

PART 2
ARTICLES OF THE CONSTITUTION

ARTICLE 1 – THE CONSTITUTION

1.01 Powers of the Council

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

1.02 The Constitution

This Constitution, and all its appendices, is the Constitution of the South Lakeland District Council.

1.03 Purpose of the Constitution

The purpose of the Constitution is to:

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

1.04 Interpretation and Review of the Constitution

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

The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

ARTICLE 2 – MEMBERS OF THE COUNCIL

2.01 Composition and eligibility

- (a) **Composition.** The Council will comprise 51 members, otherwise called councillors. One or two councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Electoral Commission and approved by the Secretary of State.
- (b) **Eligibility.** Only registered electors of the district or those living or working or owning property there will be eligible to hold the office of councillor.

2.02 Election and terms of councillors

Election and terms. The ordinary election of a third (or as near as may be) of all councillors will be held on the first Thursday in May in each year beginning in 2002, except that in 2005 and every fourth year after there will be no regular election. The terms of office of councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

2.03 Roles and functions of all councillors

- (a) **Key roles.** All councillors will:
- i. collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
 - ii. represent their communities and bring their views into the Council's decision-making process, i. e. become the advocate of and for their communities;
 - iii. deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
 - iv. balance different interests identified within the ward and represent the ward as a whole;
 - v. be involved in decision-making;
 - vi. be available to represent the Council on other bodies; and
 - vii. maintain the highest standards of conduct and ethics.
- (b) **Rights and duties**
- i. Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
 - ii. Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
 - iii. For these purposes, "confidential" and "exempt" information are defined in the Access to Information Procedure Rules in Part 4 of this Constitution.

2.04 Conduct

Councillors will at all times observe the Members' Code of Conduct and the Protocol on Member/ Officer Relations set out in Part 5 of this Constitution.

2.05 Allowances

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

ARTICLE 3 – CITIZENS AND THE COUNCIL

3.01 Citizens' rights

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

- (a) **Voting and petitions.** Citizens on the electoral register for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.
- (b) **Petitions Scheme.** Citizens on the electoral register for the area have the right to request a petition in accordance with the Council's Petitions Scheme as set out in Part 4 of the Constitution.
- (c) **Information.** Citizens have the right to:
 - i. attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - ii. attend meetings of the Cabinet when key decisions are being considered;
 - iii. find out from the forward plan what key decisions will be taken by the Cabinet and when;
 - iv. see reports and background papers, and any records of decisions made by the Council and the Cabinet; and
 - v. inspect the Council's accounts and make their views known to the external auditor.
- (d) **Participation.** Citizens have the right to take part in the Council's public participation scheme and contribute to investigations by overview and scrutiny committees.
- (e) **Complaints.** Citizens have the right to complain or comment to:
 - i. the Council itself under its complaints scheme;
 - ii. the Ombudsman after using the Council's own complaints scheme;
 - iii. the Standards Committee about a breach of the Councillor's Code of Conduct.

3.02 Citizens' responsibilities

Citizens must not be violent, abusive or threatening to councillors or officers and must not wilfully harm things owned by the council, councillors or officers.

ARTICLE 4 – THE FULL COUNCIL

4.01 Meanings

- (a) **Policy Framework.** The policy framework means the following plans and strategies:
- Five Year Strategy
 - Council's Corporate Plan;;
 - **Single Equality Scheme;**
 - Community Engagement Strategy;
 - Sustainable Community Strategy;
 - Comprehensive Equality Policy;
 - Crime and Disorder Reduction Strategy;
 - **Medium Term Financial Plan**
 - **Treasury Management Statement**
 - Procurement and Commissioning Strategy
 - Anti-Fraud and Corruption Strategy
 - Plans and strategies which together comprise the Development Plan, including local development schemes and Development **Framework** documents;
 - Cumbria Housing Strategy;
 - Choice Based Lettings Allocation Policy;
 - Licensing Policy;
 - Statement of Gambling Licensing Policy;
- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.
- (c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

4.02 Functions of the full Council

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution (apart from minor amendments);
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/ or not wholly in accordance with the budget;
- (d) appointing and removing the leader;
- (e) agreeing and/ or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
- (g) adopting an allowances scheme under Article 2.05;
- (h) changing the name of the area or conferring the title of honorary alderman;
- (i) confirming the appointment and dismissal of the head of paid service;
- (j) designating an officer as head of the paid service under section 4 of the Local Government and Housing Act 1989;
- (k) designating an officer as monitoring officer under section 5 of the Local Government and Housing Act 1989;
- (l) designating an officer as chief financial officer under section 151 of the Local Government Act 1972;
- (m) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal bills;
- (n) Resolutions not to pass a Casino Licence; and
- (o) all other matters which, by law, must be reserved to Council.

4.03 Further functions of the Council

Subject to the delegation arrangements determined by the Council, only the Council will exercise the following functions:

- (a) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet;
- (b) those functions relating to elections set out in Part 3 of this Constitution;
- (c) functions in respect of single-member electoral areas and resolutions for schemes of elections; and
- (d) functions with regard to proposals for a change in governance arrangements.

4.04 Council meetings

There are three types of Council meeting:

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

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

4.05 Responsibility for functions

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

ARTICLE 5 - CHAIRING THE COUNCIL

5.01 Role and function of the chairman.

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

1. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary, having regard to the advice of the Corporate Director (Monitoring Officer);
2. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
3. to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet or hold committee chairs are able to hold the Cabinet and committee chairmen to account;
4. to promote public involvement in the Council's activities;
5. to be the conscience of the Council; and
6. to attend such civic and ceremonial functions as the Council and he/ she determines appropriate.

ARTICLE 6 – OVERVIEW AND SCRUTINY COMMITTEES

6.01 Terms of reference

The Council will appoint the overview and scrutiny committees set out in the left hand column of the table below to discharge the functions conferred by section 21 of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000 in relation to the matters set out in the right hand column of the same table. Each Committee will be the parent Committee for task groups set up within their remits.

In addition to the two overview and scrutiny committees, a co-ordinating board will be set up. Its membership will comprise the chairs and vice-chairs of the overview and scrutiny committees, as well as one member appointed by each of the two overview and scrutiny committees (six members in total). With the exception of determination of a Councillor Call for Action, this board has no delegated powers but makes administrative decisions in relation to the work of the overview and scrutiny committees.

The purpose of the board is:-

- (a) to co-ordinate the use of resources available;
- (b) to prioritise scrutiny work programmes;
- (c) to ensure that projects are properly scoped;
- (d) to foster best practice amongst the Overview and Scrutiny Committees
- (e) to report to Council annually on the programme of work and to discuss any improvements to be made;
- (f) to consider whether a Councillor Call for Action should be placed on an overview and scrutiny committee agenda in accordance with the approved Councillor Call for Action Scheme.

Committee	Scope
Resources and Partnerships	All those issues and services relating to the Portfolio Holders for Promoting South Lakeland (Leader), Central Services and Policy, Performance and Resources – press and public relations; Council communication, Local and Cumbria Strategic Partnerships; Local Area Partnerships; relationships with Department of Communities and Local Government, Audit Commission and other authorities at a sub-regional, regional and national level; Strategy and Performance; partnerships with external agencies; corporate complaints; emergency planning; corporate health and safety; legal; Member Services and Committee Administration; customer services; service standards; IT Services; workforce planning, training and development; Human Resources Services; customer relationship and care; policy development; budget monitoring; research and information service; best value; performance management and data quality; asset management; accountancy and strategic finance; payments and administration; insurance and risk management; benefits administration; Council Tax Collection; NNDR Collection; sundry debtors; and the Primary Care Trust; the National Health Service; South Lakes Leisure; South Lakes Housing.

Communities	All those issues and services relating to the Portfolio Holders for Communities and Well Being, Economy and Enterprise, Housing and Development and Environment and Sustainability – Arts and Event; Community Engagement; Equality and Diversity; Community Development; Community Safety; Grants; CCTV; Crime and Disorder Reduction Partnership; Young People/Older People's Projects; Third Sector engagement; Health Development; Leisure and Recreation; Museums; Young People's play activities and facilities; Town Centre management; business support and sector development; Inward Investment; Visitor Management, Development and Caravan Sites; Transportation, Car Parks; Strategic Housing; South Lakes Housing; Conservation; Building/Development Control; Land Charges; Land and Coastal Flooding Protection; Waste Management and Recycling; Street Scene; Parish Lighting; Parks and Grounds Maintenance; Environmental Protection; Public Conveniences; Public Health; Cemeteries and Crematoria; Licensing and Gambling; and the Police Authority; the Fire Authority.
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6.02 General role

Within their terms of reference, overview and scrutiny committees will:

- i. review and/ or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions, and conduct Best Value Reviews on behalf of the Council;
- ii. 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;
- iii. consider any matter affecting the area or its inhabitants; and
- iv. exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Cabinet and/ or any policy or area committees.

6.03 Specific functions

(a) **Policy development and review.** Overview and scrutiny committees may:

- 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, committees and appropriate officers about their views on issues and proposals affecting the area; and
- 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.

- (b) **Scrutiny.** Overview and scrutiny committees may:
- i. review and scrutinise the decisions made by and performance of the Cabinet and/or committees and council officers both in relation to individual decisions and over time;
 - ii. review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/ or particular service areas;
 - iii. question members of the Cabinet and/or committees and officers (Assistant Directors and above) about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
 - iv. make recommendations to the Cabinet and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;
 - v. review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee and local people about their activities and performance; and
 - vi. question and gather evidence from any person (with their consent).
- (c) **Councillor Call for Action.** Overview and Scrutiny Committees may:-
- (i) consider any councillor call for action case referred to them by the Co-ordination Board;
 - (ii) conduct research in considering the issue;
 - (iii) question and gather evidence from any person (with their consent); and
 - (iv) make recommendation or report to the relevant executive body.
- (d) **Finance.** Overview and scrutiny committees may exercise overall responsibility for the finances made available to them.
- (e) **Annual report.** Overview and scrutiny committees must report annually to full Council on their workings.
- (f) **Officers.** Overview and scrutiny committees may exercise overall responsibility for the work programme of the officers employed to support their work.

6.04 Proceedings of overview and scrutiny committees

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

ARTICLE 7 - THE CABINET

7.01 Role

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

7.02 Form and composition

The Cabinet will consist of the Leader, together with the Deputy and at least one but no more than eight other Councillors (up to a maximum of ten Councillors in total), all appointed to the Cabinet by the Leader of the Council and will be considered to be properly constituted, even if not all places are taken up.

7.03 The Leader of the Council

In accordance with the decision of the Council on 28 September 2010, from May 2011 the Leader of the Council, being a Member of the Council, must be appointed by the Council for a four year term (or for up to the end of his/her term of office as a Member, whichever is the shorter).

The Leader of the Council will hold office until he/she –

- resigns from office; or
- is suspended from being a councillor under part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension);
- ceases to be or is disqualified from being a Councillor; or
- is removed from office by resolution of the Council

7.04 Appointment of the Cabinet (Executive) and Scheme of Delegation

The Leader

- (a) Will determine the size of and appointment of between 2 and 9 members of the Cabinet (Executive) in addition to himself/herself
- (b) Will allocate any areas of responsibility (Portfolios) to them
- (c) May remove one or more of them from the Cabinet (Executive) at any time
- (d) Will determine the scheme of delegation for the discharge of the executive functions of the Council
- (e) Will report to Council on all appointments and changes to the Cabinet

Such decisions will only take effect from the day of receipt by the Proper Officer of such decisions in writing.

Cabinet Members may not include the Chairman or Vice Chairman of Council, or Members of any Overview & Scrutiny arrangements.

7.05 Appointment of Deputy Leader

The Leader will appoint one of the Members of the Cabinet (Executive) as Deputy Leader to hold office until the end of the term of office as Leader (unless the person resigns as Deputy Leader, ceases or is suspended from being a Councillor, or is disqualified or removed from office by the Leader). The Leader may, if he/she thinks fit, remove the Deputy Leader from office, but must then appoint another person in his/her place.

Such decisions will only take effect from the day of receipt by the Proper Officer of such decisions in writing.

7.06 Absent Leader

If for any reason the Leader is unable to act or the office of Leader is vacant, the Deputy Leader must act in his/her place. If the Deputy Leader is unable to act or the office is vacant, the Cabinet (Executive) must act in the Leader's place or arrange for a member of the Cabinet (Executive) to do so.

7.07 Removal of the Leader

Subject to Part 4, paragraph 11.2 of the Constitution, Full Council may decide, by way of resolution by a simple majority, to remove the Leader from office and for a new Leader to be elected –

- At the meeting at which the Leader is removed from office; or
- At a subsequent meeting

7.08 Interim and/or replacement Leader arrangements/term of office

Where the Leader is removed or departs from office mid-term, his/her appointment of Cabinet Members and Deputy Leader survive his/her departure.

The Deputy Leader will take over the functions of Leader until such time as a new Leader is elected, and the Cabinet remains in post and continues to meet and function, until such time as the Leader appoints a new Cabinet.

The newly elected Leader will automatically hold office, once elected, for the balance of his/her term of office as a Councillor.

7.09 Other Cabinet members

Other Cabinet members shall hold office until:

- (a) they resign from office or if they are dismissed, either collectively or individually, by the Leader of the Council; or
- (b) they are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (c) they are no longer councillors; or
- (d) on expiry of the fixed term of one year save that the Leader may remove them from office, either individually or collectively, at an earlier date or in the event of a change in political balance of the Council.

7.10 Proceedings of the Cabinet

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

7.11 Responsibility for functions

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

ARTICLE 8 - REGULATORY AND OTHER COMMITTEES

8.01 Regulatory and other committees

The Council will appoint the committees set out in the left hand column of the table in Responsibility for Council Functions in Part 3 of this Constitution to discharge the functions described in column 3 of that table.

ARTICLE 9 - THE STANDARDS COMMITTEE

9.01 Standards Committee

The Council meeting will establish a Standards Committee.

9.02 Composition

- (a) **Membership.** The Standards Committee will be composed of:
- four councillors [other than the leader] (appointed annually);
 - three persons who are not a councillor or an officer of the council or any other body having a standards committee (independent members) (appointed for a four year term);
 - three members of a parish council wholly or mainly in the Council's area (Parish Members) (appointed for a four year term).
- (b) **Independent members.** Independent members will be entitled to vote at meetings;
- (c) **Parish members.** At least one parish member must be present when matters relating to parish councils or their members are being considered, Parish members will be entitled to vote at meetings;
- (d) **Chairing the Committee.** An Independent Member must chair the committee.

9.03 Role and Function

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by councillors and co-opted members;
- (b) assisting the councillors and co-opted members to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising, training or arranging to train councillors and co-opted members on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct;
- (g) dealing with initial assessment of complaints against Members;
- (h) dealing with any reports from a case tribunal or interim case tribunal, and any report from the monitoring officer on any matter which is referred by an ethical standards officer to the monitoring officer;
- (i) the exercise of (a) to (h) above in relation to the parish councils wholly or mainly in its area and the members of those parish councils;
- (j) overview of the whistle blowing policy;
- (k) overview of complaints handling and Ombudsman investigations;

- (l) overview of Employee Register of Interests and Gifts and Hospitality;
- (m) overview of member/officer protocol;
- (n) overview of Leader/Chief Executive protocol;
- (o) power to shortlist and interview candidates and make recommendations to Council regarding appointment of Independent Members, and to make any appropriate recommendations with regard to Parish Members;
- (p) determining appeals for an exemption against politically restricted posts status of relevant post holders; and
- (q) determining applications by any person or on its own initiative, to direct that any post not on the politically restricted list should be included on the list.

ARTICLE 10 - AREA COMMITTEES AND FORUMS

10.01 Area committees

The Council may appoint area committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making. The Council has decided not to introduce area committees at this time.

The Council will consult with relevant parish and town councils and the chairmen of relevant parish meetings when considering whether and how to establish area committees in the future.

ARTICLE 11 - JOINT ARRANGEMENTS

11.01 Arrangements to promote well being

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

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

11.02 Joint arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Cabinets to exercise functions which are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Cabinet may appoint members to a joint committee from outside the Cabinet in the following circumstances:
 - 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 which is wholly or partly contained within the area; in this case the political balance requirements do not apply to such appointments.
- (e) Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

11.03 Access to information

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

11.04 Delegation to and from other local authorities

- (a) The Council may delegate non-executive functions to another local authority or, in certain circumstances, the Cabinet of another local authority.
- (b) The Cabinet may delegate executive functions to another local authority or the Cabinet of another local authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

11.05 Contracting out

The Council, for functions which are not executive functions, or the Cabinet for executive functions, may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

ARTICLE 12 – OFFICERS

12.01

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

Post	Functions and areas of Responsibility
Chief Executive (Head of Paid Service)	Overall corporate management and operational responsibility, including overall management responsibility for all officers, and corporate health and safety matters. Responsibility for corporate governance and the provision of professional advice to all parties in the decision making process. Representing the Council on partnership and external bodies as required.
Corporate Director (Monitoring Officer)	Finance, Exchequer, Corporate Legal Services, Member Services, Human Resources, Elections, Procurement, Payments, Asset Management, Revenues and Benefits, Car Parks, Markets, Lake Windermere, Caravan Sites, Public Halls, Tourist Information Centres.
Corporate Director (Communities)	Strategic Housing, Economic Regeneration and Tourism Cultural Development, Local Development Framework, Development Management, Third Sector Enabling (Grants), Healthy Living, Youth Engagement, Building Control, Waste and Recycling, Environmental Health, Food Safety and Environmental Protection, Public Realm, Street Care and Parks, Lighting and Cemeteries, Concessionary Fares, Housing Advice, Homelessness, Licensing.
Corporate Director (Corporate Vision and Strategy)	Contact Centre, Complaints, Communications, Intelligence Unit, Information Technology, Performance, Equalities and Diversity, Organisational Re-engineering, Corporate Policy, Local Strategic Partnership Development, Scrutiny, Councillor Call for Action, Risk Management, Programme Management.

- (c) **Head of paid service, monitoring officer and chief financial officer.** The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Corporate Director (Monitoring Officer)	Monitoring Officer
Assistant Director (Resources)	Chief Finance Officer

Such posts will have the functions described in Article 12.02 – 12.04 below.

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

12.02 Functions of the head of paid service

- (a) **Discharge of functions by the Council.** The head of paid service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Restrictions on functions.** The head of paid service may not be the monitoring officer but may hold the post of chief finance officer if a qualified accountant.

12.03 Functions of the monitoring officer

- (a) **Maintaining the Constitution.** The monitoring officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision making.** After consulting with the head of paid service and chief finance officer, the monitoring officer will report to the full Council or to the Cabinet in relation to an executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the Standards Committee.** The monitoring officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- (d) **Receiving reports.** The monitoring officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals.
- (e) **Conducting investigations.** The monitoring officer will conduct investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the Standards Committee.
- (f) **Proper officer for access to information.** The monitoring officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (g) **Advising whether Cabinet decisions are within the budget and policy framework.** The monitoring officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- (h) **Providing advice.** The monitoring officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors
- (i) **Restrictions on posts.** The monitoring officer cannot be the chief finance officer or the head of paid service.

12.04 Functions of the chief finance officer

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the head of paid service and the monitoring officer, the chief finance officer will report to the full Council or to the Cabinet in relation to an executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs.** The chief finance officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management.** The chief finance officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

- (d) **Providing advice.** The chief finance officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.
- (e) **Give financial information.** The chief finance officer will provide financial information to the media, members of the public and the community.

12.05 Duty to provide sufficient resources to the monitoring officer and chief finance officer

The Council will provide the monitoring officer and chief finance officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

12.06 Conduct

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

12.07 Employment

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

ARTICLE 13 – DECISION MAKING

13.01 Responsibility for decision making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

13.02 Principles of decision making

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

- To take into account all relevant considerations and to ignore irrelevant considerations.
- A realistic evaluation of alternatives and consultation through access by the public to decision-making and decision-makers.
- Proportionality (i.e. the action must be proportionate to the desired outcome).
- Due consultation and the taking of professional advice from officers.
- Respect for human rights (see below at Article 13.08).
- A presumption in favour of openness.
- Clarification of aims and desired outcomes.
- An explanation of the options that were considered and the reasons for the decision.

13.03 Types of decision

(a) **Decisions reserved to full Council.** Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated.

(b) **Key decisions.**

- (i) A key decision means an executive decision which, in relation to an executive function, has a significant effect on communities in two or more Wards of the Council (or one Ward in respect of two-Member Wards) and/or is likely to result in the Authority incurring expenditure or making savings above £60,000.
- (ii) A decision taker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4 of this Constitution.

13.04 Decision making by the full Council

Subject to Article 13.08, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.05 Decision making by the Cabinet

Subject to Article 13.08, the Cabinet will follow the Cabinet Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.06 Decision making by overview and scrutiny committees

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

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

Subject to Article 13.08, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

13.08 Decision making by Council bodies acting as tribunals

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

ARTICLE 14 – FINANCE, CONTRACTS AND LEGAL MATTERS

14.01 Financial management

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 4 of this Constitution.

14.02 Contracts

Every contract made by the Council will comply with the Contract Procedure Rules set out in Part 4 of this Constitution.

14.03 Legal proceedings

The Corporate Director (Monitoring Officer) is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where he/she either considers that such action is necessary to protect the Council's interests.

14.04 Authentication of documents

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

Any contract with a value exceeding £25,000 entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by at least two officers of the Authority or made under the common seal of the council attested by at least one officer.

14.05 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Corporate Director (Monitoring Officer). A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. All contracts of £60,000 in value or above will be under seal. It will also be affixed to those documents which in the opinion of the Corporate Director (Monitoring Officer) should be sealed. The affixing of the Common Seal will be attested by the Corporate Director (Monitoring Officer), the Chief Executive or any Director, the Assistant Director (Resources), or the Solicitor to the Council.

ARTICLE 15 – REVIEW AND REVISION OF THE CONSTITUTION

15.01 Duty to monitor and review the constitution

The monitoring officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

Protocol for Monitoring and Review of the Constitution by Monitoring Officer

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

observe meetings of different parts of the member and officer structure;

undertake an audit trail of a sample of decisions;

record and analyse issues raised with him/ her by members, officers, the public and other relevant stakeholders; and

compare practices in this authority with those in other comparable authorities, or national examples of best practice.

15.02 Changes to the Constitution

- (a) **Approval.** Changes to the constitution will only be approved by the full Council after consideration of the proposal by the monitoring officer.
- (b) **Exceptions.** Textual and factual amendments, including those resulting from changes in legislation, required to keep the Constitution up to date, or consequential amendments as a result of a Council, Cabinet or Committee decision may be implemented by the Monitoring Officer. All Members will be notified of changes made.
- (c) **Change from a leader and cabinet form of executive to a mayoral form of executive.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals, and must hold a binding referendum.
- (d) **Proposals for changes.** Any committee of the Council or the Cabinet may submit proposals for changes to the constitution to the monitoring officer, who will submit a report on those proposals to the full council.

ARTICLE 16 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

16.01 Suspension of the Constitution

- (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.
- (b) **Procedure to suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- (c) **Rules capable of suspension.** The following Rules may be suspended in accordance with Article 16.01(b):

Council Procedure Rules, except Rules 16.6 and 17.2.

16.02 Interpretation

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

16.03 Publication

The Monitoring Officer will ensure that copies of this Constitution (and any amendments to the Constitution) are available for public inspection at Council Offices, Libraries and other appropriate locations (including the Internet) and can be purchased by members of the local press and the public on payment of a reasonable fee. Copies of the Constitution are provided to Members on CD.

SCHEDULE 1 – DESCRIPTION OF EXECUTIVE ARRANGEMENTS

The following parts of this Constitution constitute the executive arrangements:

1. Article 6 (Overview and Scrutiny committees) and the Overview and Scrutiny Procedure Rules;
2. Article 7 (The Cabinet) and the Cabinet Procedure Rules;
3. Article 10 (Area Committees and Forums);
4. Article 11 (Joint arrangements);
5. Article 13 (Decision making) and the Access to Information Procedure Rules;
6. Part 3 (Responsibility for Functions).