

# CONSTITUTION - PART 2 - ARTICLES OF THE CONSTITUTION

## Article 1 – The Constitution

### **1.01 Powers of the Council**

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

### **1.02 The Constitution**

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

### **1.03 Purpose of the Constitution**

The purpose of the Constitution is to:

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

## **1.04 Interpretation and Review of the Constitution**

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

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

# **Article 2 – Members of The Council**

## **2.01 Members**

### **(a) Composition.**

The Council will comprise 54 members otherwise called councillors. One or more councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Electoral Commission and approved by the Secretary of State.

### **(b) Eligibility.**

Only registered voters of the District or those living or working there will be eligible to stand for the office of councillor.

## **2.02 Election and terms**

The ordinary election of a third (or as near as may be) of all councillors will be held on the first Thursday in May in each year, except that in 2005 and every fourth year after there will be no regular election. The term 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. If a councillor resigns, dies or is disqualified from being a councillor by law, then a by election will be held.

## **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) consider the views of others, and of their group, if they have one, but it is their responsibility alone to decide what view to take on any questions which councillors have to decide;
- (iii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities where

this is appropriate in the decision making process. (It is not appropriate where a quasi judicial decision is under consideration, eg a planning application);

- (iv) when dealing with quasi judicial decision making, such as planning applications, to take into account only those matters which may properly be taken into account and deal with every decision to be made fairly and impartially;
- (v) be available to represent the Council on other bodies;
- (vi) effectively represent the interests of their ward and of individual constituents. Councillors have a special duty to their constituents, including those who did not vote for them;
- (vii) respond to constituents' enquiries and representations, fairly and impartially;
- (viii) participate in the governance and management of the Council; and
- (ix) 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 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 rights set out below. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:

**(a) Voting and petitions.**

Citizens on the electoral register for the area have the right to vote and to sign a petition to request a referendum for an elected mayor form of executive arrangements.

**(b) Information.**

Citizens have the right to:

- (i) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private;
- (ii) attend meetings of the Cabinet when key decisions are being considered and at almost all other times except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private;
- (iii) find out from the forward plan what key decisions will be taken by the executive and when; as well as contact report authors and make representations;
- (iv) see reports and background papers, and any records of decisions made by the Council and the executive subject to the Access to Information Rules at Part 4 of this Constitution;
- (v) inspect the Council's accounts following publication of the advertisement that they are available for inspection and make their views known to the external auditor.

**(c) Participation.**

Citizens have the right to participate in the Council's question time and contribute to investigations by overview and scrutiny committees.

**(d) Complaints.**

Citizens have the right to complain to:

- (i) the Council itself under its complaints scheme;
- (ii) the Local Government Ombudsman after using the Council's own complaints scheme;
- (iii) the Standards Board for England about a breach of the Councillor's 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**

### **4.01 Meanings**

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

The policy framework means the following plans and strategies:-

- Best Value Performance Plan;
- Community Strategy;
- Crime and Disorder Reduction Strategy;
- Plans and alterations which together comprise the Local Development Framework;
- Council's Corporate Plan (if any);
- Food Law Enforcement Service Plan;
- The plan and strategy which comprise the Housing Investment Programme;
- Local Agenda 21 Strategy;
- Any other plan or strategy which the Council may decide should be adopted by the Council.

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

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

#### **(c) Housing Land Transfer.**

Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

## 4.02 Functions of the full Council

Only the Council will exercise the following functions:

- (a) to decide the Council's Constitution as set out in this document and any revision or amendment of the whole or any part of the Constitution;
- (b) upon report from the General Purposes Committee to consider and decide proposed revisions to the Council's Constitution including specifying the value or description of contracts to be in writing under the Contracts Procedure Rules;
- (c) to elect the Mayor;
- (d) to appoint and remove the Leader of the Council;
- (e) to appoint the Cabinet as put forward by the Leader to the posts indicated by the Leader who will set the portfolios;
- (f) to determine revenue and capital budgets and set the Council tax (the budget);
- (g) to determine supplementary estimates for which there is no budget approval and which are outside the authority to spend available to Cabinet;
- (h) to determine the policy framework other than policies and proposals which form part of the development plan or local development framework;
- (i) to take decisions which would represent a departure from the strategies and budgets previously agreed in the budget and policy framework;
- (j) to decide whether to delegate to the executive the power to make any in year modifications to any policy in the framework, except amendments made by a Minister of the Crown whose approval is required to a particular plan which are an executive responsibility;
- (k) to determine applications to the Secretary of State for housing land transfer;
- (l) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, the powers of virement and supplementary estimate in the Budget and Policy Framework Rules and the powers delegated by the Council to the Urgency Committee, to implement the conflict resolution procedure under the Budget and Policy Framework Procedure Rules and make decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (m) with the exception of those Panels and Working Groups constituted by Overview and Scrutiny Commissions agreeing and/or amending the terms of

reference for committees, fora and working groups, deciding on their composition and making appointments to them;

- (n) to determine the scheme and amounts of Members' Allowances under Article 2;
- (o) changing the name of the Borough, conferring the title of honorary alderman or the freedom of the Borough;
- (p) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills including any amendment, repeal or replacement of The Harrogate Stray Act 1985 and/or the Harrogate Borough Council Act 1986;
- (q) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by the Council or its committees rather than the executive;
- (r) to make decisions on those where only Council has authority or where the committees have not exercised delegated powers;
- (s) to receive memoranda of report from overview and scrutiny commissions;
- (t) to receive Notices of Motion and reports from Cabinet Members on Notices of Motion and make decisions as necessary and/or refer Notices of Motion or reports for further consideration;
- (u) to receive questions/petitions under the public arrangements in the Procedure Rules;
- (v) to designate a post as Head of Paid Service and to appoint the Head of Paid Service following selection by the Chief Officer Appointments Committee;
- (w) to designate the appropriate Officer posts as Monitoring Officer and Chief Finance Officer and appoint other officers for particular purposes, ie proper and statutory offices including the duty to make arrangements for proper administration of financial affairs under section 151 Local Government Act 1972;
- (x) to consider reports from the Chief Finance and Monitoring Officers under the relevant legislation;
- (y) to set the financial thresholds for key decisions required under the Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2000;
- (z) to decide whether to enter into joint arrangements with another local authority whether in respect of executive or non executive functions. In relation to executive functions the Cabinet will remain accountable for the executive function and will ensure that the joint arrangement proposed does not

adversely affect efficiency, transparency and accountability in respect of the discharge of those functions and that it will deliver best value;

- (ai) to consider reports from the Leader of the Council on the response of the Cabinet to any report of the Monitoring Officer or Chief Finance Officer;
- (bi) to consider reports from the Leader of the Council on key decisions which were made under the general exception and special urgency procedures set out in the Access to Information Rules at Part 4 of this Constitution; and
- (ci) to approve the Council's Statement of Licensing Policy the Gambling Policy and to pass a resolution not to issue casino licences.

all other matters which, by law, must be reserved to Council.

### **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 which are not the responsibility of the executive.

## **Article 5 – Chairing The Council**

### **5.01 Role and responsibilities of the Mayor**

The Mayor and, in the absence of the Mayor, the Deputy Mayor will have the following roles and functions:

#### **A ceremonial role:-**

to be a symbol of the authority of the Council over the area of the Harrogate District;

to be a symbol of an open society, democracy and freedom for all the people of the Borough;

to be an expression of the unity of all people of the Borough; and

to be a symbol of the cohesion of the disparate and diverse peoples and parts of the District as one Borough.

### **A role as chair of the Council:-**

The Mayor will be elected by the Council annually and will have the following responsibilities:

to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;

to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;

to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the executive and do not hold committee chairs are able to hold the executive and committee chairs to account;

to promote public involvement in the Council's activities;

to be the conscience of the Council;

to attend such civic and ceremonial functions as the Council and the Mayor determine appropriate; and

to authorise extraordinary meetings of the Council under the Council's Procedure Rules at part 4 of this constitution.

## **Article 6 – Overview and Scrutiny**

### **6.01 Terms of reference**

The Council will appoint an Overview and Scrutiny Commission as set out below to discharge the functions conferred by section 21 of the Local Government Act 2000, and section 119 of the Local Government and Public Involvement in Health Act 2007

(a) The Overview and Scrutiny Commission - with specific responsibility for policy development and review and scrutiny of services as set out at 6.02 and 6.03 below.

### **6.02 General role**

Within its terms of reference the Overview and Scrutiny Commission shall:

- i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions; but will not act as an appeal body on any matter where a right of appeal exists within or external to the Council;
- ii) make reports and/or recommendations to the full Council/executive and other partner organisations in connection with the discharge of any functions;
- iii) consider any matter affecting the area or its inhabitants; and
- vi) For the purposes of the Police and Justice Act 2006, the Commission will act as the Crime and Disorder Committee
- v) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the executive which fall within the parameters set for this purpose in the Overview and Scrutiny Procedure Rules.
- vi) consider requests for Councillor Calls for Action

### **6.03 Specific functions**

#### **(a) Policy development and review.**

Overview and scrutiny may:

- i) assist the Council and the executive in the development of its budget and policy framework by in-depth analysis of policy issues;
- ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
- iii) consider and propose to Council or the executive mechanisms to encourage and enhance community participation in the development of policy options;
- iv) question Cabinet Members, chairs of committees and chief officers about their views on issues and proposals affecting the area subject to the overview and scrutiny; and
- v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

#### **(b) Scrutiny.**

Overview and scrutiny may:

- i) review and scrutinise the decisions made by, and performance of, the executive, committees and council officers both in relation to individual decisions and over time;

- ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and particular service areas;
- iii) question members of the executive, committees and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- iv) make recommendations to the executive, appropriate committee and/or Council arising from the outcome of the scrutiny process;
- v) question and gather evidence from any person (with their consent).
- vi) review and scrutinise the performance of other bodies which provide a significant public service in the District and invite reports from them by requesting them to address the Overview and Scrutiny Commission and local people about their activities and performance.

**(c) Councillor Calls For Action.**

The Overview and Scrutiny Commission will consider requests for Councillor Calls for Action on issues where local problems have arisen and where other methods of resolution have been exhausted

**(c) Best Value.**

The Overview and Scrutiny Commission will take part in the Council's response to the statutory duty of best value.

**(d) Annual report.**

The Overview and Scrutiny Commission may report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

## **6.04 Proceedings of the Overview and Scrutiny Commission**

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

## **6.05 Powers of the Overview and Scrutiny Commission**

The Commission appointed by the Council has full delegated power to deal with all matters within its terms of reference. Their obligation is to report to Council/executive and other partner organisations as appropriate depending on the issue.

# Article 7 – The Executive

## **7.01 Introduction**

In this constitution the term “executive” refers to the Leader and Cabinet together and any other person or body carrying out executive functions delegated to them by the Cabinet or individual Cabinet Members. For the purposes of Section 14 (as amended) of the Local Government Act 2000 and interpretation of this Constitution the ‘Executive Leader’ means the Leader of the Council. The restrictions on individual Cabinet Member’s decision making powers are described in the Executive Procedure Rules at Part 4 of this Constitution. The restrictions on officers delegated powers are set out in Part 3(d) of this Constitution.

## **7.02 The Principles of Delegation**

The Leader may arrange for any function to be discharged in accordance with the Council’s Executive arrangements.

- (i) by the Executive Cabinet;
- (ii) by another member of the Executive;
- (iii) by a Committee of the Executive;
- (iv) by an Officer of the authority.

Where any function may be discharged by the Executive then unless the Leader directs the Executive may arrange for the discharge of these functions by:

- (a) a Committee of the Executive, or
- (b) an Officer of the authority.

Where any functions may be discharged by a member of the Executive, then unless the Leader otherwise directs, the Member who may discharge the function may arrange for the discharge of any of these functions by an Officer of the authority.

Where any function may be discharged by a Committee of the executive, then unless the Leader otherwise directs, the Committee may arrange for the discharge of those functions by an Officer of the authority.

None of the above arrangements are to prevent the Leader, Executive, Member of the Executive or Committee of the Executive by whom the arrangements are made from exercising those functions.

## **7.03 Role**

The executive will carry out all of the Local Authority’s functions which are not the responsibility of any other part of the Local Authority, whether by law or under this Constitution.

## **7.04 Form and composition**

The Cabinet will consist of the Council's Executive Leader together with at least 2, but not more than 9, councillors appointed to the Cabinet by the Leader. Normally there will be seven Cabinet Members including the Leader.

## **7.05 Appointment of Council Leader and Cabinet**

- a) The nomination for Leader of the Council will be made by the majority Group of the Council from their number at the first Annual Meeting after the Leader's normal day of retirement as a Councillor. There will be a separate item of business for the election of the Leader.
- b) In the event of there being no majority Group at the time of the relevant Annual Meeting, nominations must be made to the Head of Legal and Democratic Services not less than 24 hours before the time fixed for the Annual Meeting and each nomination must be seconded by no less than five Members of Council in addition to the proposer of the motion.
- c) At the Annual Meeting of Council, the Leader will be elected by the Council and will inform the Council of the names of members of the Cabinet which the Council will formally endorse.
- d) The Cabinet may be formed only from duly elected councillors
- e) The Mayor and Deputy Mayor may not be appointed to the Cabinet.
- f) The broad structure of the portfolios of the Cabinet Members will be as set out in Part 3 of this Constitution. The actual extent and nature of each portfolio from time to time is a matter for the Leader of the Council. The broad parameters of the portfolios are:-

The Leader – (Chair of Cabinet)

Deputy Leader and Cabinet Member for  
Finance and Resources

Cabinet Member for Cultural Services

Cabinet Member for Environment

Cabinet Member for Housing

Cabinet Member for Public Protection and  
Rural Affairs

Cabinet Member for Planning, Transport  
and Economic Development

## **7.06 The Deputy Executive Leader**

- 1) (a) The Leader shall appoint one of the Members of the Executive to act

as Deputy Executive Leader;

- (b) The Deputy Executive Leader (subject to paragraph (c) below, unless he resigns as Deputy Executive Leader, or ceases to be a Member of the authority, is to hold office until the end of the term of office of the Executive Leader;
- (c) The Executive Leader may, if he thinks fit, remove the Deputy Executive Leader from office;
- (d) Where a vacancy occurs in the office of Deputy Executive Leader the Executive Leader must appoint another person in his place and shall arrange for Members of the Council to be notified in accordance with the procedure set out in Section 7.07 (2) below;
- (e) If, for any reason, the Executive Leader is unable to act or the office of Leader is vacant the Deputy Leader must act in his place;
- (f) Where both the office of Leader and Deputy Leader are vacant or they are unable to act the Executive must act in the Executive Leaders' place or must arrange for a Member of the Executive to act in his place..

## **7.07 Terms of Office of Leader and Cabinet**

- 1) (a) The Leader will hold office until:-
    - (i) he/she resigns from office;
    - (ii) he/she is suspended from being a councillor under Part III of the Local Government Act 2000;
    - (iii) he/she is no longer a councillor or until the first Annual Meeting after the Leader's normal day of retirement as a Councillor;
    - (iv) he/she is removed from office by resolution of the Council.
  - (b) The Leader of the Council may be removed from office against his/her wishes following a majority vote on a notice of motion to the Council, in accordance with the Council's Rules of Procedure at Part 4 of this Constitution.
  - (c) If the Leader of the Council is removed by resolution of the Council, then he or she may not stand for re-election at the Council meeting where they are removed.
  - (d) The Council meeting will adjourn to the next evening, following the removal of the Leader by notice of motion, and the new Leader will be appointed at the adjourned meeting.
- 2) (a) A Cabinet Member other than the Leader will hold office until
    - (i) he/she resigns from office;
    - (ii) he/she is suspended from being a councillor under Part III of the Local

Government Act 2000;

- (iii) he/she is no longer a councillor;
- (iv) he/she is removed from office by the Leader of the Council.

b) Any Cabinet Member will be eligible to be reappointed as a Cabinet Member by the new Leader. The Leader of the Council, who has resigned or been removed by resolution of the Council, will also be eligible to be appointed as a Cabinet Member by the new Leader.

c) If a Cabinet Member wishes to resign then their resignation must be tendered to the Leader of the Council.

d)(i) Where a Cabinet Member resigns or is removed the Leader will so notify the Head of Legal and Democratic Services and name the new Cabinet Member, if (s)he then considers fit. The retirement of the Member will take effect on receipt of that notification by the Head of Legal and Democratic Services. This will be assumed to be received on the next working day after the date of the letter, fax or e-Mail sent by the Leader. The Head of Legal and Democratic Services will notify all Members of Council of the retirement and the appointment of a new member of Cabinet and the appointment will take effect at the same time as the retirement of the retiring Cabinet Member. An item shall be placed on the agenda of the next Ordinary meeting of the Council in order that the new appointment may be formally noted.

(ii) If for any reason the Leader chooses not to replace a retiring Cabinet Member by an immediate appointment then the Leader shall notify the Head of Legal and Democratic Services of the name and title of the existing Cabinet Member who will act as deputy for the vacant portfolio and the Head of Legal and Democratic Services will notify all Members of Council.

(iii) At the next Council meeting the Leader will explain to the Council whether, and if so how, he/she intends to reorganise the portfolios of the Cabinet, or shall appoint a new Cabinet Member to the vacant post. The Council shall formally note either a reorganisation of the portfolios or the appointment of the new Cabinet Member and any consequential amendment of the Executive Arrangements set out at Schedule 1 to these Articles will be submitted to the next Council meeting through the General Purposes Committee by the Head of Legal and Democratic Services.

## **7.08 Proceedings of the executive**

Proceedings of the executive shall take place in accordance with the Executive Procedure Rules at Part 4 of this Constitution.

## **7.09 Planning Cabinet Member**

The Cabinet Member for Planning, Transport and Economic Development will be entitled to attend all meetings of the Planning and Development Control Committees and to speak at the meetings but will not be entitled to vote.

## **7.10 Responsibility for functions**

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

## **Article 8 – Licensing, Quasi-Judicial and other Committees**

### **8.01 Licensing, Quasi-Judicial and other committees**

The Council will appoint the committees set out in Part 3 of this Constitution to discharge the functions described in the section headed Responsibility for Council Functions.

## **Article 9 -The Standards Committee**

### **9.01 Role and Function of the Standards Committee**

The Council will appoint a Standards Committee to promote and maintain high standards of conduct by the Members and Co-opted Members of the authority, and to assist Members and Co-opted Members to observe the authority's Code of Conduct. The Standards Committee will exercise the same functions in relation to those Parish Councils within the District of the Borough Council, and the Members of the Parish Councils.

- (a) The Standards Committee will advise the Council on revising the Code of Conduct or adopting a new one.
- (b) Monitor the operation of the Council's Code of Conduct and advise the Council on the procedures for determining complaints against Members.
- (c) Advise, train or arrange training for Councillors or Parish Councillors on matters relating to the authority's Code of Conduct.
- (d) Grant dispensations to Councillors from the requirements relating to interests in accordance with the relevant regulations.
- (e) Consider complaints made to the authority or referred to the authority by the Standards Board in respect of the conduct of Councillors or alleged breaches of the Members Code of Conduct and decide the appropriate action.
- (f) Respond on behalf of the Council on proposed legislation or guidance relating to standards issues, Codes of Conduct and reporting to the Council as the Committee sees fit.

- (g) An appointed independent member of Standards shall be coopted to serve on the Governance Panel.

## **9.02 Composition of the Standards Committee**

The Committee will be made up of elected Borough Councillors, Representatives of the Parish Councils within the District and Appointed Independent Members.

### **(a) Elected Borough Councillors**

The Elected Borough Councillors will be appointed to the Committee in accordance with the requirements for proportionality set out in the Local Government and Housing Act 1989. No more than one Member of the Council's Executive may be a Member of the Committee, and the Leader of the Council may not be a Member of the Committee.

### **(b) Parish Council Representatives**

The Parish Council Representatives will be elected, one from each of the following areas:-

- (i) Knaresborough Town Council - One Parish Councillor
- (ii) Ripon City Council - One Parish Councillor
- (iii) One Parish Councillor to be elected by the following parish councils from among their members to represent parish councils in the western part of the District:-

Bewerley, Birstwith, Bishop Thornton and Warsill, Clint cum Hamlets, Dacre, Felliscliffe, Hampsthwaite, Hartwith cum Winsley, Haverah Park and Beckwithshaw, Pateley Bridge Town Council, Killinghall, Lower Washburn, Menwith with Darley, Mid-Wharfedale, Newall with Clifton, Nidd, North Rigton, Ripley, Upper Nidderdale, Washburn.

- (iv) One Parish Councillor to be elected by the following parish councils from among their members to represent parish councils in the northern part of the District:-

Asenby, Azerley and Winksley, Baldersby, Bishop Monkton, Burton Leonard, Cundall and Norton-le-Clay, Dishforth, Fearby, Healey and District, Fountains Abbey, Grantley and Sawley, Grewelthorpe, Hewick and Hutton, Kirby Hill and District, Kirkby Malzeard, Laverton and Dallowgill, Littlethorpe, Markington with Wallerthwaite; Langthorpe, Marton le Moor, Masham, Melmerby and Middleton, North Stainley with Sleningford, Rainton with Newby, Roecliffe and Westwick, Scotton, Scriven, Sharow, Skelton Combined, Staveley and Copgrove, Wath and Norton Conyers.

- (v) One Parish Councillor to be elected by the following parish councils from among their members to represent parish councils in the eastern part of the District:-

Arkendale, Coneythorpe and Clareton, Boroughbridge, Bilton-in-Ainsty with Bickerton, Cattal Hunsingore and Walshford, Follifoot and Plompton, Goldsborough and Flaxby, Great Ouseburn, Little Ouseburn, Green Hammerton, Kearby with Netherby, Kirkby Overblow, Kirk Deighton, Kirk Hammerton, Little Ribston, Long Marston, Marton-cum-Grafton, Moor Monkton, North Deighton, Nun Monkton, Sicklinghall, Spofforth with Stockeld, Tockwith and Wilstrop, Weeton, Wighill, Whixley.

- (vi) An elected Member of the Council is not eligible to be appointed a Parish Representative.

**(c) Appointed Independent Members**

There will be a minimum of 4 Appointed Independent Members or as many more as are required to make up 25% of the Members of the Committee. A person may only be appointed as an Independent Member if either:-

- (i) A vacancy on the Committee has been advertised in one or more newspapers circulating in the area of the authority and the Member applied to the authority and has been selected; or
- (ii) An existing Appointed Independent Member of the Committee resigns, but offers her or himself for reappointment for a fixed term; or
- (iii) The Council appoints an Independent Member in relation to a particular allegation or set of allegations and the term of office of that Member is fixed accordingly; and
- (iv) In the case of (i), (ii) or (iii) the appointment or reappointment is approved by a majority of the Members of the Council.

A person may not be appointed as an Independent Member if, within five years preceding the date of appointment, he or she has been a Member or Officer of the Council or a relative or close friend of a Member or Officer.

Appointed Independent Members appointed since October 2004 will serve a maximum of four years, subject to reappointment under (ii) above, which will usually be for no more than two years.

A person appointed as an Independent Member who becomes a Member or Officer of the Council, or a relative of a Member or Officer will cease to be a Member of the Standards Committee.

The Chair and Vice-Chair of the Standards Committee shall be appointed Independent Members.

**(d) Substitutes**

Following consideration by Standards and General Purposes Committees, the decision of Council on 16 July 2008 was to retain the use of substitutes for elected Borough Councillors and Parish Council representatives. This will be reviewed after twelve months from the introduction of local assessment.

**9.03 Composition of the Panels**

- (a) In accordance with the Standard Committee (England) Regulations 2008, a Panel shall be appointed from the Members of the Standards Committee when required to carry out the functions of local assessment on determination. The Panel will be selected by the Member Services Manager in consultation with the Monitoring Officer and the Chair of the Standards Committee in cases of difficulty. The selection will be made on the basis of availability within the relevant time limits and compliance with the law.
- (b) Every Panel shall contain a minimum of three Members selected from the membership of the Standards Committee (Borough Councillors, Parish Council Representatives and Appointed Independent Members), and their substitutes. Every Panel will be chaired by an Appointed Independent Member and will include at least one Borough Councillor. A Panel considering a complaint concerning a Parish Councillor or former Parish Councillor, will include at least one Parish Council representative.
- (c) No Member of an initial assessment panel shall take part in a panel reviewing that initial assessment. However, Members of both the initial assessment and the review panels may take part in subsequent panels considering that complaint.

**9.04 Access to the proceedings and Decisions of the Panels**

- (a) The meetings of the initial assessment panels and the assessment review panels will not be open to the public. The agenda and committee papers will not be open to public inspection and there will be no minutes. A summary will be made of the panels' decisions, which in most cases, will name the member about whom the complaint has been made. The issue of a summary will be reported to the next meeting of the standards committee. Unless the name of the member is withheld in the summary, the summary will be made available for inspection by members of the public at the offices of the authority, for a period of six years starting with the date of the meeting. The name of the subject member may be withheld, and the summary kept from public disclosure, if the panel decides that disclosing it would not be in the public interest or would prejudice subsequent investigation.
- (b) The meetings of the acceptance panels and panels for full hearing are meetings to which Part VA of the Local Government Act 1972 applies, and shall be open to the public unless they are excluded by resolution of the panel.

## **9.05 Complaining to the Standards Committee**

The Council's procedures for determining complaints are set out in the document 'Complaining to the Standards Committee' which is available on the Council's web site, and is an appendix to the Members' Code of Conduct.

## **9.06 Powers of the Committee**

The Committee has power to deal with all matters within its remit and terms of reference referring matters to Council only when necessary and reporting matters to Council when the Committee considers appropriate.

# **Article 10 – Area Committees, Fora and Working Groups**

## **10.01 Area Committees**

(a) The Council will consult relevant parish and town councils and the chairs of relevant parish meetings when considering whether and how to establish area committees, other than those dealing with town and country planning development control and related issues, and certain fora with no decision making powers.

(b) In December 2005 the Cabinet Member for Housing agreed the development of Area Panels for tenants and leaseholders, based upon the three Housing Neighbourhood Offices to focus on local and environmental issues.

(c) **Delegations.** The Council and the executive will include details of the delegations to any area committees in Part 3 of this Constitution, including the functions delegated, the composition and membership of the committees, budgets and any limitations on delegation.

## **10.02 Conflicts of interest**

Membership of area committees and Planning/Development Control Committees and overview and scrutiny committees

### **(a) Conflict of interest.**

If an overview and scrutiny committee is scrutinising specific decisions or proposals in relation to the business of an area committee or Planning or Development Control Committee of which the councillor concerned is a member, then the councillor must declare an interest and may not speak or vote on that matter at an overview and scrutiny committee meeting unless a dispensation to do so is given by the Standards Committee.

### **(b) General policy reviews.**

Where an overview and scrutiny committee is reviewing policy generally a member of a relevant committee must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

## **10.04 Executive members on area committees**

A member of the executive may serve on an area committee if otherwise eligible to do so as a councillor.

## **10.05 Access to information**

Area committees will comply with the Access to Information Rules in Part 4 of this Constitution. Fora and Working Groups are not subject to the Access to Information Rules.

## **10.06 Fora and Working Groups**

The Council and the executive will also establish fora and working groups to discuss specific issues in specific parts of the District or to discuss general issues in specific parts of the District or to discuss and make recommendations on the approach to a specific task. The fora and working groups will have terms of reference to set the parameters of their discussions and will report as required by the executive or the Council. Those fora where joint arrangements are involved are set out in Article 11.

# **Article 11 – Joint Arrangements**

## **11.01 Arrangements to promote well being**

In order to promote the economic, social or environmental well-being of its area the Council or the executive may subject to any legal restrictions:

- (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 to exercise functions**

- (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 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 or the setting up of agency arrangements to carry out executive functions.
- (c) Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the local authority as a whole.

- (d) The Cabinet may appoint members to a joint committee from outside the Cabinet where the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area. The political balance requirements do not apply to such appointments.
- (e) Details of any joint arrangements which include 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 of Joint Committees**

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

### **11.04 Delegation to and from other local authorities**

- (a) The Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.
- (b) The Cabinet may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.
- (c) The decision whether to accept such a delegation, even of executive arrangements, from another local authority shall be reserved to the Council as a whole by virtue of the Council's budget and policy framework rules in Part 4 of this Constitution.

### **11.05 Other Joint Arrangements**

- (a) Joint arrangements with access to meetings under the Access to Information Rules are in place for the arrangements listed at Part 3 of this Constitution. These bodies are advisory only as set out at Part 3.
- (b) The Council has legally formalised partnership arrangements as listed below. These are not agency arrangements but agreements for the provision of services under the Local Authorities (Goods and Services) Act 1970. There are no joint committees with delegated powers. The functions are carried out by officers as part of their day to day management of services. The functions involved are executive functions delegated to officers as shown at Part 3 of this Constitution.

(i) **North Yorkshire Concessionary Fares Partnership**

The Scheme under which concessionary fares operate is a statutory scheme under the Transport Act 2000. The North Yorkshire Authorities - Craven District Council, Hambleton District Council, Harrogate Borough Council, Richmondshire District Council, Ryedale District Council, Scarborough District Council, Selby District Council and York City Council - have entered into a formal arrangement for cooperation in the administration of the statutory scheme throughout the County. As lead authority the Borough Council is responsible for dealing with payments to the bus operators for all these North Yorkshire Authorities.

(ii) **CCTV: Craven District Council**

The Council has an agreement to operate a CCTV scheme for Craven District Council in Skipton town.

(iii) **Ripon City Leisure Centre Management Advisory Committee**

The Leisure Centre is now owned by the Borough Council. The Advisory Committee is the forum for resolving management and policy issues and its terms of reference are under review.

(iv) **Knaresborough Community Centre**

The Centre is owned by Knaresborough Town Council and leased to the Borough Council. The sub-lease arrangements with Knaresborough Community Association have recently failed and interim management by the Borough Council is in place whilst longer term managerial options are considered.

(v) **Joint Use Agreements**

The Borough Council and North Yorkshire County Council have formal joint use agreements with North Yorkshire County Council and schools at the following locations:

- Rossett High School, Harrogate
- Nidderdale High School, Pateley Bridge

(vi) **Ryedale Energy Conservation Group Ltd**

The Borough Council is one of the constituent authorities in the establishment of Ryedale Energy Conservation Group Ltd and an officer of the Council is one of the Directors. The Company provides the Council with data analysis, research and advice relating to domestic and small business energy matters. It is allied to the Council's Environmental Strategy and Home Energy Conservation Initiatives.

(c) In addition to the formal joint arrangements referred to at (a) and (b) above the Council has over two hundred working partnerships at both Officer and Member level covering the whole range of its services. The Harrogate District Strategic Partnership was set up in 2003 to support the Community Plan for promoting and improving the economic, social and environmental well-being of the District.

The full current list of joint working and partnership arrangements in which the Council participates is set out in the Corporate Action Plan and updated annually.

Public access is available to meetings of many of the partnerships but their access arrangements are not all under the control of the Council and depend upon the constitution of the body concerned. More information on access arrangements and partnerships can be obtained from the Council's contact point given in the Summary to this Constitution or from the Corporate Improvement Officer (Partnerships) telephone (01423) 556706.

### **11.06 Contracting out**

The Council and the executive may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

## **Article 12 – Officers**

### **12.01 Management structure**

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

<b>Post</b>	<b>Functions and areas of responsibility</b>
Chief Executive (and Head of Paid Service)	Overall corporate management and operational responsibility including overall management responsibility for all officers  Provision of professional advice to all parties in the decision on issues of policy.

Post	Functions and areas of responsibility
	<p>Ensuring Council representation on partnership and external bodies (as required by statute or the Council).</p> <p>Electoral Registration Officer</p>
<p>Director of Resources and Deputy Chief Executive</p>	<p>Finance in all aspects including Council tax and benefits, treasury management and payroll.</p> <p>Human Resources.</p> <p>Elections, Member Support Services, Legal Support the Mayoralty, Publication of decisions.</p>
<p>Director of Development Services</p>	<p>Development control, the local plan, highways and transportation (where delivered from the County Council), conservation, maintenance of administrative and other buildings and Land Charges. Economic Development, Corporate Estates and Markets. Culture, Leisure Tourism &amp; Sport.</p>
<p>Director of Community Services</p>	<p>Housing function, environmental health and protection, general licensing, taxi and private hire licensing, parks and bereavement services. Tourist information centres.</p>

<b>Post</b>	<b>Functions and areas of responsibility</b>
Director Harrogate International Centre	Harrogate International Centre; business tourism.
Director ICT	Information and Communication Technology throughout the Authority.
Assistant Chief Executive	Corporate Policy & Improvement.

**(c) Head of paid service, monitoring officer and chief financial officer.**

The Council will designate the following posts as shown:

<b>Post</b>	<b>Designation</b>
Chief Executive	Head of Paid Service
Chief Solicitor	Monitoring Officer
Director of Finance	Chief Finance Officer

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

**(d) Structure.**

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

**12.02 Functions of the head of paid service**

**(a) Discharge of functions by the Council.**

The head of paid service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

**(b) Restrictions on functions.**

The head of paid service may not be the monitoring officer but may hold the post of chief finance officer if a qualified accountant.

## **12.03 Functions of the monitoring officer**

### **(a) Maintaining the Constitution.**

The monitoring officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.

### **(b) Ensuring lawfulness and fairness of decision making.**

After consulting the head of paid service and chief finance officer, the monitoring officer will report to the full Council or to the Cabinet in relation to an executive function if he or she considers that any proposal, decision or omission would give rise or has given rise to unlawfulness or maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

### **(c) Supporting the Standards Committee.**

The monitoring officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

### **(d) Receiving reports.**

The monitoring officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals of the Standards Board for England.

### **(e) Conducting investigations.**

The monitoring officer will conduct investigations into matters referred by ethical standards officers of the Standards Board for England or matters within the Members' Code of Conduct not referable to the Board and make reports or recommendations in respect of them to the Standards Committee.

### **(f) Proper Officer for access to information.**

The monitoring officer will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

### **(g) Advising whether executive decisions are within the budget and policy framework.**

The monitoring officer will advise whether decisions of the executive are in accordance with the budget and policy framework.

### **(h) Providing advice.**

The monitoring officer will provide advice on the scope of powers and authority to take decisions, maladministration, probity and budget and policy framework issues to all councillors.

**(i) Restriction on roles.**

The monitoring officer may not 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 the head of paid service and the monitoring officer, the chief finance officer will report to the full Council or to the Cabinet in relation to an executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

**(b) Administration of financial affairs.**

The chief finance officer will have responsibility for the administration of the financial affairs of the Council.

**(c) Contributing to corporate management.**

The chief finance officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

**(d) Providing advice.**

The chief finance officer will provide advice on financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.

**(e) Give financial information.**

The chief finance officer will provide financial information to the media, members of the public and the community.

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

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

**12.06 Conduct**

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

**12.07 Employment**

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

## **Article 13 – Decision Making**

### **13.01 Responsibility for decision making**

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

### **13.02 Principles of decision making**

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

#### **PRINCIPLES OF DECISION MAKING**

All decisions made whether by the Council, its committees, or sub-committees or by the Cabinet whether by an individual Cabinet Member or collectively, or by Officers acting under powers delegated to them by the Council, a committee or sub-committee or the executive, will be taken in accordance with the principles set out below which are not listed in any order of priority or preference:-

- i) there is a presumption in favour of openness in decision making;
- ii) decisions will be taken in accordance with the law after obtaining all necessary legal advice;
- iii) all decisions will take into account respect for human rights as set down in the Human Rights Act 1998;
- iv) proper advice will be obtained on financial questions raised in any decisions under consideration;
- v) no decision to be made by an individual Cabinet Member will be taken without a written report from officers setting out relevant advice;
- vi) all reports on which decisions have to be made will explain clearly the purpose of the report and the outcome to be achieved, together with details of options which may be considered and the reporting officer's recommendation together with the reasons for that being proffered;
- vii) all decisions made will be proportionate to the outcome intended to be achieved;
- viii) all executive decisions made will set out clearly the decision made giving the reasons why that decision has been made and the other alternatives which have been rejected;

- ix) all decisions will be formally recorded (except decisions made by officers under the General Scheme of Delegation to Officers at Sections 2(c) and 3(d) of Part 3 of this constitution (unless those at 3(d) are key decisions)) and a public record made available in accordance with the Access to Information Rules at Part 4 of this constitution.
- x) every year the Council and the executive will review exempt decisions taken more than three years previously and decide whether the reports and minutes of those decisions need to remain exempt. Any report and minute retaining exempt status after three years will be reviewed again after a further three years.

### **13.03 Types of decision**

(a) **Decisions reserved to full Council.**

Decisions relating to the functions listed in Article 4.02 will be made by the full Council unless they are shown as delegable in Article 4.02.

(b) **Key decisions.**

(i) "Key decision" means an executive decision which, is likely:-

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

(b) to be significant in terms of its effects on communities living or working in an area comprising one or more wards or electoral divisions in the area of the local authority; and regard must be had to guidance issued by the Secretary of State to determine the meaning of "significant".

(ii) The Council will direct the Head of Legal and Democratic Services to publish annually in August the thresholds fixed under (i)(a) above. The thresholds so fixed will be included in the Executive Procedure Rules each year automatically after the decision has been made.

(iii) A decision maker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

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

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

### **13.05 Decision making by the executive**

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

### **13.06 Decision making by overview and scrutiny committees**

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

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

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

### **13.08 Decision making by Council bodies acting as tribunals**

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

## **Article 14 – Finance, Contracts and Legal Matters**

### **14.01 Financial management**

The management of the Council's financial affairs will be conducted in accordance with the Financial Rules (financial regulations) set out in Part 4 of this Constitution.

### **14.02 Inspection of Documents**

The accounts of the Council and of any proper officer of the Council will be open to the inspection of any member of the Council and any such member may make a copy of or an extract from the accounts.

### **14.03 Contracts**

Every contract made by the Council will comply with the Contracts Procedure Rules (Standing Orders Relating to Contracts) set out in Part 4 of this Constitution.

### **14.04 Legal proceedings**

The Head of Legal and Democratic Services or Chief Solicitor as 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 the executive or in any case where the Head of Legal and Democratic Services

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

#### **14.05 Authentication of documents**

- (a) Where any document is necessary to the any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Legal and Democratic Services or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.
- (b)(i) Any contract with a value exceeding £30,000 entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made under the common seal of the council authenticated by at least one officer.
- (b)(ii) Where the joint arrangements are in place under which the Council or the executive will enter into contracts on behalf of another local authority or body then that other authority or body may stipulate different arrangements for the authentication of documents dealing with the discharge of those joint arrangements by the Council or the executive.

## **14.06 Common Seal of the Council**

- (a) The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal & Democratic Services. 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 Head of Legal and Democratic Services should be sealed.
- (b) The affixing of the Common Seal will be authenticated by one or more of the following persons, viz; the Chief Executive, the Head of Legal and Democratic Services or the Chief Solicitor or the Director of Resources.
- (c) In respect of every document upon which the Common Seal is to be impressed, details of that document and of the authority under which the document is to be sealed will be entered in the Seal Register and each entry numbered consecutively; the number so entered will be marked against the impression of the seal on the document to which the entry relates. Each entry made in the Seal Register will be signed by the person who authenticated the seal impressed upon the document to which the entry relates.

# **Article 15 – Review and Revision of the Constitution**

## **15.01 Duty to monitor and review the constitution**

The General Purposes Committee and 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**

A key role for both the Monitoring Officer and the Head of Legal and Democratic Services 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 either 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) Changes to the constitution will only be approved by the full Council:-
- (i) after consideration of the proposal by General Purposes Committee following a report from the relevant Officer; or
  - (ii) following a petition of the electorate, satisfying the provision of the regulations and calling for a referendum for an elected mayor; or
  - (iii) on a report direct to Council by the Monitoring Officer; or
  - (iv) on acceptance by the Council of the findings in a memorandum of report from an overview and scrutiny committee as a result of investigations the committee has undertaken whether at the request of the Cabinet or otherwise.
- (b) (i) Changes to the Constitution, not involving a change to the executive arrangements adopted by the Council, will require only the confirmation by resolution of Council to be approved.
- (ii) In relation to such changes the Council may choose to delay agreement to the revision for further consultation with stakeholders or for a full review by the relevant overview and scrutiny committee, or may approve the changes with immediate effect.

## **15.03 Referendum**

Where a petition for a referendum under 15.02 (a) (ii) above has been received then following the report to the Council the Head of Legal and Democratic Services will put in hand immediately the necessary procedures for a referendum in accordance with the law.

## **15.04 Suggested Changes by Scrutiny Commission**

- (i) Where a memorandum of report from an overview and scrutiny committee suggests a change to the executive arrangements then the Council will not determine whether to approve the memorandum until the second council meeting after its receipt. The Annual Meeting will not be counted as the second Council meeting, but will be wholly disregarded.
- (ii) The matter will stand referred to the General Purposes Committee for further consideration and the views of stakeholders will be sought by that committee and reported to the Council together with the views of the committee at the second Council meeting provided that is not the Annual Meeting.

# 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.

In relation to committees of the Council the relevant Rules may be suspended as set out at (c) below by resolution of the committee and subject always to compliance with (b) of this clause.

### **(b) Procedure to suspend.**

A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

### **(c) Rules capable of suspension.**

The following Rules may be suspended in accordance with Article 16.01:

- (i) Council Procedure Rules - All except those printed in capital letters which are specified or required by law.
- (ii) Access to Information Procedure Rules – Rule 23 except as required by law.
- (iii) Budget and Policy Framework Procedure Rules – No part.
- (iv) Executive Procedure Rules – 1.6, 1.7, 2, 3.1, 3.2.
- (v) Overview and Scrutiny Procedure Rules – All, except as required by law.
- (vi) Financial Procedure Rules – All, except as required by law.
- (vii) Contracts Procedure Rules – All, except as required by law.
- (viii) Officer Employment Procedure Rules – All except as required by law.

## **16.02 Interpretation**

The ruling of the Mayor as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the

Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

### **16.03 Publication**

- (a) The Chief Executive will give a printed 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 Head of Legal and Democratic Services will ensure that copies are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Head of Legal and Democratic Services will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.
- (d) A copy of this Constitution will be given to each coopted member of the Standards Committee.
- (e) A copy of all relevant parts of the Constitution will be given to each coopted member of a committee or of HIC Board upon their cooption unless that cooption is for less than a three month period.

## **Schedule 1: Description of Executive Arrangements**

The following parts of this Constitution constitute Harrogate Borough Council's executive arrangements:

- 1. Article 7 The Executive;
- 2. Part of Article 11 Joint Arrangements made by the Executive;
- 3. Parts of Article 13 Decision making and the Access to Information Procedure Rules where they relate to the operation of the executive;
- 4. Sections 1a & 3 of Part 3 – Responsibility for Functions;
- 5. Extract of Standing Orders Relating to Leader (Standing Orders 1 and 6);
- 6. Access to Information Procedure Rules (insofar as they refer to the Executive);
- 7. The Executive Procedure Rules at Part 4 of the Constitution.