

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 Surrey County Council.

1.03 Purpose of the Constitution

- a) The purpose of the Constitution is to set out in a single place, and in clear language, how the County Council works and how it makes decisions.
- b) The Constitution provides the County Council with an operational framework to do its job.

ARTICLE 2 – MEMBERS OF THE COUNCIL

2.01 Composition and eligibility

- (a) **Composition:** The Council comprises 81 councillors, otherwise known as Members, who are elected by the voters of each electoral division in accordance with a scheme drawn up by the Electoral Commission and approved by the Secretary of State.
- (b) **Eligibility:** Only registered voters of the county or those living or working there will be eligible to hold the office of councillor.

2.02 Election and terms of councillors

Election and terms: The regular election of councillors will be held on the first Thursday in May every four years unless otherwise required by Order. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

2.03 Roles and functions of all councillors

(a) Key roles

All councillors will:

- (i) collectively appoint the Leader of the Council ('Leader');
- (ii) collectively set the budget and approve the statutory and strategic plans in the policy framework;
- (iii) represent their communities and bring their views into the Council's decision-making process;
- (iv) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- (v) balance different interests identified within the electoral division and represent the electoral division as a whole;
- (vi) be involved in decision-making;
- (vii) be available to represent the Council on other bodies; and
- (viii) maintain the highest standards of conduct and ethics.

(b) Rights and duties

Attendance at meetings

- (i) Members of the Council may attend any meeting of the Cabinet or any committees of the Council of which they are not appointed members.
- (ii) Any Member who attends any such meeting may speak with the Chairman's consent in circumstances where there is:
 - (a) an item on the agenda at the Member's request (see paragraph (iv) below);
 - (b) an item on the agenda in which the Member has a local or general interest;
 - (c) an item on the agenda related to an original motion standing in the Member's name which has been referred by the Council; and
 - (d) a question of which the Member has given notice.

A time limit of three minutes per speaker will apply, and normally statements and questions on particular agenda items will be taken under procedural matters.

- (iii) Any Member of the Council may request a meeting with the Leader and/or appropriate Cabinet Member about an item of business affecting their electoral division.
- (iv) Members of the Council may give notice that they wish to propose an item for inclusion on the agenda of a meeting of the Cabinet, (any committee of the Cabinet), or any committee of the Council. Notice must be given by e-mail or in writing not later than 14 days before the meeting. If the Chairman of the Cabinet or committee agrees, the item will be considered at the next meeting. The Member may attend the meeting and, with the consent of the chairman, speak on the item.
- (v) The Leader or appropriate Cabinet Member with portfolio responsibilities for a matter on the agenda of a scrutiny select committee meeting may attend the meeting of the committee and, with the chairman's consent, speak on the matter.
- (vi) Where a select committee makes a report to the Leader/Cabinet, the chairman of the select committee may attend the meeting of the Cabinet and, with the Chairman of the Cabinet's consent, speak for the select committee on its report.

2.04 **Conduct**

Members will at all times observe the Member Code of Conduct and the Member/Officer Protocol adopted by the County Council and set out in Part 6 of this Constitution.

2.05 **Allowances**

Members will be entitled to receive allowances in accordance with the Members' Allowances Scheme summarised in Part 7 of this Constitution.

2.06 **Publication**

This Constitution will be published on the Council's website.

A copy of this Constitution will be available for inspection at County Hall and can be accessed via the Council's website.

ARTICLE 3 – THE PUBLIC AND THE COUNCIL

3.01 The Public's rights

The public have the following rights:

(a) Voting, petitions and questions

Residents have the right to vote and sign a petition as a means of bringing issues to the Council's attention, or to request a referendum for an elected mayor form of executive. The public may also ask questions at meetings of the Cabinet and at most of the Council's committees. Full details of the Council's petition scheme can be found in Part 4 of the Constitution.

(b) Information

In summary, the public 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 except where confidential or exempt information is likely to be discussed, and the meeting is therefore held in private;
- (iii) take photographs, film, audio-record and report (including via social media) on all meetings of the Council and its committees held in public;
- (iv) be notified in advance that all or part of a Cabinet meeting may be held in private, to make representations as to why it should be held in public and to receive a response to those representations;
- (v) find out from the Notice of Decisions what key decisions will be taken, and when, so that they can make their views known;
- (vi) see reports and background papers, and any records of decisions made by the Council, Leader and/or the Cabinet, their committees, and by officers on their behalf under delegated powers; and
- (vii) inspect the Council's accounts and make their views known to the external auditor during the statutory 20 working days period prior to the external auditor giving his/her opinion.

(c) **Complaints**

The public have the right to complain to:

- (i) the Council itself under its complaints procedure;
- (ii) the Local Government Ombudsman after using the Council's own complaints procedure;
- (iii) the Council's Monitoring Officer about a breach of the Members' Code of Conduct.

ARTICLE 4 – THE COUNCIL

4.01 How the Council operates

The Council is composed of 81 councillors (or “Members”) elected every four years. Councillors are democratically accountable to electors in their electoral division. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents.

The Council has a code of conduct for Members to ensure high standards in the way they undertake their duties. The Audit and Governance Committee monitors the operation of the Members’ code of conduct.

All councillors meet together as the Council. Meetings of the Council are normally open to the public. Here councillors decide the Council’s overall policies and set the budget each year. The Council appoints the Leader and holds him/her to account. It sets the framework in which the Cabinet operates through approval or modification of the budget and designated statutory and non-statutory plans.

4.02 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’s Standing Orders in Part 4 of this Constitution.

4.03 Chairing the Council

The Chairman and Vice-Chairman of the Council will be elected by the Council annually. Both appointments will be subject to a valid enhanced criminal records check. In the event of an in-year vacancy in either role, an election will be held for a replacement to serve until the next Annual General Meeting of the Council.

The Chairman will uphold and promote the purposes of the Constitution and interpret the Constitution when necessary.

The Chairman will preside over the meetings of the County Council. The Chairman will fulfil a range of ceremonial and public functions as the civic leader of the Council and act as the principal spokesman for the Council in this capacity. In both of these roles the Chairman will act on behalf of the whole Council and in a non-partisan manner.

The Vice-Chairman of the Council will fulfil the role of the Chairman in his/her absence.

4.04 **Functions of the Council**

Only the Council will exercise the following functions:

- (a) appointment and removal of the Leader of the Council;
- (b) approval of the Constitution and any material changes to it, apart from changes to Part 3 in relation to executive functions which will be discharged by the Leader/Cabinet and reported to the Council;

(Note: This includes the approval of standing orders, procurement standing orders and the appointment of proper officers.)
- (c) approval of the annual Budget, setting the Council Tax and issuing the precept;
- (d) approval of statutory and strategic plans within the policy framework;
- (e) making, amending, revoking, re-enacting or adopting statutory schemes, plans, bye-laws or other similar documents requiring formal ministerial sanction;
- (f) promoting or opposing the making of any local legislation or personal bills;
- (g) functions, status or boundaries of local authorities;
- (h) appointment of the Chairman and Vice-Chairman of the Council;
- (i) appointment of committee chairmen and vice chairmen as set out in Standing Order 6.10;
- (j) decisions in respect of any executive functions which are contrary to or not wholly in accordance with the agreed budget and policy framework, apart from those falling into the categories approved by the Council as in-year decisions which the Leader/Cabinet can take;
- (k) approval of a Members' Allowances Scheme;
- (l) the appointment of the Head of Paid Service;
- (m) the appointment of the Monitoring Officer and the Chief Finance Officer;
- (n) functions which by law may not be delegated;

(Note: Where legally permissible, certain of these functions may be delegated by Council).

4.05 **Policy Framework**

The policy framework means the following plans and strategies:-

Plans required by regulation:

- Development Plan Documents (including Waste and Minerals Local Development Documents (LDDs))
- Local Transport Plan
- Youth Justice Strategic Plan
- Children and Young People's Strategy

Plans required from partnerships of which the Authority is a member:

- Substance Misuse Strategy
- Mental Health and Emotional Well-being Strategy
- Surrey Safeguarding Children's Board Report

Plans included at the Council's request:

- Waste Management Plan
- Corporate Strategy
- Admission Arrangements for Maintained Schools
- School Organisation Plan
- Corporate Resilience Policy

4.06 **Principles of decision making**

The following principles will apply to decisions taken by or on the Council's behalf, both in the general public interest and in the interests of ensuring that the Council is able to defend its actions against legal challenge:

- (i) That Members are fully and effectively advised by officers in exercising both executive and non-executive functions;
- (ii) That decisions by Members are only taken after the submission of written reports;
- (iii) That decisions have clear aims and desired outcomes;
- (iv) That relevant matters are fully taken into account in decision making;
- (v) That nothing irrelevant is taken into account;
- (vi) That decisions are proportionate to the desired outcome;

- (vii) That decision-making respects human rights;
- (viii) That there is a presumption in favour of openness;
- (ix) That the Council's Constitution is fully complied with; and
- (x) That decisions on executive functions are recorded and published, together with options considered and rejected, the reasons and relevant background papers.

4.07 Decision making by committees acting as tribunals

The Council, a Member 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 Human Rights Act 1998.

4.08 Budget

Throughout this Constitution the phrase "setting the budget" is used to denote the approving of the annual budget requirement (as regulated by the Local Government Finance Act 1992), and the determination of all of the components of the budget such as allocation to different services, schemes, and projects, setting the Council Tax, the creation of contingency funds (reserves and balances), the plan of capital expenditure, and strategy for funding capital expenditure through borrowing or other means.

The term "in-year budget" refers to the approved revenue budget, capital budgets, and respective funding plans for the year, together with contingency funds set aside at the start of the year (i.e. reserves and balances).

The budget and policy framework will be prepared in accordance with the arrangements described in the Budget and Policy and Framework rules in Part 4 - Standing Orders.

4.09 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 Leader/Cabinet.

ARTICLE 5 – THE LEADER AND DEPUTY LEADER

5.01 Role

The Leader will be a councillor elected to the position of Leader by the Council. The appointment will be subject to a valid enhanced criminal records check.

The Leader will hold office for four years from the first annual meeting of the Council following the County Council election, expiring on the day of the post-election annual meeting which follows his/her election as Leader, unless, at an earlier date:

- (a) he/she resigns from the office; or
- (b) he/she is no longer a councillor; or
- (c) he/she is removed from office by resolution of the Council.

If there is a vacancy in the position of Leader, the Leader will be elected at the first meeting of the Council following such vacancy for a term of office expiring on the day of the post-election annual meeting which follows his/her election, subject to (a) to (d) above.

The Leader 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, unless otherwise delegated by him/her. All delegations by the Leader will be set out in Part 3 of this Constitution.

5.02 Functions of the Leader

The Leader shall be responsible for maintaining a list (which the Chief Executive will compile on the Leader's behalf) in [Part 3](#) of this Constitution setting out who will exercise executive functions. Executive functions can be exercised by the Leader, Cabinet, individual Cabinet Members, committees, individual local Members or officers. Any changes to Part 3 of the Constitution in relation to executive functions will be reported to the next appropriate meeting of the County Council.

The Leader will be Chairman of the Cabinet.

Only the Leader will exercise the following functions:

- (a) appointment of the Deputy Leader
- (b) appointment of the Cabinet including the Lead Member for Children's Services
- (c) preparation of the Leader's Cabinet forward plan

5.03 **Deputy Leader**

The Deputy Leader will be a councillor appointed to the position of Deputy Leader by the Leader. The appointment will be subject to a valid enhanced criminal records check.

The Deputy Leader will hold office until the end of the term of office of the Leader, or until:

- (a) he/she is removed from office by decision of the Leader; or
- (b) he/she resigns from the office; or
- (c) he/she is no longer a councillor.

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

If for any reason the Leader is unable to act, or the office of the Leader is vacant, and the Deputy Leader is unable to act or the office of Deputy Leader is vacant, the remaining members of the Cabinet must either act collectively in the Leader's place or they must arrange for a Cabinet Member to act in the place of the Leader.

5.04 **Role of the Deputy Leader**

- (a) The Deputy Leader will be Vice-Chairman of the Cabinet.
- (b) The Deputy Leader will exercise all functions reserved to the Leader in his/her absence.

ARTICLE 6 – THE CABINET

6.01 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, as delegated by the Leader.

6.02 Form and Composition

The Cabinet will consist of the Leader of the Council and Deputy Leader together with at least 1, but not more than 8, councillors appointed to the Cabinet by the Leader, who will report the appointments, and any changes to these appointments, to the Council.

6.03 Cabinet Members

Cabinet Members shall be appointed by the Leader. Each appointment will be subject to a valid enhanced criminal records check.

They will hold office until the day of the post-election annual meeting or until:

- (a) they are removed from office, either individually or collectively, by decision of the Leader; or
- (b) they resign from office; or
- (c) they are no longer councillors.

6.04 Deputy Cabinet Members

Other Members may, from time to time, be designated by the Leader as Deputy Cabinet Members. Each appointment will be subject to a valid enhanced criminal records check.

A Deputy Cabinet Member will not be a member of the Cabinet and will not participate in Cabinet decision-making but may work closely with a Cabinet Member(s). He or she will not be a member of any select committee.

Deputy Cabinet Members will not have delegated powers and will not be entitled to vote at Cabinet meetings.

The Leader will advise the Governance Lead Manager in writing of the names of designated Deputy Cabinet Members and of the Cabinet Member(s) they will assist. The Governance Lead Manager will report the designation to the next meeting of the Council.

6.05 Cabinet Procedure Rules

(a) Delegation of executive decisions

The arrangements for the discharge of executive functions are set out in the executive arrangements adopted by the Council. The Leader has responsibility for the discharge of all executive functions. He/she can delegate any/all of these functions (except those reserved functions) to:

- (i) the Cabinet as a whole;
- (ii) a committee of the Cabinet;
- (iii) an individual member of the Cabinet;
- (iv) an officer;
- (v) a local committee;
- (vi) joint arrangements;
- (vii) a local Member in relation to their Division, or
- (viii) another local authority.

(b) Delegation by the Cabinet

The Leader will appoint the Cabinet and will determine the individual portfolios to be allocated to Cabinet Members. A record shall be kept of:

- (i) the names, addresses and electoral divisions of the Members appointed to the Cabinet by the Leader;
- (ii) the terms of reference and constitution of any executive committees that the Cabinet may appoint and the names of Cabinet Members appointed to them;
- (iii) the nature and extent of any delegation of executive functions to local committees, individual Cabinet Members, individual local Members, any other authority or any joint arrangements and the names of those Members appointed to any joint committee.

The Leader, Cabinet or a Committee in relation to decision making by officers within their statutory or delegated authority, may at any time require a particular issue or any aspect of delegated powers within their terms of reference to be referred to them for decision.

Table 2 in [Part 3](#) of this Constitution sets out the responsibility for executive functions exercised by Cabinet Members.

(c) Sub-delegation of executive functions

Where the Leader, Cabinet, or a committee of the Cabinet, is responsible for an executive function, they may delegate further to a local committee, joint arrangements, an individual Cabinet Member, an individual local Member in relation to their Division, or an officer.

(d) **The Council's scheme of delegation and executive functions**

Subject to paragraph (ii) below:

- (i) The Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details set out in Part 3 of this Constitution.
- (ii) As and when the Leader amends the scheme of delegation in Part 3 relating to executive functions, the proper officer will report to the next meeting of the Council setting out the changes made by the Leader.

(e) **Cabinet meetings**

The Cabinet will meet at times to be agreed by the Leader. The Cabinet will meet at the Council's main offices or another location to be agreed by the Leader. Notice of the time and place of a Cabinet meeting will be published in line with procedure set out in Article 15 - Access to Information Rules.

(f) **Quorum**

The quorum for a meeting of the Cabinet is not fewer than three voting Members.

ARTICLE 7 – SCRUTINY FUNCTION (SELECT COMMITTEES)

The Council will appoint a number of select committees to discharge the functions conferred by section 21 of the [Local Government Act 2000](#) and any other applicable legislation or regulation.

7.01 Select Committees - Terms of Reference

The number of select committees will vary from time to time as agreed by the Council. The select committees will between them cover all of the executive functions. The portfolio of responsibility of each select committee is summarised in the Schedule.

The terms of reference of the select committees appointed by the Council are set out as follows:

(a) General role

Within their agreed portfolio, select committees will:-

- (i) Review and/or scrutinise decisions made or actions taken in connection with the discharge of any executive functions wherever they may be exercised;
- (ii) Make reports and/or recommendations to the Council and/or the Leader/Cabinet/Cabinet Member and/or any joint or local committee in connection with the discharge of any functions; make reports and/or recommendations to partners.
- (iii) Exercise the right to call in, for reconsideration, decisions made but not yet implemented by the Leader/Cabinet/Cabinet Member and/or any joint or local committees;
- (iv) Consider any matter affecting the County, part of the County or its inhabitants.

(b) Specific role

The select committees have three specific roles – scrutiny; overview, policy review and development; and performance management:

Within their agreed portfolios, the select committees will fulfil these roles by:-

Scrutiny

- i. Reviewing and scrutinising the decisions made by the Leader/Cabinet/Cabinet Members, any joint or local committee and/or officers both in relation to individual decisions and over time;

- ii. Questioning the Leader, Deputy Leader and members of the Cabinet and officers about their decisions and performance whether generally in relation to corporate plan policies and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- iii. Reviewing the performance of statutory partners with regard to the achievement of improvement targets to which they are signed up. The select committee can require partner organisations to provide information in relation to the particular target.
- iv. Scrutinising the Strategic Investment Board in respect of the performance of the companies for which the Council is the majority shareholder.
- v. Making reports and/or recommendations to the Leader/Cabinet/Cabinet Member and/or Council arising from the outcome of the scrutiny process.
- vi. Making reports and/or recommendations to partner authorities arising from the outcome of the scrutiny process.

Overview, policy development and review

- vii. Reviewing current policies and strategies and making recommendations to the Leader/Cabinet and/or the Council;
- viii. Undertaking in-depth analysis of policy issues and options to assist the Council and the Leader/ Cabinet in developing and setting of budget and the policy framework;
- ix. Considering matters referred to them by the Leader/Cabinet and reporting to the Leader/Cabinet with proposals;
- x. Monitoring the Leader's Cabinet forward plan and advising the Leader/Cabinet on matters within the remit of the select committee;
- xi. Reviewing and investigating matters which are not the direct responsibility of the County Council but which affect the economic, environmental and social well-being of the County.

Performance and Finance

- xii. Reviewing and commenting on draft service delivery plans and budgets including priorities, targets and performance indicators.
- xiii. Undertaking in-depth performance reviews with the relevant Cabinet Member, Executive Director and Heads of Service.

- xiv. Monitoring service risk management measures and identifying to the Leader, Deputy Leader or Cabinet Members significant risks and concerns;
- xv. Anticipating and advising the Leader/Cabinet/Cabinet Member or Council on areas of performance which give rise to concern.

7.02 Health Scrutiny (Adults and Health Select Committee)

Terms of Reference

The Adults and Health Select Committee will fulfil the council's statutory health scrutiny responsibilities.

The select committee may review and scrutinise health services commissioned or delivered in the authority's area within the framework set out below:

- (a) arrangements made by NHS bodies to secure hospital and community health services to the inhabitants of the authority's area;
- (b) the provision of both private and NHS services to those inhabitants;
- (c) the provision of family health services, personal medical services, personal dental services, pharmacy and NHS ophthalmic services;
- (d) the public health arrangements in the area;
- (e) the planning of health services by NHS bodies, including plans made in co-operation with local authorities, setting out a strategy for improving both the health of the local population, and the provision of health care to that population;
- (f) the plans, strategies and decisions of the Health and Wellbeing Board;
- (g) the arrangements made by NHS bodies for consulting and involving patients and the public under the duty placed on them by Sections 242 and 244 of the NHS Act 2006;
- (h) any matter referred to the scrutiny select committee by Healthwatch under the Health and Social Act 2012;
- (i) social care services and other related services delivered by the authority.

The select committee may require partner authorities to provide information in respect of matters relating to the health service in the authority's area.

In addition, the select committee will be required to act as consultee to NHS bodies within their areas for:

- (a) substantial development of the health service in the authority's area; and
- (b) any proposals to make any substantial variations to the provision of such services.

These terms of reference include health services provided from a body outside the local authority's area to inhabitants within it.

The Adults and Health Select Committee may refer to the Secretary of State for Health any contested proposals for substantial change or variation in service. The Chairman of that select committee will ensure all Members are notified when this power is utilised.

The Adults and Health Select Committee shall appoint a joint committee where an NHS body intends to consult on a substantial development or variation to health services that extends beyond the area covered by the select committee and agree:

- a) the size of any joint committee appointed for this purpose in consultation with other appropriate authorities which have an interest as consultees;
- b) the share of the Council's seats on each such joint committee; and
- c) the County Council's membership of any such joint committee in accordance with the wishes of political groups.

7.03 Select Committee Procedure Rules

a) Membership of select committees

Any Member of the Council (except the Leader, Deputy Leader and members of the Cabinet and Deputy Cabinet Members) may serve on a select committees. However, no Member may be involved in scrutinising a decision in which he/she has been directly involved.

b) Co-optees

Select committees may co-opt non-councillors, as and when required, to provide a degree of independent advice and expertise. Co-opted members cannot have voting rights unless allowed by law.

c) Education representatives

The select committee dealing with education matters shall include in its membership the following voting representatives:

- (i) 1 Church of England diocesan representative;
- (ii) 1 Roman Catholic diocesan representative; and
- (iii) A minimum of 2 parent governor representatives.

This shall apply where the select committee's functions relate wholly or in part to any education functions which are the responsibility of the Leader/Cabinet/Cabinet Member. If the select committee deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

d) Meetings of select committees

The committees shall meet regularly following an agreed calendar of meetings. In addition, extraordinary meetings may be called from time to time as and when appropriate. A select committee meeting may be called by the select committee chairman, or by any three members of the select committee.

e) Quorum

The quorum for select committees shall be one quarter of the total number of voting Members. A quorum may not be fewer than three voting Members.

f) Election of select committee chairmen

The chairmen and vice-chairmen of the select committees will be elected by the Council. The appointments of the Chairmen and Vice-Chairmen of the Adults and Health Select Committee and the Children, Families, Lifelong Learning and Culture Select Committee will be subject to a valid enhanced criminal records check.

g) The party whip

When considering any matter in respect of which a member of the select committee is subject to an official party whip, the Member must declare the existence of the whip, and the nature of it before the commencement of the select committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

h) Setting work programmes

Each select committee will be responsible for setting its select committee work programme. The work programmes will be reviewed at each select committee meeting and may include business for review on the Leader's/Cabinet's/Cabinet Member's or Council's behalf.

i) Requests from select committee members for inclusion of items on work programmes

Any member of a select committee shall be entitled to give notice to the proper officer that he/she wishes to include an item relevant to the functions of the select committee on the agenda for the next available meeting.

On receipt of such a request the proper officer will ensure that the relevant select committee is notified and that the item is included on the agenda for the next available meeting of the appropriate select committee.

j) Referral of matters to select committees ('councillor call for action')

- (i) Under the Councillor Call for Action arrangements, any Member of the Council may refer for scrutiny any local government matter which is relevant to the functions of a select committee by giving notice to the proper officer.
- (ii) On receipt of such a request the proper officer will ensure that the relevant select committee is notified and that it includes an item on the agenda for the next available meeting of the appropriate select committee.
- (iii) If requests are received which require a decision before the next scheduled select committee meeting, the views of the Committee will be sought by email and decided by a simple majority of the Members responding (which must include the Chairman and/or Vice-Chairman).
- (iv) The Member referring the matter may make representations as to why it would be appropriate to scrutinise the matter.
- (v) If the select committee decides that the matter should not be scrutinised, it must notify the Member of its decision and the reasons for it.
- (vi) The select committee must provide the Member with a copy of any report or recommendations which it makes to the Leader/Cabinet/Cabinet Member or Council in relation to the matter.

k) Select Committee Remits

Name	Relevant Services
Adults and Health Select Committee	<ul style="list-style-type: none">➤ Statutory Health Scrutiny➤ Adult Social Care (including safeguarding)➤ Health Integration and devolution➤ Review and scrutiny of all health services commissioned or delivered within Surrey➤ Public Health➤ Review delivery of the Health and Wellbeing Strategy➤ Health and Wellbeing Board➤ Future local delivery model and strategic commissioning

Name	Relevant Services
Children, Families, Lifelong Learning & Culture Select Committee	<ul style="list-style-type: none"> ➤ Children's Services (including safeguarding) ➤ Early Help ➤ Corporate Parenting ➤ Education ➤ Special Educational Needs and/or Disabilities ➤ Adult Learning ➤ Apprenticeships ➤ Libraries, Arts and Heritage ➤ Voluntary Sector
Name	Relevant Services
Communities, Environment and Highways Select Committee	<ul style="list-style-type: none"> ➤ Waste and recycling ➤ Highways ➤ Major infrastructure ➤ Investment/Commercial Strategy (including Assets) ➤ Economic Growth ➤ Housing ➤ Local Enterprise Partnerships ➤ Countryside ➤ Planning ➤ Aviation and Sustainable Transport ➤ Flood Prevention ➤ Emergency Management ➤ Community Engagement and Safety ➤ Fire and Rescue ➤ Trading Standards ➤ Coroner
Name	Relevant Services
Resources and Performance Select Committee	<ul style="list-style-type: none"> ➤ Finance ➤ Orbis Partnership Functions including Orbis Public Law ➤ HR&OD ➤ IT and Digital ➤ Business Ops ➤ Property ➤ Procurement ➤ Equalities and Diversity ➤ Internal/External Communications ➤ Legal and Democratic Services ➤ Customer Services

Each select committee will have responsibility for performance, finance and risk monitoring for service areas within their remit.

ARTICLE 8 – REGULATORY AND OTHER COMMITTEES

8.1 The Council will appoint committees with the terms of reference set out below with functions of those committees contained in Part 3 of this Constitution and these committees will follow Parts 2 and 3 of Standing Orders as apply to them:

ARTICLE 8A – HEALTH & WELLBEING BOARD

The Council will appoint a Health and Wellbeing Board to discharge the functions conferred by the Health and Social Care Act 2012 and in accordance with regulations as set out below.

8A.1 Membership

In accordance with Regulations, the political proportionality rules do not apply to this Committee.

In accordance with section 194 of the Health and Social Care Act 2012 the membership of the Health and Wellbeing Board is to consist of—

- (a) at least one councillor of the local authority, nominated by the executive leader of the local authority. The executive leader of the local authority may, instead of or in addition to making a nomination, be a member of the Board,
- (b) the director of adult social services for the local authority,
- (c) the director of children’s services for the local authority,
- (d) the director of public health for the local authority,
- (e) a representative of the local Healthwatch organisation for the area of the local authority,
- (f) a representative of each relevant clinical commissioning group,
- (g) such other persons, or representatives of such other persons, as the local authority thinks appropriate. At any time after a Health and Wellbeing Board is established, a local authority must, before appointing another person to be a member of the Board under subsection (g), consult the Health and Wellbeing Board,
- (h) such additional persons as the Health and Wellbeing Board think appropriate.

8A.2 Functions

The Health and Wellbeing Board has the following functions under the Health and Social Care Act 2012:

1. a duty to encourage integrated working (section 195 of the Act) and:
 - a. for the purpose of advancing the health and wellbeing of the people of Surrey, to encourage persons who arrange for the provision of any health or social care services in Surrey to work in an integrated manner;

- b. must, in particular, provide such advice, assistance or other support as it thinks appropriate for the purpose of encouraging the making of arrangements under section 75 of the National Health Service Act 2006 in connection with the provision of such services;
- c. may encourage persons who arrange for the provision of any health-related services in its area to work closely with the Health and Wellbeing Board; and
- d. may encourage persons who arrange for the provision of any health or social care services in its area and persons who arrange for the provision of any health-related services in its area to work closely together.
- e. To undertake a Joint Strategic Needs Assessment (JSNA) for Surrey having regard to any guidance issued by the Secretary of State and ensuring the involvement of the Local Healthwatch organisation, the people who live and work in Surrey and each relevant District and Borough Council (sections 116 and 116a of the Local Government and Public Involvement in Health Act 2007) and to oversee and assure the translation of that JSNA into a Joint Health and Wellbeing Strategy (JHWS) (section 196 (1) of the Act).
- f. To give the County Council its opinion on whether the County Council, in the exercise of its functions, is giving due regard to the JSNA and the JHWS.

8A.3 Terms of Reference

In accordance with section 194(11) of the Health and Social Care Act 2012, the Health and Wellbeing Board is a committee of the local authority and, for the purposes of any enactment, is to be treated as if it were a committee appointed by the authority under section 102 of the Local Government Act 1972.

Regulations may provide that any enactment relating to a committee appointed under section 102 of that Act of 1972—

- (a) does not apply in relation to a Health and Wellbeing Board, or
- (b) applies in relation to it with such modifications as may be prescribed in the regulations.

The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 modifies provisions in primary legislation relating to a committee appointed under section 102 of the Local Government Act 1972 (c.70) (“the 1972 Act”) in so far as those provisions relate to Health and Wellbeing Boards and provides that certain provisions do not apply to Health and Wellbeing Boards. The following do not apply or are modified as prescribed:

- a) Health and Wellbeing Boards can appoint a sub-committee to carry out certain functions of the Board and to advise the Board.
- b) A sub-committee of the Board can arrange for functions under section 196(2) of the 2012 Act to be carried out by an officer of the authority.
- c) All Members of the Board have voting rights unless the local authority directs otherwise.

The terms of reference and working arrangements for the Health and Wellbeing Board not set out in this article are to be determined by the Health and Wellbeing Board in accordance with applicable legislation and regulations at its first meeting and subject to review and revision by the Board as may be necessary.

Article 8B – SURREY PENSION FUND COMMITTEE

The County Council has appointed a Pension Fund Committee and delegated to it responsibility for its statutory functions as the administering authority for the Surrey Pension Fund.

8B.1 Membership

The Surrey Pension Fund Committee shall be made up of:

- Six members of the authority
- Two representatives from Districts and Boroughs of the Fund
- One representative from all other employers in the Fund
- One representative (trade union) from employee members of the Fund (SCC members of staff are not entitled to membership due to restrictions in section 104, Local Government Act 1972).

Representatives of employers and employee members of the Fund are signed off by the Chief Executive. All councillor members are elected by Annual Council.

8B.2 Voting

All members of the Surrey Pension Fund Committee, including the Employer and Scheme Member representatives shall have full voting rights.

8B.3 Functions and Responsibilities

Full details of functions and responsibilities can be found in Part 3 of the Constitution – paragraph 6.20.

8B.4 Publication of Pension Fund Committee information

Details of the Pension Fund Committee are published on the County Council's website.

8B.5 Knowledge and Skills

A member of the committee must have knowledge and understanding of the law relating to pensions, and any other matters which are prescribed in Regulations.

ARTICLE 8C – AUDIT AND GOVERNANCE COMMITTEE

The County Council has set up an Audit and Governance Committee to monitor, review and report on the governance arrangements of the County Council. Full details of its membership and functions can be found in Part 3 of the Constitution – paragraphs 6.7 to 6.10 and in Part 6 – Granting Dispensations.

ARTICLE 8D – PLANNING AND REGULATORY COMMITTEE

The Council has established a Planning & Regulatory Committee with responsibility for the following non-executive functions under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 Act as amended, where these functions have not been delegated to officers:

- Planning and Development Control
- Commons Registration
- Licensing and Registration Functions
- Health and Safety (other than that undertaken in the Council's capacity as an employer)
- Births, Deaths and Marriages
- Rights of Way & Highways
- Functions relating to elections
- Development Plans

The remit of the Committee is set out in greater detail within Part 3, Responsibility for Functions and Scheme of Delegation – Sections 1 and 2. The Surrey Codes for Best Practice in Planning Procedures and Rights of Way can be found in Part 6 of the constitution. The rules about public speaking at Planning & Regulatory Committee are set out in Part 4 - Standing Orders.

ARTICLE 8E – PEOPLE, PERFORMANCE AND DEVELOPMENT COMMITTEE

The Council has established a People, Performance and Development Committee. This will comprise of between four and six Members. The committee must be proportionate and include at least one member of the Cabinet.

The People, Performance and Development Committee's remit includes policies on staff pay & conditions, arrangements for consultation with unions, resolving disputes and promoting development and training. The Committee is also responsible for appointing and dismissing chief officers. Full details of its Terms of Reference and functions can be found in Part 3, paragraphs 6.11 to 6.13.

ARTICLE 8F – APPOINTMENTS SUB COMMITTEE

This is a Sub-Committee of the People, Performance and Development Committee (PPDC). Its role is to appoint Deputy Chief Officers and determine the conditions of employment (including variation to fixed term contracts) of such officers. Four Members of the PPDC will sit on the Sub-Committee, and its membership must be proportional. It will be chaired by the Chairman or Vice-Chairman of PPDC. Functions can be found in Part 3, paragraphs 6.14 to 6.16.

ARTICLE 8G - MEMBER CONDUCT PANEL

The Member Conduct Panel determines, after consulting the Independent Person, whether a member or co-opted member of the Council has breached the Members' Code of Conduct, having regard to the Council's published arrangements for dealing with member conduct allegations. It decides what further action (if any) needs to be taken in the event that the member has breached the Members' Code of Conduct. Functions can be found in Part 3, paragraphs 6.17 to 6.19. The Code of Conduct and arrangements for dealing with standards allegations can be found in Part 6 of the Constitution.

ARTICLE 8H - APPEALS AND REPRESENTATION PANEL

The Panel will oversee the arrangements in relation to rights of appeal against decisions taken by or on behalf of the Council. Functions can be found in Part 3, paragraphs 6.4 to 6.6.

ARTICLE 9 – LOCAL COMMITTEES AND JOINT COMMITTEES

9.01 Local Committees and Joint Committees

The Council will establish local committees and/or jointly participate in joint committees, 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 will consult with relevant parish and town councils and the chairmen of relevant parish meetings when considering whether and how to establish local committees or joint committees.

9.02 Form, composition and function

- (a) **Local committees.** The Council has established local committees to discharge functions in the Surrey district/borough areas of the county, with the membership of each committee comprising the county councillors representing the electoral divisions which fall within the respective district/borough areas.

The membership of the committees may also include an equal number of co-opted district/borough councillors with voting rights in relation to those matters set out in Section 2 of the Scheme of Delegation.

The Council has established joint committees in partnership with District and Borough Councils the membership of which comprises the county councillors representing the electoral divisions which fall within the respective district/borough areas, together with a member of the Council's cabinet if not already included, and an equal number of councillors from the relevant district or borough, together with any representation from its Executive as required by the regulations.

Each joint committee operates according to its own Constitution, which will be published on the County Council's website as an annex to this Constitution.

- (b) **Delegations.** The Council and the Leader have included details of the delegations to local committees and joint committees in Part 3 of this Constitution, including the functions delegated (showing which are the responsibility of the Leader/Cabinet and which are not), the composition and membership of the committees, budgets and any limitations on delegation.

9.03 Cabinet members on local committees

A member of the Cabinet may serve on a local committee if eligible to do so as a Councillor. Where a joint committee is discharging executive functions a cabinet member will need to be appointed to that committee.

ARTICLE 10 - JOINT ARRANGEMENTS

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

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

10.02 Joint arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions which are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Leader/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 Leader/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 Leader/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 Leader/Cabinet 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 joint committee is between the County Council and a district council and relates to executive functions of the County Council. In such cases, the Leader/Cabinet 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.

In both of these cases 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 Delegation set out in Part 3 of this Constitution.

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

10.04 Contracting out

The Council, for functions which are not executive functions, and the Leader/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 11 - OFFICERS

11.01 The Council will engage such staff as it considers necessary to carry out its functions. Persons will be appointed for the following posts in accordance with the Officers Employment Procedure Rules below:

- (a) Chief Executive and Head of Paid Service
- (b) Monitoring Officer
- (c) Chief Finance Officer
- (d) Director of Children's Services and such other posts as are referred to in legislation as "Chief Officer" posts
- (e) Other posts as agreed between the Chief Executive and the Chairman of the Council.

11.02 Functions of the Chief Executive and Head of Paid Service

- (a) Overall corporate management and operational responsibility, including overall management responsibility for all officers.
- (b) Principal adviser to Members.
- (c) Ensuring the proper conduct of the Council's affairs and the maintenance of a record of Council's decisions.
- (d) Representing the Council with other agencies and externally.
- (e) Determining and publicising the overall management structure for the Council and where appropriate reporting to the Council on these matters.
- (f) Supporting the Council's civic role through the work of the Chairman of the County Council, the High Sheriff of Surrey and the Lord Lieutenant of Surrey.
- (g) In consultation with the Monitoring Officer, considering applications from members of staff for exemption from political restriction in respect of a post they hold with the Council.
- (h) In consultation with the Monitoring Officer, considering applications that the Council be directed to include any post in the list of politically restricted posts.

11.03 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 available on the Council's website.
- (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 Council or to the Leader/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) **Maintaining high standards of conduct.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct.
- (d) **Receiving and dealing with allegations of misconduct.** The Monitoring Officer will receive and deal with allegations that a Member has breached the Member Code of Conduct in accordance with the arrangements set out in Part 6 of the Constitution.
- (e) **Access to information.** The Monitoring Officer will ensure that all decisions with the reasons for those decisions and relevant officer reports and background papers, are made publicly available as soon as possible.
- (f) **Advising whether executive decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions on executive functions are in accordance with the budget and policy framework.
- (g) **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.
- (h) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

11.04 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 Council or to the Leader/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.

11.05 **Duty to provide sufficient resources to the Monitoring Officer, Chief Finance Officer and Data Protection Officer**

The Council will provide the Monitoring Officer, Chief Finance Officer and Data Protection Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

11.06 **Functions of the Designated Scrutiny Officer**

- (a) Promote the role of the authority's overview and scrutiny committees.
- (b) Provide support to the authority's overview and scrutiny committees.
- (c) Provide support and guidance to:
 - i. Members of the authority
 - ii. Members of the Cabinet and
 - iii. Officers of the authority
 in relation to the functions of the authority's overview and scrutiny committees.

11.07 **Conduct**

Officers will comply with the [Officer Code of Conduct](#) and the Member/Officer Protocol set out in Part 6 of this Constitution.

11.08 **Officer Employment Procedure Rules**

- (a) The appointment and dismissal of staff will comply with Part 5 of Standing Orders.
- (b) The Council will publish and follow Equal Opportunities policies in relation to the recruitment of all staff.
- (c) The Council will establish a People, Performance and Development Committee of between four and six Members. The committee will be proportionate, but must include at least one member of the Cabinet.

Except for the appointment and dismissal of the Chief Executive, Monitoring Officer and Section 151 Officer, which are dealt with below, the following shall be a function of the committee:

- i. the appointment of Officers to those posts as are identified in paragraph 149 of Part 5 of Standing Orders as being appointments that can be made by Members;
- ii. the dismissal of and taking disciplinary action against Chief Officers;
- iii. appointing a designated independent person in accordance with paragraph 151 of Part 5 of Standing Orders.

Any appointments and dismissals made under (i) and (ii) above will only take effect where no well-founded objection has been received from any member of the Cabinet.

- (d) For such appointments the Chief Executive will be responsible for ensuring the preparation of a proper job description, statement of job accountabilities and a person specification, prior to advertising posts in such a manner as to attract the best possible candidates. Arrangements will be made for details to be sent to any person on request. The Chief Executive will then be responsible for drawing up a short list of candidates which he/she considers capable of performing the job satisfactorily from which the People, Performance and Development Committee will make a final appointment. Where no suitable person has applied for a post, further arrangements for advertising the post will be made. In relation to the appointment of a Chief Executive such arrangements will be made by the People, Performance and Development Committee with advice from specialist personnel staff.
- (e) Determination of the conditions of employment (including variations to fixed term contracts) of the Chief Executive, Chief Officers and such other posts as are defined in paragraph 149 Part 5 of Standing Orders will be made by the People, Performance and Development Committee.
- (f) All employees of the Council, other than those referred to in paragraph (c) above, will be formally appointed by the Chief Executive or other designated officers under authority delegated by the Council.

1. Appointment of Chief Executive, Monitoring Officer and S151 Officer

- (a) The Council will approve the appointment of the Chief Executive/Head of Paid Service, Monitoring Officer and Section 151 Officer following the recommendation of such an appointment by the People, Performance and Development Committee.
- (b) The Council may only make or approve the appointment of the Head of Paid Service, Monitoring Officer and Section 151 Officer where no well-founded objection has been made by any member of the Cabinet.

2. Other appointments

- (a) **Other officers.** Appointment of officers other than those referred to in paragraphs 11.08 (c) apart from assistants to political groups, is the responsibility of the Chief Executive or his/her nominee, and may not be made by councillors.
- (b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group, and the law.

3. Recruitment and appointment

- (a) Declarations
 - (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether he/she is the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or of the partner of such persons.
 - (ii) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by him/her.
- (b) Seeking support for appointment.
 - (i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
 - (ii) Subject to paragraph (iii), no councillor will seek support for any person for any appointment with the Council.
 - (iii) Nothing in paragraphs (i) and (ii) above will preclude a councillor from giving a written reference for a candidate for submission with an application for appointment.

4. Disciplinary action

- (a) **Suspension.** The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.

- (b) **Independent person.** No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person.
- (c) Councillors will not be involved in the disciplinary action against any officer other than a Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of disciplinary action.

5. Dismissal

Councillors will not be involved in the dismissal of any officer other than a Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of dismissals.

ARTICLE 12 – FINANCE, CONTRACTS AND LEGAL MATTERS

12.01 The management of the Council’s financial affairs will be conducted in accordance with Financial Regulations.

Every contract made by the Council will comply with Procurement Standing Orders.

Any contract of a nature set out in Procurement Standing Orders 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 confirmed/verified by at least one officer.

Procurement Standing Orders can be found in Part 5 of the Constitution.

ARTICLE 13 – REVIEW AND REVISION OF THE CONSTITUTION

13.01 Changes to the Constitution

- (a) **Approval.** Apart from those changes referred to in Article 4, changes to this Constitution will only be approved by the Council.
- (b) **Change from a leader and cabinet form of executive to an elected mayor and cabinet, or vice versa.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals, and comply with legislative requirements.

ARTICLE 14 – SUSPENSION AND INTERPRETATION OF THE CONSTITUTION

14.01 Suspension of the Constitution

- (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. Only Standing Orders may be suspended by the Council in accordance with SO27.
- (b) **Procedure to suspend.** The motion to suspend Standing Orders will not be moved without notice, unless at least half the total 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.

14.02 Interpretation

The ruling of the Chairman as to the interpretation of Standing Orders and the proceedings of the Council shall not be challenged at any meeting of the Council.

ARTICLE 15 – ACCESS TO INFORMATION RULES

15.1 Background

- a) The Local Government Act 1972 (“the 1972 Act”) Part VA (as amended) sets out the statutory requirements in respect of rights of access of the public to Meetings and Reports of the County Council, its Committees, Sub-Committees, Boards and Panels.
- b) Section 9 FA (6) of Part 1A of the Local Government Act 2000 (“the 2000 Act”), applies the requirements set out in Part VA of the 1972 Act in respect of rights of access of the public to Meetings and Reports to Select (Overview and Scrutiny) Committees.
- c) The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (“the Access to Information Regulations”) made pursuant to the 2000 Act set out the statutory requirements in respect of rights of access of the public to Meetings and Reports of the Executive and the publication of Executive Decisions.
- d) The Openness of Local Government Bodies Regulations 2014 made pursuant to the Local Audit and Accountability Act 2014 (‘the Openness of Local Government Bodies Regulations’) set out further provisions regarding the publication of certain records of Non-Executive Decisions made by Officers under delegated powers.

15.2 Public Access to Information Rules:

a) Scope

These rules allow the public rights of access to meetings and information and reflect the Council’s policy of open, transparent and accountable decision-making. They apply to all public meetings of the Council.

b) Additional rights to information

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

c) Rights to attend meetings

- i. Members of the public may attend all meetings subject only to the exceptions in these rules.
- ii. Where the Cabinet meets to consider a key decision, the meeting must be held in public, unless exempt or confidential information is to be discussed.

d) Notice of meeting

- i. The Council will give at least five clear days' notice of any meeting by posting details of the meeting at Woodhatch Place and at the venue of the meeting if elsewhere except where the special urgency rule applies.
- ii. A notice of meetings will also be published on the Council's website.

e) Access to agenda and reports before the meeting

- i. The Council will make copies of the agenda and reports open to the public available for inspection on the Council's website and at the designated office at least five clear days before the meeting.
- ii. If an item is added to the agenda later, each such report will be made available to the public as soon as the report is completed and sent to councillors, and the revised agenda will be open to inspection from the time the item was added to the agenda.

f) Supply of copies

The Council will supply copies of:

- (i) any agenda and reports which are open to public inspection;
- (ii) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (iii) a copy of the agenda and reports will be made available at the meeting for public use only.

g) Access to minutes after the meeting

The Council will make available copies of the following for six years after a meeting:

- (i) the minutes of the meeting or records of decisions taken, together with reasons, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (ii) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (iii) the agenda for the meeting; and
- (iv) reports relating to items when the meeting was open to the public.

h) Background papers

The proper officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (i) disclose any facts or matters on which the report or an important part of the report is based; and
- (ii) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Rule (m)) and in respect of Cabinet reports, the advice of a political adviser.

i) Public inspection of background papers

The list of background papers will be included when a copy of the whole or part of a report for a meeting is made available for inspection by members of the public.

At least one copy of each of the documents included in that list, will be available for inspection by the public at the main Council offices. The Council will make these documents available for public inspection for four years after the date of the meeting.

(j) Summary of public's rights

A written summary of the public's rights to attend meetings and to inspect and copy documents will be published on the Council's website.

k) Exclusion of access by the public to meetings

Where any meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. Exempt information means information falling within the following 7 categories (subject to the qualifications set out below):

Category	Description of Exempt Information
1.	Information relating to any individual.
2.	Information which is likely to reveal the identity of an individual.
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6.	Information which reveals that the authority proposes - <div style="margin-left: 40px;"> (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment. </div>
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

l) Qualifications:

Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under –

- i. the Companies Acts (as defined in Section 2 of the Companies Act 2006);
- ii. the Friendly Societies Act 1974;
- iii. the Friendly Societies Act 1992;
- iv. the Industrial and Provident Societies Acts 1965 to 1978;
- v. the Building Societies Act 1986; or
- vi. the Charities Act 1993.

Information is not exempt if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

Information which -

- (a) falls within any of paragraphs 1-7 above; and
- (b) is not prevented from being exempt by virtue of qualifications above,

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Any member of the public can formally request that a report that contains exempt information be heard in public under the relevant section of the procedural matters item at the formal meeting. Any request would need to be put in writing to the Governance Lead Manager. The request should contain the reasoning behind the belief that it should be held in public so that a public interest test can be applied.

m) **Orderly conduct and misbehaviour – lawful powers to exclude**

Lawful powers may be used to exclude a member or members of the public in order to maintain orderly conduct or prevent misbehaviour at a meeting.

Members of the public exercising their right to take photographs, film, audio-record and report at a meeting may be excluded if their activity or behaviour is disruptive to the conduct of the meeting.

n) **Exclusion of access by the public to reports**

If the proper officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule (k), the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

o) **Decisions to be taken at a meeting held in private**

The Council will produce public notices and follow the procedures set out in Access to Information Rule 6.05 (m) - Procedures prior to a private meeting of its intention to hold all or part of a Cabinet meeting (including its committees) in private.

p) **Reporting of public meetings**

Any person attending a meeting in public for the purpose of reporting the proceedings will, so far as practicable, be provided with reasonable facilities for taking their report.

15.3 SPECIFIC MEMBERS' RIGHTS OF ACCESS TO INFORMATION

a) **Select Committees**

Subject to paragraph () below, a member of a select committee will be entitled to copies of any document which is in the possession or control of the Cabinet, its committees, or individual Cabinet Members and which contains material relating to any business transacted at a public or private meeting of the Cabinet, its committees, or individual Cabinet Members or any decision which has been made by an officer of the authority in accordance with executive arrangements.

A copy of the document must be provided as soon as reasonably practicable and in any case no later than 10 clear days after the request has been received. Where it is determined that, a member of a select committee is not entitled to a copy of a document or part of any such document for a reason set out under paragraph (i) a written statement must be provided to the relevant select committee setting out the reasons for the decision.

(i) **Limit on rights**

A member of a select committee will not be entitled to:

- any document that is in draft form;
- any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision it is reviewing or scrutinising or intends to scrutinise; or
- the advice of a political adviser.

b) **Joint Arrangements**

- i. The Access to Information Rules will apply to joint arrangements.
- ii. If all the members of a joint committee are members of the Cabinet/Executive in each of the participating authorities then its access to information regime is the same as that applied to the Cabinet.
- iii. If the joint committee contains members who are not on the Cabinet/Executive of any participating authority then the access to

information rules in Part VA of the Local Government Act 1972 will apply.

c) Local and joint committees

Local and joint committees will comply with the Access to Information rules in Part VA of the Local Government Act 1972.

Agendas and notices for local and joint committee meetings which deal with both functions of the Leader/Cabinet and functions which are not the responsibility of the Leader/Cabinet will state clearly which items are which.

d) Cabinet

i. Notice of key decisions (Forward Plan)

A notice will be published at least 28 clear days before the Cabinet (or its committees), Cabinet Member or other executive decision maker intends to make a key decision.

ii. Contents of notice of decisions

The notice of decisions will contain matters which the Cabinet has reason to believe will be the subject of a key decision to be taken by the Cabinet, a committee of the Cabinet, an individual Cabinet Member, or under joint arrangements in the course of the discharge of an executive function. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- a. that a key decision is to be made on behalf of the local authority;
- b. the matter in respect of which a decision is to be made;
- c. where the decision taker is an individual, his/her name and title, if any, and where the decision taker is a body, its name and details of membership;
- d. the date on which, or the period within which, the decision will be taken;
- e. a list of the documents submitted to the decision taker for consideration in relation to the matter;
- f. the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- g. that other documents relevant to those matters may be submitted to the decision maker; and

- h. the procedure for requesting details of those documents (if any) as they become available.

The notice of decisions will contain particulars of the key decision but may not contain any confidential, exempt information or particulars of the advice of a political adviser or assistant.

e) Agenda and Reports

Any Member of the Council will on request be entitled to receive the agenda and any related reports or other documents for any or all meetings of the Cabinet, any committees of the Cabinet or any committees/boards of the Council of which they are not appointed members.

f) Material relating to previous business

All Members will be entitled to inspect any document which is in the possession or under the control of the Cabinet, or its committees, and which contains material relating to any business previously transacted at a meeting of the Cabinet unless either (i) or (ii) below applies:

- (i) it contains exempt information falling within paragraphs 1, 2, 4, 5 and 7 of the categories of exempt information as set out in paragraph 15.2 (k) above; or
- (ii) it contains the advice of a political adviser.

g) Material relating to key decisions

All Members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet, or its committees, which relates to any key decision unless paragraph (i) or (ii) above applies.

h) Nature of rights

These rights of a Member are additional to any other right he/she may have.

i) Confidentiality

Members of the Council will not disclose information which has been given to them in confidence or which is exempt without the consent of the Council.