

Amended March 2019

## **Part 2**

# **Articles of the Constitution**

## Article 1 – The Constitution

1.01 This part of the Constitution contains the remits of the Council, Committees, Sub-Committees and Panels. The Scheme of Delegation to Officers is contained in Part 3 of the Constitution. Appointments to Committees are made at the Annual Council Meeting or, when a vacancy occurs, at the next available meeting of the Council. The Leader of the Council can attend all the Service Committees as of right but has no vote (not being a Member of those Committees).

### 1.02 Powers of the Council

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

### 1.03 The Constitution

This Constitution, and all its appendices, is the Constitution of the Three Rivers District Council.

### 1.04 Purpose of the Constitution

The Council exists to serve the people who live and work in the District of Three Rivers. The Council has set itself a long-held guiding vision that *“Three Rivers should be a prosperous, safe and healthy place where people want and are able to live and work.”* The enactment of this vision is set out in the Council’s Plans and strategies.

The purpose of the Constitution for Three Rivers District Council then is to:

1. enable the Council to provide clear leadership to all its communities in partnership with citizens, businesses and other organisations able to contribute;
2. facilitate and encourage the active involvement of all citizens in the process of local authority decision making;
3. help councillors represent all 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 all parts of the community.

1.05 **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 greatest number of the purposes stated above, provided it is within its resources.

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 39 members, otherwise called councillors. One or more councillors will be elected by the Local Government voters of each ward in accordance with The Local Government, England The Three Rivers (Electoral Changes) Order 2014 SI 2014 No 243.
- (b) **Eligibility.** Only registered voters of the district 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 ordinary election of a third of all Councillors will be held on the first Thursday in May in each year beginning in 2015, except that in 2017 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) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
  - (iii) effectively represent the interests of their ward and its constituents;
  - (iv) respond to constituents' enquiries and representations, fairly and impartially;
  - (v) participate in the governance and management of the Council; and
  - (vi) maintain the highest standards of conduct and ethics.
- (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 have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Procedure Rules in Part 4 of this Constitution:

- (a) **Voting and Petitions.** An individual over 18 who lives in the District and is qualified to be on the Register of Electors as a Local Government elector is entitled to vote for a Candidate at a Local Election. To register you have to contact the Electoral Registration Officer and ask to be placed on the register at the property in which you reside. An annual audit of voters is carried out by all Councils. You can apply for a postal vote at any time.

Citizens on the Register of Electors for the area have the right to vote and sign a Petition either electronically or in print to request a referendum for an elected Mayor form of Constitution.

- (b) **Information.** Citizens have the right to:
- (i) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (ii) see reports and background papers, and any records of decisions made by the Council and its committees; and
  - (iii) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation.** Citizens have the right to participate at Council and Committee meetings and contribute by invitation to investigations by Committees. Council Procedure Rules 16 and 36(C) set out the procedure.
- (d) **Compliments, Comments and Complaints.** Citizens have the right to compliment, comment or complain to the Council under its adopted scheme. Citizens also have the right to complain to:
- (i) the Local Government Ombudsman after using the Council's own complaints scheme;
  - (ii) the Monitoring Officer about a breach of the Members' Code of Conduct.

### **3.02 Citizens' Responsibilities**

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

## **Article 4 – The Full Council**

Some functions can only be carried out by the Council as defined by the Local Authorities (Committee System) (England) Regulations 2012. Other functions can be carried out by the Council or may be discharged through Committees. In addition the Council may delegate decision making to Officers except where a function is expressly reserved to the Council for decision.

### **4.01 Meanings**

#### **(a) Policy Framework**

The policy framework means the following plans and strategies:-

- Community Strategy;
- The Council's Strategic Plan;
- Crime and Disorder Reduction Strategy;
- Plans and strategies which together comprise the Local Plan including draft policies and proposals in association therewith;
- Licensing Authority Policy Statement;
- Policies made under the Gambling Act;
- Asset Management Plan;
- Statement of Pay Policy.

#### **(b) Budget**

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds and balances, the council tax base, setting the council tax in relation to the district and parish council budgets, council tax support scheme and the setting of virement limits.

### **4.02 Only the Council will exercise the following functions:**

#### **(a) Financial Matters**

--duty to make arrangements for proper administration of financial affairs under Section 151 of the Local Government Act 1972;

- reports under Section 114 Local Government Finance Act 1988;
- consideration of a report of the District Auditor in the public interest;
- the appointment of a Council Tax Setting Committee under section 67 of the Local Government Finance Act 1992 to carry out the functions under sections 30 and 31 of that Act.

#### **(b) Constitutional Matters**

- adopting any significant changes to the Council Constitution (other than variations to the scheme of delegation which may be approved by Committees within their remits and minor and consequential changes

to the Constitution which are delegated to the Chief Executive and Monitoring Officer) (see Scheme of Delegation);

- approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
  - considering Ombudsman reports and deciding upon action to be taken where there has been a finding of maladministration with injustice and the report has been rejected by the Head of Paid Service;
  - making payments or providing other benefits in cases of maladministration under section 92 of the Local Government Act 2000;
  - making decisions on the Council's political management framework;
- making or amending Council Procedural Rules and Financial and Contract Procedural Rules;
- designating, making, or confirming the appointments or dismissal of the proper officers including Head of the Paid Service, Monitoring Officer, S151 Officer and any other first tier appointments in accordance with the Officer Employment Procedure Rules;
  - reports of the Head of Paid Service under Section 4 of the Local Government and Housing Act 1989;
  - scheme of delegation in the event of the need to assign or reassign a relevant function;
  - the acceptance on behalf of another Authority of a function of that Authority;
  - appointment of Panels and other Committees of the Council and determination of their terms of reference, composition, number of Members, terms of office, and any area of the District in which their operation is limited.

**(c) Electoral Matters**

- (i) duty to appoint an Electoral Registration Officer;
- (ii) duty to appoint a Returning Officer for Local Government elections;
- (iii) duty to declare vacancy in office in certain cases;
- (iv) to receive reports of the Returning Officer;
- (v) functions in relation to parishes and parish councils;
- (vi) power to dissolve small parish councils;
- (vii) power to make orders for grouping parishes, dissolving groups and separating parishes from groups;



- (viii) power to submit proposals to the Secretary of State for an order under Section 10 (Pilot schemes for local elections in England and Wales) of the Representation of the Peoples Act 2000.

(d) **Legislative Matters**

- all other matters which, by law, must be reserved to Council;
- any Local Act functions;
- approval of local lotteries;
- changing the name of the area;
- designation of land as a litter control area under Section 90 of the Environmental Protection Act 1990;
- making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- Monitoring Officer reports under the provisions of Section 5 of the Local Government and Housing Act 1989.

(e) **Members**

- adopting an allowances scheme under Article 2.05;
  - appointing an independent panel on members' allowances;
  - election of Chairman and Vice-Chairman of the Council;
  - appointing representatives to outside bodies;
  - appointing the Leader, the Lead Member for Resources (to be Vice-Chairman of the Policy and Resources Committee)
  - appointing the Lead Members who shall be the Chairs and Vice-Chairs of the two Service Committees:-
    - Infrastructure, Housing and Economic Development
    - Leisure, Environment and Community Committee
- (see Article 7)
- the Lead Members being for
    - Leisure
    - Environmental Services
    - Economic Development
    - Housing
    - Infrastructure and Planning Policy
    - Community Safety and Partnerships
  - overall responsibility for standards and ethics including -
    - Resolution adopting new Codes of Conduct for Members and officers and appointment of the Independent Persons.

(f) **Staff**

- determination of terms and conditions affecting staff generally;
- approving the Annual Senior Officer Pay Policy Statement;
- procedures for dismissal policy;
- functions relating to local government pensions.

4.03 **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.

4.04 **Responsibility for Functions**

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions.

Note: For the avoidance of doubt the Full Council retains ultimate responsibility for the actions and decisions of all its Committees and also retains the ability to exercise all its powers whether or not they have been delegated to a Committee or Officer

However, the Council shall not overrule a power that has been delegated without first ensuring that such a step is in the best interest of the Council or its residents. The Council's ability to exercise its powers will not override or supersede any decision or action already taken by a Committee or Officer acting under delegated authority which has been enacted.

Further to the above, the Council can only overturn a delegated decision under the following exceptional circumstances (this list is not exclusive):

- The Monitoring Officer has deemed the decision *ultra vires*
- or
- The decision has not been enacted
  - No contracts have been exchanged
  - Any five Members, within five working days of the decision having been taken, write to the Monitoring Officer or Chief Executive.

Discussion and decisions on Policy shall not go to Council unless legally required to do so and are only to be dealt with by the Policy and Resources Committee.

## **Article 5 – Chairing the Council**

### **5.01 Role and Function of the Chairman**

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

The Chairman will be elected by the Council annually in accordance with the agreed method of election approved by the Council. The Chairman will have the following responsibilities:

1. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
2. to preside over the 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;
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 as s/he determines appropriate.

### **5.02 Scheme for the Election of the Chairman**

The Scheme for the Election of the Chairman of the Council is contained in the Appendices to this Constitution.

## **Article 6 – Policy and Resources Committee**

### **6.01 Introduction**

The Policy Development and Review functions are undertaken by the Policy and Resources Committee.

### **6.02 Terms of Reference**

#### **Policy and Resources Committee**

- (i) To set and co-ordinate all policy for itself and the service and other committees which have been delegated by the Council:-
- (ii) To review and scrutinise the policies made or proposed to be made by the Council and to recommend appropriately to the Council:
  - (a) whether any new policies are required;
  - (b) whether any existing policies are no longer required;
  - (c) whether any changes are required to any existing policies;
  - (d) whether any action is required to make the policies more effective.
- (iii) To consider any matters which affect the Council's administrative area or the inhabitants of that area and to make recommendations or reports to the Council.
- (iv) To allocate resources to the other Committees to enable the Council functions to take place.
- (v) To be responsible for the following areas of concern and to review performance against the previous year's plans of the services within its remit:
  - Audit and Fraud including Audit Recommendations
  - Commercial Estate management
  - Committee/Member support
  - Communication
  - Customer Services Centre
  - Electoral registration and elections
  - Land and Property (PFM) and Office Services
  - Legal
  - Policy/Corporate support
  - Purchasing/procurement
  - Rent Account
  - Services provided jointly with other Local Authorities:

- (Accountancy, Treasury, Income and Payments)
- Benefits – Housing Benefit, Council Tax Benefit, discretionary NNDR relief
- Collection of Council Tax, National Non-Domestic Rate
- To undertake an annual review of the Council Tax Support Scheme and make recommendations to Council
- Information and Communications Technology
- Human Resources and Training
- Themes / Strands allocated from the Council's Strategic Plan
- Resources and Finance including the development of Budget recommendations to Council
- Asset Management
- Major Projects
- Local Plan
- Community Infrastructure Levy
- Right to Build Register
- Requests for implementation of Public Spaces Protection Orders under the Anti-Social Behaviour, Crime and Policing Act 2014.
- To authorise the purchase of property for investment.
- Requests for implementation of Public Spaces Protection Orders under the Anti-Social Behaviour, Crime and Policing Act 2014

6.03      **Membership**

- (i)      Membership of the Committee will be determined in accordance with political balance rules under Section 15 to 17 of the Local Government and Housing Act 1989 and in accordance with methods of appointment set out in Council.
  
- (ii)     The Leader of the Council shall Chair this Committee. All the Lead Members designated as such by Council are *de facto* Members of this Committee.

**Remit for the Lead Member for Resources and Shared Services**

	<p><b>Lead Member Resources and Shared Services</b> Audit and Fraud including Audit Recommendations Commercial Estate management Committee/Member support Customer Services Centre Electoral registration and elections Land and Property (PFM) and Office Services Legal Policy/Corporate support Purchasing/procurement Rent Account Accountancy, Treasury, Income and Payments Benefits – Housing Benefit, Council Tax Benefit, discretionary NNDR relief Collection of Council Tax, National Non-Domestic Rate To undertake an annual review of the Council Tax Support Scheme and make recommendations to Council Information and Communications Technology Human Resources and Training Themes / Strands allocated from the Council's Strategic Plan Resources and Finance including the development of Budget recommendations to Council Asset Management Major Projects To authorise the purchase of property for investment.</p>
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## **Article 7 – Service Committees**

7.01 There are two Service Committees (reviewed in 2017). They are Leisure, Environment and Community and Infrastructure, Housing and Economic Development.

7.02 Their functions are:

- (i) To make all decisions in respect of their areas of responsibility (as set out in the tables below) provided these are within their allocated budgets and agreed policies.
- (ii) To consider any matter referred to them by the Council or the Policy and Resources Committee and recommend or report to the Council or the Policy and Resources Committee accordingly.
- (iii) To review performance against the previous year's plans of the services within their remit:
- (iv) To consider any matter identified by the Policy and Resources Committee for consideration within their remit.
- (v) To determine an annual Work Plan.
- (vi) To liaise and seek views of the local community and other interested parties in relation to the above matters.
- (vii) To consider any submitted Community or Councillor Calls for Action.

7.03 **Scope of Services within Service Committees' Remit**

The Council will appoint the Service Committees set out in the left-hand column of the table below to discharge the functions set out in the right-hand column of the same table.

Service Committees	Services Included
<p>Infrastructure, Housing and Economic Development Committee</p>	<p>Themes / Strands allocated from the Council's Strategic Plan Reporting on allocated service plans</p> <p><b>Lead Member for Economic Development</b> Economic Development Rivertech Sustainability – promoting energy efficiency and 'green' matters Supporting better buses, public transport and cycling Transport Car parking (provision, fines, permits, parking machines and contract with Hertsmere Council) Highways</p> <p><b>Lead Member for Infrastructure and Planning Policy</b> Infrastructure Schemes Development Management Heritage Listed Buildings Land Charges Land Drainage Conservation areas, local listing Tree Protection Community Infrastructure Levy Local Plan Neighbourhood Planning Right to Build Register Brownfield Register Building Control</p> <p><b>Lead Member for Housing</b> Residential Environmental Health (to include Noise Pollution) Council House Allocations and Lettings (transfers and Choice Based Lettings bids) Homelessness and Housing Advice Housing grants for improvement and adaptation Private Housing condition and Houses in Multiple Occupation (including stock condition surveys) To purchase any property for use as temporary accommodation. Travellers (incursions and management of traveller sites)</p>



<p>Leisure, Environment and Community Committee</p>	<p>Themes / Strands allocated from the Council's Strategic Plan Reporting on allocated service plans</p> <p><b>Lead Member for Leisure</b> Arts development Outdoor (woodlands, tree management, open spaces, grounds maintenance, play areas) Leisure grants Play Development, Schemes and Rangers Sport (pools, gyms, pitches, golf courses) and sports development Leisure Contract Services for Young and Old People Indoor (community centres, theatre)</p> <p><b>Lead Member for Environmental Services</b> Cemeteries and crematorium Air Pollution Refuse collection and recycling Street cleaning and litter bin emptying Animal and Pest Control</p>
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	<p><b>Lead Member for Community Safety and Partnerships</b></p> <p>Public Health Strategy          Health and social care provision and access          Grant aid, including the voluntary sector          Community Grants          Communications          Food Inspection and disease control          Health and Safety (for Health and Safety Executive and Council staff and contractors)          Licensing activities covered by the Licensing Acts          Licensing and Regulatory activities outside the Licensing Acts          Requests for implementation of Public Spaces Protection Orders until the Anti-Social Behaviour, Crime and Policing Act 2014          Services provided jointly with other Local Authorities:          Development of Commercial Partnerships          Community Toilet Schemes          Community safety, including the following functions:-</p> <ul style="list-style-type: none"> <li>• To review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions (it is the Crime and Disorder Committee for the purposes of the Police and Justices Act 2006);</li> <li>• To make reports or recommendations to the Council with respect to the discharge of those functions;</li> <li>• The Committee will be able to co-opt members from the Responsible Authorities (the Community Safety Partnership) should it wish to when reviewing certain projects/decisions.</li> </ul>
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7.04 **Proceedings of Service Committees**

The Committees will conduct their proceedings in accordance with the Council Procedure Rules as set out in Part 4 of this Constitution.

7.05. **Membership**

- (i) Membership of the Committees will be determined in accordance with political balance rules under Section 15 to 17 of the Local Government and Housing Act 1989 and in accordance with methods of appointment set out in Council.
- (ii) There will be three Presiding Members of each Service Committee appointed from the Lead Members designated as such by Full Council. The Chairmanship of the Service Committees will be split between the three Presiding Members in accordance with their areas of Special Responsibility with the other acting as his/her Vice-Chair when not in the Chair.

- (iii) Substitute Members are permitted in accordance with Council Procedure Rule 28.

## **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 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 Regime**

9.01 In accordance with the Localism Act 2011, the Council will establish a Panel of three Members to deal with complaints against Members of the District Council or a parish council in respect of breaches of the Code of Conduct.

### **9.02 Composition**

The Panel will consist of three Group Leaders or their nominated representatives.

9.03 When dealing with complaints the following stages be implemented:-

- Stage 1 - The Monitoring Officer considers complaint in consultation with the Independent Person appointed by the Council.
- Stage 2 - Informal resolution of complaint by Group Leaders (or nominated representatives) and by representative of the Parish Council if complaint involved a Parish Councillor (Clerk Deputy or nominated Member).
- Stage 3 - If a formal Hearing is required, a Panel of 3 Members, Group Leaders or nominated representatives (but not those involved in Stage 2 above), will be appointed to consider a report from the Investigation Officer and determine the complaint. If the complaint involves a Parish Councillor, a representative of the relevant Parish Council, Chairman or nominated representative (but not the representative involved in Stage 2) will be added to the membership of the Panel. In accordance with the statutory provision, the Panel will consult the Independent Person before it determines the complaint.

## Article 10 – Area Arrangements

### 10.01 Local Area Forums

The Council has appointed six area forums, one for each of the District's parished areas and one for the unparished area.

#### Terms of Reference

Each Local Area Forum is a consultative/advisory meeting which itself has no decision-making powers. Its dual purpose is to provide an opportunity for the public to raise matters of concern and interest and to express their views and to provide the Council with a platform to explain its position, policies and plans.

#### Composition/Membership

Chairmen and Vice-Chairmen of the Forums are elected at Annual Council. The particular Ward Councillors appointed to each Forum are those that represent the relevant Wards within each parished (or unparished) area. Council Officers attend meetings as warranted by agenda items but officer attendance is kept to a minimum in order to maintain the emphasis on direct interaction between the public and Councillors.

#### Regularity of Meetings

The calling of meetings is left to the discretion of the Chairman and there is no minimum number of meetings per year, nor is there a set venue.

#### General Procedures

It is the responsibility of the Chairman and fellow Ward Members to formulate the agenda for a meeting. Agendas should be despatched approximately two weeks in advance of the meeting.

There are no formal notes of the meeting: Members might note any actions they have agreed to pursue, but these are not distributed.

The following procedures are also practised at the meetings:-

- The Chairman introduces him/herself at the start of the meeting and asks the Ward and County Councillors in attendance to do likewise.
- The Chairman explains the purpose of the meetings and action to be taken after the meeting.

#### Publicity

A wide range of methods of advertising meetings may be employed including the following:-

- Direct e-mail to interested parties/organisations
- *Three Rivers Times* and Website
- Local noticeboards (arranged via Council staff)
- Community newsletters and posters.

## **Article 11 – Joint Arrangements**

### **11.01 Arrangements to Promote Well Being**

The Council, 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 executives to exercise any functions in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of a joint committee or advisory panel with these other local authorities.
- (b) 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**

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

### **11.04 Delegation to and from Other Local Authorities**

- (a) The Council may delegate functions to another local authority or the executive of another local authority.
- (b) 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 under the Deregulation and Contracting Out Act 1994**

The Council and/or one of its Committees may contract out to another body or organisation functions which may be exercised by an officer within any legislative constraints.

## Article 12 – Officers

### 12.01 Management Structure

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

Post	Functions and Areas of Responsibility
Chief Executive	<p>To lead the Corporate Management Board and assume overall responsibility for corporate and operational management of the Council including the provision of impartial professional advice to all parts of the political management structures.</p> <p>Together with the monitoring officer, responsibility for a system of record keeping for all the Council's decisions.</p> <p>Representing the Council on partnership and external bodies (as required by statute or the Council).</p> <p><b>Corporate and Advisory Role:</b> To serve as a member of the Corporate Management Board and contribute to the corporate management of the Council including the provision of impartial professional advice to all parts of the political management structure.</p> <p>To have a general power of competence in cases of urgency or emergency.</p> <p><b>Service Role:</b> Direct operational management responsibility for the following service areas:-</p> <ul style="list-style-type: none"> <li>• Legal</li> <li>• Election and Electoral Registration</li> <li>• Committee Administration</li> <li>• Emergency Planning</li> <li>• Corporate Planning and Value for Money</li> <li>• Corporate Partnerships</li> </ul>
Director of Finance	<p><b>Corporate and Advisory Role:</b> To serve as a member of the Corporate Management Board and contribute to the corporate management of the Council including the provision of impartial professional advice to all parts of the political management structure.</p> <p><b>Service Role:</b> Strategic oversight of corporate services within the Lead Authority Agreement, currently</p> <ul style="list-style-type: none"> <li>• To contribute to the Corporate Management</li> </ul>



Post	Functions and Areas of Responsibility
	<p>of the Council</p> <ul style="list-style-type: none"> <li>• Finance and Accountancy;</li> <li>• Revenues and Benefits</li> <li>• Customer Contact Programme</li> <li>•</li> <li>• Procurement</li> </ul> <p>Direct operational management responsibility for the following service areas:-</p> <ul style="list-style-type: none"> <li>• Finance and Accountancy,</li> <li>• Revenues and Benefits</li> </ul>
Director of Community and Environmental Services	<p><b>Corporate and Advisory Role:</b> To serve as a member of the Corporate Management Board and contribute to the corporate management of the Council including the provision of impartial professional advice to all parts of the political management structure.</p> <p><b>Service Role:</b> Direct operational management responsibility for the following service areas:-</p> <ul style="list-style-type: none"> <li>• Development Control</li> <li>• The Local Plan</li> <li>• Local Land Charges</li> <li>• Building Control</li> <li>• Leisure</li> <li>• Control and Maintenance of Car Parking</li> <li>• Economic Development.</li> <li>• Housing</li> <li>• Environmental Health</li> <li>• Environmental Protection</li> <li>• Property and Facilities Management</li> <li>• Customer Service Centre</li> <li>• Major Projects</li> </ul>

- (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
Solicitor to the Council	Monitoring Officer
Director of Finance	Chief Finance Officer

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

The head of paid service, monitoring officer and chief finance officer may nominate a member of staff as a deputy to act in their absence or illness. The following nominations have been made:

Post	Designation
Director (to be nominated by the Chief Executive)	Deputy Head of Paid Service
Principal Solicitor	Deputy Monitoring Officer
Director of Finance	Deputy Chief Finance Officer

- (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 procedural 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 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) **Overseeing the Standards Regime.** The monitoring officer will contribute to the promotion and maintenance of high standards of conduct overseeing and supporting the Standards Regime.
- (d) **Conducting investigations.** The monitoring officer will conduct investigations into relevant complaints and make reports or recommendations in respect of them to the Panel and/or the Council.
- (f) **Proper officer for access to information.**
- (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.

#### 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 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 Necessary Resources to the Head of Paid Service, Monitoring Officer and Chief Finance Officer**

The Council will provide the Head of Paid Service, Monitoring Officer and Chief Finance Officer with necessary resources 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 Procedure 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:

- (a) The action must be in proportion to the desired outcome;
- (b) There should be due consultation and the taking of professional advice from officers;
- (c) There should be respect for human rights;
- (d) There should be a presumption in favour of openness;
- (e) There should be clarity of aims and desired outcomes;
- (f) There should be legality; and
- (g) There action should be in accordance with the key aims and objectives of the Council, meaning that where more than one decision is available to achieve a desired outcome, the Council will make the decision which is most likely to advance the Council's key aims and objectives, provided it is within its resources.

The reports presented to Council or Committees will explain what options were considered and give the reasons for the decision and the recommendation. A record of decisions made will be taken.

### **13.03 Types of Decision**

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.

### **13.04 Decision making by the Full Council**

Subject to Article 13.06, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

### **13.05 Decision making by Committees and Sub-Committees established by the Council**

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

13.06

**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 Procedure Rules set out in Part 4 of this Constitution.

### **14.02 Contracts**

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

### **14.03 Legal Proceedings**

The Solicitor to the Council 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 the Solicitor to the Council considers that such action is necessary to protect the Council's interests.

### **14.04 Authentication of Documents**

Where any document will be a necessary step in legal proceedings on behalf of the Council, it shall be signed by the Chief Executive unless any enactment otherwise requires or authorises, or the Council otherwise authorises some other person through the scheme of delegation to officers (as contained in Part 3 of this Constitution), or the Council gives the necessary authority to some other person for the purposes of such proceedings.

### **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 Solicitor to the Council. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Solicitor to the Council should be sealed. The affixing of the Common Seal will be attested by the Chief Executive, Director of Finance, Director of Community and Environmental Services 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 Constitution by Monitoring Officer**

##### **Terms of Reference for Committees**

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

1. observe meetings of different parts of the member and officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
4. compare practices in 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) **Change from a Committee system to a Leader and Cabinet form of Executive or 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 in accordance with legislation.

## **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 two-thirds of the whole number of Councillors are present. The extent and duration of suspension will be in proportion 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:
  - Council Procedure Rules
  - Financial Procedure Rules
  - Contracts Procedure Rules

### **16.02 Interpretation**

The ruling of the Chairman of the 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**

- (a) The Committee Team will give a copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.
- (b) The Committee Team will ensure that one copy is available for inspection at the Council offices, or can be viewed online at [www.threerivers.gov.uk](http://www.threerivers.gov.uk) and can be purchased by members of the local press and the public on payment of a reasonable fee.