centres.
(38) Power to register fishing vessels on board which shrimps or molluscs are cooked.
(39) Power to approve factory vessels and fishery product establishments.
(40) Power to register auction or wholesale markets.
(41) Duty to keep register of food business premises.
(42) Power to register food business premises.
(43) Power to make closing orders with respect to take-away food shops.
(44) Functions under any of the “relevant statutory provisions” within the meaning of Part 2 (Health, Safety and Welfare in Connection with Work, and Control of Dangerous Substances) of the Health and Safety at Work etc Act 1974, to the extent that those functions are discharged otherwise than in the authority’s capacity as an employer.
(45) Power to grant street works licence under Section 50 of the New Roads and Street Works Act 1991.
(47) Power to appoint to any necessary Working Parties as required in connection with any of the functions that are the responsibility of the Committee.
(48) Power to discharge the licensing functions under the Gambling Act 2005.
(49) Power to discharge the Licensing functions under the Licensing Act 2003.

Hearing and determination of applications in respect of certain categories of licensable activities under the Licensing Act 2003 and Gambling Act 2005 are delegated to be heard and determined by a sub-committee of 3 members drawn from a pool of the 15 members from time to time sitting on the Licensing Committee. A substitute member will also be nominated for each hearing but will only take part in the proceedings should one of the three members be unable to take part. The following category of applications are delegated for hearing and determination by any such sub-committee:

- **Application for personal licence**
  - If a police objection
- **Application for personal licence with unspent convictions**
  - All cases
- **Application for premises licence/club premises certificate**
  - If a relevant representation made
- **Application for provisional statement**
  - If a relevant representation made
- **Application to vary premises licence/club premises certificate**
  - If a relevant representation made
Application to vary designated premises supervisor
If a police objection

Application for transfer of premises licence
If a police objection

Applications for interim authorities
If a police objection

Application to review premises licence/club premises certificate
All cases

Decision to object when local authority is a consultee and not the lead authority
All cases

Determination of a police or Environmental Health representation to a temporary event notice
All cases

Applications for sex shop, sexual entertainment venue and sex cinema licences
All cases

All cases
Article 6 - Overview & Scrutiny Committee

Form and Composition

The Council will appoint 13 Councillors to an Overview & Scrutiny Committee to discharge the functions conferred on the Council by Section 21 of the Local Government Act 2000, and any relevant regulations. No member of the Overview & Scrutiny Committee may be a member of the Cabinet. Proceedings of the Overview & Scrutiny Committee shall take place in accordance with the Overview & Scrutiny Procedure Rules.

The Overview & Scrutiny Committee exercises overall responsibility for the finances made available to it and the work programme of the Officers employed to support its work.

General role of the Overview & Scrutiny Committee

Within its terms of reference, the Overview & Scrutiny Committee will:

(a) Review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council’s functions (particularly having regard to the Council’s adopted and budgeted Strategic Direction).

(b) Make reports and/or recommendations to the Full Council and/or the Cabinet and/or any policy, joint or area committee in connection with the discharge of any functions.

(c) Consider any matter affecting the District Council area or its inhabitants.

(d) Consider petitions which have attracted of over 600 and up to 1199 signatures and make recommendations to the Full Council and or Cabinet in accordance with the Petitions Protocol.

(e) Exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Cabinet or Cabinet members exercising delegated powers.

(f) Report annually to Full Council on its workings and make recommendations for future work programmes and amended working methods if appropriate through the Council’s Annual Governance Statement.

(g) Create any Working Parties as required in connection with any functions that are the responsibility of the Committee.

Specific functions of the Overview & Scrutiny Committee

(a) Policy development and review

(i) assist the Council and the Cabinet in the development of its Budget and Policy Framework by in depth analysis of policy issues;

(ii) conduct research, community and other consultation in the analysis of policy issues and possible options;

(iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;

(iv) question members of the Cabinet and/or Committees and Chief Officers about their views on issues and proposals affecting the area;
(v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working; and

(b) Scrutiny

(i) comment upon and make recommendations to Council (via the Cabinet) on the Council's Statement of Accounts, income and expenditure and balance sheet or record of receipts and payments prior to audit;

(ii) review and scrutinise the decisions made by and the performance of the Cabinet, Cabinet members exercising delegated powers and Council Officers both in relation to individual decisions and over time;

(iii) review and scrutinise the performance of the Council and the Cabinet in relation to its policy objectives, performance targets and/or particular service areas (particularly having regard to the Council's adopted and budgeted Strategic Direction);

(iv) question members of the Cabinet and/or committees and Chief Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;

(v) make recommendations to the Cabinet and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;

(vi) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Committee and local people about their activities and performance;

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

In performing its ‘Scrutiny’ role, the Committee will act in accordance with the Scrutiny Committee Guidelines.
Article 7 – Audit and Governance Committee

Form and Composition
The Council will appoint 7 Councillors to the Audit & Governance Committee. The Committee must be politically balanced. Members of the Cabinet, Group Leaders and the Chair of Overview & Scrutiny Committee must not be a member of the Audit & Governance Committee. There shall be at least 4 meetings of the Audit & Governance Committee in each municipal year.

One or more Parish or Town Councillors may be co-opted onto the Committee when considering the outcome of an Investigation in relation to a complaint against a Parish or Town Councillor.

Training in quasi-judicial matters will be made available to all members of the Audit & Governance Committee. Any member who has not taken part in such training as deemed necessary by the Monitoring Officer to the Council will not be permitted to sit at meetings of the committee or attend such meetings as a substitute.

Terms of Reference
Audit Activity
- To review the appropriateness of the proposed annual and medium term (3 year) plan for internal audit activity across the Council and the bodies for which it either holds accountable body status or areas which are contracted out but require further assurance or investigation.
- To consider the Head of Internal Audit’s annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council’s corporate governance arrangements.
- To consider summaries of specific internal audit reports as requested by the Audit & Governance Committee.
- To consider any reports dealing with the management and performance of the internal audit service.
- To consider a report from internal audit on agreed recommendations not implemented within a reasonable timescale.
- To consider the external auditors’ annual letter, relevant reports, and the report to those charged with governance.
- To receive any detailed responses to the external auditors’ annual letter.
- To consider specific reports as agreed with the external auditor.
- To comment on the scope and depth of external audit work and to ensure it gives value for money.
- To liaise with the Audit Commission over the appointment of the Council’s external auditors.
- To commission work from internal and external audit.
Constitution of Waveney District Council

Regulatory Framework / Risk Management

• To maintain an overview of the Council’s Constitution in respect of Contract Procedure Rules, and financial regulations.

• To monitor the effective development and operation of risk management and corporate governance in the Council.

• To assess the robustness of the Council’s risk management and corporate governance processes and make recommendations to the Cabinet for improvement as appropriate.

• To monitor Council policies on “Whistleblowing” and “Anti-Fraud and Corruption” and the Council’s complaints process.

• To oversee the production of and approve the Council’s Annual Governance Statement. In undertaking this task to take a view as to the robustness of the information presented and inherent risks associated on a backward and forward looking basis.

• To consider the Council’s arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.

• To consider the Council’s compliance with its own and other published standards and controls.

• To investigate the robustness of the Section 151 Officer’s assessment of risk during the budget process in particular the level of balances and provisions held, the inherent risk within the authority both in terms of track record and capacity to deliver agreed policies etc.

Accounts

• To review and approve the unqualified annual statement of accounts in line with the statutory requirements including those relating to the publishing deadlines. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council. If the statement of accounts is qualified it will be debated by Full Council.

• To consider the external auditors’ report to those charged with governance on issues arising from the audit of the accounts.

Reporting Mechanism

• To make recommendations as appropriate to the Cabinet and Council arising from the consideration of any issues within the remit of the Committee, including the review of any issue referred to the Committee by the Chief Executive or a Director or any Council body.

Ethical Framework

• To create and monitor the Ethical Framework of the Council and particularly to include:

  • Promoting and maintaining high standards of conduct by members, any co opted members and officers of the Council when they are acting in that capacity.

  • Developing and monitoring Codes of Conduct and protocols for members and employees of the Council and to make any necessary recommendations on these to the Council.

  • From time to time reviewing and recommending any amendments to the Codes, subject to consultation with Cabinet where amendments are proposed to Codes or protocols applying to Members/employees of the Council.
• Adopting and maintaining ‘arrangements’ in relation to allegations of failure by members and co opted members to comply with the Suffolk Code of Conduct, and any failure by a Parish or Town Councillor within the district to comply with the Code of Conduct adopted by the relevant Parish or Town Council.

• To consider and determine whether to uphold any finding by the Independent Person, of an alleged breach of the relevant Code of Conduct, following investigation, by a member or co opted member of the Council, or member of a Town or Parish Council.

• To make representations to the Local Government Association and Central Government or other organisations, about any matter relating to the general principles of conduct for Members or employees of the Council.

• To consider and make any relevant recommendations to Council that will improve the effective discharge of Council functions, in relation to any of the following policy or protocols forming the Council’s Ethical Framework:
  (a) Protocol on Councillor/Officer relations,
  (b) Protocol for Officers and Members dealing with planning matters,
  (c) Protocol for Officers and Members dealing with licensing matters,
  (d) Protocol on use of IT facilities by Councillors.

• To consider and determine any issues in connection with the Public Interest Disclosure Act 1998 or any other legislation which appears to the Committee to be relevant.

• To be responsible for liaison between the Council and external agencies, District Auditor and the Local Government Ombudsman, in connection with any matter within the Committee’s terms of reference.

• To provide advice and guidance to Members and employees and make arrangements for training in connection with any matters within the terms of reference of the Committee.

• To consider written requests for dispensation from District Councillors when one or more of following circumstances arise:
  (a) That so many members of the decision-making body have Disclosable Pecuniary Interests in a matter that it would “impede the transaction of the business”. In practice this means that the decision-making body would be inquorate as a result;
  (b) That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter;
  (c) That the Committee considers that the dispensation is in the interests of persons living in the authority’s area;
  (d) That, without a dispensation, no member of the Cabinet would be able to participate on this matter; or
  (e) That the Committee considers that it is otherwise appropriate to grant a dispensation.

• To consider any appeals against the Monitoring Officer’s refusal to grant a dispensation.

• To consider and deal with Ethical Framework issues arising from internal and external audit reports and complaints against the Council.
• To receive six monthly reports of the Monitoring Officer regarding the suitability and robustness of the “arrangements” for dealing with complaints against members of the Council or Town and Parish Councils.

• To monitor and evaluate the Constitution and democratic processes thereunder and in consultation with the Monitoring Officer recommend changes to its content in order to improve governance or in direct response to a Motion passed by Council to undertake a review.

• To provide an annual report to the Council on the work of the Committee and the level of compliance with the Council’s Ethical Framework through the Council’s Annual Governance Statement.
Article 8 - Joint Arrangements

Joint Arrangements

In order to promote the economic, social or environmental well-being of the district, the Council or the Cabinet may:

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

Exercise of Functions through Joint arrangements

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

The Cabinet may establish joint arrangements with one or more local authorities to exercise functions that are Cabinet functions. Such arrangements may involve the appointment of joint committees with these other local authorities.

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.

The Cabinet may appoint members to a joint committee from outside the Cabinet in the following circumstances:

(a) The joint committee has functions for only part of the area of the authority, and that area is smaller than two fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint committee any Councillor who is a member for a Ward that is wholly or partly contained within the area. The political balance requirements do not apply to such appointments.

(b) The joint committee is between a County Council and a single District Council and relates to functions of the Cabinet of the County Council. In such cases, the Cabinet of the County Council may appoint to the joint committee any Councillor who is a member for an electoral division which is wholly or partly contained within the area. The political balance requirements do not apply to such appointments.

Access to Information

The Access to Information Rules in this Constitution apply to joint arrangements.

If all the members of a joint committee are members of the Cabinet in each of the participating authorities, then its access to information regime will be the same as that applied to the Cabinet. Therefore, if an item of business would ordinarily be placed on the confidential part of an agenda of the Councils’ Cabinets, then that business must be considered in private by the joint committee.

If the joint committee contains members who are not on the Cabinet of any participating authority then the access to information rules in Part 5a of the Local Government Act 1972 will apply. This means that any matters which concern the personal details of staff or clients, legal actions or the financial and business affairs of individuals or companies must be considered in private.
Delegation to and from other Local Authorities

The Council may delegate functions to another local authority or, in certain circumstances, the Cabinet of another local authority.

The Cabinet may delegate Cabinet functions to another local authority or the Cabinet of another local authority in certain circumstances.

The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

Contracting Out

The Council, for functions which are not Cabinet functions, and the Cabinet, for Cabinet 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.
Article 9 - Decision Making

Principles of Decision Making

All decisions of the Council will be made in accordance with the principle that the Council’s aim in its decision making is to make the process efficient, transparent and accountable so that it can be open and responsive to the needs of the people within the Waveney district. It will ensure that, as far as reasonably possible, the public know:

- What decision is planned to be made.
- Who is responsible for the decision.
- How they can make a contribution to the decision and at what point in the process they can best influence the decision maker.
- How to access information about decisions.

In order to achieve this, the Council has adopted the following principles of good decision making:

- Action taken will be proportionate to the desired outcome.
- Due internal and external consultation will be undertaken and professional advice sought from Officers.
- Human rights, including issues of equality and diversity, will be fully considered and respected.
- There will be a presumption in favour of openness.
- Through its strategies, objectives and Forward Plan of Key and Exempt Decisions the Council will seek to achieve and maintain clarity of aims and desired outcomes.

It should be noted however that failure to comply with any relevant part of the Constitution will not necessarily invalidate any decision.

Decision Making by the Full Council

The Council will follow the Council Procedure set out in this Constitution when considering any matter at Council. Decisions relating to the functions listed in Article 3 are reserved to Full Council. They will therefore be made by the Full Council and not delegated.

Decision Making by the Cabinet or Individual Cabinet Members with Delegated Authority

The Cabinet will follow the Cabinet Procedure set out in this Constitution when considering any matter. A Cabinet decision means a decision made or to be made by a decision maker in connection with the discharge of a function, which is the responsibility of the Cabinet of the Council.

A Cabinet Decision is known as a Key Decision if it is likely to:

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

(b) be significant in terms of its effects on communities living or working in an area comprising two or more Wards or electoral divisions in the area of the local authority.
A decision taker may only make a Key Decision in accordance with the requirements of the Access to Information Procedure Rules set out in this Constitution

Decision Making by the Overview & Scrutiny Committee

The Overview & Scrutiny Committee will follow the Overview & Scrutiny Procedure set out in this Constitution when considering any matter.

Decision Making by Other Committees and Sub-Committees Established by the Council

Other Council Committees and sub-committees will follow those parts of the Council Procedure set out in this Constitution as apply to them.

Decision Making by Officers

Officers making decisions will follow the guidance set out in the relevant parts of the Council’s Ethical Framework.

Decision Making by Council Bodies Acting as Tribunals

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

Scheme of Delegated Authority to Cabinet Members

The Council operates a scheme under Section 14 of the Local Government Act 2000 whereby powers and duties of the Cabinet are delegated to individual members of the Cabinet (Portfolio Holders). Each Portfolio Holder exercising such delegation will do so within his/her area of responsibility.

The number of Portfolio Holders and their areas of responsibility shall be determined from time to time by the Leader of the Council. The Leader shall notify the Council of the names of the members of the Cabinet who have been appointed to a position of Portfolio Holder.

If at any time a Portfolio Holder is not available to exercise a power of decision making, the Leader of the Council may exercise such power in his/her stead. If neither the Portfolio Holder nor Leader is available then the Deputy Leader of the Council may exercise such power in their stead.

A Portfolio Holder must be a member of the Cabinet. If at any time a Portfolio Holder ceases to be a member of the Cabinet, any delegation to him/her shall immediately cease and be of no effect.

The scheme does not delegate to a Portfolio Holder:

(a) Any matter that by law is reserved to the Council or another of its committees or which may not be exercised by the Cabinet.

(b) Any matter that the Council expressly reserves to itself or a Committee of the Council (other than the Cabinet).

(c) Any matter that is reserved to the Cabinet as a whole. The following Cabinet functions are included in matters reserved to the Cabinet as a whole (although the Portfolio Holder may make recommendations on any of these matters to the Cabinet):

• Capital Programme – preparation and recommendation to Full Council.
• Budgets – preparation and recommendation to Full Council.
• Forward Plan of Key and Exempt Decisions – submission of a quarterly report to Full Council.
• Housing Strategy.

(d) Any matter delegated to and the responsibility of the Head of Paid Service, the Section 151 Officer or the Monitoring Officer.

A Portfolio Holder may only exercise a delegation in accordance with:

(a) Any relevant policies, plans or programmes approved by or on behalf of the Council (including its Corporate Strategy).

(b) Any relevant Budget provision as approved by the Council.

(c) The relevant constitutional requirements of the Council, having particular regard to any Procedure Rules and Codes and protocols.

(d) Any relevant statutory restrictions, statutory guidance or statutory Codes of practice.

(e) All relevant capital and revenue budgets approved by the Council from time to time for his/her area of responsibility or generally.

Any decision made by a Cabinet Member that constitutes a Key Decision must be made in accordance with the Access to Information Procedure Rules.
Scheme of Delegated Authority to Officers

This is the list of delegations to Officers under Section 101 of the Local Government Act 1972, Section 14 of the Local Government Act 2000 and all other powers enabling delegation to Officers. It is adopted with the intention of giving a streamlined, clear and simple decision making process. Where an Officer has delegated powers, the Council or the Cabinet or a committee (as appropriate) can still exercise that power in a particular case if it considers it appropriate to do so.

References to powers of “the Council” include the powers exercisable by the Cabinet.

Each delegation may be read on its own unless it is specifically expressed to be subject to another.

All delegations to Officers are subject to:

- Statutory requirements (the scheme does not delegate any matter to an Officer which cannot by law be delegated to an Officer).
- Council Articles and Procedure Rules.
- The Council’s policies.
- Matters specifically excluded from delegation by this scheme or by another decision by resolution of a Council or a committee or sub-committee.
- The requirements of the Chief Executive and/or the Corporate Management Team in relation to the overall management and co-ordination of the Council’s affairs.
- Financial provision having being made within the relevant budget for the likely financial consequences of any decision.

NOTE: If an officer intends to make a decision which is likely

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

- to be significant in terms of its effects on communities living or working in an area comprising two or more Wards or electoral divisions in the area of the Council

this will be a Key Decision and must be included in the Forward Plan of Key and Exempt Decisions and can only be decided at a formal meeting following publication of an appropriate agenda.

All Officers of the Strategic Management Team have individual delegated authority to:

(1) Publish information about the Council’s services including deciding the content of any publication in consultation with the Leader of the Council.

(2) Exercise the Council’s powers to prepare for and deal with any disaster or emergency affecting life or property in the Waveney district.
(3) Subject to the Council’s Contract Procedure Rules about contracts, to enter into contracts which:
   (a) WILL NOT result in net expenditure beyond the amount remaining for that year under the appropriate budget heading for that service area;
   (b) are entered into for any purpose that they consider relates to their service area;
   (c) this delegation expressly includes the power to enter into ‘partnership’ contracts with others where the Council will receive money and advertising.

(4) Terminate any Council contract.

(5) Recruit employees and workers including temporary and casual workers within the existing establishment budget and policies.

(6) Subject to the Officer Employment Procedure Rules and to the Council’s Disciplinary and Grievance Procedures to take disciplinary action (including but not limited to suspension) against employees.

(7) Dismiss employees.

(8) Manage employees which expressly includes:
   (a) to grant special leave of absence with pay on compassionate grounds, not exceeding 4 weeks in any leave year;
   (b) to grant unpaid leave of absence;
   (c) to transfer employees between service areas;
   (d) to grant honoraria in accordance with Council’s policies;
   (e) to authorise back payments to workers where entitlement has been established under their contract or Council policy.

All Officers of the Corporate Management Team have individual delegated authority to:

(1) Take any action which the Council has power to take in order to manage their service area including the power to apply for any registration, licence or consent in connection with the service area.

(2) Publicise the services they provide (for example by publishing leaflets or information on the internet).

(3) Serve any notice that the Council has power to serve in order to find out which people have an interest in any land.

(4) Decide the terms upon which services will be provided to the public (which may include providing services on different terms to different individuals or classes of individuals).

(5) Temporarily change opening hours for premises.

(6) In consultation with the Head of Legal and Democratic Services to ban people from the premises they manage.

(7) Assist any outside body concerned with the Manager’s service area and to make representations to them (but representations given must not conflict with Council policy).
(8) Take steps to implement a decision of the Council, a committee or sub-committee or Cabinet (including Cabinet members exercising delegated powers).

(9) Exercise the Council’s powers to enter land (and authorise others to enter land).

(10) Instruct the Head of Legal and Democratic Services with respect to any matter concerning the service area.

(11) Carry out works which the Council has power to carry out in connection with any function delegated to them (including the power to carry out works in default) and to take any steps to recover the money spent on carrying out works in default (including charging land).

(12) Exercise the Council’s powers to promote or improve the economic social and environmental well-being of the Waveney district provided that this is connected with their service area and does not involve expenditure outside the budget.

(13) Exercise the Council’s powers in connection with any apparently lost, abandoned or uncollected property (including vehicles).

(14) Administer formal cautions after a review of the evidence by the Head of Legal and Democratic Services.

(15) Act in accordance with paragraph 3.9 of the Financial Procedure Rules and paragraph 7 of the Contract Procedure Rules.

In relation to Heads of Service paragraphs 1 to 15 above are limited to the extent that individual Heads of Service are NOT authorised to make decisions that:

- Result in the Council incurring expenditure, or the making of savings (including from disposal of land), in excess of £10,000 (other than where accepting tenders under the Contract Procedure Rules).
- Grant a lease of longer than 21 years.
- Dispose of any part of the Lowestoft Museum’s collections nor place them on permanent loan.

In addition Heads of Service are NOT authorised to make decisions:

(a) Where, before expiry of the public consultation period, a Councillor makes a written request for a planning application to be considered by the Development Control Committee. This request must be referred to the Chairman (or in their absence the Vice-Chairman) of that Committee. The ultimate decision to refer the application to Committee rests with the Chairman, whose decision is final. A record of the Chairman’s decisions will be kept in order to assess any future changes that may be needed to the scheme of delegations.

Note: any such request must be on the nominated form and clearly state the planning grounds on which the Member considers the matter should stand referred to Committee. No referral will be accepted from Members who have not undertaken appropriate training in what constitutes a planning ground. Appropriate training will be training that is deemed appropriate by the Monitoring Officer. Members will have to declare on the form whether they have been lobbied and by whom and in what manner. All forms will be received and kept by the relevant Head of Service in order to assess any future changes that may be needed to the scheme of Officer delegations.
If a Member having used the call-in provision subsequently changes his or her mind they must inform the Chairman or Vice Chairman at least 14 days before the relevant Committee is due to hear the application. The final decision as to whether to cancel the call-in rests with the Chairman.

(b) Where the proposal is for:
   (i) a residential development of 15 or more dwellings or a site of 0.5 hectares or more where the number of dwellings is not shown;
   (ii) industrial floor space of 5000m\(^2\) or more;
   (iii) all other developments where the floor space is 1000m\(^2\) (gross) or more, or the site is 1 hectare or more.

(c) Where the proposed development involves a significant breach of planning policy or other planning guidelines and where it is proposed to approve the application.

(d) Where the applicant is a Member of the Council, the Council’s Senior Management Team, a Principal Service Manager, a member of the Development Control or Planning Policy Teams or any member of staff who could be considered to have a direct input to, and therefore influence on, application decisions.

(e) Where the proposal involves the District Council, the County Council or a government department, either as applicant or land owner and the scheme is not of a minor nature or where these is likely to be substantial local interest.

(f) Where the application is for a certificate of alternative development.

(g) Where the application involves hazardous substances consent.

(h) To revoke any relevant hackney carriage or private hire licence.

(i) To refuse to grant any application for a licence, unless the application fails to meet the Council’s policies from time to time in force.

(j) To suspend any vehicle licence, unless:
   (i) the relevant Head of Service considers that the condition of the vehicle is such as that the vehicle is unfit for use as a private hire vehicle or a hackney carriage or that there is reasonable cause for the immediate suspension of the licence; or
   (ii) the licence holder is unable to demonstrate to the satisfaction of the Head of Service that the vehicle has insurance permitting it to be used as the kind of vehicle that it is licensed as; or
   (iii) a driver’s licence has been suspended and the driver requests that the vehicle licence is also suspended; or
   (iv) the Head of Service is satisfied the vehicle has a faulty or unsealed meter.

(k) To suspend any driver’s licence unless the Head of Service, after consulting the Chairman of the Licensing Committee, considers this to be urgently necessary in the public interest.
The Head of Legal & Democratic Services has specific delegated authority to:

(1) Institute, defend, prosecute or appear in any legal or other proceedings on behalf of the Council (including proceedings to seek warrants).

(2) Compromise or settle any threatened or actual legal proceedings where they consider that there is no reasonable prospect of success. This will not apply to any financial settlements (see 3 below).

(3) After consultation with the Section 151 Officer and the appropriate instructing Officer of the Council's instructing service area to settle claims, or any part thereof, brought by or against the Council up to a maximum sum of £10,000 in any one case.

(4) Authorise Officers to appear in legal proceedings on behalf of the Council.

(5) Instruct or brief Counsel and to instruct external solicitors on any matters likely to affect the interests of the Council.

(6) Sign and serve all notices prior to or in the course of proceedings in accordance with any statutory powers or any functions of the Council.

(7) Make determinations in respect of Certificates of Lawfulness of existing use or development or proposed use or development.

(8) Authorise surveillance for the purpose of any of the Council’s functions which the Manager has a responsibility for enforcing or investigating.

(9) Delegated authority to dispose of Council dwellings under the “Right to Buy” Provisions at a consideration to be determined in accordance with the Right to Buy Regulations.

(10) To make all decisions required of the Council in its capacity as a Responsible Authority including the making of representations and calling for review of a licence.

The Head of Strategic Housing and Tenant Services has specific delegated authority to undertake Introductory Tenancy Reviews in consultation with a Legal Adviser. The reviews will be undertaken on the basis of documentary evidence, with the tenant given the opportunity to be present in person if they so wish and have notified the Council in advance. Where any potential appearance of bias is evident through prior involvement, the Review will be undertaken with the additional input of the Portfolio Holder with responsibility for Housing (or a Portfolio Holder nominated by them in their absence) to give an impartial perspective.

The Head of Customer Services and Commercial Partnership has individual delegated authority on behalf of the Council to discharge fully the functions of managing operations at Southwold Harbour Authority within the port safely and efficiently as the designated Duty Holder.

The Director of Resources has delegated authority for the administration of the Localised Council Tax Reduction Scheme.

Power of Officers to further delegate their authorisations to other Officers

Officers with delegated powers (as set out above) may in writing authorise another Officer or Officers to exercise those powers where those Officers are qualified to do so. Such authorisations may be subject to limitations and conditions. The Officer with the delegated powers shall keep a register of all authorisations granted. Copies must also be sent to the Monitoring Officer, and in addition financial delegations, to sign orders/requisition cheques etc, sent to the Section 151 Officer and the Chief Internal Auditor.
Transfer of delegated Officer authorisations

Where the name of a post is changed, any delegated powers possessed by the post shall be retained by the renamed post.

Where a service area is restructured, the Chief Executive shall have authority to re-allocate the delegated powers to other posts.

Where a post is vacant an employee takes on the duties of the post in an “acting” capacity, they have the same delegated powers that they would have if they held the post.

The delegated powers held by a post may be exercised by the Line Manager of that post (or by the Line Manager’s Line Manager) if:

(a) that post is vacant;

(b) the post holder is not at work for any reason.

NOTE: The statutory functions of the Monitoring Officer, section 151 Officer and inspectors appointed under any legislation, cannot be delegated or transferred. These officers can delegate tasks to another appropriate officer to carry out, on a case by case basis, and may appoint named deputy monitoring officers or section 151 officers even where such tasks are delegated. However ultimate statutory responsibility cannot be delegated or transferred and will at all times remain with the appointed statutory officer.
### Article 10 - Officers

#### General

The use of the word “Officers” means all persons appointed to or holding a paid office or employment within the Council.

The use of the words “Councils” means Suffolk Coastal District Council and Waveney District Council.

#### Head of Paid Service and Chief Officers

The Council engages the following persons with specific responsibilities and who will also hold the statutory posts set out below:

<table>
<thead>
<tr>
<th>Post</th>
<th>Functions and Areas of Responsibility</th>
<th>Statutory Post</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chief Executive</td>
<td>Overall corporate joint management and operational responsibility, including overall management responsibility for all Officers of the Council.</td>
<td>Head of Paid Service - Local Government and Housing Act 1989 - Section (4)1</td>
</tr>
<tr>
<td></td>
<td>Provision of professional advice to all parties in the decision making processes of the Council.</td>
<td>Proper Officer - Local Government Act 1972 - Section 280 (3)</td>
</tr>
<tr>
<td></td>
<td>Together with the Monitoring Officer, responsibility for a system of record keeping for all the decisions of the Council.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Economic Development, Regeneration, Planning and Tourism.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Representing the Council on partnership and external bodies (as required by statute or the Council).</td>
<td></td>
</tr>
<tr>
<td>Assistant Chief Executive</td>
<td>Community Development and Engagement, Corporate Health &amp; Safety, Democratic Services, Electoral Services, Housing, Human Resources, Legal and Licensing, Waveney Local Strategic Partnership, Planning including Development Control, Building Control, Planning Policy, Coastal Management and Land Drainage.</td>
<td>Monitoring Officer - Local Government and Housing Act 1989 - Section 5(1)</td>
</tr>
<tr>
<td></td>
<td>Returnng Officer (Local Government Election) - Representation of the People Act 1983 - Section 35</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Electoral Registration Officer - Representation of the People Act 1983 - Section 8</td>
<td></td>
</tr>
</tbody>
</table>
Functions of the Head of Paid Service

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. This will include determining and publicising a description of the overall departmental structure of the Council, showing the management structure and deployment of Officers.

In the absence of the Council’s Monitoring Officer, to be the qualified person for the purposes of Section 36 of the Freedom of Information Act 2000.

(Note: the Head of Paid Service may not be the Monitoring Officer, but may hold the post of Section 151 Officer if a qualified accountant).

Functions of the Monitoring Officer

Maintaining the Constitution - to maintain an up to date version of the Constitution and ensure that it is widely available for reference by Members, staff and the public.

Proper Officer for access to information – to 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.

Freedom of Information & Data Protection Act – to be the primary qualified person for the purposes of Section 36 of the Freedom of Information Act 2000.

To advise whether Cabinet decisions are in accordance with the Budget and Policy Framework.

To 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.

Ensuring lawfulness and fairness of decision making - after consulting with the Head of Paid Service and Section 151 Officer, to report to the Full Council (or to the Cabinet in relation to a Cabinet 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.

To contribute to the promotion and maintenance of high standards of conduct through provision of support to the Audit & Governance Committee. To conduct (or his nominated representative conduct) investigations into matters following consultation with the “Independent Persons” in accordance with the “Arrangements” for dealing with complaints related to a breach of the Code of Conduct and to make reports or recommendations to the Audit & Governance Committee.

To consider and determine written requests for dispensations from Councillors on any issues that relate to or concern any Council business or discussions which relate to a Councillor’s Disclosable Pecuniary Interest (‘DPI’) when one or more of the following circumstances arise :-

| Strategic Director | Customer Services, Emergency Planning, Environmental Services, Leisure and Culture, Corporate Health & Safety, Countryside Management and Port Health. | None |
(a) when so many members of the decision-making body have DPIs in a matter that it would “impede the transaction of the business”. In practice this means that the decision-making body would be inquorate as a result;

or

(b) when without a dispensation, no member of the Cabinet would be able to participate on this matter;

or

(c) when a Councillor wishes to attend one of the regulatory Committee but only for the purpose of making representations, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

To appoint a Deputy Monitoring Officer. The Deputy Monitoring Officer will have power to act in the absence of the Monitoring Officer with respect to all functions the responsibility of the Monitoring Officer and where the Deputy Monitoring Officer is so acting all references in the Constitution to the Monitoring Officer shall be construed as also referring to the Deputy Monitoring Officer.

(NOTE: the Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service).

Functions of the Section 151 Officer

Administration of financial affairs – to be responsible for the administration of the financial affairs of the Council.

Contributing to corporate management – to contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

Providing advice – to provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Councillors and to support and advise Councillors and Officers in their respective roles.

Give financial information - to provide financial information to the media, members of the public and the community.

Ensuring lawfulness and financial prudence of decision making - after consulting with the Head of Paid Service and the Monitoring Officer, to report to the Full Council or to the Cabinet (in relation to a Cabinet function) and the Council’s external auditors if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully.

Further functions of the Section 151 Officer are identified in the Financial Procedure Rules set out in this Constitution.

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 those Officers’ opinion sufficient to allow their duties to be performed.

Corporate Management Team

The concept of corporate management - that all parts of the local authority should work together to achieve the aims and objectives of the Council rather than working individually in departments - has
been adopted by the Council through the establishment of a Corporate Management Team of the Head of Paid Service, Chief Officers and Deputy Chief Officers (Heads of Service). The Head of Paid Service will determine membership of the Corporate Management Team.

Most major items are considered by the Corporate Management Team before submission to the Cabinet or other appropriate member level decision making body so that the implications of any matter on the Council’s administration can be considered.

**Conduct**

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

**Employment**

The appointment, dismissal and disciplining of Officers will comply with the Officer Employment Procedure Rules set out in this Constitution.

**Proper Officer**

For the purposes of this Constitution, where the term "Proper Officer" is used, this means the Chief Executive, or such person authorised by him/her, unless otherwise stated.
Article 11 – Employment Related Committees

Joint Appointments Committee

- The Council shall appoint a Joint Appointments Committee of a total of 6 Members comprised of an equal share of Councillors from the Council and Suffolk Coastal District Council, which shall be responsible for the appointment of the Head of Paid Service, the Section 151 Officers, the Monitoring Officers, the Directors, and the Heads of Service. The membership from each Council will be comprised of:
  - The Leader or Deputy leader of the Council in their absence.
  - The Cabinet Member for the Service Area concerned or another Cabinet in their absence.
  - One Member of the Opposition (or nominated Substitute).
  - The Chair will be the Leader/Deputy leader of the Council who will be the “employing authority”.
  - The Chair will not have a casting vote and appointments can only be made where there is a majority vote by both Councils in favour of an individual candidate.

Disciplinary and Appeals Committee

The Committee shall consist of 20 members, of which at least two will be Cabinet members. The Committee shall be politically and gender balanced where practical.

Training in quasi-judicial matters will be made available to all members of the Disciplinary and Appeals Committee. Any member who has not taken part in such training as deemed necessary by the Monitoring Officer to the Council will not be permitted to sit at meetings of the committee or any sub-committee or attend such meetings as a substitute.

The Disciplinary and Appeals Committee is responsible for:

Disciplinary

A quorum of five members of the Committee, at least one of which shall be a Cabinet member, will be responsible for:

(a) The dismissal of the Head of Paid Service, the Section 151 Officer, the Monitoring Officer, the Directors, and the Heads of Service.

(b) Any disciplinary action concerning the Head of Paid Service, the Section 151 Officer, the Monitoring Officer, the Directors and the Heads of Service.

(Note: the Officer Employment Procedure Rules in relation to the need to have regard to any recommendation from a Designated Independent Person where disciplinary action is proposed against the Head of Paid Service, the Section 151 Officer or the Monitoring Officer).

(c) The suspension of the Head of Paid Service, the Section 151 Officer, the Monitoring Officer, the Directors, and the Heads of Service.

Exceptionally, where the Committee is considering the suspension of any of the relevant Officers, it may consist of a minimum of four members bearing in mind the exceptional need for an early decision in cases where suspension is contemplated.

(Note: under the Officer Employment Procedure Rules where the Disciplinary Committee is considering
the dismissal of the Head of Paid Service, the Council must approve any proposed dismissal before any notice of dismissal is given to the Head of Paid Service).

**Appeals**

A quorum of five members of the Committee, none of whom can be a Cabinet member or any of the members who considered the original disciplinary matter, will be responsible for hearing appeals from employees under the Council’s disciplinary procedure, grievance procedure and re-grading procedure, probation procedure and capability procedure.
Article 12 - Finance, Contracts and Legal Matters

Financial Management

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

Contracts

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

Legal Proceedings

The Head of Legal and Democratic Services is responsible for instituting, defending or participating 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 Council’s interests.

Authentication of Documents

Any document which will be a necessary step into legal proceedings on behalf of the Council and any certified extract of any proceedings of the Council shall be signed by the Head of Legal and Democratic Services or other person authorised by him/her, unless any enactment otherwise requires or authorises, or the Council gives the necessary authority to some other person for the purpose of such proceedings.

Common Seal of the Council

The Common Seal of the Council will be used only as set out in the Contract Procedure Rules in this Constitution.
Article 13 – Review, Revision, Suspension, Interpretation and Publication of the Constitution

Review and Revision

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. In undertaking the 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 Council with those in other comparable Councils, or national examples of best practice.

The Council’s Audit & Governance Committee shall be responsible for monitoring and evaluating the content and effectiveness of the Constitution. The Monitoring Officer has delegated authority, in consultation with the Chairman of the Audit & Governance Committee, to make minor legislative and administrative changes to the Constitution, that do not affect the meaning or level of delegations contained in the Constitution.

Other substantive changes to the Constitution can only be approved by the Full Council after consideration of a proposal by the Monitoring Officer and the recommendations of the Audit & Governance Committee. Where the Full Council approves amendments to the Constitution the Monitoring Officer will update the Constitution with those amendments within 20 working days.

Any person wishing to amend any part of the Constitution may complete the relevant form and submit it to the Audit & Governance Committee to review.

The Council must also take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals for a change from a Leader and Cabinet form of executive arrangement to alternative arrangements.

Suspension of the Constitution

The Articles at Part 2 of this Constitution may not be suspended. The rules however specified at Parts 3 and 4 of the Constitution may be suspended to the extent permitted within those rules and the law.

Interpretation

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 stated purposes of the Constitution. The ruling of the Chairman of the Council or of the Cabinet, committee or forum, as appropriate, as to the interpretation or application of this Constitution or as to any proceedings of the Council, shall be final and no debate shall be permitted upon such decisions.

Publication

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

The Chief Executive will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary. Copies of any updates will be circulated and made available as above.