Modular constitutions for English local authorities
On 5th May 2006 the responsibilities of the Office of the Deputy Prime Minister (ODPM) transferred to the Department for Communities and Local Government.

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Introduction

New forms of governance

Major changes are taking place in the governance of local authorities in England. The committee model of member decision making is being replaced by new constitutions as a result of the Local Government Act 2000. These changes are part of a wider policy to strengthen local authorities ability to deliver effective community leadership, democratic renewal and continuous improvement in services. Their purpose is to create efficient, accountable and transparent governance which will support this wider agenda.

All local authorities have to consult on the introduction of one of the three forms of executive arrangements. Shire district councils with a population of less than 85,000, as estimated by the Registrar General on 30 June 1999, have a further non-executive form of constitution on which to consult local stakeholders. These are the alternative arrangements to be made available through regulations under Section 32 of the Local Government Act 2000 which will consist of a streamlined committee system to make decisions and separate overview and scrutiny committees.

The executive systems establish new roles and relationships within the local authority:

- the council meeting will set the overall budget and policy framework and will be a focus for debate about the performance of the executive;
- overview and scrutiny committees will advise on policy formulation and hold the executive to account in relation to specific matters. They may also review areas of council activity which are not the responsibility of the executive or matters of wider local concern;
- a small executive, consisting of a directly elected mayor and cabinet, a leader and cabinet or a directly elected mayor and council manager, will make decisions within this framework. Decisions may be delegated to individuals in the executive, committees of the executive (if the executive is large enough to form committees), officers, area committees, joint arrangements or other authorities, or contracted out;
- most regulatory decisions will continue to be made by committees of the council;
- there will be a Standards Committee to promote high standards of conduct and support members observation of their Code of Conduct.

The introduction of either mayoral form of executive requires a referendum, before which councils will have to specify a fall-back option in the event that the mayoral proposal is rejected by the referendum. Where councils hold a referendum and do not currently have executive arrangements, they will be able to offer a non-mayoral form of executive arrangement or the alternative arrangements as their fall-back position.

Except for the ethical framework, these new governance arrangements do not apply to parish councils. However, parish councils will be involved in the Standards Committee arrangements established by the district council or, in the case of the Isle of Wight, unitary county council in whose area they are located.
The intention of these changes, which are contained in Parts II and III of the Local Government Act 2000, is to deliver visible, accountable leadership for councils and transparent, efficient decision making which reflects high standards of conduct.

THE FORM OF THE CONSTITUTION

The constitution provides an important means of enabling citizens and stakeholders to understand how the council makes decisions and who is responsible for those decisions. Section 37 of the Act requires each local authority to prepare, keep up to date and publicise a document known as the council's constitution. This is described further in chapter 10 of the DETR Guidance on New Council Constitutions.

The constitution is at the heart of the local authority's business. It allocates power and responsibility within the local authority, and between it and others. For example, it delegates authority to act to individual officers and may enable members of the public to ask questions at an area committee meeting. It also regulates the behaviour of individuals and groups through codes of conduct, protocols and standing orders. The DETR Guidance stresses the need for the constitution to be publicised and accessible over and above the minimum statutory requirements (Section 37 of the Local Government Act 2000) to anyone interested in finding out how the council makes decisions or where responsibility lies.

Local authorities have choices about how they meet these requirements. However the framework presented in this document will enable them to produce a constitution which is logical, integrated and accessible to members, officers, citizens and others interested in the way a local authority makes decisions and governs itself and its area.

The way in which many local authorities currently present their governance documents do not do justice to their importance. Standing orders, financial regulations, schemes of delegation, rules of procedure and codes of conduct frequently appear as separate documents, in different formats and layouts and with no overall explanation or guide. Although some local authorities have begun to incorporate these separate elements into a single document, we have only found one example where this is prefaced by an understandable summary of how the council is organised and makes decisions.

These Modular Constitutions set out a suggested structure for the constitution. They contain options to reflect the three executive forms and the alternative arrangements currently available, as well as some of the variety within these forms of arrangements. The very concept of a constitution for a local authority is new and consequently the model proposed here presents a fresh approach to the content and design of a governance instrument for local authorities.

The Modular Constitutions are designed to meet all the necessary statutory requirements for instruments of governance and to include matters traditionally covered by local authority standing orders, financial regulations, schemes of delegation and terms of reference. They also contain the elements necessary to describe executive or alternative arrangements. However, they do so in a manner which results in a coherent single document which can be used as a comprehensive point of reference by individuals and organisations inside and outside the council. All the traditional elements can be found in different places in the Modular Constitutions, but authorities are encouraged to use the models new format to create genuinely
accessible, meaningful instruments of governance.

The basic distinction in the way we have presented the constitution is between articles and rules of procedure and associated material. Articles are intended to set the overall framework and in general will not be subject to frequent change. They are about what is to be done and by whom. Procedure rules, codes of conduct and the other material located after the articles are broadly about how the articles will be put into effect. They may be subject to more frequent change, especially as the local authority learns from the experience of operating new constitutions.

Because the Modular Constitutions offer a mosaic designed to meet different legal requirements, derivations from legislation and regulations are included at appropriate points in the text. Councils are recommended to refer to the relevant sources when constructing their constitution.

Because the Local Government Act 2000 introduces an entirely new legal framework for the governance of local authorities there will inevitably be questions of interpretation and judgement. Although this document provides a firm basis from which local authorities can develop their constitution, it is not a statutory document and Councils should therefore satisfy themselves that the constitution they propose to adopt is consistent with statute, regulations and guidance.

Making choices

Modular Constitutions are about choice. Within the three executive forms of arrangement and alternative arrangements there exist a multitude of possible ways of organising how the council works. Some of these are described in the DETR Guidance and others have been developed by local authorities operating experimental arrangements. More will emerge as the new arrangements become operational.

Our approach in drafting the Modular Constitutions has been to stimulate choice. We have done this in several ways:

- each article starts with a brief commentary which explains its key features and identifies the statutory options available to local authorities. Key references are provided;
- there are different modules of text which translate these options into standing orders, rules of procedure, terms of reference and so on;
- where possible, variations are identified within each option;
- the overall framework for a constitution presented here provides an alternative to that normally found in local authorities.

The indented text in italics offers background information, advice and guidance on the choices available. There are also references to relevant sections of the Local Government Act (LGA) 2000, chapters of the DETR Guidance, regulations and any other relevant legislation.

Constitutions for local authorities operating executive arrangements and following this approach have 16 articles, while those operating alternative arrangements will have 15 articles.
Consequently the latter authorities will need to omit Article 7 (The Executive) and ensure subsequent articles have the correct numbering. Two versions of the table of contents for a constitution are provided at the start of the Modular Constitutions text.

We have adopted a consistent terminology throughout the document. However, we are aware that our terminology may not reflect that used in a particular local authority. An important principle is to use terms which are most accessible to the people in the locality.

**Using the constitution**

Modular Constitutions can be used in a number of different ways.

**Authorities with a transitional system**

Some local authorities already have experimental arrangements and will have revised their standing orders and other governance documents as a result. They can use the Modular Constitutions in several ways:

- as a benchmark against which to review and revise their existing documentation in the light of the full introduction of executive or alternative arrangements;
- as a basis for examining the choices they have made about their system, for example call-in or the role of the council meeting;
- by adopting the framework provided by the Modular Constitutions and inserting their existing documents and text as appropriate, so that the end result is to produce a single unified document based on the form set out here.

**Authorities without a transitional system**

A number of local authorities have retained the traditional committee system, but will be moving to executive or alternative arrangements over the next year or so. For these authorities the Modular Constitutions offer:

- a guide to the choices available between and within the three executive and the alternative arrangements;
- a framework within which the constitution can be drafted;
- modules of text which can be adopted once a form of governance has been adopted and the details of the councils overall constitution agreed; and
- modules of text which can form the basis for the local authoritys own drafting to meet its particular requirements.

**Local authorities in a two-tier system**

A number of district and county councils in the two-tier system have developed partnerships focused on area committees or forums. There will be value in working jointly on the text for Article 9/10 (Area Committees and Forums). The modules presented in this document are sufficiently flexible to enable local authorities to develop a form of joint arrangements including joint committees, or to insert an amended version of their existing rules and procedures.
Exploring choices

There are a number of publications which set out the statutory framework and provide valuable information and advice to local authorities in developing their new constitution and exploring the wider governance choices available to them. The LGA briefing papers and applied research reports contain evidence from local authorities who have introduced transitional arrangements and highlight the choices available to local authorities. The relevant documents include:

Main statutory and related documents

- Local Government Act 2000
- New Council Constitutions Guidance pack, Volumes 1 and 2, DETR (which contain the DETR Guidance on new constitutions, joint LGA/DETR guidelines on consultation on new constitutions, regulations and directions)
- Local Government and Housing Act 1989
- Local Government Act 1972 (no url provided for this link)

Supporting documents and research reports

The following documents have been made available in Adobe Acrobat format for downloading.

- Leading the Agenda: Case Studies of New Political Management Arrangements, LGA/IDeA, March 1999
- Leading the Agenda II, LGA/IDeA, November 1999
- The Role of Non-Executive Members, Democracy Network, November 1999
- Directly Elected Mayors: Reinvigorating the Debate, LGA Discussion Paper, December 1999
- Pam Fox and Steve Leach Officers and Members in the New Democratic Structures, Local Government Information Unit, December 1999
- Lets Talk About It: Principles for Consultation on Local Governance, LGA, March 2000
- Robin Hambleton The Council Manager Model Enhancing Political and Managerial Leadership, IDeA, July 2000
- Chris Skelcher and Stephanie Snape Political Executives and the New Ethical Framework, IDeA/DETR (forthcoming)
- Ethical Governance Audit, IDeA/LGA/DETR, March 2000
- Designing Governance Issues in Modernisation, LGA issues papers
- Open Government A Good Practice Note on Access to Information, ACC/ADC/AMA, 1995
THE DRAFTING TEAM

The Modular Constitutions were commissioned by DETR and prepared over the latter half of 2000 by a consortium led by the Institute of Local Government Studies (INLOGOV) at the University of Birmingham and managed by Chris Skelcher. The legal drafting team was: Stewart Dobson, Director of Corporate and Democratic Services, City of Birmingham; Jonathan Goolden, Deputy Clerk and Monitoring Officer to the Lincolnshire Police Authority and former Acting Head of Administration and Legal, Derbyshire Dales District Council; and Kath Nicholson, Head of Law at London Borough of Lewisham.

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Applied research advice was provided by: Hubert Allen, INLOGOV; Colin Copus, INLOGOV; Andrew Coulson, INLOGOV; Lucy Gaster, INLOGOV; Declan Hall, INLOGOV; Robin Hambleton, University of the West of England; Steve Leach, de Montfort University; Stephanie Snape, INLOGOV; John Stewart, INLOGOV; Gerry Stoker, University of Manchester; and Frances Taylor, INLOGOV.

We received substantial advice and support from DETR officials and from numerous colleagues in local government.

Comments and feedback

The drafting team welcome comments on the document and in particular feedback from local authorities who have made use of it in developing their constitutions. These should be sent to: Chris Skelcher, INLOGOV, The University of Birmingham, Birmingham B15 2TT (e-mail: c.k.skelcher@bham.ac.uk; phone: 0121 414 4962; fax: 0121 414 4989)
Summary and Explanation

Councils should set out a short and accessible description of their Constitution and method of governance. The following is an example only and Councils will wish to set out their own summary highlighting particular features of their own governance system. As elsewhere in the Modular Constitutions, local authorities operating alternative arrangements will need to omit Article 7 and renumber subsequent articles.

The Council’s Constitution
The [name of council] has agreed a new constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into [16 articles in executive forms] [15 articles under alternative arrangements] which set out the basic rules governing the Council’s business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

What’s in the Constitution?
Article 1 of the Constitution commits the Council to (explain briefly the key message from the statement of purpose). Articles 2 [16 in executive forms of constitution] [15 under alternative arrangements] explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2).
- Citizens and the Council (Article 3).
- The Council meeting (Article 4).
- Chairing the Council.
- Overview and scrutiny of decisions (Article 6).
- The executive (Article 7) This article does not apply under alternative arrangements.
- Policy and other committees in Councils operating alternative arrangements/regulatory and other committees in Councils operating executive arrangements (Article 8/7).
- The Standards Committee (Article 9/8).
- Area [committees] [forums] (Article 10/9).
- Joint arrangements (Article 11/10).
- Officers (Article 12/11).
- Decision making (Article 13/12).
- Finance, contracts and legal matters (Article 14/13).
- Review and revision of the Constitution (Article 15/14).
- Suspension, interpretation and publication of the Constitution (Article 16/15).

How the Council operates
The Council is composed of (n) councillors [elected every four years] [with one-third elected three years in four] [an elected mayor elected every four years and (n) councillors elected..].
Councillors are democratically accountable to residents of their [ward] [electoral division]. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them on the code of conduct.

All councillors meet together as the Council. Meetings of the Council are normally open to the public. Here councillors decide the Council’s overall policies and set the budget each year. The Council [here local authorities should describe the role of the full Council in appointing (where and if it is the Council’s responsibility) and holding to account the executive and committees, and also any special features, e.g. state of the (area) debates and public question times exact arrangements will depend on the form of constitution adopted by the Council].

How decisions are made

Option 1 - councils with executive arrangements

The executive is the part of the Council which is responsible for most day-to-day decisions. The executive is made up of [here the council should describe the form of executive adopted, for example] the mayor, who is elected by all residents, and a cabinet of (n) councillors whom he/she appoints. When major decisions are to be discussed or made, these are published in the executive’s forward plan in so far as they can be anticipated. If these major decisions are to be discussed with council officers at a meeting of the executive, this will generally be open for the public to attend except where personal or confidential matters are being discussed. The executive has to make decisions which are in line with the Council’s overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

Option 2 - councils with alternative arrangements

Most day-to-day decisions are made by policy committees. The Council has [n] policy committees which deal with [list responsibilities]. Committees also carry out a number of regulatory functions, including dealing with planning applications, licensing and most other regulatory business.

*The term policy committee is used to ensure consistency with Chapter 9 of the DETR Guidance, which covers alternative arrangements, and to ensure a distinction between these and overview and scrutiny committees. Councils may also wish to outline briefly any significant sub-committees or working groups, or refer to the fact that these may be created from time to time for particular tasks, and explain where details of these can be found.*

Meetings of the Councils policy committees are open to the public except where personal or confidential matters are being discussed.

Overview and scrutiny
Option 1 - councils with executive arrangements

There are [n] overview and scrutiny committees who support the work of the executive and the Council as a whole. They allow citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the executive and the Council as a whole on its policies, budget and service delivery. Overview and scrutiny committees also monitor the decisions of the executive. They can call-in a decision which has been made by the executive but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the executive reconsider the decision. They may also be consulted by the executive or the Council on forthcoming decisions and the development of policy.

Option 2 - councils with alternative arrangements

There are [n] overview and scrutiny committees who support the work of the policy committees and the Council as a whole. They allow citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These can lead to reports and recommendations which advise the policy committees and the Council as a whole on its policies, budget and service delivery. Overview and scrutiny committees also monitor the decisions of the policy committees. They can call-in a decision which has been made by a policy committee but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the policy committee or full council reconsider the decision. They may also be consulted by policy committees on forthcoming decisions and the development of policy.

Variation - councils with area committees or forums

This variation can apply equally in councils operating executive or alternative arrangements.

In order to give local citizens a greater say in council affairs, [n] area [committees] [forums] have been created. These cover [areas] and are responsible for [describe functions]. They involve councillors for each particular area and are held in public.

The Councils Staff

The Council has people working for it (called officers) to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between officers and members of the council [and the elected mayor].

Citizens Rights

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Councils own processes. The local Citizens Advice Bureau can advise on individuals legal rights.

Where members of the public use specific council services, for example as a parent of a school pupil or as a council tenant, they have additional rights. These are not covered in this
Constitution.

Citizens have the right to:

- vote at local elections if they are registered;
- contact their local councillor [and the elected mayor] about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of executive;
- *(Depending on the constitution of the Council)* participate in the Councils question time and contribute to investigations by the overview and scrutiny committees *(local authorities should insert whatever their provisions are in relation to public contributions to council and overview and scrutiny meetings)*;
- *(In local authorities with executive arrangements)* find out, from the executives forward plan, what major decisions are to be discussed by the executive or decided by the executive or officers, and when;
- *(In local authorities with executive arrangements)* attend meetings of the executive where key decisions are being discussed or decided;
- *(In local authorities with executive arrangements)* see reports and background papers, and any record of decisions made by the Council and executive;
- complain to the Council about *(Councils should insert brief details about the scope of their complaints process)*;
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Councils own complaints process;
- complain to the Standards Board for England if they have evidence which they think shows that a councillor has not followed the Councils Code of Conduct; and
- inspect the Councils accounts and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact *(councils should give a contact point, and ensure that Plain English information on all rights listed is available there.)*

*Councils must have available a statement of the rights of citizens to inspect agendas and reports and attend meetings. Councils should refer to these here.*
Joint Arrangements

The Local Government Act 2000 and regulations enable local authorities to make use of joint arrangements with other authorities and delegate to other local authorities.

Joint arrangements (including joint committees) are well established within local government, although their use has tended to be concentrated on facilities where economies of scale make sharing practicable for example crematoria or laboratories. Delegation to other local authorities is not widely employed. The regulations under the Local Government Act 2000 specify the different permutations for the delegation of executive functions depending on the types of local authorities involved.

However, there are new possibilities for joint arrangements as a result of changes taking place in the relationship between health and social services, including provision for pooled budgets and the creation of new joint agencies. Similarly, Part I of the Local Government Act creates greater flexibility for partnership arrangements in the promotion of economic, social and environmental well-being.

To avoid frequent amendments to this Article as new possibilities become available, authorities may wish to build up relevant protocols in later sections of the Constitution.

References:
Sections 2, 19, 20 LGA 2000
Chapters 6 and 9, DETR Guidance,
The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000

11.01 Arrangements to promote well being

The duty to prepare a community strategy and the power to promote well-being are closely related to the community leadership role of the Council and specifically the executive in executive forms of constitution. Consequently, local authorities may wish to include a statement here setting out their power to promote well-being through joint arrangements of various kinds. The text below provides a basis, and quotes the relevant parts of section 2 of the Local Government Act 2000.

The Council [or the executive in executive forms of constitution], 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 functions [which are not executive functions in executive forms of their constitutions] 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]

Paragraphs (b) to (d) apply only in executive forms of constitution.

(b) The executive may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.

(c) Except as set out below, the executive may only appoint executive members to a joint committee and those members need not reflect the political composition of the local authority as a whole.

(d) The executive may appoint members to a joint committee from outside the executive in the following circumstances:

Councils should only include those conditions that would apply to their class of authority.

- 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 executive may appoint to the joint committee any councillor who is a member for an [electoral division] [ward] which is wholly or partly contained within the area;
- the joint committee is between a county council and a single district council and relates to functions of the executive of the county council. In such cases, the executive of the county council may appoint to the joint committee any councillor who is a member for an electoral division which is wholly or partly contained within the area.

In both of these cases the political balance requirements do not apply to such appointments.

This paragraph applies to any form of constitution.

(e) Details of any joint arrangements including any delegations to joint committees
will be found in the Councils scheme of delegations in Part 3 of this Constitution.

11.03 **Access to information**

(a) The Access to Information Rules in Part 4 of this Constitution apply.

*Paragraph (b) only applies to executive forms of constitution.*

(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 executive.

(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 will apply.

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

(a) The Council may delegate [non-executive in local authorities with [executive forms of constitution] functions to another local authority or, in certain circumstances, the executive of another local authority.

*Paragraph (b) only applies to local authorities with executive forms of constitution.*

(b) The executive may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.

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

11.05 **Contracting out**

*Councils may wish to make clear those functions to which this section currently or potentially applies.*

The [Council under alternative arrangements and for functions which are not executive functions] [executive for executive functions] may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Councils agent under usual contacting principles, provided there is no delegation of the Councils discretionary decision making.
Article [12 in executive arrangements]
[11 in alternative arrangements]
Officers

Terminology

The use of the word "officers" means all employees and staff engaged by the council to carry out its functions. This word has also been used instead of "employees" to cover those engaged under short term, agency or other non employed situations. However, councils should consider what term they feel is most appropriate to them, whether this is "officers", "staff" or "employees" and use it in this Article.

References:
Chapters 8 and 9, DETR Guidance

Option 1 - alternative arrangements and all forms of executive arrangements except for mayor and council manager form

12.01 Management structure

Appointment of staff cannot be the responsibility of the executive. Appointment of staff below deputy chief officer level must be the responsibility of the head of paid service or their nominee.

Councils must include a standing order on the appointment of chief officers, the people who can or must be involved in the appointment of officers and disciplinary action against the head of paid service, chief financial officer and monitoring officer by virtue of the Local Authorities (Standing Orders) Regulations 1993 and proposed regulations. The requirements of both the 1993 and the proposed regulations are met by this Article and the Officer Employment Rules.

(a) General. The full Council may engage 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:

Councils should specify chief officer posts. An example is set out below. The duties of the chief executive follow those set out in Chapters 8 and 9 of the DETR Guidance. The responsibilities of other posts merely show one way of allocating functions for illustrative purposes:

<table>
<thead>
<tr>
<th>Post</th>
<th>Functions and areas of responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chief Executive (and Head of Paid Service)</td>
<td>Overall corporate management and operational responsibility (including overall management responsibility for all officers)</td>
</tr>
</tbody>
</table>
Provision of professional advice to all parties in the decision making process.

Together with the monitoring officer, responsibility for a system of record keeping for all the Councils decisions.

Representing the Council on partnership and external bodies (as required by statute or the Council).

| Director of Corporate Services | Central support services, finance, administration and legal governance support. |
| Director of Planning, Development and Transport | Development control, the local plan, regeneration, highways and transportation. |
| Director of Housing and Social Services | Social and welfare services, child protection, housing functions. |
| Director of Education and Lifelong Learning | Education and training. |

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

An example of possible designations is set out below. The chief executive should always be the head of paid service and cannot also be the monitoring officer. The monitoring officer and chief finance officer may not necessarily be chief officers but regardless of their status, councils will need to ensure they have access, as necessary, to meetings and that members consult them regularly.

The duties of both the monitoring officer and chief finance officer (apart from the administration of the financial affairs of the council) must be carried out personally, but can be carried out by a deputy nominated by them in cases of absence or illness. Councils may also wish to show the identity of the deputies in the table, noting that it is the function of the relevant officer to appoint each deputy, not the council.

<table>
<thead>
<tr>
<th>Post</th>
<th>Designation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chief Executive</td>
<td>Head of Paid Service</td>
</tr>
<tr>
<td>Chief Legal Officer</td>
<td>Monitoring Officer</td>
</tr>
<tr>
<td>Head of Financial Services</td>
<td>Chief Finance Officer</td>
</tr>
</tbody>
</table>

Such posts will have the functions described in Article 12.0212.04 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 Councils 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.

*References:*
*Sections 4 and 5, Local Government and Housing Act 1989*

### 12.03 Functions of the monitoring officer

The list of functions below reflects the statutory duties and powers of monitoring officers and those set out in Chapters 8 and 9 of the DETR Guidance. Councils may wish to give details of other associated non-statutory activities, for example acting as the corporate complaints officer.

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

(b) **Ensuring lawfulness and fairness of decision making.** After consulting with the head of paid service and chief finance officer, the monitoring officer will report to the full Council [or to the executive in relation to an executive function [in executive forms of constitution]] if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

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

(d) **Receiving reports.** The monitoring officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals.

(e) **Conducting investigations.** The monitoring officer will conduct investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the Standards Committee.

(f) **Proper officer for access to information.** The monitoring officer will ensure that [executive in executive forms of constitution] decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

*Executive forms of constitution only*

(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, financial impropriety, probity [and budget and policy framework issues *executive forms of constitution only*] to all councillors [and the elected mayor].

(i) **Restrictions on posts.** The monitoring officer cannot be the chief finance officer or the head of paid service.

References: *(Section 5)*, Local Government and Housing Act 1989
Sections 60, 6466, Local Government Act 2000
Chapters 8 and 9, *DETR Guidance*

12.04 **Functions of the chief finance officer**

(a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the head of paid service and the monitoring officer, the chief finance officer will report to the full Council [or to the executive in relation to an executive function *executive forms of constitution only*] 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 *executive forms of constitution only*] to all councillors and the elected mayor and will support and advise councillors and officers in their respective roles.

(e) **Give financial information.** The chief finance officer will provide financial information to the media, members of the public and the community.

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

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

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

12.07 Employment

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

Option 2 - mayor and council manager form of the executive arrangements

This article does not deal with the appointment of the council manager. This is covered in Article 7 (The Executive).

12.01 Management structure

The council manager is responsible for all appointments of staff.

Councils must include a standing order on the appointment of chief officers, the people who can or must be involved in the appointment of officers and disciplinary action against the head of paid service, chief financial officer and monitoring officer by virtue of the Local Authorities (Standing Orders) Regulations 1993 and proposed regulations. The requirements of both the 1993 and the proposed regulations are met by this Article and the Officer Employment Rules.

(a) General. The council manager may engage such staff (referred to as officers) as he or she considers necessary to carry out the local authority’s functions.

(b) Chief officers. The council manager will engage persons for the following posts, who will be designated chief officers:

 Councils should specify chief officer posts. An example is set out below. The responsibilities of other posts merely show one way of allocating functions for illustrative purposes:

<table>
<thead>
<tr>
<th>Post</th>
<th>Functions and areas of responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>Director of Corporate Services</td>
<td>Central support services, finance administration and legal. Governance support.</td>
</tr>
<tr>
<td>Director of Planning, Development and Transport</td>
<td>Development control, the local plan, regeneration, highways and transportation.</td>
</tr>
<tr>
<td>Director of Housing and Social Services</td>
<td>Social and welfare services, child protection, housing functions.</td>
</tr>
<tr>
<td>Director of Education and Lifelong Learning</td>
<td>Education and training.</td>
</tr>
</tbody>
</table>

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

An example of possible designations is set out below. The council manager will be
the head of paid service and cannot also be the monitoring officer. The monitoring officer and chief finance officer may not necessarily be chief officers but regardless of their status, councils and council managers will need to ensure they have access as necessary to meetings and that members consult them regularly.

The duties of both the monitoring officer and chief finance officer (apart from the administration of the financial affairs of the Council) must be carried out personally, but can be carried out by a deputy nominated by them in cases of absence or illness. Councils may also wish to show the identity of the deputies in the table, noting that it is the function of the relevant officer to appoint each deputy, not the council manager.

<table>
<thead>
<tr>
<th>Post</th>
<th>Designation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chief Legal Officer</td>
<td>Monitoring Officer</td>
</tr>
<tr>
<td>Head of Financial Services</td>
<td>Chief Finance Officer</td>
</tr>
</tbody>
</table>

Such posts will have the functions described in Article 12.0212.04 below.

(c) **Structure.** The council manager (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 council manager as head of paid service

(a) **Discharge of the local authoritys functions.** The council manager will report to full Council on the manner in which the discharge of the local authoritys 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 council manager may not be the monitoring officer nor hold the post of chief finance officer.

**References:**
Sections 4 and 5, Local Government and Housing Act 1989

12.03 Functions of the monitoring officer

The list of functions below reflects the statutory duties and powers of monitoring officers and those set out in Chapter 8 of the DETR Guidance. Councils may wish to give details of other associated non-statutory activities, for example acting as the corporate complaints officer.

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

(b) **Ensuring lawfulness and fairness of decision making.** After consulting with the council manager and chief finance officer, the monitoring officer will report to the full Council or to the executive in relation to an executive function if he or she
considers that any proposal, decision or omission would give rise to unlawfulness or if any decision has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

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

(d) **Receiving reports.** The monitoring officer will receive and act on reports made by ethical standards officers and decisions of the adjudication panel.

(e) **Conducting investigations.** The monitoring officer will conduct investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the Standards Committee.

(f) **Proper officer for access to information.** The monitoring officer will ensure that 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 determine 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, financial impropriety, probity and budget and policy framework issues to all councillors and the elected mayor.

(i) **Restrictions on posts.** The monitoring officer cannot be the chief finance officer or the council manager.

*References:*
*Section 5, of the Local Government and Housing Act 1989*
*Sections 60, 6466, of the Local Government Act 2000*

12.04 Functions of the chief finance officer

(f) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the council manager and the monitoring officer, the chief finance officer will report to the full Council or to the executive 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.

(g) **Administration of financial affairs.** The chief finance officer will have
responsibility for the administration of the financial affairs of the Council.

(h) **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.

(i) **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 the elected mayor and will support and advise councillors and the elected mayor and officers in their respective roles.

(j) **Give financial information.** The chief finance officer will provide financial information to the media, members of the public and the community.

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

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

12.06 **Conduct**

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

12.07 **Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.
Article [13 in executive arrangements]
[12 in alternative arrangements]
Decision Making

13.01 Responsibility for decision making

Executive arrangements established under the Local Government Act 2000 change the basis of decision making in local authorities fundamentally. They require the Council to record and keep up to date details of who has responsibility for which decisions, and to make this available to the public.

Some decisions are for the Council to make or to delegate, or for it to delegate to committees, sub-committees and/or officers, or to joint committees or joint arrangements or other authorities. Those delegations must be recorded in the Council's constitution which must be kept up to date.

Other decisions are for the executive to make, and it is for the executive to decide whether to delegate the power to make any of those decisions. Only the executive may decide to delegate executive functions to area committees, joint arrangements or other local authorities. Where it does so, those delegations must also be recorded in the executives scheme of delegations in Part 3 of the Constitution. Though changes to the Constitution must be made by the Council, changes to the scheme of delegations:

- in an elected mayor and cabinet constitution are for the mayor to decide;
- in an elected mayor/council manager constitution are for the council manager to decide; and
- in a leader and cabinet constitution where the leader determines the delegations are for the leader to decide (where the council determines the delegations they are generally within its power to change)

so long as those changes are reported to Council.

Where the power to take decisions is delegated by the executive, the extent of the delegation must be recorded, as must any limitations on the delegated power. Details of the person, body or forum to which the decision is delegated must be recorded as must the extent of delegation on to others from them.

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

Good decision making goes beyond observing the often rehearsed legal requirements to have regard to all relevant considerations and ignore all irrelevant factors set out in Associated Picture Palaces v Wednesbury Corporation [1948] 1KB223. It involves the realistic evaluation of alternatives and due consultation through effective access for the public to decision making and decision makers.

Under executive forms of constitution decisions are no longer confined to committees acting on officer reports or officers operating under delegated authority. A range of people and bodies potentially may take binding decisions, from an individual cabinet member to a meeting of a cabinet or an area committee.

It is outside the scope of this model to attempt to prescribe an exhaustive list of principles which councils should observe when making decisions. In any event, such matters (like the purposes of the constitution in Article 1.03) are best determined locally to ensure local ownership. However councils should include at least the following principles of decision-making contained in paragraph 7.3 of the DETR Guidance:

(a) proportionality (i.e. the action must be proportionate to the desired outcome);
(b) due consultation and the taking of professional advice from officers;
(c) respect for human rights (see below for further details);
(d) a presumption in favour of openness; and
(e) clarity of aims and desired outcomes.

In executive forms of constitution the further principle of explaining what options were considered and giving the reasons for the decision needs to be added to reflect the requirements of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000.

Councils should give particular consideration to ways in which human rights can be considered at an early stage in the decision making process.

References:
Chapter 7, DETR Guidance
Deciding Rights applying the Human Rights Act to good practice in local authority decision making, Local Government Association/JUSTICE fact sheet available from IDeA Publication Sales ISBN 1 84049 189 2 code no. CA116

13.03 Types of decision This Article applies to executive forms of constitution only.

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

(i) **Councils should insert into this part of the Constitution the definition of key decisions contained in regulations.**

(ii) A decision taker 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 Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.05 **Decision making by the executive** *This Article only applies to executive forms of Constitution.*

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

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

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

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

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

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

> Many of the licensing and enforcement functions of ordinary committees will entail them acting in a quasi judicial capacity. Standards Committees may also need to be particularly aware of Article 6 issues.

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 in executive arrangements]
[13 in alternative arrangements]
Finance, Contracts and Legal Matters

This short article refers on to the authoritys Financial and Contract Rules, which are contained in Part 5 of this constitution.

References:
Sections 135, 151, 223 & 234, Local Government Act 1972
Part VIII, Local Government Finance Act 1988

14.01 Financial management

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

14.02 Contracts

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

Councils may wish to locate Articles 14.03-14.05 in the Financial Rules or the Council Procedure Rules in order to keep this Article short and to the essentials.

14.03 Legal proceedings

The [chief legal officer] is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the [chief legal officer] considers that such action is necessary to protect the Councils interests.

14.04 Authentication of documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the [chief legal officer] or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

The Government proposes to make regulations which include a mandatory standing order regarding authentication of contracts made in the course of the discharge of executive functions. The following paragraph therefore only applies to executive forms of constitutions.

Any contract with a value exceeding £[x councils should insert an amount here appropriate to local circumstances] entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made under the common seal of the council attested by at least one officer.
14.05 **Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the [chief legal officer]. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the [chief legal officer] should be sealed. The affixing of the Common Seal will be attested by the [chief legal officer] or some other person authorised by him/her.
Review and Revision of the Constitution

The political management arrangements introduced by the Local Government Act 2000 mark a major change in the operation of local government. Local authorities will be adopting one of the three executive arrangements or in some cases alternative arrangements. Within these four overall forms they will be adopting particular variants. Constitutional amendment will also be activated where the local authority changes from one form of Constitution to another.

Consequently it will be important for councils to monitor and review their constitutions and to base revisions on the available evidence. This will support a process of learning within the local authority, both from their own experience and that of others.

Constitutional review is a local choice activity. It can be on an ad hoc basis when it seems to be necessary or as a more systematic process. The ad hoc approach could be triggered by member requests to Council, external feedback (e.g. from the Standards Board or ombudsman), recommendations of the statutory officers or decision of the Council meeting. Alternatively, local authorities may place responsibility for monitoring and review of the Constitution with a particular part of the structure. This could include the co-ordinating body for scrutiny, the monitoring officer, head of paid service or the Standards Committee.

References:
Sections 30 and 37, Local Government Act 2000
Chapters 10 and 15, Guidance

15.01 Duty to monitor and review the constitution

This Article places a duty to monitor and review the constitution on a particular body or person. It does not indicate the method and frequency of review, or the reporting arrangement. These are elements that Councils themselves should specify.

The [specify the committee, member or officer responsible for monitoring and reviewing constitutional matters] will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

The monitoring officer is an obvious officer focus for review activity. Should councils wish to use the monitoring officer in this way then an example protocol is set out below. This may be amended to form the terms of reference of any committee which is given this responsibility.

Protocol for monitoring and review of constitution by monitoring officer

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

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

There is a difference in the process required for change to the executive arrangements or alternative arrangements than other aspects of the constitution. Proposals to change from one form of executive to another require proper consultation, and change from leader/cabinet or alternative arrangements to an elected mayor form, or vice versa, requires a referendum. However, other changes may require limited or no consultation. The DETR Guidance makes clear that the consultation required should be proportionate to the scale, scope and extent of the change proposed.

This Article sets out minimum requirements for Constitutional changes, but councils should be aware that such changes may be prompted not from internal reviews and evaluation of their governance, but from changes in public opinion triggering a mayoral referendum.

Local authorities may also wish to adopt procedural rules to ensure that individual members have a clear procedure when they wish to propose to Council that the constitution is changed. Similarly, there will need to be procedures to ensure that proposals for constitutional change are not used to overcome disputes between the executive and other councillors, or even within the executive itself.

(a) Approval. Changes to the constitution will only be approved by the full Council after consideration of the proposal by [specify the committee, member or officer responsible for monitoring and reviewing constitutional matters].

(b) Change within a mayoral form of executive. Unless the change relates only to the operation of overview and scrutiny committees, any resolution of the full Council to approve a change will have no effect without the written consent of the mayor.

(c) Change from a mayoral form of executive to another form of executive or to alternative arrangements, or from alternative arrangements 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. The change will not take effect until the end of the mayors term of office.
(d) **Change from a leader and cabinet form of executive to alternative arrangements, or vice versa.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.
Suspension, Interpretation and Publication of the Constitution

16.01 Suspension of the Constitution

This Article ensures that the articles of the Constitution may not be suspended. This provides certainty and stability to the fundamental aspects of the Council’s governance. However, it does provide for rules of procedure to be suspended provided this is to achieve an effect consistent with the purposes of the Constitution set out in Article 1. This might apply, for example, to rules of debate in Council where particular circumstances arise. However, Councils should design their Constitution to be sufficiently flexible, and in the light of experience with transitional arrangements.

(a) Limit to suspension. The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.

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

(c) Rules capable of suspension. The following Rules may be suspended in accordance with Article 16.01:

Council to specify Rules

16.02 Interpretation

The ruling of the chairman of council [mayor in boroughs and cities with leader and cabinet executive or alternative arrangements] 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 [specify proper officer] 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 [specify proper officer] 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 [specify proper officer] will ensure that the summary of the Constitution is
made widely available within the area and is updated as necessary.
Schedule 1: Description of
[Executive for executive forms of constitutions] [Alternative for alternative arrangements constitutions] Arrangements

Option 1 - all executive forms of constitution

The following parts of this Constitution constitute the executive arrangements:

1. Article 6 (Overview and Scrutiny committees) and the Overview and Scrutiny Procedure Rules;

2. Article 7 (The Executive) and the Executive Procedure Rules;

3. Article 10 (Area Committees and Forums) *councils should make clear the extent to which they apply, i.e. where area committees have functions delegated to them by the executive*;

4. Article 11 (Joint arrangements) *councils should make clear the extent to which they apply, i.e. where area committees have functions delegated to them by the executive*;

5. Article 13 (Decision making) and the Access to Information Procedure Rules;

6. Part 3 (Responsibility for Functions).

Option 2 alternative arrangements

The following parts of this Constitution constitute the alternative arrangements:

1. Article 6 (Overview and Scrutiny committees) and the Overview and Scrutiny Procedure Rules;

2. Article 7 (Policy and Regulatory Committees) *councils should make clear which parts of this Article apply to alternative arrangements, i.e. in respect of policy committees.*
Responsibility for Functions

Option 1 - all executive forms of constitution

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 give effect to section 13 of the Local Government Act 2000 by specifying which functions are not to be the responsibility of the executive, which may (but need not) be the responsibility of the executive (the local choice functions) and which are to some extent the responsibility of the executive. All other functions not so specified are to be the responsibility of the executive. The executive arrangements contained in the Constitution need to make clear how these distinctions are given effect. In particular, local authorities should ensure that all local choice functions are allocated so that it is clear whether:

(a) they are the responsibility of the Council and/or its committees; or  
(b) they are the responsibility of the executive; or  
(c) they are, or are not, the responsibility of the executive to a specified extent.

This requirement is included in Article 4 (The full Council) and Article 7 (The Executive).

The tables below provide a means of meeting this requirement. Table 1 covers local choice functions. Table 2 covers functions which are not the responsibility of the executive. Table 3 covers executive responsibilities.

References:
Chapter 5, Guidance
The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 Section 13, Local Government Act 2000

1. Responsibility for local choice functions

<table>
<thead>
<tr>
<th>Function</th>
<th>Decision making body</th>
<th>Membership</th>
<th>Delegation of functions</th>
</tr>
</thead>
<tbody>
<tr>
<td>(List specifically the functions of Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000)</td>
<td>(Executive or name of Committee)</td>
<td>[n] members of the executive or authority</td>
<td>Authorities should list here any functions which are delegated on, for example to an executive member, a committee of the executive, an area committee or an officer, and the limits on that delegation</td>
</tr>
</tbody>
</table>
2. Responsibility for council functions

*It is a matter for local choice having regard to the statutory guidance whether the Council has separate committees for the functions below. It may amalgamate, for example, the development control and licensing functions. It may also have other committees, for example a Council business committee to manage the agenda and timetable for the council meeting. The format below simply provides an example of a framework that might be used.*

<table>
<thead>
<tr>
<th>Committee</th>
<th>Membership</th>
<th>Functions</th>
<th>Delegation of functions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Planning, land and highways</td>
<td>[n] members of the authority</td>
<td><strong>Planning and conservation</strong> Functions relating to town and country planning and development control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the Functions Regulations)</td>
<td>Authorities should list here any functions which are delegated on, for example to an area committee or an officer, and the limits on that delegation</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Commons registration</strong> The registration of common land or town and village greens and to register the variation of rights of common as set out in Schedule 1 to the Functions Regulations</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Highways use and regulation</strong> The exercise of powers relating to the regulation of the use of highways as set out in Schedule 1 to the Functions Regulations</td>
<td></td>
</tr>
<tr>
<td>Committee</td>
<td>Membership</td>
<td>Functions</td>
<td>Delegation of functions</td>
</tr>
<tr>
<td>-------------------------</td>
<td>---------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------</td>
<td>-------------------------</td>
</tr>
<tr>
<td>Licensing and safety</td>
<td>[n] members of the authority</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>the extent that those functions are discharged otherwise than in the council's capacity as employer</td>
<td></td>
</tr>
<tr>
<td>Standards Committee</td>
<td>[n] members of the authority other than the [leader - in leader and cabinet constitutions] [mayor - in mayoral forms of constitution], and [n] voting co-optee(s)</td>
<td>The promotion and maintenance of high standards of conduct within the Council</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>To advise the council on the adoption or revision of its Code of Conduct</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>To monitor and advise the council about the operation of its Code of Conduct in the light of best practice, changes in the law, guidance from the Standards Board and recommendations of case tribunals under section 80 of the Local Government Act 2000</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Assistance to members and co-opted members of the authority.</td>
<td></td>
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<td></td>
<td></td>
<td>To ensure that all members of the Council have access to training in all aspects of the member Code of Conduct, that this training is actively promoted, and that members are aware of the standards expected from local councillors under the Code</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Other functions</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Functions relating to standards of conduct of members under any relevant provision of, or regulations made under, the Local Government Act 2000</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>[List] other functions delegated to the Committee</td>
<td></td>
</tr>
</tbody>
</table>
### Functions relating to conduct of members under any relevant provision of, or regulations made under, the Local Government Act 2000

[List] other functions delegated to the Committee by the Council in accordance with section 54(3) of the Local Government Act 2000, in accordance with any regulations made under that Act.

<table>
<thead>
<tr>
<th>Employment Committee</th>
<th>[n] members of the authority</th>
<th>Functions</th>
<th>Onward limits on delegations</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>To consider appeals against dismissal, grading and grievances by employees of the Council</td>
<td>Authorities and executives should provide details.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>To undertake [list any other functions of the committee, eg determining pay awards]</td>
<td></td>
</tr>
</tbody>
</table>

### 3. Responsibility for executive functions

_Councils should insert here the details of the allocation of executive responsibilities, as required in Article 7. This should include the allocation of functions made by the executive arrangements under the leader and cabinet constitution (section 15(2) Local Government Act 2000). In all forms of executive constitution it should include details of any delegations within the executive itself, and onward delegation to officers, area committees and joint arrangements. The table should be kept up-to-date as delegations change so that an accurate record is always available in order for transparency to be maintained and accountability exercised._

<table>
<thead>
<tr>
<th>Who is responsible</th>
<th>Membership</th>
<th>Functions</th>
<th>Onward limits on delegations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authorities and executives should provide details e.g. executive committee or individual cabinet members</td>
<td>In the case of responsibilities allocated to the executive or committees of the executive</td>
<td>Authorities and executives should list the main responsibilities. Where possible these should be grouped together to allow people to see who is responsible for a particular issue as well as broader policy areas</td>
<td>Authorities and executives should provide details</td>
</tr>
</tbody>
</table>

_Considerable variety in the forms and levels of delegation are possible, and the table below provides one means of recording this:_

_It should be noted that functions can be delegated on through several stages, for example from the elected mayor to a committee of the executive, and from them to an officer. The council and the executive should ensure that this is recorded as far as possible in the table._
provides an example of how the possible committee responsibilities for functions may be shown including how this might record delegations to officers, area committees or joint arrangements. This fulfils the requirements of Article 7.

<table>
<thead>
<tr>
<th>Committee</th>
<th>Membership</th>
<th>Functions</th>
<th>Onward limits on delegations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Policy and resources</td>
<td>[n] members of the authority</td>
<td>The formulation of the policy framework and budget and the implementation of these in respect of council functions and services not otherwise the responsibly of full Council or any other committee, in particular finance and support services</td>
<td>Authorities should list here any functions which are delegated on, for example, to area committees or an officer, and the limits on that delegation</td>
</tr>
<tr>
<td>Planning and development control</td>
<td>[n] members of the authority</td>
<td>The formulation of the budget and policy framework and the implementation of these in respect of planning and development control functions</td>
<td>Authorities should list here any functions which are delegated on, for example, to area committees or an officer, and the limits on that delegation</td>
</tr>
<tr>
<td>Social well being</td>
<td>[n] members of the authority</td>
<td>The formulation of the budget and policy framework and the implementation of these in respect of housing (public and private sectors), social services, education, training, leisure, recreation and culture, youth services</td>
<td>Authorities should list here any functions which are delegated on, for example, to area committees or an officer, and the limits on that delegation</td>
</tr>
<tr>
<td>Economic well being</td>
<td>[n] members of the authority</td>
<td>The formulation of the budget and policy framework and the implementation of these in respect of economic development, regeneration, tourism, highways and transport, councils land ownership</td>
<td>The formulation of the budget and policy framework and the implementation of these in respect of economic development, regeneration, tourism, highways and transport, councils land ownership</td>
</tr>
<tr>
<td>Environmental well being</td>
<td>[n] members of the authority</td>
<td>The formulation of the budget and policy framework and the implementation of these in respect of community safety, trading standards, environmental health, licensing, health and safety, nature conservation, building control, waste collection and disposal</td>
<td>Authorities should list here any functions which are delegated on, for example, to area committees or an officer, and the limits on that delegation</td>
</tr>
<tr>
<td>Standards Committee</td>
<td>[n] members of the authority other than the [leader in leader and cabinet constitutions]</td>
<td>The promotion and maintenance of high standards of conduct within the Council</td>
<td></td>
</tr>
<tr>
<td>Committee</td>
<td>Members</td>
<td>Functions</td>
<td></td>
</tr>
<tr>
<td>----------------------------</td>
<td>----------------------------------------------</td>
<td>---------------------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>Standards Committee</td>
<td>[n] members of the authority other than the</td>
<td>The promotion and maintenance of high standards of conduct within the Council</td>
<td></td>
</tr>
<tr>
<td></td>
<td>[leader in leader and cabinet constitutions]</td>
<td>To advise the Council on the adoption or revision of its Code of Conduct</td>
<td></td>
</tr>
<tr>
<td></td>
<td>[mayor in mayoral forms of constitution]</td>
<td>To monitor and advise the Council about the operation of its Code of Conduct in the light of best practice, changes in the law, guidance from the Standards Board and recommendations of case tribunals under section 80 of the Local Government Act 2000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>and [n] voting co-optee(s)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employment Committee</td>
<td>[n] members of the authority</td>
<td>Assistance to members and co-opted members of the authority</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>To ensure that all members of the Council have access to training in all aspects of the member Code of Conduct, that this training is actively promoted, and that members are aware of the standards expected from local councillors under the Code</td>
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<tr>
<td></td>
<td></td>
<td>Functions relating to standards of conduct of members under any relevant provision of, or regulations made under, the Local Government Act 2000 [List] other functions delegated to the Committee by the council in accordance with section 54(3) of the Local Government Act 2000, in accordance with any regulations made under that Act</td>
<td></td>
</tr>
</tbody>
</table>

licensing, health and safety, nature conservation, building control, waste collection and disposal
**Rules of Procedure**

**Council Procedure Rules**

**Introduction**

Local authorities should insert here the rules of debate and procedure for the conduct of meetings of full Council, indicating also where these rules apply to committee and sub-committee meetings.

A basic model has been provided but councils may well wish to use their existing procedural standing orders as a starting point, ensuring that the resulting rules:

- accord with the law (in particular Schedule 12 to the Local Government Act 1972);
- reflect the new roles which meetings of full Council will play (see especially "A Role for All Members the Council Meeting" published by LGA in June 2000); and
- are written in plain English.

The notes below give information on the background of existing procedural standing orders, what standing orders are mandatory and where they are included in the Constitution.

The notes do not deal with standing orders concerning contracts. These are addressed in notes on the Contracts Rules.

**Existing procedural standing orders**

All councils currently have standing orders for the regulation of proceedings and business. Councils may make standing orders for the regulation of their proceedings and business under paragraph 42 of Schedule 12 to the Local Government Act 1972 and in respect of committees and joint committees under section 106 of the same Act.

**1963 model standing orders**

Most sets of procedural standing orders still reflect the contents of the Model Standing Orders Proceedings and Business of Local Authorities (2nd Edition) issued by the then Ministry of Housing and Local Government in 1963 and reprinted by HMSO in 1973. This contained suggested forms of standing orders concerning:

- meetings of the council, quorum, order of business, motions, rules of debate, voting and interests of members and officers in contracts;
- staff appointments (contained in Officer Employment Rules in Part 6 of this Modular Constitution);
- the council seal and authentication of documents contained in Article 12 of alternative arrangements and Article 13 of executive forms of this Modular Constitution;
- inspection of documents and land by members (contained in Article 2 of this Modular Constitution);
- committees;
- variation, revocation, suspension, interpretation and publication of standing orders (contained in Article 15 of alternative arrangements and Article 16 in executive forms of this Modular Constitution).
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Local government act 2000 mandatory standing orders

The Secretary of State intends to make further regulations requiring the adoption of standing orders on the following:

(h) restricting the involvement of members in the appointment of officers to that of the head of paid service, chief officers, deputy chief officers, assistants to political groups and the mayors assistant in all forms of executive except for the mayor and council manager form (contained in Officer Employment Rules);

(i) restricting the involvement of members in the appointment of officers to that of the council manager, assistants to political groups and the mayors assistant in mayor and council manager forms of executive (contained in Officer Employment Rules);

(j) requiring the agreement of the executive to officer appointments made by members in all forms of executive arrangements (contained in Officer Employment Rules);

(k) giving the executive five working days to revise a plan proposed to the full council which the full council wishes to modify (contained in Budget and Policy Framework Rules);

(l) permitting the full Council to determine such a plan if not revised by the executive, by a simple majority (in leader form of executive) or two-thirds majority (in mayoral forms of executive) (contained in Budget and Policy Framework Rules);

(m) extending the protection from dismissal enjoyed by the head of paid service to the monitoring officer and chief finance officer (contained in Officer Employment Rules); and

(n) withdrawing such protection from a head of paid service who is a council manager (contained in Officer Employment Rules).

Unless otherwise stated, references to the chairman mean the mayor in boroughs with leader and cabinet executives and alternative arrangements.

Declaration of interest

Some local authorities now have a specific item requiring declaration of interests early on the agenda for Council and committee meetings. This procedure should be considered in the context of their approach to integrating ethical standards into their practice.

Modular procedural rules

The text that follows provides Council Procedure Rules in modular form. Because of their length they are prefaced by a table of contents for ease of reference.

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2. Ordinary meetings []

3. Extraordinary meetings []

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(iv) approve the minutes of the last meeting;
(v) receive any announcements from the chairman, mayor and/or head of the paid service;
(vi) appoint at least one overview and scrutiny committee, a Standards Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3, Table 1 of this Constitution);
(vii) be told by the mayor about the composition and constitution of the executive for the coming year, and the names of councillors he/she has chosen to be members of the executive;
(viii) be told by the mayor about the scheme of delegation (as set out in Part 3, Table 3 of this Constitution);
(ix) approve a programme of ordinary meetings of the Council for the year; and
(x) consider any business set out in the notice convening the meeting.

Option 2: mayor and council manager form of executive
In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May.

The annual meeting will:
(i) elect a person to preside if the chairman is not present;
(ii) elect the chairman of Council;
(iii) elect the vice chairman of Council;
(iv) approve the minutes of the last meeting;
(v) receive any announcements from the chairman, mayor and/or council manager;
(vi) appoint at least one overview and scrutiny committee, a Standards Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3, Table 1 of this Constitution);
(vii) be told by the mayor about the composition and terms of reference of any executive advisory committees and the names of people on those committees;
(viii) be told by the council manager of the scheme of delegation (as set out in Part 3, Table 3 of this Constitution);
(ix) approve a programme of ordinary meetings of the Council for the year; and
(x) consider any business set out in the notice convening the meeting.

Option 3: Leader and cabinet executive form and alternative arrangements
In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May.

The annual meeting will:
(iii) elect the vice chairman of Council;

(iv) approve the minutes of the last meeting;

(v) receive any announcements from the chairman, mayor and/or head of the paid service;

(vi) appoint at least one overview and scrutiny committee, a Standards Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3, Table 1 of this Constitution);

(vii) be told by the mayor about the composition and constitution of the executive for the coming year, and the names of councillors he/she has chosen to be members of the executive;

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**Option 2: mayor and council manager form of executive**

In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May.

The annual meeting will:

(i) elect a person to preside if the chairman is not present;

(ii) elect the chairman of Council;

(iii) elect the vice chairman of Council;

(iv) approve the minutes of the last meeting;

(v) receive any announcements from the chairman, mayor and/or council manager;

(vi) appoint at least one overview and scrutiny committee, a Standards Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3, Table 1 of this Constitution);

(vii) be told by the mayor about the composition and terms of reference of any executive advisory committees and the names of people on those committees;

(viii) be told by the council manager of the scheme of delegation (as set out in Part 3, Table 3 of this Constitution);

(ix) approve a programme of ordinary meetings of the Council for the year; and

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**Option 3: Leader and cabinet executive form and alternative arrangements**

In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May.

The annual meeting will:
(i) elect a person to preside if the chairman and vice chairman are not present;

(ii) approve the minutes of the last meeting;

(iii) receive any declarations of interest from members;

(iv) in mayor and cabinet forms receive any announcements from the chairman, the mayor, members of the cabinet or the head of the paid service;

in mayor and council manager forms receive any announcements from the chairman, the mayor or the council manager;

in leader and cabinet forms receive any announcements from the chairman, leader, members of the cabinet or the head of paid service;

in alternative arrangements receive any announcements from the chairman, leader or head of paid service;

(v) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;

(vi) deal with any business from the last Council meeting;

(vii) receive reports from in executive forms of constitution the executive and the Councils committees and receive questions and answers on any of those reports;

(viii) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;

(ix) consider motions; and

(x) consider any other business specified in the summons to the meeting, in executive forms of constitution including consideration of proposals from the executive in relation to the Councils budget and policy framework and reports of the overview and scrutiny committees for debate.

3. Extraordinary meetings

3.1 Calling extraordinary meetings.

Those listed below may request the proper officer to call Council meetings in addition to ordinary meetings:

i) the Council by resolution;

ii) the chairman of the Council in leader forms of executive the mayor;

iii) in mayor and council manager forms the council manager;

iv) the monitoring officer; and

v) any five members of the Council if they have signed a requisition presented to the chairman of the council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

3.2 Business

Some councils restrict the business that can be conducted at extraordinary
(i) elect a person to preside if the chairman and vice chairman are not present;

(ii) approve the minutes of the last meeting;

(iii) receive any declarations of interest from members;

(iv) [in mayor and cabinet forms receive any announcements from the chairman, the mayor, members of the
cabinet or the head of the paid service];

[in mayor and council manager forms receive any announcements from the chairman, the mayor or the council
manager];

[in leader and cabinet forms receive any announcements from the chairman, leader, members of the cabinet or
the head of paid service];

[in alternative arrangements receive any announcements from the chairman, leader or head of paid service];

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person presiding at the meeting are relevant to the business of the meeting;

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receive questions and answers on any of those reports;

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(ix) consider motions; and

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he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the
requisition.

3.2 Business

Some councils restrict the business that can be conducted at extraordinary
summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

7. Chair of meeting

The person presiding at the meeting may exercise any power or duty of the chairman. Where these rules apply to committee and sub-committee meetings, references to the chairman also include the chairman of committees and sub-committees.

8. Quorum

The quorum of a meeting will be one quarter of the whole number of members. During any meeting if the chairman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

9. Duration of meeting

Some councils have sought to improve the quality of decision making by restricting the length of meetings to, say, 21\(\frac{1}{2}\) or 3 hours on the basis that an adequate level of concentration cannot be maintained for extensive periods.

Option 1 forces the meeting to end by a certain time but avoids matters being talked out deliberately to block them. Option 2 is not an absolute guillotine, but the majority of the meeting must want to continue after a set period.

Option 1 - guillotine

9.1 Interruption of the meeting

If the business of the meeting has not been concluded by [time], a bell will be rung and the member speaking must immediately sit down. The chairman must interrupt the meeting and call for the vote immediately on the item under discussion. The vote will then be taken in the usual way without any further discussion.

9.2 Motions and recommendations not dealt with

If there are other motions or recommendations on the agenda that have not been dealt with by [time], they are deemed formally moved and seconded (together with any amendments). No speeches will be allowed on these items and the vote will be taken in the usual way.

9.3 Recorded vote

If a recorded vote is called for during this process it will be taken immediately.

9.4 Motions which may be moved

During the process set out in Rules 9.1-9.3 above, the only other motions which may be moved are that a matter be withdrawn or that a matter be delegated or referred to an appropriate body or individual for decision or report.

9.5 Close of the meeting

When all motions and recommendations have been dealt with, the chairman will declare the meeting closed.
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9.3 Recorded vote

If a recorded vote is called for during this process it will be taken immediately.

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During the process set out in Rules 9.19.3 above, the only other motions which may be moved are that a matter be withdrawn or that a matter be delegated or referred to an appropriate body or individual for decision or report.

9.5 Close of the meeting

When all motions and recommendations have been dealt with, the chairman will declare the meeting closed.
10.7 **Asking the question at the meeting**

The chairman will invite the questioner to put the question to the member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the chairman to put the question on their behalf. The chairman may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

10.8 **Supplemental question**

A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The chairman may reject a supplementary question on any of the grounds in Rule 10.5 above.

10.9 **Written answers**

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the member to whom it was to be put, will be dealt with by a written answer.

10.10 **Reference of question to [the executive or] a committee**

Unless the chairman decides otherwise, no discussion will take place on any question, but any member may move that a matter raised by a question be referred to [the executive or] the appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

11. **Questions by members**

The text below provides one option. Another would be to give written questions priority over verbal questions. Councils may wish to limit the time available to the questioner to two minutes initially and one minute supplementary, the respondent to have five minutes for an initial reply and two minutes for the supplementary.

11.1 **On reports of [the executive or] committees**

A member of the Council may ask [in leader form of executive the leader] [in mayoral forms of executive the mayor or the] chairman of a committee any question without notice upon an item of the report of [the executive or] a committee when that item is being received or under consideration by the Council.

11.2 **Questions on notice at full Council**

Subject to Rule 11.4, a member of the Council may ask:

- the chairman;
- [a member of the executive in executive arrangements];
- [the leader in alternative arrangements]; or
- the chairman of any committee or sub-committee

a question on any matter in relation to which the Council has powers or duties or which affects [the area].

11.3 **Questions on notice at committees and sub-committees**

Subject to Rule 11.4, a member of a committee or sub-committee may ask the chairman of it a question on any matter in relation to which the Council has powers or duties or which affect [the area] and which falls within the
10.7 Asking the question at the meeting

The chairman will invite the questioner to put the question to the member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the chairman to put the question on their behalf. The chairman may ask the question on the questioners behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

10.8 Supplemental question

A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The chairman may reject a supplementary question on any of the grounds in Rule 10.5 above.

10.9 Written answers

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the member to whom it was to be put, will be dealt with by a written answer.

10.10 Reference of question to [the executive or] a committee

Unless the chairman decides otherwise, no discussion will take place on any question, but any member may move that a matter raised by a question be referred to [the executive or] the appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

11. Questions by members

The text below provides one option. Another would be to give written questions priority over verbal questions. Councils may wish to limit the time available to the questioner to two minutes initially and one minute supplementary, the respondent to have five minutes for an initial reply and two minutes for the supplementary.

11.1 On reports of [the executive or] committees

A member of the Council may ask [in leader form of executive the leader] [in mayoral forms of executive the mayor or the] chairman of a committee any question without notice upon an item of the report of [the executive or] a committee when that item is being received or under consideration by the Council.

11.2 Questions on notice at full Council

Subject to Rule 11.4, a member of the Council may ask:

- the chairman;
- [a member of the executive in executive arrangements];
- [the leader in alternative arrangements]; or
- the chairman of any committee or sub-committee

a question on any matter in relation to which the Council has powers or duties or which affects [the area].

11.3 Questions on notice at committees and sub-committees

Subject to Rule 11.4, a member of a committee or sub-committee may ask the chairman of it a question on any matter in relation to which the Council has powers or duties or which affect [the area] and which falls within the
(d) to refer something to an appropriate body or individual;

(e) to appoint a committee or member arising from an item on the summons for the meeting;

(f) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;

(g) to withdraw a motion;

(h) to amend a motion;

(i) to proceed to the next business;

(j) that the question be now put;

(k) to adjourn a debate;

(l) to adjourn a meeting;

(m) [that the meeting continue beyond [n] hours in duration if Rule 9 option 2 is used;]

(n) to suspend a particular council procedure rule;

(o) to exclude the public and press in accordance with the Access to Information Rules;

(p) to not hear further a member named under Rule 21.3 or to exclude them from the meeting under Rule 21.4; and

(q) to give the consent of the Council where its consent is required by this Constitution.

14. Rules of debate

14.1 No speeches until motion seconded

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

14.2 Right to require motion in writing

Unless notice of the motion has already been given, the chairman may require it to be written down and handed to him/her before it is discussed.

14.3 Seconders speech

When seconding a motion or amendment, a member may reserve their speech until later in the debate.

14.4 Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed [n] minutes without the consent of the chairman.

14.5 When a member may speak again
(d) to refer something to an appropriate body or individual;

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seconder. The meetings consent will be signified without discussion. No member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

14.9 **Right of reply**

(a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.

(b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.

(c) The mover of the amendment has no right of reply to the debate on his or her amendment.

14.10 **Motions which may be moved during debate**

When a motion is under debate, no other motion may be moved except the following procedural motions:

(a) to withdraw a motion;

(b) to amend a motion;

(c) to proceed to the next business;

(d) that the question be now put;

(e) to adjourn a debate;

(f) to adjourn a meeting;

(g) [that the meeting continue beyond [n] hours in duration if Rule 9 option 2 is used];

(h) to exclude the public and press in accordance with the Access to Information Rules; and

(i) to not hear further a member named under Rule 21.3 or to exclude them from the meeting under Rule 21.4.

14.11 **Closure motions**

(a) A member may move, without comment, the following motions at the end of a speech of another member:

   (i) to proceed to the next business;

   (ii) that the question be now put;

   (iii) to adjourn a debate; or

   (iv) to adjourn a meeting.

(b) If a motion to proceed to next business is seconded and the chairman thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

(c) If a motion that the question be now put is seconded and the chairman thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the
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16.2 **Motion similar to one previously rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least \[n\] members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

17. **Voting**

17.1 **Majority**

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put.

17.2 **Chairman’s casting vote**

If there are equal numbers of votes for and against, the chairman will have a second or casting vote. There will be no restriction on how the chairman chooses to exercise a casting vote.

17.3 **Show of hands**

Unless a ballot or recorded vote is demanded under Rules 17.4 and 17.5, the chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

17.4 **Ballots**

The vote will take place by ballot if \[n\] members present at the meeting demand it. The chairman will announce the numerical result of the ballot immediately the result is known.

17.5 **Recorded vote**

If \[n\] members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

17.6 **Right to require individual vote to be recorded**

*This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 1993*.

Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

17.7 **Voting on appointments**

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

18. **Minutes**

18.1 **Signing the minutes**

The chairman will sign the minutes of the proceedings at the next suitable meeting. The chairman will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.
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22. **Disturbance by public**

22.1 **Removal of member of the public**

If a member of the public interrupts proceedings, the chairman will warn the person concerned. If they continue to interrupt, the chairman will order their removal from the meeting room.

22.2 **Clearance of part of meeting room**

If there is a general disturbance in any part of the meeting room open to the public, the chairman may call for that part to be cleared.

23. **Suspension and amendment of council procedure rules**

23.1 **Suspension**

All of these Council Rules of Procedure except Rule 17.6 and 18.2 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

23.2 **Amendment**

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

24. **Application to committees and sub-committees**

All of the Council Rules of Procedure apply to meetings of full Council. [In executive forms of constitution None of the rules apply to meetings of the executive.] Only Rules 59, 1114, 1618, 2024 (but not Rule 21.1) apply to meetings of committees and sub-committees.
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4. Notices of meeting

The council will give at least [three] clear days notice of any meeting by posting details of the meeting at [specify location of publication at offices of council] [the designated office].

5. Access to agenda and reports before the meeting

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least [three] clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection for the time the item was added to the agenda.

6. Supply of copies

The Council will supply copies of:

(a) any agenda and reports which are open to public inspection;
(b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
(c) if the [proper officer] thinks fit, copies of any other documents supplied to councillors [and the mayor in mayoral constitutions] in connection with an item

to any person on payment of a charge for postage and any other costs.

7. Access to minutes etc after the meeting

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

(a) the minutes of the meeting [or records of decisions taken, together with reasons, for all meetings of the executive in executive constitutions], excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
(b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
(c) the agenda for the meeting; and
(d) reports relating to items when the meeting was open to the public.

8. Background papers

8.1 List of background papers

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

(a) disclose any facts or matters on which the report or an important part of the report is based; and
(b) which have been relied on to a material extent in preparing the report

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apply. A key decision is [as defined in Article 13.03 of this Constitution].

If the executive or its committees meet to discuss a key decision to be taken collectively, with an officer other than a political assistant [or mayoral assistant in mayoral forms of constitution] present, within 28 days of the date according to the forward plan by which it is to be decided, then it must also comply with Rules 1 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is [as defined in Article 13.03 of this Constitution]. This requirement does not include meetings, whose sole purpose is for officers to brief members.

13. Procedure before taking key decisions

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:

(a) a notice (called here a forward plan) has been published in connection with the matter in question;

(b) at least 3 clear days have elapsed since the publication of the forward plan; and

(c) where the decision is to be taken at a meeting of the executive or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

14. The forward plan

14.1 Period of forward plan

Forward plans will be prepared by the [mayor in mayor and cabinet form] [leader in leader and cabinet form] to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

14.2 Contents of forward plan

The forward plan will contain matters which the [mayor] [leader] has reason to believe will be subject of a key decision to be taken by the executive, a committee of the executive, individual members of the executive, officers, area committees or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

(a) the matter in respect of which a decision is to be made;

(b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;

(c) the date on which, or the period within which, the decision will be taken;

(d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;

(e) the means by which any such consultation is proposed to be undertaken;

(f) the steps any person might take who wishes to make representations to the executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and

(g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

The forward plan must be published at least 14 days before the start of the period covered. The [proper officer] will publish once a year a notice in at least one newspaper circulating in the area, stating:
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(c) where the decision is to be taken at a meeting of the executive or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

14. **The forward plan**

14.1 **Period of forward plan**

Forward plans will be prepared by the [mayor in mayor and cabinet form] [leader in leader and cabinet form] to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

14.2 **Contents of forward plan**

The forward plan will contain matters which the [mayor] [leader] has reason to believe will be subject of a key decision to be taken by the executive, a committee of the executive, individual members of the executive, officers, area committees or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

(a) the matter in respect of which a decision is to be made;

(b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;

(c) the date on which, or the period within which, the decision will be taken;

(d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;

(e) the means by which any such consultation is proposed to be undertaken;

(f) the steps any person might take who wishes to make representations to the executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and

(g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

The forward plan must be published at least 14 days before the start of the period covered. The [proper officer] will publish once a year a notice in at least one newspaper circulating in the area, stating:
If an overview and scrutiny committee thinks that a key decision has been taken which was not:

(a) included in the forward plan; or

(b) the subject of the general exception procedure; or

(c) the subject of an agreement with a relevant overview and scrutiny committee chair, or the chairman/vice chairman of the Council under Rule 16;

the committee may require the executive to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the proper officer, who shall require such a report on behalf of the committee when so requested by (the chairman or any 5 members). Alternatively the requirement may be raised by resolution passed at a meeting of the relevant overview and scrutiny committee.

17.2 Executives report to Council

The executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the [mayor] [leader] is of the opinion that it was not a key decision the reasons for that opinion.

17.3 Quarterly reports on special urgency decisions

In any event the [mayor] [leader] will submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

18. Record of decisions

After any meeting of the executive or any of its committees, whether held in public or private, [the proper officer] or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

19. Executive meetings relating to matters which are not key decisions

The executive will decide whether meetings relating to matters which are not key decisions will be held in public or private.

20. Notice of private meeting of the executive

Members of the executive or its committees will be entitled to receive three clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

This could include provision for notice and papers to be served on a relevant overview and scrutiny committee/all other members of the Council as a matter of course.

21. Attendance at private meeting of the executive

Arrangements for attendance at private executive meetings are largely a matter of local choice. It is also possible for provision to allow overview and scrutiny members to attend but not participate, with the approval of the person presiding at
If an overview and scrutiny committee thinks that a key decision has been taken which was not:

(a) included in the forward plan; or

(b) the subject of the general exception procedure; or

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In all of the above examples, the provisions of Rule 18 (recording and publicising decisions) will apply.

Option 2: mayor and council manager form

12. Application of rules to the executive

Rules 13 24 apply to the executive. If the executive meets to take a key decision then it must also comply with Rules 1 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is [as defined in Article 13.03 of this Constitution].

If the executive meets to discuss a key decision to be taken collectively, with an officer other than a political assistant, mayoral assistant or the council manager present, within 28 days of the date according to the forward plan by which that decision is to be taken, then it must also comply with Rules 1 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is [as defined in Article 13.03 of this Constitution]. This requirement does not include meetings, whose sole purpose is for officers to brief members.

13. Procedure before taking key decisions

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:

(a) a notice (called here the forward plan) has been published in connection with the matter in question; and

(b) at least 3 clear days have elapsed since the publication of the forward plan notice; and

(c) where the decision is to be taken at a meeting of the executive, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

14. The forward plan

14.1 Period of forward plan

Forward plans will be prepared by the council manager to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

14.2 Contents of forward plan

The forward plan will contain matters which the council manager has reason to believe will be subject of a key decision to be taken by the executive, the council manager, other officers, area committees or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

(a) the matter in respect of which a decision is to be made;

(b) where the decision taker is an individual, his or her name and title, if any and where the decision taker is a body, its name and details of membership;

(c) the date on which, or the period within which, the decision will be taken;

(d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;

(e) the means by which any such consultation is proposed to be undertaken;

(f) the steps any person might take who wishes to make representations to the executive or decision taker about
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Option 2: mayor and council manager form

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Rules 13-24 apply to the executive. If the executive meets to take a key decision then it must also comply with Rules 1-11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is [as defined in Article 13.03 of this Constitution].

If the executive meets to discuss a key decision to be taken collectively, with an officer other than a political assistant, mayoral assistant or the council manager present, within 28 days of the date according to the forward plan by which that decision is to be taken, then it must also comply with Rules 1-11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is [as defined in Article 13.03 of this Constitution]. This requirement does not include meetings, whose sole purpose is for officers to brief members.

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(c) the date on which, or the period within which, the decision will be taken;

(d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;

(e) the means by which any such consultation is proposed to be undertaken;

(f) the steps any person might take who wishes to make representations to the executive or decision taker about
each relevant overview and scrutiny committee is unable to act, then the agreement of the chairman of the Council, or in his/her absence the vice chairman will suffice.

17. **Report to council**

17.1 **When an overview and scrutiny committee can require a report**

If an overview and scrutiny committee thinks that a key decision has been taken which was not:

(a) included in the forward plan;

(b) the subject of the general exception procedure; or

(c) the subject of an agreement with a relevant overview and scrutiny committee chair, or the chairman/vice chairman of the Council under Rule 16

the committee may require the council manager to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the proper officer, who shall require such a report on behalf of the committee when so requested by (the chairman or any 5 members). Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant overview and scrutiny committee.

17.2 **Executives report to Council**

The council manager will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the council manager is of the opinion that it was not a key decision the reasons for that opinion.

17.3 **Quarterly reports on special urgency decisions**

In any event the council manager will submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

18. **Record of decisions**

After any meeting of the executive, whether held in public or private, [the proper officer] or the council manager will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

19. **Executive meetings relating to matters which are not key decisions**

The executive will decide whether meetings relating to matters which are not key decisions will be held in public or private.

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22.2 Provision of copies of reports to overview and scrutiny committees

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the chair of every relevant overview and scrutiny committee as soon as reasonably practicable, and make it publicly available at the same time.

22.3 Record of individual decision

As soon as reasonably practicable after an executive decision has been taken by an individual member of the executive or a key decision has been taken by an officer, he/she will prepare, or instruct the proper officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the executive. This does not require the disclosure of exempt or confidential information or advice from a political or mayors assistant.

The following rules apply to all forms of executive constitution. However, authorities may need to revise the numbering of the following rules.

23. Overview and scrutiny committees access to documents

23.1 Rights to copies

Subject to Rule 23.2 below, an overview and scrutiny committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the executive [or its committees in mayor and cabinet and leader and cabinet forms] and which contains material relating to

(a) any business transacted at a public or private meeting of the executive [or its committees in mayor and cabinet and leader and cabinet forms]; or

(b) any decision taken by an individual member of the executive.

Local authorities may want to build in that overview and scrutiny committees will be entitled to foresight of papers in relation to private decisions of the executive before the decision is made, and if so should do so here.

23.2 Limit on rights

An overview and scrutiny committee will not be entitled to:

(a) any document that is in draft form;

(b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or

(c) the advice of a political adviser [or mayoral assistant in mayoral forms of constitution].

24. Additional rights of access for members

24.1 Material relating to previous business

All members will be entitled to inspect any document which is in the possession or under the control of the executive [or its committees in mayor and cabinet and leader and cabinet forms] and contains material relating to any business previously transacted at a private meeting unless either (a) or (b) below applies.

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Budget and Policy Framework Procedure Rules

Developing the budget and policy framework will be a key corporate process in all local authorities. It will set the context within which decision making by the executive or (in alternative arrangements) policy committees will take place. However the process for developing the framework will be somewhat different in executive and alternative arrangement forms. An option for each is provided below.

References:
Chapter 2, DETR Guidance
The Local Authorities (Functions and Responsibilities) (England) Regulations 2000

Option 1: executive forms of constitution

These budget and policy procedure rules are written for mayor with cabinet and leader and cabinet systems. The non-italicised text in [square brackets] after references to the executive provides an alternative for the mayor and council manager form. In this executive form, the rules are written to draw the distinction within the executive between the mayors electoral mandate and the council managers responsibility for decision making.

1. The framework for executive decisions

The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget or a policy framework is in place, it will be the responsibility of the executive [council manager in consultation with the mayor] to implement it.

2. Process for developing the framework

The DETR Guidance envisages roles for both the executive and the overview and scrutiny committees in the development of the budget and policy framework which will eventually be adopted by Council, especially through the executive requesting reviews by overview and scrutiny of particular issues prior to submission of proposals to council. In addition, overview and scrutiny committees will have a general remit to consider matters of concern to the authority or its citizens and to investigate cross-cutting issues which affect more than one policy area. The interaction between the various elements of the Council in developing the budget and policy framework will depend upon local circumstances. A number of possible processes are set out below.

The text below also includes a possible process for dealing with situations where the Council decides either to refer back or amend the proposed framework, or substitute its own proposals. Such a conflict resolution mechanism will be required by regulations.

The text below refers to the development of a policy and budget framework for the year ahead. However, local authorities may wish to consider setting longer-term planning horizons, especially where there is a mayoral form of constitution and the budget and policy framework can be linked to the mayors term of office. Some
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(g) The Council meeting must take place within [x] working days of the receipt of the [leaders in leader and cabinet constitution] [mayors in mayoral form of constitution] written objection. At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.

(h) The Council shall at that meeting make its final decision on the matter on the basis of [a simple majority in leader and cabinet constitution] [a two thirds majority in mayoral constitution]. The decision shall be made public in accordance with Article 4, and shall be implemented immediately.

(i) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the executive, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the budget and policy framework are reserved to the Council.

Variation 2 - executive leads process; overview and scrutiny committee involvement within executive consultation process; differential voting on disputes regarding budget and policy proposals

This example suggests that the overview and scrutiny committee is involved in the consultation process run by the executive

(a) The executive will publicise [by including in the forward plan] [publish at the Councils offices] [publicise by other methods e.g. on its web site, in local press] a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals. The chairs of overview and scrutiny committees will also be notified. The consultation period shall in each instance be not less than [x say 6 or 8] weeks.

(b) At the end of that period, the executive will then draw up firm proposals having regard to the responses to that consultation. If a relevant overview and scrutiny committee wishes to respond to the executive in that consultation process then it may do so. As the overview and scrutiny committees have responsibility for fixing their own work programme, it is open to the overview and scrutiny committee to investigate, research or report in detail with policy recommendations before the end of the consultation period. The executive will take any response from an overview and scrutiny committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the executives response.

(c) Once the executive has approved the firm proposals, the proper officer will refer them at the earliest opportunity to the Council for decision.

(d) In reaching a decision, the Council may adopt the executives proposals, amend them, refer them back to the executive for further consideration, or in principle, substitute its own proposals in their place.

(e) If it accepts the recommendation of the executive without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.

(f) The decision will be publicised in accordance with Article 4 and a copy shall be given to the [leader in leader and cabinet constitution] [mayor in mayoral forms of constitution].

(g) An in-principle decision will automatically become effective [x at least 5] days from the date of the Councils decision, unless the [leader in leader and cabinet constitution] [mayor in mayoral forms of constitution] informs the proper officer in writing within [y at least 5] days that [he/she] objects to the decision becoming effective and provides reasons why.

(h) In that case, the proper officer will call a Council meeting within a further [y] days. The Council will be required
notification is received, the proper officer shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.

(g) The Council meeting must take place within [x] working days of the receipt of the [leaders in leader and cabinet constitution] [mayors in mayoral form of constitution] written objection. At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.

(h) The Council shall at that meeting make its final decision on the matter on the basis of [a simple majority in leader and cabinet constitution] [a two thirds majority in mayoral constitution]. The decision shall be made public in accordance with Article 4, and shall be implemented immediately.

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(g) An in-principle decision will automatically become effective [x at least 5] days from the date of the Councils decision, unless the [leader in leader and cabinet constitution] [mayor in mayoral forms of constitution] informs the proper officer in writing within [y at least 5] days that [he/she] objects to the decision becoming effective and provides reasons why.

(h) In that case, the proper officer will call a Council meeting within a further [y] days. The Council will be required
(f) The Council meeting must take place within [x] working days of the receipt of the [leaders in leader and cabinet constitutions] [mayors in mayoral forms of constitution] written objection. At that Council meeting, the previous decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.

(g) The Councils decision, if not in accordance with the recommendation of the executive, shall require a [simple majority in leader and cabinet constitution] [two-thirds majority in mayoral forms of constitution] of those voting at the meeting.

(h) The decision shall then be made public in accordance with Article 4, and shall be implemented immediately.

(i) In approving the policy and budgetary framework the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the executive in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the budget and policy framework are reserved to the Council.

Variation 4 - area committees lead the policy and budget development process

This example may be appropriate for a local authority with a decentralised political, managerial and financial structure. The policy and budget development process commences with area committees developing policy and budget proposals for their localities, and submitting them to the executive who produce a composite policy and budget proposal for initial consideration by the overview and scrutiny committee prior to submission to the Council meeting. The conflict resolution procedures specified above must also be used.

(a) The executive will publicise [by including in the forward plan] [publish at the Councils offices] [publicise by other methods e.g. on its web site, in the local press] a timetable in accordance with which it will make proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework. The chairs of overview and scrutiny committees will also be notified. Within this timetable each area committee will develop proposals for a budget and policy framework for the forthcoming year for their locality, having taken steps to consult residents and other stakeholders in that area. Their proposals will be presented to the executive.

(b) The executives initial proposals, taking into account proposals from area committees shall be referred to a relevant overview and scrutiny committee for further advice and consideration. The proposals will be referred by sending a copy to the chair of the relevant overview and scrutiny committees. The overview and scrutiny committees shall canvass the views of local stakeholders if it considers it appropriate in accordance with the matter under consideration, and having particular regard not to duplicate any consultation carried out by the area committees. The overview and scrutiny committees shall report to the executive on the outcome of their deliberations. The overview and scrutiny committees shall have [x say four or six] weeks to respond to the initial proposals of the executive unless the executive considers that there are special factors that make this timescale inappropriate. If it does, the executive will inform the overview and scrutiny committee of the time for response when the proposals are referred to it.

(c) Having considered the report of the overview and scrutiny committees, the executive, if it considers it appropriate, may amend its proposals before submitting them to the Council meeting for consideration.

(d) The Council will consider the proposals of the executive and may adopt them, amend them, refer them back to the executive for further consideration, or substitute its own proposals in their place. In considering the matter, the Council shall have before it the executives proposals from area committees and any report from the relevant overview and scrutiny committee.

(e) The Councils decision will be publicised in accordance with Article 4 and a copy shall be given to the [leader in leader and cabinet constitution] [mayor in mayoral forms of constitution]. The notice of decision shall be dated and effective pending that meeting.
(f) The Council meeting must take place within [x] working days of the receipt of the [leaders in leader and cabinet constitutions] [mayors in mayoral forms of constitution] written objection. At that Council meeting, the previous decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.

(g) The Councils decision, if not in accordance with the recommendation of the executive, shall require a [simple majority in leader and cabinet constitution] [two-thirds majority in mayoral forms of constitution] of those voting at the meeting.

(h) The decision shall then be made public in accordance with Article 4, and shall be implemented immediately.

(i) In approving the policy and budgetary framework the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the executive in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the budget and policy framework are reserved to the Council.

**Variation 4 - area committees lead the policy and budget development process**

*This example may be appropriate for a local authority with a decentralised political, managerial and financial structure. The policy and budget development process commences with area committees developing policy and budget proposals for their localities, and submitting them to the executive who produce a composite policy and budget proposal for initial consideration by the overview and scrutiny committee prior to submission to the Council meeting. The conflict resolution procedures specified above must also be used.*

(a) The executive will publicise [by including in the forward plan] [publish at the Councils offices] [publicise by other methods e.g. on its web site, in the local press] a timetable in accordance with which it will make proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework. The chairs of overview and scrutiny committees will also be notified. Within this timetable each area committee will develop proposals for a budget and policy framework for the forthcoming year for their locality, having taken steps to consult residents and other stakeholders in that area. Their proposals will be presented to the executive.

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(c) Having considered the report of the overview and scrutiny committees, the executive, if it considers it appropriate, may amend its proposals before submitting them to the Council meeting for consideration.

(d) The Council will consider the proposals of the executive and may adopt them, amend them, refer them back to the executive for further consideration, or substitute its own proposals in their place. In considering the matter, the Council shall have before it the executives proposals from area committees and any report from the relevant overview and scrutiny committee.

(e) The Councils decision will be publicised in accordance with Article 4 and a copy shall be given to the [leader in leader and cabinet constitution] [mayor in mayoral forms of constitution]. The notice of decision shall be dated and

**effective pending that meeting.**
(b) If the executive, [committees of the executive, in mayor and cabinet and leader and cabinet constitutions] individual members of the executive and any officers, area committees or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the monitoring officer and/or the chief financial officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

4. Urgent decisions outside the budget or policy framework

This procedure covers decisions contrary to the policy framework and contrary to or not wholly in accordance with the budget. Local authorities should ensure that the procedures for the latter case set out here reflect their financial regulations.

(a) The executive, a committee of the executive, an individual member of the executive or officers, area committees or joint arrangements discharging executive functions may take a decision which is contrary to the Councils policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:

i) if it is not practical to convene a quorate meeting of the full Council; and

ii) if the chair of a relevant overview and scrutiny committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the chair of the relevant overview and scrutiny committees consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the chair of a relevant overview and scrutiny committee the consent of the chairman of the Council [mayor in boroughs with leader and cabinet constitution], and in the absence of both the vice-chairman [deputy mayor in boroughs with leader and cabinet constitution], will be sufficient.

(b) Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

5. Virement

This section may be included in the Councils financial regulations rather than here. However, it will be helpful to have a summary here. Councils will decide on virement limits in accordance with the nature of their functions and the size of their budget. It may be by reference to percentage of budget, number of episodes of virement or by reference to a financial limit. One example appears below.

(a) The Council shall have the following budget heads:

List. For example according to department and taking account of ring-fenced budgets, e.g. the Housing Revenue Account.

Councils should include in their financial rules (which would be included in part 4 of this Constitution) provisions which set out the rules for moving monies between budgetary allocations including contingency heads (virement) Councils may, however, wish to include such provisions in the Constitution other than in the form of financial rules in which case those provisions should be included here.
(b) If the executive, [committees of the executive, in mayor and cabinet and leader and cabinet constitutions] individual members of the executive and any officers, area committees or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the monitoring officer and/or the chief financial officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

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   i) if it is not practical to convene a quorate meeting of the full Council; and

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(b) Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

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finance officer conclude that the decision was a departure, and to the overview and scrutiny committee if the monitoring officer or the chief finance officer conclude that the decision was not a departure.

(c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the monitoring officer and/or the chief financial officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the overview and scrutiny committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within [x] days of the request by the overview and scrutiny committee. At the meeting it will receive a report of the decision or proposals and the advice of the monitoring officer and/or the chief financial officer. The Council may either:

i) endorse a decision or proposal of the executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way;

Or

ii) amend the councils financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way;

Or

iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the executive to reconsider the matter in accordance with the advice of either the monitoring officer/chief financial officer.

Option 2: alternative arrangements

Because local authorities operating alternative arrangements will have a small number of policy committees involving most if not all councillors rather than a separate executive, the process for developing the budget and policy framework will involve the presentation to Council of proposals generated by the relevant committees. These may be channelled through an overall strategic policy and resources committee prior to submission to Council. However, local authorities should also involve overview and scrutiny committees in the process, for example by requesting them to undertake studies, consult with the community and draw on the lessons arising from their other work. Conflict resolution procedures required under executive arrangements will not be necessary in authorities operating alternative arrangements.

Reference:
Chapter 9, DETR Guidance

1. The framework for decision making
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monitoring officer or the chief finance officer conclude that the decision was not a departure.

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monitoring officer and/or the chief financial officer is that the decision is or would be contrary to the policy
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1. The framework for decision making
Council.

(d) The policy and budget framework presented to Council will be available for public consultation for a period of [x say 4 or 6] weeks. As part of this public consultation, the Council will hold a state of the (area) debate to set the proposals in context (see example in Council Procedure Rules).

(e) In approving the policy and budgetary framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by policy committees, in accordance with paragraphs 3 and 4 of these Rules (virement and in-year adjustments). Any other changes to the policy and budgetary framework are reserved to the council.

Variation 2 - programme set by council; area committees lead the budget and policy development process

This example may be appropriate for a local authority with a strongly decentralised political, managerial and financial structure. The budget and policy development process commences with area committees developing budget and policy proposals for their localities to a programme set by the Council. These proposals are submitted to the authority’s policy committee(s) which produce a composite policy and budget proposal. This is considered by the overview and scrutiny committee prior to submission to the Council meeting.

(a) In [month] each year the Council will agree a process for the development of the annual budget and policy framework. The programme will be widely publicised including [circulate leaflet, press coverage, web site]. Within this timetable each area committee will develop proposals for a budget and policy framework for the forthcoming year for their locality, having taken steps to consult residents and other stakeholders in that area. Their proposals will be presented to the strategic policy and resources committee. They will also be sent to the chairs of the overview and scrutiny and other area committees at the same time.

(b) At the same time the strategic policy and resources committee will request [up to x] policy studies from the overview and scrutiny committee on key cross-area topics.

(c) Once the proposals from the area committees and policy studies from the overview and scrutiny committees have been received, the strategic policy and resources committee will formulate corporate proposals. These will be submitted to the overview and scrutiny committee for consideration for a period of no longer than [x say 4] weeks. The overview and scrutiny committee will hold a public hearing on the proposals and seek other public comment.

(d) At the end of the period the overview and scrutiny committee will make recommendations for any changes to the proposals to the [strategic policy and resources committee]. That committee will consider these recommendations, and then submit its final proposals to full Council.

(e) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by policy committees, in accordance with paragraphs 3 and 4 of these Rules (virement and in-year adjustments). Any other changes to the budget and policy framework are reserved to Council.

3. Virement

Councils will decide on virement limits in accordance with the nature of their functions and the size of their budget. It may be by reference to percentage of budget, number of episodes of virement or by reference to a financial limit. These details will be contained in the Council’s financial regulations, but may usefully be summarised here.
(d) The policy and budget framework presented to Council will be available for public consultation for a period of \[x \text{ say 4 or 6} \text{ weeks}\]. As part of this public consultation, the Council will hold a state of the (area) debate to set the proposals in context (see example in Council Procedure Rules).

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(d) At the end of the period the overview and scrutiny committee will make recommendations for any changes to the proposals to the [strategic policy and resources committee]. That committee will consider these recommendations, and then submit its final proposals to full Council.

(e) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by policy committees, in accordance with paragraphs 3 and 4 of these Rules (virement and in-year adjustments). Any other changes to the budget and policy framework are reserved to Council.

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Executive Procedure Rules

These procedure rules only apply to councils with an executive form of constitution. Options are given for each of the executive forms.

References:
Chapters 4 and 7 DETR Guidance

Option 1: mayor with cabinet form

The way in which the executive operates is largely a matter for the mayor to decide. However it will be important for the mayor to provide a clear framework within which officers can ensure the effective servicing of the executive, advice on and implementation of decisions and compliance with the Constitution and statutory framework.

1. How does the executive operate?

1.1 Who may make executive decisions?

Functions which are the responsibility of the executive may be exercised by the mayor. The mayor may also delegate authority to exercise those functions to the extent he/she wishes:

i) to the executive as a whole;
ii) to a committee of the executive;
iii) to an individual member of the executive;
iv) to an officer;
v) to an area committee;
vi) to joint arrangements; or
vii) to another local authority.

1.2 Delegation by the executive

At the annual meeting of the Council, the mayor will present to the Council a written record of delegations made by him/her for inclusion in the Council's scheme of delegation. The document presented by the mayor must contain the following information in relation to the following year in so far as they relate to executive functions:

i) the names, addresses and [wards] [electoral divisions] of the people appointed to the executive by the mayor;

ii) the extent of any authority delegated to those executive members individually, including details of the limitation on their authority;
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i) the names, addresses and [wards] [electoral divisions] of the people appointed to the executive by the mayor;

ii) the extent of any authority delegated to those executive members individually, including details of the limitation on their authority;
Variation 2

(a) The mayor may amend the scheme of delegation of executive functions at any time during the year. To do so, the mayor must give written notice to the proper officer and report these changes to the next ordinary Council meeting. Where the mayor wants to withdraw or amend delegation to a committee, notice will be served on that committee when it has been served on its chair.

(b) The notice to the proper officer will set out the extent of the proposed amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the executive as a whole. The amendment will take effect on the date when the proper officer gives notice to all councillors to that effect.

1.5 Conflicts of Interest

(a) Where the mayor has a conflict of interest this should be dealt with as set out in the Councils Code of Conduct for Members in Part 5 of this Constitution.

(b) If every member of the executive has a conflict of interest this should be dealt with as set out in the Councils Code of Conduct for Members in Part 5 of this Constitution.

(c) If the exercise of an executive function has been delegated to a committee of the executive, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made or otherwise as set out in the Councils Code of Conduct for Members in Part 5 of this Constitution.

_Councils are advised to set out or summarise the procedure here for ease of reference._

1.6 Executive meetings when and where?

The executive will meet at least [x] times per year at times to be determined by the mayor. The executive will meet at the Councils main offices or another location to be determined by the mayor.

1.7 Public or private meetings of the executive?

_The Access to Information Rules in Part 4 of this Constitution set out the requirements covering public and private meetings. Other than the legal requirements, consideration should also be given to any principles of decision-making set out in Article 13 of this Constitution._

_There is no specific requirement in relation to frequency or place, though schedule 1 to the Local Government Act 2000 allows local authorities to make provision about the conduct of executive meetings. Any such provisions should be set out in this part of the constitution._

1.8 Quorum

_The quorum of the executive is a matter of local choice see schedule 1 to the Local Government Act 2000._

The quorum for a meeting of the executive, or a committee of it shall be:

Variation 1 one quarter of the total number of members of the executive (including the mayor) or [3, including the mayor], whichever is the larger.
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reconsideration by the executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;

iv) consideration of reports from overview and scrutiny committees; and

v) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution.

2.4 Consultation

All reports to the executive on proposals relating to the budget or policy framework must contain details of consultation with stakeholders and relevant overview and scrutiny committees, and the outcome of that consultation. Reports on other matters must set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the matter under consideration.

2.5 Who can put items on the executive agenda?

_Councils may exercise local choice here and may choose a number of methods to ensure that an item can be referred to the executive by an overview and scrutiny committee, the Council or its statutory officers. The choice made will depend on the relationships the Council wishes to see between the executive and the rest of the Council._

The mayor will decide the schedule for the meetings of the executive, and will be able to put on the agenda of any executive meeting any matter which he/she wishes. The proper officer will comply with the mayors requests in this respect.

*There are several choices available, for example:*

Variation 1 Any member of the executive may require the proper officer to ensure that an item is placed on the agenda of the next available meeting of the executive for consideration. If he/she receives such a request the proper officer will comply.

Variation 2 The proper officer will ensure that an item is placed on the agenda of the next available meeting of the executive if a relevant overview and scrutiny committee or the full Council has resolved that an item must be considered by the executive. However, there may only be up to [x] such items on any one agenda.

Variation 3 There will be a standing item on the agenda of each meeting of the executive for matters referred by overview and scrutiny committees. However, there may only be up to [x] such items per executive meeting.

Variation 4 Any member of the Council may request the mayor to put an item on the agenda of an executive meeting for consideration. If the mayor agrees the item will be considered at the next available meeting of the executive. The notice of the meeting will give the name of the councillor who asked for the item to be considered. This individual will be invited to attend the meeting, whether or not it is a public meeting. However, there may only be up to [x] such items per executive meeting.

Variation 5 The monitoring officer and/or the chief financial officer may include an item for consideration on the agenda of an executive meeting and may require the proper officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the head of paid service, chief financial officer and monitoring officer are of the opinion that a meeting of the executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an executive meeting. If there is no meeting of the executive within an appropriate timescale to deal with the issue in question, then they may also require that a meeting be convened at which the matter will be considered.
reconsideration by the executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;

iv) consideration of reports from overview and scrutiny committees; and

v) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution.

2.4 Consultation

All reports to the executive on proposals relating to the budget or policy framework must contain details of consultation with stakeholders and relevant overview and scrutiny committees, and the outcome of that consultation. Reports on other matters must set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the matter under consideration.

2.5 Who can put items on the executive agenda?

Councillors may exercise local choice here and may choose a number of methods to ensure that an item can be referred to the executive by an overview and scrutiny committee, the Council or its statutory officers. The choice made will depend on the relationships the Council wishes to see between the executive and the rest of the Council.

The mayor will decide the schedule for the meetings of the executive, and will be able to put on the agenda of any executive meeting any matter which he/she wishes. The proper officer will comply with the mayors requests in this respect.

There are several choices available, for example:

Variation 1 Any member of the executive may require the proper officer to ensure that an item is placed on the agenda of the next available meeting of the executive for consideration. If he/she receives such a request the proper officer will comply.

Variation 2 The proper officer will ensure that an item is placed on the agenda of the next available meeting of the executive if a relevant overview and scrutiny committee or the full Council has resolved that an item must be considered by the executive. However, there may only be up to [x] such items on any one agenda.

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committees, any other authority or any joint arrangements and the names of those executive members appointed to any joint committee for the coming year; and

vi) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

1.3 Sub-delegation of executive functions

(a) Where the executive, a committee of the executive or an individual member of the executive is responsible for an executive function, they may delegate further to an area committee, joint arrangements or an officer.

(b) Unless the Council directs otherwise, if the leader delegates functions to the executive, then the executive may delegate further to a committee of the executive or to an officer.

(c) Unless the leader directs otherwise, a committee of the executive to whom functions have been delegated by the leader may delegate further to an officer.

(d) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

1.4 The Councils scheme of delegation and executive functions

(a) Subject to (b) below the Councils scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.

(b) If the leader is able to decide whether to delegate executive functions, he/she may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the leader must give written notice to the proper officer and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the executive as a whole. The proper officer will present a report to the next ordinary meeting of the Council setting out the changes made by the leader.

(c) Where the leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when he/she has served it on its chair.

1.5 Conflicts of Interest

(a) Where the leader has a conflict of interest this should be dealt with as set out in the Councils Code of Conduct for Members in Part 5 of this Constitution.

(b) If every member of the executive has a conflict of interest this should be dealt with as set out in the Councils Code of Conduct for Members in Part 5 of this Constitution.

(c) If the exercise of an executive function has been delegated to a committee of the executive, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Councils Code of Conduct for Members in Part 5 of this Constitution.

Councils are advised to set out or summarise the procedure here for ease of reference.

1.6 Executive meetings when and where?

The executive will meet at least [x] times per year at times to be agreed by the leader. The executive shall meet at
committees, any other authority or any joint arrangements and the names of those executive members appointed to any joint committee for the coming year; and

vi) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

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1.6 **Executive meetings when and where?**

The executive will meet at least [x] times per year at times to be agreed by the leader. The executive shall meet at
meetings of the executive may take different forms. This paragraph serves simply as an example.

At each meeting of the executive the following business will be conducted:

i) consideration of the minutes of the last meeting;

ii) declarations of interest, if any;

iii) matters referred to the executive (whether by an overview and scrutiny committee or by the Council) for reconsideration by the executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;

iv) consideration of reports from overview and scrutiny committees; and

v) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

2.4 Consultation

All reports to the executive from any member of the executive or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant overview and scrutiny committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

2.5 Who can put items on the executive agenda?

Councils may exercise local choice here and may choose a number of methods to ensure that an item can be referred to the executive by an overview and scrutiny committee, the Council or its statutory officers. The choice made will depend on the relationships the Council wishes to see between the executive and the rest of the Council.

The leader will decide upon the schedule for the meetings of the executive. He/she may put on the agenda of any executive meeting any matter which he/she wishes, whether or not authority has been delegated to the executive, a committee of it or any member or officer in respect of that matter. The proper officer will comply with the leaders requests in this respect.

There are several choices available, for example:

Variation 1 Any member of the executive may require the proper officer to make sure that an item is placed on the agenda of the next available meeting of the executive for consideration. If he/she receives such a request the proper officer will comply.

Variation 2 The proper officer will make sure that an item is placed on the agenda of the next available meeting of the executive where a relevant overview and scrutiny committee or the full Council have resolved that an item be considered by the executive. However, there may only be up to [x] such items on any one agenda.

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iv) for determining any delegation of executive functions.

1.4 Delegation by the executive

(a) Only the council manager may delegate executive functions. Executive functions may be delegated:

i) to the executive as a whole;

ii) to another officer;

iii) to an area committee;

iv) to joint arrangements; or

v) to another local authority.

(b) The council manager will establish a scheme of delegation, having regard to the advice of the mayor. At the annual meeting of the Council, the council manager will present to the Council a written record of delegations made by him/her for inclusion in the Council’s scheme of delegation. The document presented by the council manager must contain the following information in relation to the following year in so far as they relate to executive functions:

i) the nature and extent of any delegation of executive functions to the executive with details of any limitation on that delegation;

ii) the nature and extent of any delegation of executive functions to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made;

iii) the nature and extent of any delegation of executive functions to area committees of the Council, including any limitation on that delegation;

iv) the nature and extent of any delegation of executive functions to another authority, including any limitations on that delegation;

v) the nature and extent of any delegation of executive functions to joint arrangements, including any limitation on that delegation; and

vi) the extent to which any of the above delegations may be sub-delegated.

1.5 The council’s scheme of delegation and executive functions

The Council’s scheme of delegation will be adopted by the Council at its annual meeting. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.

During the year amendments to the scheme of delegation in relation to executive functions may be effected as follows:

*The scheme of delegation forms part of the Constitution, which can only be amended by Council. However, the Constitution must contain provision that the council manager can alter delegations made by him/her as he/she thinks...*
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ii) the nature and extent of any delegation of executive functions to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made;

iii) the nature and extent of any delegation of executive functions to area committees of the Council, including any limitation on that delegation;

iv) the nature and extent of any delegation of executive functions to another authority, including any limitations on that delegation;

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The scheme of delegation forms part of the Constitution, which can only be amended by Council. However, the Constitution must contain provision that the council manager can alter delegations made by him/her as he/she thinks
formalised. Where such formal meetings are held, the following text could be used:

The executive will meet at least [x] times per year at times to be determined by the council manager. The executive will meet at the Council’s main offices or another location to be determined by the council manager.

2. How are the meetings conducted?

Since meetings of the executive, to the extent that they take place, will only be of two individuals of whom only one is an elected member the procedures to be adopted will be a matter for them to determine. The Access to Information Procedure Rules contained in Part 4 of this Constitution give further information on those matters that apply.
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i) the performance of all overview and scrutiny functions on behalf of the Council;

ii) the appointment of such sub-committees as it considers appropriate to fulfil those overview and scrutiny functions;

iii) to receive reports from the [mayor in mayoral forms of constitution] [leader in leader and cabinet form and alternative arrangements] at its first meeting after each annual council meeting on the state of the (area), the [executives in executive arrangements] [leaders in alternative arrangements] priorities for the coming year and its performance in the previous year;

iv) to approve an annual overview and scrutiny work programme, including the programme of any sub-committees it appoints so as to ensure that the committees and sub-committees time is effectively and efficiently utilised;

v) where matters fall within the remit of more than one overview and scrutiny sub-committee, to determine which of those sub-committees will assume responsibility for any particular issue;

vi) to put in place a system to ensure that referrals from overview and scrutiny to [the executive in executive arrangements] [policy committees in alternative arrangements], either by way of report or for reconsideration are managed efficiently and do not exceed the limits set out in this Constitution;

vii) in the event of reports to [the executive in executive arrangements] [policy committees in alternative arrangements] exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of [executive in executive arrangements] [policy committees in alternative arrangements] business or jeopardises the efficient running of Council business, at the request of the [executive in executive arrangements] [policy committee in alternative arrangements], to make decisions about the priority of referrals made.

Councils should insert other appropriate terms of reference.

(c) On adoption of this constitution, the overview and scrutiny committee will appoint the sub-committees appearing at Table [set out at end of this procedure rule], though it may discontinue any of these sub-committees and/or appoint alternative or additional sub-committees, subject to there being a minimum of [x] sub-committees and a maximum of [y]. The committee may also amend the terms of reference of the sub-committees as appropriate.

Councils need to decide whether they will have functional overview and scrutiny sub-committees, or whether those sub-committees should deal with cross cutting themes; and whether they are time limited or not.

(d) Where the committee seeks to discontinue or appoint sub-committees other than as set out in this Constitution, it may do so provided that it has consulted with interested parties, if appropriate. The extent and nature of consultation will depend on the nature of the proposed alterations. Any change will be reported to the [proper officer] and then to the next meeting of the Council by the chair of the overview and scrutiny committee, so that the Constitution may be amended accordingly.

In this example, the table in the Articles and at the end of this procedure rule
i) the performance of all overview and scrutiny functions on behalf of the Council;

ii) the appointment of such sub-committees as it considers appropriate to fulfil those overview and scrutiny functions;

iii) to receive reports from the [mayor in mayoral forms of constitution] [leader in leader and cabinet form and alternative arrangements] at its first meeting after each annual council meeting on the state of the (area), the [executives in executive arrangements] [leaders in alternative arrangements] priorities for the coming year and its performance in the previous year;

iv) to approve an annual overview and scrutiny work programme, including the programme of any sub-committees it appoints so as to ensure that the committees and sub-committees time is effectively and efficiently utilised;

v) where matters fall within the remit of more than one overview and scrutiny sub-committee, to determine which of those sub-committees will assume responsibility for any particular issue;

vi) to put in place a system to ensure that referrals from overview and scrutiny to [the executive in executive arrangements] [policy committees in alternative arrangements], either by way of report or for reconsideration are managed efficiently and do not exceed the limits set out in this Constitution;

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_In this example, the table in the Articles and at the end of this procedure rule_
4. Education representatives

Each relevant overview and scrutiny committee/sub-committee dealing with education matters shall include in its membership the following voting representatives:

(a) [x] Church of England diocese representative (at least one);

(b) [y] Roman Catholic diocese representative (at least one);

(c) [z] parent governor representatives (between 2 and 5); and

(d) [a] representatives of other faiths or denominations.

A relevant overview and scrutiny committee/sub-committee in this paragraph is an overview and scrutiny committee or sub-committee of a local education authority, where the committee or sub-committees functions relate wholly or in part to any education functions which are the responsibility of the [authority's executive under executive arrangements] [authority under alternative arrangements]. If the overview and scrutiny committee/sub-committee deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

5. Meetings of the overview and scrutiny committees

There shall be at least [x] ordinary meetings of each overview and scrutiny committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An overview and scrutiny committee meeting may be called by the chair of the relevant overview and scrutiny committee, by any [y] members of the committee or by the proper officer if he/she considers it necessary or appropriate.

Councils may choose their arrangements for calling meetings, and their frequency. Their local arrangements might be substituted here.

6. Quorum

The quorum for an overview and scrutiny committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution.

7. Who chairs overview and scrutiny committee meetings?

This is a matter of local choice completely. Though the chair will be appointed by the committee, it is possible to set out in these rules that committees will be chaired by minority party members, church and parent governor representatives or co-optees. If so, Councils should do so here. Otherwise the appointment of the chair and provisions relating to them would normally be a procedure set out in the Council Rules of Procedure.

Option 1 The [list committees to which provision applies] overview and scrutiny committees/sub-committees will be chaired by a councillor who is not a member of the largest political group on the Council, unless there is no such person serving on the committee/sub-committee. In such cases, the committee/sub-committee may appoint such person to chair it from amongst the councillors sitting on it.

Option 2 Chairs of overview and scrutiny committees/sub-committees will be drawn from among the councillors sitting on the committee/sub-committee, and subject to this requirement the committee/sub-committee may
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A relevant overview and scrutiny committee/sub-committee in this paragraph is an overview and scrutiny committee or sub-committee of a local education authority, where the committee or sub-committees functions relate wholly or in part to any education functions which are the responsibility of the [authority/executive under executive arrangements] [authority under alternative arrangements]. If the overview and scrutiny committee/sub-committee deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

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Option 2 Chairs of overview and scrutiny committees/sub-committees will be drawn from among the councillors sitting on the committee/sub-committee, and subject to this requirement the committee/sub-committee may
The DETR Guidance envisages a key role for overview and scrutiny in policy review and development. This is also built into the Budget and Policy Framework Procedure Rules.

(a) The role of the overview and scrutiny committees in relation to the development of the Council’s budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.

(b) In relation to the development of the Council’s approach to other matters not forming part of its policy and budget framework, overview and scrutiny committee or sub-committees may make proposals to [the executive in executive arrangements] [policy committees under alternative arrangements] for developments in so far as they relate to matters within their terms of reference.

(c) Overview and scrutiny committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

11. Reports from overview and scrutiny committee

(a) Once it has formed recommendations on proposals for development, the overview and scrutiny committee will prepare a formal report and submit it to the proper officer for consideration by [the executive in executive arrangements] [the relevant policy committee under alternative arrangements] (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).

(b) If an overview and scrutiny committee cannot agree on one single final report to the Council or [executive in executive arrangements] [the relevant policy committee under alternative arrangements] as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or [executive in executive arrangements] [policy committee under alternative arrangements] with the majority report.

(c) The Council or [executive in executive arrangements] [policy committee under alternative arrangements] shall consider the report of the overview and scrutiny committee within [x one month] of it being submitted to the proper officer.

12. Making sure that overview and scrutiny reports are considered by the executive or policy committees

There is a choice available to Councils as to how they make sure that reports of overview and scrutiny committees are considered by the executive or policy committees, depending on the constitution in place. Councils will want to balance the need to involve overview and scrutiny committees in a meaningful way in development issues with the equally important need for the executives or policy committees programme not to become overburdened by reports from the overview and scrutiny committees. Several examples of mechanisms designed to achieve this balance appear below.

(a) The agenda for [executive in executive arrangements] [policy committee under alternative arrangements] meetings shall include an item entitled Issues arising from overview and scrutiny. The reports of overview and scrutiny committees referred to the [executive in executive arrangements] [policy committee under alternative arrangements] shall be included at this point in the agenda (unless they have been considered in the context of the [executives in executive arrangements] [policy committees under alternative arrangements] deliberations on a substantive item on the agenda) within [x say one or two months] of the overview and scrutiny committee completing its report/recommendations.
The DETR Guidance envisages a key role for overview and scrutiny in policy review and development. This is also built into the Budget and Policy Framework Procedure Rules.

(a) The role of the overview and scrutiny committees in relation to the development of the Councils budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.

(b) In relation to the development of the Councils approach to other matters not forming part of its policy and budget framework, overview and scrutiny committee or sub-committees may make proposals to [the executive in executive arrangements] [policy committees under alternative arrangements] for developments in so far as they relate to matters within their terms of reference.

(c) Overview and scrutiny committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

11. Reports from overview and scrutiny committee

(a) Once it has formed recommendations on proposals for development, the overview and scrutiny committee will prepare a formal report and submit it to the proper officer for consideration by [the executive in executive arrangements] [the relevant policy committee under alternative arrangements] (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).

(b) If an overview and scrutiny committee cannot agree on one single final report to the Council or [executive in executive arrangements] [the relevant policy committee under alternative arrangements] as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or [executive in executive arrangements] [policy committee under alternative arrangements] with the majority report.

(c) The Council or [executive in executive arrangements] [policy committee under alternative arrangements] shall consider the report of the overview and scrutiny committee within [x one month] of it being submitted to the proper officer.

12. Making sure that overview and scrutiny reports are considered by the executive or policy committees

There is a choice available to Councils as to how they make sure that reports of overview and scrutiny committees are considered by the executive or policy committees, depending on the constitution in place. Councils will want to balance the need to involve overview and scrutiny committees in a meaningful way in development issues with the equally important need for the executives or policy committees programme not to become overburdened by reports from the overview and scrutiny committees. Several examples of mechanisms designed to achieve this balance appear below.

(a) The agenda for [executive in executive arrangements] [policy committee under alternative arrangements] meetings shall include an item entitled Issues arising from overview and scrutiny. The reports of overview and scrutiny committees referred to the [executive in executive arrangements] [policy committee under alternative arrangements] shall be included at this point in the agenda (unless they have been considered in the context of the [executives in executive arrangements] [policy committees under alternative arrangements] deliberations on a substantive item on the agenda) within [x say one or two months] of the overview and scrutiny committee completing its report/recommendations.
(e) Where an overview and scrutiny committee or sub-committee prepares a report for consideration by the executive in relation to a matter where the [mayor in mayor with cabinet form] [leader or Council depending on the form of leader with cabinet constitution] has delegated decision making power to another individual member of the executive, then the overview and scrutiny committee will submit a copy of their report to him/her for consideration. At the time of doing so, the overview and scrutiny committee shall serve a copy on the proper officer. The member with delegated decision making power must consider the report and respond in writing to the overview and scrutiny committee within [x] weeks of receiving it. A copy of his/her written response to it shall be sent to the proper officer and the [mayor] [leader]. The member will also attend a future meeting of the overview and scrutiny committee to present their response.

(f) Where an overview and scrutiny committee or sub-committee prepares a report for consideration by the executive in relation to a matter where the [mayor in mayor and cabinet constitutions] [leader or Council depending on the form of leader with cabinet constitution] has delegated decision making power to another individual member of the executive, then the overview and scrutiny committee will submit a copy of their report to that individual for consideration. At the time of doing so, the overview and scrutiny committee shall serve a copy on the proper officer and the [mayor] [leader]. If the member with delegated decision making power does not accept the recommendations of the overview and scrutiny committee then he/she must then refer the matter to the next available meeting of the executive for debate before exercising his/her decision making power and responding to the report in writing to the overview and scrutiny committee. The executive member to whom the decision making power has been delegated will respond to the overview and scrutiny committee within [x] weeks of receiving it. A copy of his/her written response to it shall be sent to the proper officer and he/she will attend a future meeting to respond.

Councils may wish to set out some rules in order to manage the flow of reports to the executive or relevant policy committees, particularly bearing in mind that the executive or policy committees may also be considering best value review reports from overview and scrutiny.

(g) Only one report every [three months] [six months] [year] [other period] may be submitted by each overview and scrutiny committee to the [executive in executive arrangements] [relevant policy committee under alternative arrangements].

The following paragraph only applies to executive arrangements.

(h) Overview and scrutiny committees will in any event have access to the executives forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from an overview and scrutiny committee following a consideration of possible policy/service developments, the committee will at least be able to respond in the course of the executives consultation process in relation to any key decision.

13. Rights of overview and scrutiny committee members to documents

(a) In addition to their rights as councillors, members of overview and scrutiny committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

(b) Nothing in this paragraph prevents more detailed liaison between the [executive in executive arrangements] [relevant policy committee under alternative arrangements] and overview and scrutiny committee as appropriate depending on the particular matter under consideration.

14. Members and officers giving account

(a) Any overview and scrutiny committee or sub-committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require [the mayor in mayoral forms of constitution], [any (other) member of the executive in mayor and cabinet and leader and cabinet forms] [any member of a policy committee under alternative arrangements], the [head of paid service in mayor and cabinet, leader and cabinet and alternative arrangements]
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their local circumstances. For example, they could refer to inadequate consultation with stakeholders prior to a decision or an absence of evidence on which to take a decision.

Various call-in processes can be used. These examples provide that decisions are notified to the overview and scrutiny chairs and only become effective if there is no objection by an overview and scrutiny committee within x days.

(a) When a decision is made by [the executive, an individual member of the executive or a committee of the executive, or a key decision is made by an officer with delegated authority from the executive, in executive arrangements] [a policy committee under alternative arrangements] or an area committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 days of being made. Chairs of all overview and scrutiny committees will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision. Where the chairman is of the same party as the (majority of) the executive, Councils may wish to introduce a requirement for copies to be sent to all members of the committee.

(b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of [x say 5] working days after the publication of the decision, unless an overview and scrutiny committee objects to it and calls it in.

(c) During that period, the proper officer shall call-in a decision for scrutiny by the committee if so requested by the chair or any [three] members of the committee, and shall then notify the decision-taker of the call-in. He/she shall call a meeting of the committee on such date as he/she may determine, where possible after consultation with the chair of the committee, and in any case within 5 days of the decision to call-in.

(d) If, having considered the decision, the overview and scrutiny committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision maker they shall then reconsider within a further [x] working days, amending the decision or not, before adopting a final decision.

(e) If following an objection to the decision, the overview and scrutiny committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the overview and scrutiny meeting, or the expiry of that further [x] working day period, whichever is the earlier.

(f) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, [the following text applies only to executive forms of constitution it has no locus to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case,] the Council will refer any decision to which it objects back to the decision making person or body, together with the Councils views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by [the executive as a whole or a committee of it in executive arrangements] [a policy committee under alternative arrangements], a meeting will be convened to reconsider within [x] working days of the Council request. [This text applies to executive forms of constitution Where the decision was made by an individual, the individual will reconsider within [x] working days of the Council request.]

(g) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

(h) Where a [n executive in executive arrangements] decision has been taken by an area committee, then the right of call-in shall extend to any [x] members of another area committee if they are of the opinion that the
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absence of the chairman (mayor in leader and cabinet and alternative arrangements), the vice-chairs (deputy mayors in leader and cabinet and alternative arrangements) consent shall be required. In the absence of both, the head of paid service or his/her nominees consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

(l) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

17. The party whip

The DETR Guidance views whipping as incompatible with overview and scrutiny. The following paragraphs, however, provide a means of safeguard where whipping does occur. It may be helpful for Councils to define the phrase the party whip. It could be taken to mean: "Any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the Council or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that councillor should he/she speak or vote in any particular manner."

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

or

(b) When considering any matter in the following categories:

for example

any matter referred to the overview and scrutiny committee by [the executive] [a relevant policy committee];

or

the review of any decision

or

the performance of any member of [the executive] [a policy committee]

[Councils should insert their own list]

in respect of which a member of an overview and scrutiny committee is subject to a party whip, the member must declare the existence of the whip, and the nature of it, before the commencement of the committees deliberations on the matter. The declaration and the detail of the whipping arrangements shall be recorded in the minutes.

18. Procedure at overview and scrutiny committee meetings

(a) Overview and scrutiny committees and sub-committees shall consider the following business:

i) minutes of the last meeting;

ii) declarations of interest (including whipping declarations);
absence of the chairman (mayor in leader and cabinet and alternative arrangements), the vice-chairs (deputy mayors in leader and cabinet and alternative arrangements) consent shall be required. In the absence of both, the head of paid service or his/her nominees consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

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Table 1:

Examples of Terms of Reference for Overview and Scrutiny Committees.

Lifelong learning and culture overview and scrutiny committee

Membership

[n] councillors and [n] voting church and parent governor representatives.

Terms of reference
To fulfil all the functions of an overview and scrutiny committee as they relate to lifelong learning and culture and in particular (but not limited to):

1. all of the functions of the Council as an education authority under the Education Acts, School Standards and Framework Act 1998 and all other relevant legislation in force from time to time;

2. all functions of the Council in so far as they relate to the provision of opportunities for education, training and learning outside the school environment including pre-school, adult and community learning;

3. all of the Councils functions in relation to leisure, arts, sport and recreational activities to enhance the quality of life for local people;

4. the provision and management of museums, art galleries, theatres, archives and local history activities, libraries, leisure centres, swimming pools, parks and open spaces, allotments and other like facilities;

5. in particular to fulfil the overview and scrutiny role in relation to the development of the Councils Annual Library Plan, its Education Development Plan and the Early Years Development Plan.

Regeneration and housing overview and scrutiny committee

Membership

[n] councillors and up to [n] non voting co-optees.

Terms of reference
To perform the overview and scrutiny role in relation to:

1. the regeneration of communities in the area;

2. social inclusion and the Councils specific initiatives to promote it;

3. the physical regeneration of the area including economic development;

4. assisting in the development of the Councils planning policies (including the Development Plan and other plans for the use and development of land);
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4. assisting in the development of the Councils planning policies (including the Development Plan and other plans for the use and development of land);
3. identifying and promoting best practice in relation to service delivery;

4. co-ordinating and publishing information on service performance;

5. receiving reports on quality and service from the executive, officers and committees and recommending improvements as appropriate;

6. recommendations to executive for matters to be included in the annual best value performance plan, and/or for best value reviews to be conducted;

7. reviewing and reporting to executive on the local authoritys performance against the best value performance plan;

8. the Councils community plan to promote the economic, social and environmental wellbeing of the area;

9. the Councils best value performance plan;

10. all functions not included in the terms of reference of any other overview and scrutiny committee.

**Social care and health overview and scrutiny committee**

**Membership**
[n] councillors and up to [n] non-voting co-optees.

**Terms of reference**
The overview and scrutiny role in connection with:

1. residential and day care, family placements, domiciliary care, respite care;

2. social work for children, young persons, elderly people, people with physical disabilities, people with mental health problems and learning difficulties and children with special needs;

3. home care service, staffing and emergency response for elderly persons in sheltered housing, hospital social workers;

4. fostering and adoption, family support service;

5. funerals under the provision of the National Assistance Act 1948;

6. transport service for client groups;

7. youth offending services;

8. meals production and distribution service;

9. registration and inspection;

10. assisting in the development of the Councils Childrens Services Plan, and Community Care Plan;

11. collaborative working with health agencies in the area.

**Democracy and governance overview and scrutiny committee**

**Membership**
3. identifying and promoting best practice in relation to service delivery;

4. co-ordinating and publishing information on service performance;

5. receiving reports on quality and service from the executive, officers and committees and recommending improvements as appropriate;

6. recommendations to executive for matters to be included in the annual best value performance plan, and/or for best value reviews to be conducted;

7. reviewing and reporting to executive on the local authority's performance against the best value performance plan;

8. the Council's community plan to promote the economic, social and environmental wellbeing of the area;

9. the Council's best value performance plan;

10. all functions not included in the terms of reference of any other overview and scrutiny committee.

Social care and health overview and scrutiny committee

Membership
[n] councillors and up to [n] non-voting co-optees.

Terms of reference
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1. residential and day care, family placements, domiciliary care, respite care;

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Democracy and governance overview and scrutiny committee

Membership
Financial Procedure Rules

Councils should insert the financial standing orders and regulations appropriate to the form of constitution they are operating, drawing on the models provided by CIPFA.

Reference:
Chapter 2, DETR Guidance
Financial Procedure Rules

Councils should insert the financial standing orders and regulations appropriate to the form of constitution they are operating, drawing on the models provided by CIPFA.

Reference:
Chapter 2, DETR Guidance
Officer Employment Procedure Rules

This text provides a basic minimum consistent with current practice and legislation. Councils may wish to elaborate on these in terms of their own particular procedures. They should note the regulations under the Local Government Act 2000 relating to the appointment of head of paid service.

References:
Chapters 8 and 9, DETR Guidance

Option 1 - mayor and cabinet and leader and cabinet constitutions

1. Recruitment and appointment

(a) Declarations

i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor [the mayor in mayoral forms of constitution] or officer of the Council; or of the partner of such persons.

ii) No candidate so related to a councillor [the mayor in mayoral forms of constitution] or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

(b) Seeking support for appointment.

i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any councillor [or the mayor in mayoral forms of constitution] for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

ii) Subject to paragraph (iii), no councillor [or the mayor in mayoral forms of constitution] will seek support for any person for any appointment with the Council.

iii) Nothing in paragraphs (i) and (ii) above will preclude a councillor or the mayor from giving a written reference for a candidate for submission with an application for appointment.

2. Recruitment of head of paid service and chief officers

Where the Council proposes to appoint a chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

(a) draw up a statement specifying:
Officer Employment Procedure Rules

This text provides a basic minimum consistent with current practice and legislation. Councils may wish to elaborate on these in terms of their own particular procedures. They should note the regulations under the Local Government Act 2000 relating to the appointment of head of paid service.

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Where the Council proposes to appoint a chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

(a) draw up a statement specifying:
(a) **Officers below deputy chief officer.** Appointment of officers below deputy chief officer (other than assistants to political groups and an assistant to the mayor) is the responsibility of the head of paid service or his/her nominee, and may not be made by councillors.

(b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

> *The following paragraph only applies in a mayoral form of constitution.*

(c) **Assistant to the mayor.** An assistant to the mayor may only be appointed by the mayor.

6. **Disciplinary action**

(a) **Suspension.** The head of paid service, monitoring officer and chief finance officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.

(b) **Independent person.** No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person.

(c) Councillors will not be involved in the disciplinary action against any officer below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council’s disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.

7. **Dismissal**

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

**Option 2 - mayor and council manager form**

1. **Recruitment and appointment**

(a) **Declarations**

   i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor, the mayor or officer of the council; or of the partner of such persons.

   ii) No candidate so related to a councillor, the mayor or an officer will be appointed without the authority of the council manager or an officer nominated by them.

(b) **Seeking support for appointment**

   i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any councillor or the mayor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
(a) **Officers below deputy chief officer.** Appointment of officers below deputy chief officer (other than assistants to political groups and an assistant to the mayor) is the responsibility of the head of paid service or his/her nominee, and may not be made by councillors.

(b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

_The following paragraph only applies in a mayoral form of constitution._

(c) **Assistant to the mayor.** An assistant to the mayor may only be appointed by the mayor.

6. **Disciplinary action**

(a) **Suspension.** The head of paid service, monitoring officer and chief finance officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.

(b) **Independent person.** No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person.

(c) Councillors will not be involved in the disciplinary action against any officer below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.

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disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.

6. Dismissal

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

Option 3 alternative arrangements

1. Recruitment and appointment

(a) Declarations

(i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor officer of the Council; or of the partner of such persons.

(ii) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

(b) Seeking support for appointment.

(i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

(ii) Subject to paragraph (iii), no councillor will seek support for any person for any appointment with the Council.

2. Recruitment of head of paid service and chief officers

Where the Council proposes to appoint a chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

(a) draw up a statement specifying:

(i) the duties of the officer concerned; and

(ii) any qualifications or qualities to be sought in the person to be appointed;

(b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

(c) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

3. Appointment of head of paid service
disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.

6. Dismissal

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

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Officers Code of Conduct

Councils should insert the national code of conduct for officers [and the national code of conduct for council managers in mayor and council manager constitution].
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Members Allowances Scheme

Councils should insert their councillors allowances scheme.
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Article 1 The Constitution

This Article sets out the fundamental provisions of the Constitution. It confirms that the local authority will act within the law and the Provisions of this Constitution. It defines those documents which comprise the Constitution.

One of the most important parts of the Article is the statement of purpose. This should convey clear and positive messages about the purposes of local government in general and also in relation to the specific locality. It should relate to the community leadership role of local government, and show how the arrangements set out in the Constitution will support this. These points are discussed in more detail below.

The Article also confirms that the local authority will monitor and review its Constitution.

Reference:
Section 37, LGA 2000
Chapter 10, DETR Guidance,

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 [name] Council.

1.03 Purpose of the Constitution

This section has three functions. First, and most importantly, it should set out in clear language the primary purposes of the local authority. These should relate to the community leadership agenda, to local democratic self-government and to improvement, quality and equality in service delivery. There may be other specific purposes relevant to each locality. Second, the statement will provide a guide to the interpretation and operation of the Constitution, especially in cases of dispute. This will be particularly useful in the early years of operating new constitutions, at points where there is conflict between executive and Council, and when there is a difficult internal political climate. Third, it will provide a set of criteria for Councils when they review their governance arrangements or consider changing from one form to another.

The purpose of the Constitution must include the key requirements of any governance arrangements set out in DETR Guidance and any direction under section 37(1)(a) of the local government act 2000. These are that governance arrangements deliver efficient, transparent and accountable decision-making.
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Article 2 Members of The Council

DEVELOPING ROLES FOR COUNCILLORS

The role of the councillor is enhanced by the new political structures introduced by the Local Government Act 2000. Members representational roles should become stronger through the development of policy formulation processes feeding into the full Council, overview and scrutiny committees, the executive or policy committees (depending on the constitution that is being operated). This role may be strengthened further in those local authorities which develop area committees or forums, whether or not decision-making authority is delegated to them. Individual councillors may also have an overview and scrutiny role, offering important opportunities both to assist the policy development process and also to conduct in-depth inquiries into specific issues of concern. Finally, the role of the council meeting itself will develop, giving additional scope for councillors to adopt community leadership roles. Some elements of these roles are covered here. Others appear in later articles.

Contents of the article

This Article sets out the composition of the Council, eligibility to stand for election as a member of the council and the form of election to be used. There will be choices depending on the form of constitution adopted. Local authorities may also wish to indicate that innovative voting methods may be used, should this eventually be permitted, redrafting the relevant section of the Article accordingly.

The Article also contains a section in which local authorities can provide a statement of the roles and functions of members of the council. This reinforces the fact that all members, whatever their formal position in the council and party political system, share common roles and responsibilities. A series of roles are provided as an illustration.

The Article also deals with the rights and duties of members, especially as they affect access to land, buildings, documents and information and any confidentiality requirements surrounding the latter. These are standard clauses which we do not expect local authorities will wish to amend.

The sections on conduct and allowances are also standard clauses, although local authorities should develop their own documentation which can be inserted in Part 6 of the Constitution.

References:
Part I, Part VA and Section 79, Local Government Act 1972
Chapter 2, DETR Guidance
Section 18, Local Government and Housing Act 1989 and regulations thereunder
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example in the new forms of Council meeting which will develop (see introduction to Article 4) and in agreeing the community strategy.

It should reflect the increased potential for the councillor to develop a representational role and to act as a link and point of mediation between the local authority and the community.

It should contain a statement of the councillors duty to adopt high standards of conduct in order to give expression to the General Principles of Conduct and the local authoritys own Code of Conduct for councillors. There may be other roles specific to the locality that a local authority will want to include.

(a) **Key roles.** All councillors [and the elected mayor] will:

**Variation 1**

(i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;

(ii) represent their communities and bring their views into the Councils decision-making process, i.e. become the advocate of and for their communities;

(iii) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;

(iv) balance different interests identified within the ward or electoral division and represent the ward or electoral division as a whole;

(v) be involved in decision-making;

(vi) be available to represent the Council on other bodies; and

(vii) maintain the highest standards of conduct and ethics.

**Variation 2**

(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 of individual 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.
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Article 3 Citizens and The Council

Councils and their constitutions should be outward looking and seek to engage with the public wherever possible. Setting out what citizens can expect from their Council and what rights they have is therefore an important part of the Constitution. However, with rights come responsibilities and it is also the role of the Constitution to show how the council expects to be treated in return.

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 Rules in Part 4 of this Constitution:

(a) Voting and petitions. Citizens on the electoral roll for the area have the right to vote and sign a petition 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) [in executive arrangements] attend meetings of the executive when key decisions are being considered;

(iii) [in executive arrangements] find out from the forward plan what key decisions will be taken by the executive and when;

(iv) see reports and background papers, and any records of decisions made by the Council and the executive; and

(v) inspect the Councils accounts and make their views known to the external auditor.

(c) Participation. Citizens have the right to participate in the Councils question time [if applicable] 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 Ombudsman after using the Councils own complaints scheme;

(iii) the Standards Board for England about a breach of the Councillors 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
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Article 4 The Full Council

In drawing up the Constitution it is important that careful consideration is given to the role of the Council. The Local Government Act 2000 and associated guidance and regulations give the Council responsibility for approving the policy framework and budget. In executive forms of constitution the Council as a whole retains responsibility for regulatory functions and will have a role in holding the executive to account. Under alternative arrangements, the Council is responsible for delegating functions and will have a role in holding policy committees to account.

A list of the statutory and recommended plans and strategies which will make up the policy framework appears in the text. However, local authorities may wish to exercise their local discretion in adding to these lists.

The functions reserved for Council decision under different executive arrangements are defined in this Article. This is done to make clear what authority the Council has in relation to other parts of the constitution. Local authorities may want to add any discretionary roles they consider essential for the Council to have, for example to represent the views of the local community on matters of significance.

In agreeing Budget and Policy Framework Procedure Rules in Part 4 of this Constitution, the local authority will have to decide on the process for agreeing the policy framework. There are a number of possibilities beyond consideration at a single council meeting. Proposals could be subject to overview and scrutiny review before being moved in Council. Alternatively there could be a first reading debate, followed by reference to overview and scrutiny and/or public hearings with proposals returned to Council with proposed amendment for decision on a second reading. These are only possibilities and other approaches may be developed. The important thing is that clear procedure rules should be drawn up.

The new roles for the Council mean that its meetings may very well take a different form than in the past. There may also be a need to change its programme of meetings. The Council Procedure Rules contain text for three types of council meeting: the annual meeting, ordinary meetings and extraordinary meetings. The new role for Council is reflected in the examples given for the order of business. However, there are many choices here, as the LGA Briefing Paper The Council Meeting makes clear. Local authorities may want to use the suggested orders of business as the basis for developing their own models for council meetings.

Under executive arrangements, local authorities may want to develop procedures for expressing the Council's views on the performance of the executive. For example, local authorities may want to consider whether votes of confidence can be moved and in what circumstances. Their effect will depend on the nature of the executive arrangements.

Whatever form of constitution is adopted, local authorities may want to consider whether there should be an annual state of the city, town, county, borough or
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(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

The modular constitutions are constructed so that the main articles should not need to be changed often, whereas the Rules and Protocols set out in the appendices could require revision on a more regular basis. Councils should consider whether there are any appendices which could be changed other than by the Council, and build in provision to that effect. For example the Standards Committee could have sole responsibility for changing the Member/Officer Protocol. A council manager would want to have an unrestricted right to change the management structure.

Option 1: elected mayor with cabinet form

Only the Council will exercise the following functions:

(a) adopting and changing the Constitution;

(b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;

(c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;

(d) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;

(e) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;

(f) adopting an allowances scheme under Article 2.06;

(g) changing the name of the area, conferring the title of honorary alderman or freedom of the borough [freedom only applies to councils with the status of cities or boroughs];

(h) confirming the appointment of the head of paid service;

(i) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;

(j) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the executive; and

(k) all other matters which by law must be reserved to Council.
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(g) changing the name of the area, conferring the title of honorary alderman or freedom of the borough [freedom only applies to councils with the status of cities or boroughs];

(h) appointing the council manager;

(i) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;

(j) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the executive; and

(k) all other matters which by law must be reserved to Council.

**Option 4: alternative arrangements**

Only the Council will exercise the following functions:

(a) adopting and changing the Constitution;

(b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;

(c) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;

(d) appointing representatives to outside bodies unless the appointment has been delegated by the Council;

(e) adopting an allowances scheme under Article 2.06;

(f) changing the name of the area, conferring the title of honorary alderman or freedom of the borough [freedom only applies to councils with the status of cities or boroughs];

(g) confirming the appointment of the head of paid service;

(h) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills; and

(i) all other matters which by law must be reserved to Council.

4.03 **Council meetings**
Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;

(d) agreeing and/or amending the terms of reference for committees, their composition and making appointments to them;

(e) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;

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(i) all other matters which by law must be reserved to Council.

4.03 Council meetings
Article 5 Chairing The Council

Title of the person chairing council meetings

In elected mayor forms of constitution, only the elected mayor and their chosen deputy can use the titles of mayor and deputy mayor. The titles of mayor and deputy mayor in district councils with borough status and London borough councils will therefore change to chairman and vice chairman where there is an elected mayor.

In a very few cases the title of Mayor or Lord Mayor comes from a Royal Charter or ancient custom and practice. These titles will not change but if the elected mayor does not hold the Charter title then some way must be found of showing the difference between the two posts.

References:
Sections 3, 5, 245; schedule 2, 12; Local Government Act 1972
Schedule 3, local government act 2000
Chapters 2, 4 and 9, DETR Guidance

The word "chairman" is used throughout rather than "chair" or "chairperson" as this is the terminology in the 1972 Act; however councils should use whatever title they feel is most appropriate.

5.01 Role and function of the [chairman] [mayor in boroughs with leader form of executive or alternative arrangements] [Lord Mayor in certain cities]

The [chairman of council] [Mayor] [Lord Mayor] and in their absence, the [vice-chairman] [deputy mayor] [Deputy Lord Mayor] will have the following roles and functions:

Ceremonial role

Paul Millard in his book "Civic Ceremonial" describes the role of the mayor/chairman of council as a symbol of the authority, a symbol of an open society and an expression of social cohesion.

Whilst the chairman has normally carried out the ceremonial duties of the Council, this is entirely a matter of local choice. In some Councils, ceremonial roles are carried out by leading councillors on an area or functional basis. An elected mayor can carry out ceremonial duties but it is unlikely in a mayor and cabinet form of constitution that they would have enough time to do so.


Chairing the council meeting

Regardless of the above, the chairman will be the person presiding over Council meetings. The Council meeting has a new and distinctive role to play under
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relations with officers.

The Article then refers to the Overview and Scrutiny Procedure Rules, which appear later in the Modular Constitutions. These provide a framework and model text for a local authority to set out the way in which its overview and scrutiny functions will operate. It includes model text for several areas of choice, including reporting after a review has been completed, call-in where decisions are made by an area committee, declaration of the party whip, etc.

Overview and scrutiny under alternative arrangements

Effective overview and scrutiny is just as important in alternative arrangements as in executive constitutions and there should be little difference between the function in each system. However, decisions on the implementation of policy will be taken by politically balanced committees under alternative arrangements. It may not be effective or efficient for there to be such extensive call-in as under executive arrangements.

6.01 Terms of reference

The Council will appoint the overview and scrutiny committees set out in the left hand column of the table below to discharge the functions conferred by section 21 of the Local Government Act 2000 or regulations [proposed] under section 32 of the Local Government Act 2000 in relation to the matters set out in the right hand column of the same table.

The Local Government Act 2000 merely requires that there will be at least one overview and scrutiny committee. Clearly, the number and scope of such committees is a matter of local choice. As such, the table below is an example only for a unitary council. The scope of the committees has been expressed in generic terms to promote consideration of cross cutting issues, inside and outside the council. The inclusion of best value within the terms of reference of overview and scrutiny is a matter of local choice under section 21(5) of the Local Government Act 2000. Examples of terms of reference for these committees are included in the Overview and Scrutiny Procedure Rules.

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Section 21 and schedule 1 (Paragraphs 7,8,10 and 11), Local Government Act 2000
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<table>
<thead>
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<tbody>
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<td>The physical, social and economic environment and regeneration of [area], the provision, planning and management of its housing and the built environment.</td>
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<td>Policies and strategies of the Council and other bodies which affect the economic, social and political resources available to individuals to enable them to participate fully in society, especially in the context of the national strategy for neighbourhood renewal.</td>
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<td>The Councils budget, the management of its budget, capital, revenue borrowing and assets and its audit arrangements.</td>
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iv) question members of [the executive and/or] committees and chief officers about their views on issues and proposals affecting the area; and

v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

(b) Scrutiny. Overview and scrutiny committees may:

i) review and scrutinise the decisions made by and performance of [the executive and/or] committees and council officers both in relation to individual decisions and over time;

ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;

iii) question members of [the executive and/or] committees and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;

iv) make recommendations to the [executive and/or] appropriate committee and/or Council arising from the outcome of the scrutiny process;

v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee and local people about their activities and performance; and

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

(c) Finance. Overview and scrutiny committees may exercise overall responsibility for the finances made available to them.

(d) Annual report. Overview and scrutiny committees must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

(e) Officers. Overview and scrutiny committees may exercise overall responsibility for the work programme of the officers employed to support their work.

6.04 Proceedings of overview and scrutiny committees

Overview and scrutiny committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.
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an elected mayor (the mayor); and
at least 2 but not more than 9 councillors appointed to the executive by the mayor.

7.03 The mayor

(a) Roles and functions. The mayor will carry out the following roles:

The precise nature of the mayors role will depend on the choice of the office holder and the nature of the mandate he or she holds through election. An example of roles and functions is given below:

i) to be the local authoritys principal public spokesperson;

ii) to give overall political direction to the Council;

iii) to appoint the executive and deputy mayor;

iv) to decide on the scheme of delegation for executive functions;

v) to chair meetings of the executive; and

vi) to represent the local authority on such external bodies as the mayor decides.

(b) Mayor as member of the Council. The mayor will be treated as a councillor unless the law or context requires otherwise.

In particular the mayor:

i) is subject to the same rules about qualification and disqualification as any other councillor;

ii) must follow the rules about disclosure of interests and comply with the Councillors Code of Conduct set out in Part 5 of this Constitution;

iii) may be a member of, attend and speak at any meeting of the Council, its committees and sub-committees, except the Standards Committee and overview and scrutiny committees. The mayor may only speak at an overview and scrutiny committee or Standards Committee when invited to do so and may not vote at those meetings;

iv) if a member of a political group, will be taken into account when calculating seat allocations on committees and sub-committees of which he/she is a member, if they have to reflect the political composition of the Council as a whole in accordance with the Local Government and Housing Act 1989;

v) is subject to the Members Allowances Scheme set out in Part 6 of the Constitution; and
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this Constitution.

7.07 Responsibility for functions

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

Option 2 - leader with the cabinet

7.01 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.

7.02 Form and composition

These two variants concern appointment of the cabinet. Councils will also need to decide whether they or the leader determine the size of the cabinet.

Variation 1 - leader appoints cabinet

The executive will consist of the executive leader together with at least 2, but not more than 9, councillors appointed to the executive by the executive leader.

Variation 2 - council appoints cabinet

The executive will consist of the executive leader together with at least 2, but not more than 9, councillors appointed to the executive by the Council.

7.03 Leader

The leader will be a councillor elected to the position of leader by the Council. The leader will hold office until:

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

(b) he/she is suspended from being a councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or

(c) he/she is no longer a councillor; or

There are a wide range of options here governing the length of the term of office of the leader and the circumstances in which the leader may be removed from office before the end of any term. Another option is not to have a fixed term at all i.e. the leader will stay in office until removed by the Council. The DETR Guidance recommends that a fixed term should be used in order to ensure effective leadership and avoid the possibility of constant changes wherever policy differences arise.

Possible provisions might therefore be:

(d) he/she is removed from office by resolution of the Council
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Possible provisions might therefore be:

(d) he/she is removed from office by resolution of the Council
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7.06 Responsibility for functions

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

Option 3 - elected mayor with council manager form

7.01 Role and function

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, by law or under this Constitution.

7.02 Form and composition

The executive will consist only of an elected mayor (the mayor) and an employee, called the council manager. The mayor and council manager will each have the separate roles set out in Articles 7.03 and 7.04.

7.03 The mayor

(a) Roles. The mayor will have the following roles and functions:

i) to be the local authority's principal public spokesperson;

ii) to give overall political direction to the Council;

iii) together with the council manager, to propose the policy framework to the Council;

iv) to advise the council manager on the implementation of the budget and policy framework and decisions in accordance with them;

v) to appoint a deputy mayor; and

vi) to appoint executive advisory committees [if any].

(b) Mayor as member of the Council. The mayor will be treated as a councillor unless the law or context requires otherwise.

In particular the mayor:

i) is subject to the same rules about qualification and disqualification as any other councillor;

ii) must follow the rules about disclosure of interests and comply with the Councillors Code of Conduct set out in Part 5 of this Constitution;

iii) may be a member of, attend and speak at any meeting of the Council, its committees and sub-committees, except the Standards Committee and the overview and scrutiny committees. The mayor may speak at an overview and
of this Constitution.

7.06 **Responsibility for functions**

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

**Option 3 - elected mayor with council manager form**

7.01 **Role and function**

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, by law or under this Constitution.

7.02 **Form and composition**

The executive will consist only of an elected mayor (the mayor) and an employee, called the council manager. The mayor and council manager will each have the separate roles set out in Articles 7.03 and 7.04.

7.03 **The mayor**

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vi) to appoint executive advisory committees [if any].

(b) **Mayor as member of the Council.** The mayor will be treated as a councillor unless the law or context requires otherwise.

In particular the mayor:

i) is subject to the same rules about qualification and disqualification as any other councillor;

ii) must follow the rules about disclosure of interests and comply with the Councillors Code of Conduct set out in Part 5 of this Constitution;

iii) may be a member of, attend and speak at any meeting of the Council, its committees and sub-committees, except the Standards Committee and the overview and scrutiny committees. The mayor may speak at an overview and
vote, at any Council meeting or committee meeting except the Standards Committee and the overview and scrutiny committees where he/she may only speak at any meetings when invited to do so and shall not vote.

(c) **Restrictions.** The council manager may not also be the monitoring officer or the chief finance officer. In carrying out his/her functions, the council manager must have regard to any advice given to him/her by the mayor.

(d) **Acting as mayor.** If the mayor is unable to act or the office is vacant, at the same time as the deputy mayor is unable to act or the.

**Transfer interrupted!**

en the council manager must act in the mayors place.

(e) **Appointment, qualifications and remuneration.** The Council will appoint the council manager for [an indefinite term] [fixed term] and set the council managers remuneration. The council manager will be appointed solely on the basis of merit, executive and administrative suitability.

(f) **Removal.** The council manager may be suspended from office by a resolution approved by the Council. The resolution must set out the reasons for suspension and proposed removal. A copy will be served immediately on the council manager. The council manager will have 15 days in which to reply in writing to the resolution, and on request will be afforded a public hearing which will take place between 10 and 15 days after being requested. After the public hearing, if one is requested, the Council may adopt a final resolution of removal from office. The council manager will continue to receive full remuneration until the date of a final resolution of removal in accordance with her/his contract of employment.

7.05 **Deputy mayor**

(a) **Appointment.** At the first annual meeting after his/her election, the mayor will appoint one of the councillors who is not the chairman or vice chairman of the Council nor a member of an overview and scrutiny committee to act as deputy mayor.

(b) **Term of office.** The deputy mayor will hold office until the end of the mayors term of office unless he/she is no longer a councillor, resigns as deputy mayor, or is removed from the office of deputy mayor.

(c) **Roles.** The deputy mayor shall have no executive functions unless the mayor is unable to act, or the office of elected mayor is vacant, in which case the deputy mayor will act as the mayor until such time as the mayor is again able to act or the office is filled.

(d) **Removal from office.**
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(d) **Removal from office.**
Article 8 Regulatory and other committees [in executive arrangements]

Article 7 Policy and other committees [in alternative arrangements]

Option 1 - executive arrangements

Planning and licensing are not executive functions. Councils will therefore need to create committees to undertake these functions under powers delegated from full Council. Some councils have called these committees "regulatory committees" and this term has been used in the Modular Constitutions though their functions go beyond what is normally understood by that term. Councils should choose whatever name they consider best describes their role to those outside the Council. The Council may also establish a committee or committees to deal with personnel and related matters, since this is a Council rather than executive function.

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.

Option 2 - alternative arrangements

Under alternative arrangements, the implementation of the Councils budget and policy framework of regulatory functions is undertaken by a limited number of policy committees with powers delegated from the full Council. DETR Guidance indicates that under alternative arrangements there should be no more than 5 policy committees. This excludes area committees, the Standards Committee and overview and scrutiny committees. The Council may also establish a committee or committees to deal with personnel and related matters, since this is a Council rather than an executive function. Permanent sub-committees are discouraged.

There is no legally separate executive.

7.01 Policy and other committees

The Council will appoint the committees set out in the left hand column of the table Responsibility for Functions in Part 3 of this Constitution to discharge the functions described in column 3 of that table.
Article 8 Regulatory and other committees [in executive arrangements]

Article 7 Policy and other committees [in alternative arrangements]

Option 1 - executive arrangements

Planning and licensing are not executive functions. Councils will therefore need to create committees to undertake these functions under powers delegated from full Council. Some councils have called these committees "regulatory committees" and this term has been used in the Modular Constitutions though their functions go beyond what is normally understood by that term. Councils should choose whatever name they consider best describes their role to those outside the Council. The Council may also establish a committee or committees to deal with personnel and related matters, since this is a Council rather than executive function.

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.

Option 2 - alternative arrangements

Under alternative arrangements, the implementation of the Councils budget and policy framework of regulatory functions is undertaken by a limited number of policy committees with powers delegated from the full Council. DETR Guidance indicates that under alternative arrangements there should be no more than 5 policy committees. This excludes area committees, the Standards Committee and overview and scrutiny committees. The Council may also establish a committee or committees to deal with personnel and related matters, since this is a Council rather than an executive function. Permanent sub-committees are discouraged. There is no legally separate executive.

7.01 Policy and other committees

The Council will appoint the committees set out in the left hand column of the table Responsibility for Functions in Part 3 of this Constitution to discharge the functions described in column 3 of that table.
Independent members. Independent members will be entitled to vote at meetings;

(c) Parish members. At least one parish member must be present when matters relating to those parish councils or their members are being considered;

 Applies only in executive forms of constitution;

(d) Chairing the Committee. A member of the executive may not chair the committee.

Option 3 - district councils and unitary county councils with parish sub-committee

(a) Membership. The Standards Committee will be composed of at least:

- two councillors [other than the [mayor][leader] in executive forms of constitution];
- one person who is not a councillor or an officer of the council or any other body having a standards committee (an independent member);
- one member of a parish council wholly or mainly in the Councils area (a parish member);

(b) Independent members. Independent members will be entitled to vote at meetings;

(c) Parish members. Parish members must be present when matters relating to those parish councils or their members are being considered;

(d) Parish Councils sub-committee. The Standards Committee will include a sub-committee to exercise the function set out in Article 9.03 (h) below. The sub-committee will include at least one Independent Member and one Parish Member.

 Applies only in executive forms of constitution.

(e) Chairing the Committee. A member of the executive may not chair the Committee.

9.03 Role and Function

The Standards Committee will have the following roles and functions:

(a) promoting and maintaining high standards of conduct by [the mayor, in mayoral forms of executive] councillors, co-opted members and church and parent governor representatives;

(b) assisting the [mayor, in mayoral forms of executive] councillors [and, co-opted members [and church and parent governor representatives] to observe the Members Code of Conduct;

(c) advising the Council on the adoption or revision of the Members Code of Conduct;

(d) monitoring the operation of the Members Code of Conduct;

(e) advising, training or arranging to train [the mayor, in executive forms of constitution] councillors [and] co-opted members [and church and parent governor representatives] on matters relating to the Members Code of Conduct;

(f) granting dispensations to [the mayor, in executive forms of constitution] councillors [and] co-opted members
(b) **Independent members.** Independent members will be entitled to vote at meetings;

(c) **Parish members.** At least one parish member must be present when matters relating to those parish councils or their members are being considered;

> Applies only in executive forms of constitution;

(d) **Chairing the Committee.** A member of the executive may not chair the committee.

**Option 3 - district councils and unitary county councils with parish sub-committee**

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- two councillors [other than the [mayor][leader] in executive forms of constitution];
- one person who is not a councillor or an officer of the council or any other body having a standards committee (an independent member);
- one member of a parish council wholly or mainly in the Councils area (a parish member);

(b) **Independent members.** Independent members will be entitled to vote at meetings;

(c) **Parish members.** Parish members must be present when matters relating to those parish councils or their members are being considered;

(d) **Parish Councils sub-committee.** The Standards Committee will include asub-committee to exercise the function set out in Article 9.03 (h) below. The sub-committee will include at least one Independent Member and one Parish Member.

> Applies only in executive forms of constitution.

(e) **Chairing the Committee.** A member of the executive may not chair the Committee.

**9.03 Role and Function**

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(f) granting dispensations to [the mayor, in executive forms of constitution] councillors [and] co-opted members
Article [10 in executive arrangements]
[9 in alternative arrangements]
Area Committees and Forums

A Council has a great deal of choice about the area committees it appoints. It may choose to establish none at all, or several. If it does choose to establish area committees, then they may be decision making bodies or consultative forums with no decision making powers at all.

Under executive arrangements the council may delegate non-executive functions to area committees and the executive may delegate executive functions. If both are delegated to the same area committee, it must be made clear on the agendas for the meeting whether the decisions required relate to executive functions or not.

Councils are referred to the provisions contained in regulation 16A of the Local Government (Committees and Political Groups) Regulations 1990. This provides that for counties, districts and London boroughs, the composition of area committees and sub-committees need not reflect the political balance of the Council as a whole if all of the voting members on it represent wards (or divisions) within its area and the area does not exceed two-fifths of the total for the Council, by reference to population or area. Councils are also reminded that section 13 of the Local Government and Housing Act 1989 and regulation 4 and 5 of the 1990 Regulations together have the effect of allowing area committees to include voting co-optees if the committee is appointed exclusively to discharge functions within Regulations 4 and 5. These functions include:

- property management;
- housing management (of 1,500 or one quarter of the council's stock whichever is the less);
- harbour authority functions;
- promotion of tourism;
- festival management;
- superannuation (by a metropolitan district council); and
- joint county/district functions discharged by a joint committee (see also regulation 16B of the 1996 Regulations).

These provisions need to be reflected in the terms of reference and constitution of the area committees. Under executive arrangements, decisions about the constitution of area committees, even where they are to take executive decisions within their area, will be taken by the Council and not the executive.

References:
Part VA, Local Government Act 1972
Section 13, Local Government and Housing Act 1989
Reg. 4, 5 and 16A Local Government (Committees and Political Groups) Regulations 1990
Section 18, Local Government Act 2000
Article [10 in executive arrangements]
[9 in alternative arrangements]
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committees] effect outside the area of the committee where less than 3 objections raised, and below defined threshold.

Variation 4
[list area committees] [n] members of the authority all from area no political balance necessary. Could have co-optees who may vote only on functions under Regulation 4 of the Local Government (Committees and Political Groups) Regulations 1990. Has [executive] functions including those under Regulation 4 Local Government (Committees and Political Groups) Regulations 1990 (the management of non-housing land, some housing functions up to 1500 properties, promotion of tourism, running local festivals, etc). Could have maximum expenditure limits.

Variation 5
[executive arrangements only][list area committees] [n] members of authority all from area no political balance necessary. Could have co-optees whomay vote only on functions under Regulation 4 of the 1990 Regulations. Has executive functions and functions which are not the responsibility of the executive, for example some licensing, some tourism, arts provision under section 145 Local Government Act 1972 etc. Could have maximum expenditure limits.

Councils must ensure that the composition of area committees is appropriate to reflect the law on co-optees and political balance according to their terms of reference.

(b) Delegations. The Council and the executive will include details of the delegations to area committees in Part 3 of this Constitution, including the functions delegated [showing which are the responsibility of the executive and which are not executive forms of constitution], the composition and membership of
| committees | effect outside the area of the committee where less than 3 objections raised, and below defined threshold. |
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